

(2) there is strong support among State and local officials, area residents, and river users for a cooperative wild and scenic river study of the area; and

(3) there is a longstanding interest among State and local officials, area residents, and river users in undertaking a concerted cooperative effort to manage the river in a productive and meaningful way.

SEC. 3. DESIGNATION FOR STUDY.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended—

(1) by designating the undesignated paragraph following (135) as paragraph (136); and

(2) by adding at the end the following:

“(137) TAUNTON RIVER, MASSACHUSETTS.—The segment downstream from the headwaters, from the confluence of the Town River and the Matfield River in Bridgewater to the confluence with the Forge River in Raynham, Massachusetts.”.

SEC. 4. STUDY AND REPORT.

Section 5(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(b)) is amended—

(1) by redesignating the second paragraph (8) as paragraph (10);

(2) by redesignating the second paragraph (11) as paragraph (12);

(3) by redesignating the third paragraph (11) as paragraph (13);

(4) by redesignating the fourth paragraph (11) as paragraph (14);

(5) by redesignating the first undesignated paragraph as paragraph (15);

(6) by redesignating the second undesignated paragraph as paragraph (16); and

(7) by adding at the end the following:

“(17) TAUNTON RIVER, MASSACHUSETTS.—Not later than 3 years after the date of enactment of this paragraph, the Secretary of the Interior—

“(A) shall complete the study of the Taunton River, Massachusetts; and

“(B) shall submit to Congress a report describing the results of the study.”.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

BLACK HILLS NATIONAL FOREST PROPERTY EXCHANGE

The bill (S. 1599) to authorize the Secretary of Agriculture to sell or exchange all or part of certain administrative sites and other land in the Black Hills National Forest and to use funds derived from the sale or exchange to acquire replacement sites and to acquire or construct administrative improvements in connection with the Black Hills National Forest, was considered, ordered and engrossed for a third reading, read the third time, and passed; as follows:

S. 1599

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SALE OR EXCHANGE OF LAND.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this Act as the “Secretary”) may, under such terms and conditions as the Secretary may prescribe, sell or exchange any right, title, and interest of the United States in and to the approximately 367 acres contained in the following parcels of land in the State of South Dakota:

(1) Tract BLKH-1 “Spearfish Dwelling” (approximately 0.24 acres); N½ lots 8 and 9 of block 16, sec. 10, T6N, R2E.

(2) Tract BLKH-2 “Deadwood Garage” (approximately 0.12 acres); lots 9 and 11 of block 34, sec. 26, T5N, R3E.

(3) Tract BLKH-3 “Deadwood Dwellings” (approximately 0.32 acres); lots 12 through 16 of block 44, sec. 26, T5N, R3E.

(4) Tract BLKH-4 “Hardy Work Center” (approximately 150 acres); E½, SW¼, SE¼; SE¼, SE¼; sec. 19; NE¼, NW¼, NE¼; E½, NE¼, SE¼; E½, SE¼, NE¼; NE¼, NE¼; sec. 30, T3N, R1E.

(5) Tract BLKH-6 “Pactola Work Center” (approximately 100 acres); W½, SW¼, NW¼; W½, NW¼, SW¼; W½, SW¼, SE¼, SW¼, SW¼; sec. 25; E½, E¼, SE¼, SE¼, SE¼, NE¼; sec. 26; T2N, R5E.

(6) Tract BLKH-7 “Pactola Ranger District Office” (approximately 8.25 acres); lot 1 of Ranger Station Subdivision, sec. 4, T1N, R7E.

(7) Tract BLKH-8 “Reder Administrative Site” (approximately 82 acres); lots 6 and 7, sec. 29; lot A of Reder Placer, lot 19, NW¼, SE¼, SW¼; sec. 30, T1S, R5E.

(8) Tract BLKH-9 “Allen Gulch Properties” (approximately 20.60 acres); lot 14, sec. 25, T1S, R4E.

(9) Tract BLKH-10 “Custer Ranger District Office” (approximately 0.39 acres); lots 4 and 9 of block 125 plus the east 15 feet of the vacated north/south alley adjacent to lot 4, city of Custer, sec. 26, T3S, R4E.

(b) APPLICABLE AUTHORITIES.—Except as otherwise provided in this Act, any sale or exchange of land described in subsection (a) shall be subject to laws (including regulations) applicable to the conveyance and acquisition of land for National Forest System purposes.

(c) CASH EQUALIZATION.—Notwithstanding any other provision of law, the Secretary may accept cash equalization payments in excess of 25 percent of the total value of the land described in subsection (a) from any exchange under subsection (a).

(d) SOLICITATIONS OF OFFERS.—

(1) IN GENERAL.—In carrying out this Act, the Secretary may use solicitations of offers for sale or exchange under this Act on such terms and conditions as the Secretary may prescribe.

(2) REJECTION OF OFFERS.—The Secretary may reject any offer under this Act if the Secretary determines that the offer is not adequate or not in the public interest.

SEC. 2. DISPOSITION OF FUNDS.

Any funds received by the Secretary through sale or by cash equalization from an exchange—

(1) shall be deposited into the fund established by Public Law 90-171 (commonly known as the “Sisk Act”) (16 U.S.C. 484a); and

(2) shall be available for expenditure, on appropriation, for—

(A) the acquisition of land and interests in land in the State of South Dakota; and

(B) the acquisition or construction of administrative improvements in connection with the Black Hills National Forest.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

NATIONAL OILHEAT RESEARCH ALLIANCE ACT OF 1999

The Senate proceeded to consider the bill (S. 348) to authorize and facilitate a program to enhance training, research and development, energy conservation and efficiency, and consumer education in the oilheat industry for the benefit of oilheat consumers and the public, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Oilheat Research Alliance Act of 1999”.

SEC. 2. FINDINGS.

Congress finds that—

(1) oilheat is an important commodity relied on by approximately 30,000,000 Americans as an efficient and economical energy source for commercial and residential space and hot water heating;

(2) oilheat equipment operates at efficiencies among the highest of any space heating energy source, reducing fuel costs and making oilheat an economical means of space heating;

(3) the production, distribution, and marketing of oilheat and oilheat equipment plays a significant role in the economy of the United States, accounting for approximately \$12,900,000,000 in expenditures annually and employing millions of Americans in all aspects of the oilheat industry;

(4) only very limited Federal resources have been made available for oilheat research, development, safety, training, and education efforts, to the detriment of both the oilheat industry and its 30,000,000 consumers; and

(5) the cooperative development, self-financing, and implementation of a coordinated national oilheat industry program of research and development, training, and consumer education is necessary and important for the welfare of the oilheat industry, the general economy of the United States, and the millions of Americans that rely on oilheat for commercial and residential space and hot water heating.

SEC. 3. DEFINITIONS.

In this Act:

(1) ALLIANCE.—The term “Alliance” means a national oilheat research alliance established under section 4.

(2) CONSUMER EDUCATION.—The term “consumer education” means the provision of information to assist consumers and other persons in making evaluations and decisions regarding oilheat and other nonindustrial commercial or residential space or hot water heating fuels.

(3) EXCHANGE.—The term “exchange” means an agreement that—

(A) entitles each party or its customers to receive oilheat from the other party; and

(B) requires only an insubstantial portion of the volumes involved in the exchange to be settled in cash or property other than the oilheat.

(4) INDUSTRY TRADE ASSOCIATION.—The term “industry trade association” means an organization described in paragraph (3) or (6) of section 501(c) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of that Code and is organized for the purpose of representing the oilheat industry.

(5) NO. 1 DISTILLATE.—The term “No. 1 distillate” means fuel oil classified as No. 1 distillate by the American Society for Testing and Materials.

(6) NO. 2 DYED DISTILLATE.—The term “No. 2 dyed distillate” means fuel oil classified as No. 2 distillate by the American Society for Testing and Materials that is indelibly dyed in accordance with regulations prescribed by the Secretary of the Treasury under section 4082(a)(2) of the Internal Revenue Code of 1986.

(7) OILHEAT.—The term “oilheat” means—

- (A) No. 1 distillate; and
- (B) No. 2 dyed distillate;

that is used as a fuel for nonindustrial commercial or residential space or hot water heating.

(8) OILHEAT INDUSTRY.—

(A) IN GENERAL.—The term “oilheat industry” means—

- (i) persons in the production, transportation, or sale of oilheat; and
- (ii) persons engaged in the manufacture or distribution of oilheat utilization equipment.

(B) EXCLUSION.—The term “oilheat industry” does not include ultimate consumers of oilheat.

(9) PUBLIC MEMBER.—The term “public member” means a member of the Alliance described in section 5(c)(1)(F).

(10) QUALIFIED INDUSTRY ORGANIZATION.—The term “qualified industry organization” means the National Association for Oilheat Research and Education or a successor organization.

(11) QUALIFIED STATE ASSOCIATION.—The term “qualified State association” means the industry trade association or other organization that the qualified industry organization or the Alliance determines best represents retail marketers in a State.

(12) RETAIL MARKETER.—The term “retail marketer” means a person engaged primarily in the sale of oilheat to ultimate consumers.

(13) SECRETARY.—The term “Secretary” means the Secretary of Energy.

(14) WHOLESALE DISTRIBUTOR.—The term “wholesale distributor” means a person that—

(A)(i) produces No. 1 distillate or No. 2 dyed distillate;

(ii) imports No. 1 distillate or No. 2 dyed distillate; or

(iii) transports No. 1 distillate or No. 2 dyed distillate across State boundaries or among local marketing areas; and

(B) sells the distillate to another person that does not produce, import, or transport No. 1 distillate or No. 2 dyed distillate across State boundaries or among local marketing areas.

SEC. 4. REFERENDA.

(a) CREATION OF PROGRAM.—

(1) IN GENERAL.—The oilheat industry, through the qualified industry organization, may conduct, at its own expense, a referendum among retail marketers and wholesale distributors for the establishment of a national oilheat research alliance.

(2) REIMBURSEMENT OF COST.—The Alliance, if established, shall reimburse the qualified industry organization for the cost of accounting and documentation for the referendum.

(3) CONDUCT.—A referendum under paragraph (1) shall be conducted by an independent auditing firm.

(4) VOTING RIGHTS.—

(A) RETAIL MARKETERS.—Voting rights of retail marketers in a referendum under paragraph (1) shall be based on the volume of oilheat sold in a State by each retail marketer in the calendar year previous to the year in which the referendum is conducted or in another representative period.

(B) WHOLESALE DISTRIBUTORS.—Voting rights of wholesale distributors in a referendum under paragraph (1) shall be based on the volume of No. 1 distillate and No. 2 dyed distillate sold in a State by each wholesale distributor in the calendar year previous to the year in which the referendum is conducted or in another representative period, weighted by the ratio of the total volume of No. 1 distillate and No. 2 dyed distillate sold for nonindustrial commercial and residential

space and hot water heating in the State to the total volume of No. 1 distillate and No. 2 dyed distillate sold in that State.

(5) ESTABLISHMENT BY APPROVAL OF TWO-THIRDS.—

(A) IN GENERAL.—Subject to subparagraph (B), on approval of persons representing two-thirds of the total volume of oilheat voted in the retail marketer class and two-thirds of the total weighted volume of No. 1 distillate and No. 2 dyed distillate voted in the wholesale distributor class, the Alliance shall be established and shall be authorized to levy assessments under section 7.

(B) REQUIREMENT OF MAJORITY OF RETAIL MARKETERS.—Except as provided in subsection (b), the oilheat industry in a State shall not participate in the Alliance if less than 50 percent of the retail marketer vote in the State approves establishment of the Alliance.

(6) CERTIFICATION OF VOLUMES.—Each person voting in the referendum shall certify to the independent auditing firm the volume of oilheat, No. 1 distillate, or No. 2 dyed distillate represented by the vote of the person.

(7) NOTIFICATION.—Not later than 90 days after the date of enactment of this Act, a qualified State association may notify the qualified industry organization in writing that a referendum under paragraph (1) will not be conducted in the State.

(b) SUBSEQUENT STATE PARTICIPATION.—The oilheat industry in a State that has not participated initially in the Alliance may subsequently elect to participate by conducting a referendum under subsection (a).

(c) TERMINATION OR SUSPENSION.—

(1) IN GENERAL.—On the initiative of the Alliance or on petition to the Alliance by retail marketers and wholesale distributors representing 35 percent of the volume of oilheat or weighted No. 1 distillate and No. 2 dyed distillate in each class, the Alliance shall, at its own expense, hold a referendum, to be conducted by an independent auditing firm selected by the Alliance, to determine whether the oilheat industry favors termination or suspension of the Alliance.

(2) VOLUME PERCENTAGES REQUIRED TO TERMINATE OR SUSPEND.—Termination or suspension shall not take effect unless termination or suspension is approved by—

(A) persons representing more than one-half of the total volume of oilheat voted in the retail marketer class and more than one-half of the total volume of weighted No. 1 distillate and No. 2 dyed distillate voted in the wholesale distributor class; or

(B) persons representing more than two-thirds of the total volume of fuel voted in either such class.

(d) CALCULATION OF OILHEAT SALES.—For the purposes of this section and section 5, the volume of oilheat sold annually in a State shall be determined on the basis of information provided by the Energy Information Administration with respect to a calendar year or other representative period.

SEC. 5. MEMBERSHIP.

(a) SELECTION.—

(1) IN GENERAL.—Except as provided in subsection (c)(1)(C), the qualified industry organization shall select members of the Alliance representing the oilheat industry in a State from a list of nominees submitted by the qualified State association in the State.

(2) VACANCIES.—A vacancy in the Alliance shall be filled in the same manner as the original selection.

(b) REPRESENTATION.—In selecting members of the Alliance, the qualified industry organization shall make best efforts to select members that are representative of the oilheat industry, including representation of—

- (1) interstate and intrastate operators among retail marketers;

(2) wholesale distributors of No. 1 distillate and No. 2 dyed distillate;

(3) large and small companies among wholesale distributors and retail marketers; and

(4) diverse geographic regions of the country.

(c) NUMBER OF MEMBERS.—

(1) IN GENERAL.—The membership of the Alliance shall be as follows:

(A) One member representing each State with oilheat sales in excess of 32,000,000 gallons per year.

(B) If fewer than 24 States are represented under subparagraph (A), 1 member representing each of the States with the highest volume of annual oilheat sales, as necessary to cause the total number of States represented under subparagraph (A) and this subparagraph to equal 24.

(C) 5 representatives of retail marketers, 1 each to be selected by the qualified State associations of the 5 States with the highest volume of annual oilheat sales.

(D) 5 additional representatives of retail marketers.

(E) 21 representatives of wholesale distributors.

(F) 6 public members, who shall be representatives of significant users of oilheat, the oilheat research community, *State energy officials*, or other groups knowledgeable about oilheat.

(2) FULL-TIME OWNERS OR EMPLOYEES.—Other than the public members, Alliance members shall be full-time owners or employees of members of the oilheat industry, except that members described in subparagraphs (C), (D), and (E) of paragraph (1) may be employees of the qualified industry organization or an industry trade association.

(d) COMPENSATION.—Alliance members shall receive no compensation for their service, nor shall Alliance members be reimbursed for expenses relating to their service, except that public members, on request, may be reimbursed for reasonable expenses directly related to participation in meetings of the Alliance.

(e) TERMS.—

(1) IN GENERAL.—Subject to paragraph (4), a member of the Alliance shall serve a term of 3 years, except that a member filling an unexpired term may serve a total of 7 consecutive years.

(2) TERM LIMIT.—A member may serve not more than 2 full consecutive terms.

(3) FORMER MEMBERS.—A former member of the Alliance may be returned to the Alliance if the member has not been a member for a period of 2 years.

(4) INITIAL APPOINTMENTS.—Initial appointments to the Alliance shall be for terms of 1, 2, and 3 years, as determined by the qualified industry organization, staggered to provide for the subsequent selection of one-third of the members each year.

SEC. 6. FUNCTIONS.

(a) IN GENERAL.—

(1) PROGRAMS, PROJECTS; CONTRACTS AND OTHER AGREEMENTS.—The Alliance—

(A) shall develop programs and projects and enter into contracts or other agreements with other persons and entities for implementing this Act, including programs—

(i) to enhance consumer and employee safety and training;

(ii) to provide for research, development, and demonstration of clean and efficient oilheat utilization equipment; and

(iii) for consumer education; and

(B) may provide for the payment of the costs of carrying out subparagraph (A) with assessments collected under section 7.

(2) COORDINATION.—The Alliance shall coordinate its activities with industry trade

associations and other persons as appropriate to provide efficient delivery of services and to avoid unnecessary duplication of activities.

(3) ACTIVITIES.—

(A) EXCLUSIONS.—Activities under clause (i) or (ii) of paragraph (1)(A) shall not include advertising, promotions, or consumer surveys in support of advertising or promotions.

(B) RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACTIVITIES.—

(i) IN GENERAL.—Research, development, and demonstration activities under paragraph (1)(A)(ii) shall include—

(I) all activities incidental to research, development, and demonstration of clean and efficient oilheat utilization equipment; and

(II) the obtaining of patents, including payment of attorney's fees for making and perfecting a patent application.

(ii) EXCLUDED ACTIVITIES.—Research, development, and demonstration activities under paragraph (1)(A)(ii) shall not include research, development, and demonstration of oilheat utilization equipment with respect to which technically feasible and commercially feasible operations have been verified, except that funds may be provided for improvements to existing equipment until the technical feasibility and commercial feasibility of the operation of those improvements have been verified.

(b) PRIORITIES.—In the development of programs and projects, the Alliance shall give priority to issues relating to—

(1) research, development, and demonstration;

(2) safety;

(3) consumer education; and

(4) training.

(c) ADMINISTRATION.—

(1) OFFICERS; COMMITTEES; BYLAWS.—The Alliance—

(A) shall select from among its members a chairperson and other officers as necessary;

(B) may establish and authorize committees and subcommittees of the Alliance to take specific actions that the Alliance is authorized to take; and

(C) shall adopt bylaws for the conduct of business and the implementation of this Act.

(2) SOLICITATION OF OILHEAT INDUSTRY COMMENT AND RECOMMENDATIONS.—The Alliance shall establish procedures for the solicitation of oilheat industry comment and recommendations on any significant contracts and other agreements, programs, and projects to be funded by the Alliance.

(3) ADVISORY COMMITTEES.—The Alliance may establish advisory committees consisting of persons other than Alliance members.

(4) VOTING.—Each member of the Alliance shall have 1 vote in matters before the Alliance.

(d) ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—The administrative expenses of operating the Alliance (not including costs incurred in the collection of assessments under section 7) plus amounts paid under paragraph (2) shall not exceed 7 percent of the amount of assessments collected in any calendar year, except that during the first year of operation of the Alliance such expenses and amounts shall not exceed 10 percent of the amount of assessments.

(2) REIMBURSEMENT OF THE SECRETARY.—

(A) IN GENERAL.—The Alliance shall annually reimburse the Secretary for costs incurred by the Federal Government relating to the Alliance.

(B) LIMITATION.—Reimbursement under subparagraph (A) for any calendar year shall not exceed the amount that the Secretary determines is twice the average annual salary of 1 employee of the Department of Energy.

(e) BUDGET.—

(1) PUBLICATION OF PROPOSED BUDGET.—Before August 1 of each year, the Alliance shall publish for public review and comment a proposed budget for the next calendar year, including the probable costs of all programs, projects, and contracts and other agreements.

(2) SUBMISSION TO THE SECRETARY AND CONGRESS.—After review and comment under paragraph (1), the Alliance shall submit the proposed budget to the Secretary and Congress.

(3) RECOMMENDATIONS BY THE SECRETARY.—The Secretary may recommend for inclusion in the budget programs and activities that the Secretary considers appropriate.

(4) IMPLEMENTATION.—The Alliance shall not implement a proposed budget until the expiration of 60 days after submitting the proposed budget to the Secretary.

(f) RECORDS; AUDITS.—

(1) RECORDS.—The Alliance shall—

(A) keep records that clearly reflect all of the acts and transactions of the Alliance; and

(B) make the records available to the public.

(2) AUDITS.—

(A) IN GENERAL.—The records of the Alliance (including fee assessment reports and applications for refunds under section 7(b)(4)) shall be audited by a certified public accountant at least once each year and at such other times as the Alliance may designate.

(B) AVAILABILITY OF AUDIT REPORTS.—Copies of each audit report shall be provided to the Secretary, the members of the Alliance, and the qualified industry organization, and, on request, to other members of the oilheat industry.

(C) POLICIES AND PROCEDURES.—

(i) IN GENERAL.—The Alliance shall establish policies and procedures for auditing compliance with this Act.

(ii) CONFORMITY WITH GAAP.—The policies and procedures established under clause (i) shall conform with generally accepted accounting principles.

(g) PUBLIC ACCESS TO ALLIANCE PROCEEDINGS.—

(1) PUBLIC NOTICE.—The Alliance shall give at least 30 days' public notice of each meeting of the Alliance.

(2) MEETINGS OPEN TO THE PUBLIC.—Each meeting of the Alliance shall be open to the public.

(3) MINUTES.—The minutes of each meeting of the Alliance shall be made available to and readily accessible by the public.

(h) ANNUAL REPORT.—Each year the Alliance shall prepare and make publicly available a report that—

(1) includes a description of all programs, projects, and contracts and other agreements undertaken by the Alliance during the previous year and those planned for the current year; and

(2) details the allocation of Alliance resources for each such program and project.

SEC. 7. ASSESSMENTS.

(a) RATE.—The assessment rate shall be equal to two-tenths-cent per gallon of No. 1 distillate and No. 2 dyed distillate.

(b) COLLECTION RULES.—

(1) COLLECTION AT POINT OF SALE.—The assessment shall be collected at the point of sale of No. 1 distillate and No. 2 dyed distillate by a wholesale distributor to a person other than a wholesale distributor, including a sale made pursuant to an exchange.

(2) RESPONSIBILITY FOR PAYMENT.—A wholesale distributor—

(A) shall be responsible for payment of an assessment to the Alliance on a quarterly basis; and

(B) shall provide to the Alliance certification of the volume of fuel sold.

(3) NO OWNERSHIP INTEREST.—A person that has no ownership interest in No. 1 distillate or No. 2 dyed distillate shall not be responsible for payment of an assessment under this section.

(4) FAILURE TO RECEIVE PAYMENT.—

(A) REFUND.—A wholesale distributor that does not receive payments from a purchaser for No. 1 distillate or No. 2 dyed distillate within 1 year of the date of sale may apply for a refund from the Alliance of the assessment paid.

(B) AMOUNT.—The amount of a refund shall not exceed the amount of the assessment levied on the No. 1 distillate or No. 2 dyed distillate for which payment was not received.

(5) IMPORTATION AFTER POINT OF SALE.—The owner of No. 1 distillate or No. 2 dyed distillate imported after the point of sale—

(A) shall be responsible for payment of the assessment to the Alliance at the point at which the product enters the United States; and

(B) shall provide to the Alliance certification of the volume of fuel imported.

(6) LATE PAYMENT CHARGE.—The Alliance may establish a late payment charge and rate of interest to be imposed on any person who fails to remit or pay to the Alliance any amount due under this Act.

(7) ALTERNATIVE COLLECTION RULES.—The Alliance may establish, or approve a request of the oilheat industry in a State for, an alternative means of collecting the assessment if another means is determined to be more efficient or more effective.

(c) SALE FOR USE OTHER THAN AS OILHEAT.—No. 1 distillate and No. 2 dyed distillate sold for uses other than as oilheat are excluded from the assessment.

(d) INVESTMENT OF FUNDS.—Pending disbursement under a program, project, or contract or other agreement the Alliance may invest funds collected through assessments, and any other funds received by the Alliance, only—

(1) in obligations of the United States or any agency of the United States;

(2) in general obligations of any State or any political subdivision of a State;

(3) in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(4) in obligations fully guaranteed as to principal and interest by the United States.

(e) STATE, LOCAL, AND REGIONAL PROGRAMS.—

(1) COORDINATION.—The Alliance shall establish a program coordinating the operation of the Alliance with the operator of any similar State, local, or regional program created under State law (including a regulation), or similar entity.

(2) FUNDS MADE AVAILABLE TO QUALIFIED STATE ASSOCIATIONS.—

(A) IN GENERAL.—

(i) BASE AMOUNT.—The Alliance shall make available to the qualified State association of each State an amount equal to 15 percent of the amount of assessments collected in the State.

(ii) ADDITIONAL AMOUNT.—

(I) IN GENERAL.—A qualified State association may request that the Alliance provide to the association any portion of the remaining 85 percent of the amount of assessments collected in the State.

(II) REQUEST REQUIREMENTS.—A request under this clause shall—

(aa) specify the amount of funds requested;

(bb) describe in detail the specific uses for which the requested funds are sought;

(cc) include a commitment to comply with this Act in using the requested funds; and

(dd) be made publicly available.

(III) DIRECT BENEFIT.—The Alliance shall not provide any funds in response to a request under this clause unless the Alliance

determines that the funds will be used to directly benefit the oilheat industry.

(IV) MONITORING; TERMS, CONDITIONS, AND REPORTING REQUIREMENTS.—The Alliance shall—

(aa) monitor the use of funds provided under this clause; and

(bb) impose whatever terms, conditions, and reporting requirements that the Alliance considers necessary to ensure compliance with this Act.

SEC. 8. MARKET SURVEY AND CONSUMER PROTECTION.

(a) PRICE ANALYSIS.—Beginning 2 years after establishment of the Alliance and annually thereafter, the Secretary of Commerce, using only data provided by the Energy Information Administration and other public sources, shall prepare and make available to the Congress, the Alliance, the Secretary of Energy, and the public, an analysis of changes in the price of oilheat relative to other energy sources. The oilheat price analysis shall compare indexed changes in the price of consumer grade oilheat to a composite of indexed changes in the price of residential electricity, residential natural gas, and propane on an annual national average basis. For purposes of indexing changes in oilheat, residential electricity, residential natural gas, and propane prices, the Secretary of Commerce shall use a 5-year rolling average price beginning with the year 4 years prior to the establishment of the Alliance.

(b) AUTHORITY TO RESTRICT ACTIVITIES.—If in any year the 5-year average price composite index of consumer grade oilheat exceeds the 5-year rolling average price composite index of residential electricity, residential natural gas, and propane in an amount greater than 10.1 percent, the activities of the Alliance shall be restricted to research and development, training, and safety matters. The Alliance shall inform the Secretary of Energy and the Congress of any restriction of activities under this subsection. Upon expiration of 180 days after the beginning of any such restriction of activities, the Secretary of Commerce shall again conduct the oilheat price analysis described in subsection (a). Activities of the Alliance shall continue to be restricted under this subsection until the price index excess is 10.1 percent or less.

SEC. [8.] 9. COMPLIANCE.

(a) IN GENERAL.—The Alliance may bring a civil action in United States district court to compel payment of an assessment under section 7.

(b) COSTS.—A successful action for compliance under this section may also require payment by the defendant of the costs incurred by the Alliance in bringing the action.

SEC. [9.] 10. LOBBYING RESTRICTIONS.

No funds derived from assessments under section 7 collected by the Alliance shall be used to influence legislation or elections, except that the Alliance may use such funds to formulate and submit to the Secretary recommendations for amendments to this Act or other laws that would further the purposes of this Act.

SEC. [10.] 11. DISCLOSURE.

Any consumer education activity undertaken with funds provided by the Alliance shall include a statement that the activities were supported, in whole or in part, by the Alliance.

SEC. [11.] 12. VIOLATIONS.

(a) PROHIBITION.—It shall be unlawful for any person to conduct a consumer education activity, undertaken with funds derived from assessments collected by the Alliance under section 7, that includes—

(1) a reference to a private brand name;

(2) a false or unwarranted claim on behalf of oilheat or related products; or

(3) a reference with respect to the attributes or use of any competing product.

(b) COMPLAINTS.—

(1) IN GENERAL.—A public utility that is aggrieved by a violation described in subsection (a) may file a complaint with the Alliance.

(2) TRANSMITTAL TO QUALIFIED STATE ASSOCIATION.—A complaint shall be transmitted concurrently to any qualified State association undertaking the consumer education activity with respect to which the complaint is made.

(3) CESSATION OF ACTIVITIES.—On receipt of a complaint under this subsection, the Alliance, and any qualified State association undertaking the consumer education activity with respect to which the complaint is made, shall cease that consumer education activity until—

(A) the complaint is withdrawn; or

(B) a court determines that the conduct of the activity complained of does not constitute a violation of subsection (a).

(c) RESOLUTION BY PARTIES.—

(1) IN GENERAL.—Not later than 10 days after a complaint is filed and transmitted under subsection (b), the complaining party, the Alliance, and any qualified State association undertaking the consumer education activity with respect to which the complaint is made shall meet to attempt to resolve the complaint.

(2) WITHDRAWAL OF COMPLAINT.—If the issues in dispute are resolved in those discussions, the complaining party shall withdraw its complaint.

(d) JUDICIAL REVIEW.—

(1) IN GENERAL.—A public utility filing a complaint under this section, the Alliance, a qualified State association undertaking the consumer education activity with respect to which a complaint under this section is made, or any person aggrieved by a violation of subsection (a) may seek appropriate relief in United States district court.

(2) RELIEF.—A public utility filing a complaint under this section shall be entitled to temporary and injunctive relief enjoining the consumer education activity with respect to which a complaint under this section is made until—

(A) the complaint is withdrawn; or

(B) the court has determined that the consumer education activity complained of does not constitute a violation of subsection (a).

(e) ATTORNEY'S FEES.—

(1) MERITORIOUS CASE.—In a case in Federal court in which the court grants a public utility injunctive relief under subsection (d), the public utility shall be entitled to recover an attorney's fee from the Alliance and any qualified State association undertaking the consumer education activity with respect to which a complaint under this section is made.

(2) NONMERITORIOUS CASE.—In any case under subsection (d) in which the court determines a complaint under subsection (b) to be frivolous and without merit, the prevailing party shall be entitled to recover an attorney's fee.

(f) SAVINGS CLAUSE.—Nothing in this section shall limit causes of action brought under any other law.

SEC. [12.] 13. SUNSET.

This Act shall cease to be effective as of the date that is 4 years after the date on which the Alliance is established.

AMENDMENT NO. 2802

(Purpose: To amend S. 348, as reported)

On page 2, after line 2, insert the following:

“TITLE I—NATIONAL OIL HEAT RESEARCH ALLIANCE ACT OF 1999”

On page 6, after line 18, insert the following:

“(15) STATE.—The term ‘State’ means the several states, except the State of Alaska.”.

On page 30, after line 11, insert the following:

“TITLE II—SMALL HYDROELECTRIC PROJECTS IN ALASKA

“SEC. 201. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS.

“Part I of the Federal Power Act (16 U.S.C. 792 et seq.) is amended by adding at the end the following:

““SEC. 32. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS.

“(a) DISCONTINUANCE OF REGULATION BY THE COMMISSION.—

Notwithstanding sections 4(e) and 23(b), the Commission shall discontinue exercising licensing and regulatory authority under this Part over qualifying project works in the State of Alaska, effective on the date on which the commission certifies that the State of Alaska has in place a regulatory program for water-power development that—

“(1) protects the public interest, the purposes listed in paragraph (2), and the environment to the same extent provided by licensing and regulation by the Commission under this Part and other applicable Federal laws, including the endangered Species Act (16 U.S.C. 1531 et seq.) and the fish and wildlife Coordination Act (16 U.S.C. 661 et seq.);

“(2) gives equal consideration to the purposes of—

“(A) energy conservation;

“(B) the protection, mitigation of damage to, and enhancement of, fish and wildlife (including related spawning grounds and habitat);

“(C) the protection of recreational opportunities,

“(D) the preservation of other aspects of environmental quality,

“(E) the interests of Alaska Natives, and

“(F) other beneficial public uses, including irrigation, flood control, water supply, and navigation; and

“(3) requires, as a license for any project works—

“(A) the construction, maintenance, and operation by a licensee at its own expense of such lights and signals as may be directed by the Secretary of the Department in which the Coast Guard is operating, and such fishways as may be prescribed by the Secretary of the Interior or the Secretary of Commerce, as appropriate;

“(B) the operation of any navigation facilities which may be constructed as part of any project to be controlled at all times by such reasonable rules and regulations as may be made by the Secretary of the Army; and

“(C) conditions for the protection, mitigation, and enhancement of fish and wildlife based on recommendations received pursuant to the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) from the National Marine Fisheries Service, the United States Fish and Wildlife Service, and State fish and wildlife agencies.

“(b) DEFINITION OF ‘QUALIFYING PROJECT WORKS.’—For purposes of this section, the term ‘qualifying project works’ means project works—

“(1) that are not part of a project licensed under this Part or exempted from licensing under this Part or section 405 of the Public Utility Regulatory Policies Act of 1978 prior to the date of enactment of this section;

“(2) for which a preliminary permit, a license application, or an application for an exemption from licensing has not been accepted for filing by the Commission prior to the date of enactment of subsection (c) (unless such application is withdrawn at the election of the applicant);

“(3) that are part of a project that has a power production capacity of 5,000 kilowatts or less;

“(4) that are located entirely within the boundaries of the State of Alaska; and

“(5) that are not located in whole or in part on any Indian reservation, a conservation system unit (as defined in section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4))), or segment of a river designated for study for addition to the Wild and Scenic Rivers System.

“(c) ELECTION OF STATE LICENSING.—In the case of nonqualifying project works that would be a qualifying project works but for the fact that the project has been licensed (or exempted from licensing) by the Commission prior to the enactment of this section, the licensee of such project may in its discretion elect to make the project subject to licensing and regulation by the State of Alaska under this section.

“(d) PROJECT WORKS ON FEDERAL LANDS.—With respect to projects located in whole or in part on a reservation, a conservation system unit, or the public lands, a State license or exemption from licensing shall be subject to—

“(1) the approval of the Secretary having jurisdiction over such lands; and

“(2) such conditions as the Secretary may prescribe.

“(e) CONSULTATION WITH AFFECTED AGENCIES.—The Commission shall consult with the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce before certifying the State of Alaska's regulatory program.

“(f) APPLICATION OF FEDERAL LAWS.—Nothing in this section shall preempt the application of Federal environmental, natural resources, or cultural resources protection laws according to their terms.

“(g) OVERSIGHT BY THE COMMISSION.—The State of Alaska shall notify the Commission not later than 30 days after making any significant modification to its regulatory program. The Commission shall periodically review the State's program to ensure compliance with the provisions of this section.

“(h) RESUMPTION OF COMMISSION AUTHORITY.—Notwithstanding subsection (a), the Commission shall reassert its licensing and regulatory authority under this part if the Commission finds that the State of Alaska has not complied with one or more of the requirements of this section.

“(i) DETERMINATION BY THE COMMISSION.—

“(1) Upon application by the Governor of the State of Alaska, the Commission shall within 30 days commence a review of the State of Alaska's regulatory program for water-power development to determine whether it complies with the requirements of subsection (a).

“(2) The Commission's review required by paragraph 91) shall be completed within one year of initiation, and the Commission shall within 30 days thereafter issue a final order determining whether or not the State of Alaska's regulatory program for water-power development complies with the regulations of subsection (a).

“(3) If the Commission fails to issue a final order in accordance with paragraph (2), the State of Alaska's regulatory program for water-power development shall be deemed to be in compliance with subsection (a).

“TITLE III—HYDROELECTRIC PROJECTS IN HAWAII

“SEC. 301. PROJECTS ON FRESH WATERS IN THE STATE OF HAWAII

“Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended in the first sentence by striking “several States, or upon” and inserting “several States (except fresh waters in the State of Hawaii, unless a license would be required under section 23), or upon”.

“TITLE IV—ARROWROCK DAM HYDROELECTRIC PROJECT

“SEC. 501. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.

“Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 4656, the Commission may, at the request of the licensee for the project and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend until March 26, 2005, the time period during which the licensee is required to commence construction of the project.”

The amendment (No. 2802) was agreed to.

The committee amendments were agreed to.

The bill (S. 348), as amended, was passed, as follows:

S. 348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—NATIONAL OIL HEAT RESEARCH ALLIANCE ACT OF 1999

SEC. 101. SHORT TITLE.

This title may be cited as the “National Oilheat Research Alliance Act of 1999”.

SEC. 102. FINDINGS.

Congress finds that—

(1) oilheat is an important commodity relied on by approximately 30,000,000 Americans as an efficient and economical energy source for commercial and residential space and hot water heating;

(2) oilheat equipment operates at efficiencies among the highest of any space heating energy source, reducing fuel costs and making oilheat an economical means of space heating;

(3) the production, distribution, and marketing of oilheat and oilheat equipment plays a significant role in the economy of the United States, accounting for approximately \$12,900,000,000 in expenditures annually and employing millions of Americans in all aspects of the oilheat industry;

(4) only very limited Federal resources have been made available for oilheat research, development, safety, training, and education efforts, to the detriment of both the oilheat industry and its 30,000,000 consumers; and

(5) the cooperative development, self-financing, and implementation of a coordinated national oilheat industry program of research and development, training, and consumer education is necessary and important for the welfare of the oilheat industry, the general economy of the United States, and the millions of Americans that rely on oilheat for commercial and residential space and hot water heating.

SEC. 103. DEFINITIONS.

In this title:

(1) ALLIANCE.—The term “Alliance” means a national oilheat research alliance established under section 104.

(2) CONSUMER EDUCATION.—The term “consumer education” means the provision of information to assist consumers and other persons in making evaluations and decisions regarding oilheat and other nonindustrial commercial or residential space or hot water heating fuels.

(3) EXCHANGE.—The term “exchange” means an agreement that—

(A) entitles each party or its customers to receive oilheat from the other party; and

(B) requires only an insubstantial portion of the volumes involved in the exchange to

be settled in cash or property other than the oilheat.

(4) INDUSTRY TRADE ASSOCIATION.—The term “industry trade association” means an organization described in paragraph (3) or (6) of section 501(c) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of that Code and is organized for the purpose of representing the oilheat industry.

(5) NO. 1 DISTILLATE.—The term “No. 1 distillate” means fuel oil classified as No. 1 distillate by the American Society for Testing and Materials.

(6) NO. 2 DYED DISTILLATE.—The term “No. 2 dyed distillate” means fuel oil classified as No. 2 distillate by the American Society for Testing and Materials that is indelibly dyed in accordance with regulations prescribed by the Secretary of the Treasury under section 4082(a)(2) of the Internal Revenue Code of 1986.

(7) OILHEAT.—The term “oilheat” means—

(A) No. 1 distillate; and

(B) No. 2 dyed distillate;

that is used as a fuel for nonindustrial commercial or residential space or hot water heating.

(8) OILHEAT INDUSTRY.—

(A) IN GENERAL.—The term “oilheat industry” means—

(i) persons in the production, transportation, or sale of oilheat; and

(ii) persons engaged in the manufacture or distribution of oilheat utilization equipment.

(B) EXCLUSION.—The term “oilheat industry” does not include ultimate consumers of oilheat.

(9) PUBLIC MEMBER.—The term “public member” means a member of the Alliance described in section 105(c)(1)(F).

(10) QUALIFIED INDUSTRY ORGANIZATION.—The term “qualified industry organization” means the National Association for Oilheat Research and Education or a successor organization.

(11) QUALIFIED STATE ASSOCIATION.—The term “qualified State association” means the industry trade association or other organization that the qualified industry organization or the Alliance determines best represents retail marketers in a State.

(12) RETAIL MARKETER.—The term “retail marketer” means a person engaged primarily in the sale of oilheat to ultimate consumers.

(13) SECRETARY.—The term “Secretary” means the Secretary of Energy.

(14) WHOLESALE DISTRIBUTOR.—The term “wholesale distributor” means a person that—

(A)(i) produces No. 1 distillate or No. 2 dyed distillate;

(ii) imports No. 1 distillate or No. 2 dyed distillate; or

(iii) transports No. 1 distillate or No. 2 dyed distillate across State boundaries or among local marketing areas; and

(B) sells the distillate to another person that does not produce, import, or transport No. 1 distillate or No. 2 dyed distillate across State boundaries or among local marketing areas.

(15) STATE.—The term “State” means the several States, except the State of Alaska.

SEC. 104. REFERENDA.

(a) CREATION OF PROGRAM.—

(1) IN GENERAL.—The oilheat industry, through the qualified industry organization, may conduct, at its own expense, a referendum among retail marketers and wholesale distributors for the establishment of a national oilheat research alliance.

(2) REIMBURSEMENT OF COST.—The Alliance, if established, shall reimburse the qualified

industry organization for the cost of accounting and documentation for the referendum.

(3) CONDUCT.—A referendum under paragraph (1) shall be conducted by an independent auditing firm.

(4) VOTING RIGHTS.—

(A) RETAIL MARKETERS.—Voting rights of retail marketers in a referendum under paragraph (1) shall be based on the volume of oilheat sold in a State by each retail marketer in the calendar year previous to the year in which the referendum is conducted or in another representative period.

(B) WHOLESALE DISTRIBUTORS.—Voting rights of wholesale distributors in a referendum under paragraph (1) shall be based on the volume of No. 1 distillate and No. 2 dyed distillate sold in a State by each wholesale distributor in the calendar year previous to the year in which the referendum is conducted or in another representative period, weighted by the ratio of the total volume of No. 1 distillate and No. 2 dyed distillate sold for nonindustrial commercial and residential space and hot water heating in the State to the total volume of No. 1 distillate and No. 2 dyed distillate sold in that State.

(5) ESTABLISHMENT BY APPROVAL OF TWO-THIRDS.—

(A) IN GENERAL.—Subject to subparagraph (B), on approval of persons representing two-thirds of the total volume of oilheat voted in the retail marketer class and two-thirds of the total weighted volume of No. 1 distillate and No. 2 dyed distillate voted in the wholesale distributor class, the Alliance shall be established and shall be authorized to levy assessments under section 107.

(B) REQUIREMENT OF MAJORITY OF RETAIL MARKETERS.—Except as provided in subsection (b), the oilheat industry in a State shall not participate in the Alliance if less than 50 percent of the retail marketer vote in the State approves establishment of the Alliance.

(6) CERTIFICATION OF VOLUMES.—Each person voting in the referendum shall certify to the independent auditing firm the volume of oilheat, No. 1 distillate, or No. 2 dyed distillate represented by the vote of the person.

(7) NOTIFICATION.—Not later than 90 days after the date of enactment of this title, a qualified State association may notify the qualified industry organization in writing that a referendum under paragraph (1) will not be conducted in the State.

(b) SUBSEQUENT STATE PARTICIPATION.—The oilheat industry in a State that has not participated initially in the Alliance may subsequently elect to participate by conducting a referendum under subsection (a).

(c) TERMINATION OR SUSPENSION.—

(1) IN GENERAL.—On the initiative of the Alliance or on petition to the Alliance by retail marketers and wholesale distributors representing 35 percent of the volume of oilheat or weighted No. 1 distillate and No. 2 dyed distillate in each class, the Alliance shall, at its own expense, hold a referendum, to be conducted by an independent auditing firm selected by the Alliance, to determine whether the oilheat industry favors termination or suspension of the Alliance.

(2) VOLUME PERCENTAGES REQUIRED TO TERMINATE OR SUSPEND.—Termination or suspension shall not take effect unless termination or suspension is approved by—

(A) persons representing more than one-half of the total volume of oilheat voted in the retail marketer class and more than one-half of the total volume of weighted No. 1 distillate and No. 2 dyed distillate voted in the wholesale distributor class; or

(B) persons representing more than two-thirds of the total volume of fuel voted in either such class.

(d) CALCULATION OF OILHEAT SALES.—For the purposes of this section and section 105, the volume of oilheat sold annually in a State shall be determined on the basis of information provided by the Energy Information Administration with respect to a calendar year or other representative period.

SEC. 105. MEMBERSHIP.

(a) SELECTION.—

(1) IN GENERAL.—Except as provided in subsection (c)(1)(C), the qualified industry organization shall select members of the Alliance representing the oilheat industry in a State from a list of nominees submitted by the qualified State association in the State.

(2) VACANCIES.—A vacancy in the Alliance shall be filled in the same manner as the original selection.

(b) REPRESENTATION.—In selecting members of the Alliance, the qualified industry organization shall make best efforts to select members that are representative of the oilheat industry, including representation of—

(1) interstate and intrastate operators among retail marketers;

(2) wholesale distributors of No. 1 distillate and No. 2 dyed distillate;

(3) large and small companies among wholesale distributors and retail marketers; and

(4) diverse geographic regions of the country.

(c) NUMBER OF MEMBERS.—

(1) IN GENERAL.—The membership of the Alliance shall be as follows:

(A) One member representing each State with oilheat sales in excess of 32,000,000 gallons per year.

(B) If fewer than 24 States are represented under subparagraph (A), 1 member representing each of the States with the highest volume of annual oilheat sales, as necessary to cause the total number of States represented under subparagraph (A) and this subparagraph to equal 24.

(C) 5 representatives of retail marketers, 1 each to be selected by the qualified State associations of the 5 States with the highest volume of annual oilheat sales.

(D) 5 additional representatives of retail marketers.

(E) 21 representatives of wholesale distributors.

(F) 6 public members, who shall be representatives of significant users of oilheat, the oilheat research community, State energy officials, or other groups knowledgeable about oilheat.

(2) FULL-TIME OWNERS OR EMPLOYEES.—Other than the public members, Alliance members shall be full-time owners or employees of members of the oilheat industry, except that members described in subparagraphs (C), (D), and (E) of paragraph (1) may be employees of the qualified industry organization or an industry trade association.

(d) COMPENSATION.—Alliance members shall receive no compensation for their service, nor shall Alliance members be reimbursed for expenses relating to their service, except that public members, on request, may be reimbursed for reasonable expenses directly related to participation in meetings of the Alliance.

(e) TERMS.—

(1) IN GENERAL.—Subject to paragraph (4), a member of the Alliance shall serve a term of 3 years, except that a member filling an unexpired term may serve a total of 7 consecutive years.

(2) TERM LIMIT.—A member may serve not more than 2 full consecutive terms.

(3) FORMER MEMBERS.—A former member of the Alliance may be returned to the Alliance if the member has not been a member for a period of 2 years.

(4) INITIAL APPOINTMENTS.—Initial appointments to the Alliance shall be for terms of 1, 2, and 3 years, as determined by the qualified industry organization, staggered to provide for the subsequent selection of one-third of the members each year.

SEC. 106. FUNCTIONS.

(a) IN GENERAL.—

(1) PROGRAMS, PROJECTS; CONTRACTS AND OTHER AGREEMENTS.—The Alliance—

(A) shall develop programs and projects and enter into contracts or other agreements with other persons and entities for implementing this title, including programs—

(i) to enhance consumer and employee safety and training;

(ii) to provide for research, development, and demonstration of clean and efficient oilheat utilization equipment; and

(iii) for consumer education; and

(B) may provide for the payment of the costs of carrying out subparagraph (A) with assessments collected under section 107.

(2) COORDINATION.—The Alliance shall coordinate its activities with industry trade associations and other persons as appropriate to provide efficient delivery of services and to avoid unnecessary duplication of activities.

(3) ACTIVITIES.—

(A) EXCLUSIONS.—Activities under clause (i) or (ii) of paragraph (1)(A) shall not include advertising, promotions, or consumer surveys in support of advertising or promotions.

(B) RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACTIVITIES.—

(i) IN GENERAL.—Research, development, and demonstration activities under paragraph (1)(A)(ii) shall include—

(I) all activities incidental to research, development, and demonstration of clean and efficient oilheat utilization equipment; and

(II) the obtaining of patents, including payment of attorney's fees for making and perfecting a patent application.

(ii) EXCLUDED ACTIVITIES.—Research, development, and demonstration activities under paragraph (1)(A)(ii) shall not include research, development, and demonstration of oilheat utilization equipment with respect to which technically feasible and commercially feasible operations have been verified, except that funds may be provided for improvements to existing equipment until the technical feasibility and commercial feasibility of the operation of those improvements have been verified.

(b) PRIORITIES.—In the development of programs and projects, the Alliance shall give priority to issues relating to—

(1) research, development, and demonstration;

(2) safety;

(3) consumer education; and

(4) training.

(c) ADMINISTRATION.—

(1) OFFICERS; COMMITTEES; BYLAWS.—The Alliance—

(A) shall select from among its members a chairperson and other officers as necessary;

(B) may establish and authorize committees and subcommittees of the Alliance to take specific actions that the Alliance is authorized to take; and

(C) shall adopt bylaws for the conduct of business and the implementation of this title.

(2) SOLICITATION OF OILHEAT INDUSTRY COMMENT AND RECOMMENDATIONS.—The Alliance shall establish procedures for the solicitation of oilheat industry comment and recommendations on any significant contracts and other agreements, programs, and projects to be funded by the Alliance.

(3) **ADVISORY COMMITTEES.**—The Alliance may establish advisory committees consisting of persons other than Alliance members.

(4) **VOTING.**—Each member of the Alliance shall have 1 vote in matters before the Alliance.

(d) **ADMINISTRATIVE EXPENSES.**—

(1) **IN GENERAL.**—The administrative expenses of operating the Alliance (not including costs incurred in the collection of assessments under section 107) plus amounts paid under paragraph (2) shall not exceed 7 percent of the amount of assessments collected in any calendar year, except that during the first year of operation of the Alliance such expenses and amounts shall not exceed 10 percent of the amount of assessments.

(2) **REIMBURSEMENT OF THE SECRETARY.**—

(A) **IN GENERAL.**—The Alliance shall annually reimburse the Secretary for costs incurred by the Federal Government relating to the Alliance.

(B) **LIMITATION.**—Reimbursement under subparagraph (A) for any calendar year shall not exceed the amount that the Secretary determines is twice the average annual salary of 1 employee of the Department of Energy.

(e) **BUDGET.**—

(1) **PUBLICATION OF PROPOSED BUDGET.**—Before August 1 of each year, the Alliance shall publish for public review and comment a proposed budget for the next calendar year, including the probable costs of all programs, projects, and contracts and other agreements.

(2) **SUBMISSION TO THE SECRETARY AND CONGRESS.**—After review and comment under paragraph (1), the Alliance shall submit the proposed budget to the Secretary and Congress.

(3) **RECOMMENDATIONS BY THE SECRETARY.**—The Secretary may recommend for inclusion in the budget programs and activities that the Secretary considers appropriate.

(4) **IMPLEMENTATION.**—The Alliance shall not implement a proposed budget until the expiration of 60 days after submitting the proposed budget to the Secretary.

(f) **RECORDS; AUDITS.**—

(1) **RECORDS.**—The Alliance shall—

(A) keep records that clearly reflect all of the acts and transactions of the Alliance; and

(B) make the records available to the public.

(2) **AUDITS.**—

(A) **IN GENERAL.**—The records of the Alliance (including fee assessment reports and applications for refunds under section 107(b)(4)) shall be audited by a certified public accountant at least once each year and at such other times as the Alliance may designate.

(B) **AVAILABILITY OF AUDIT REPORTS.**—Copies of each audit report shall be provided to the Secretary, the members of the Alliance, and the qualified industry organization, and, on request, to other members of the oilheat industry.

(C) **POLICIES AND PROCEDURES.**—

(1) **IN GENERAL.**—The Alliance shall establish policies and procedures for auditing compliance with this title.

(ii) **CONFORMITY WITH GAAP.**—The policies and procedures established under clause (i) shall conform with generally accepted accounting principles.

(g) **PUBLIC ACCESS TO ALLIANCE PROCEEDINGS.**—

(1) **PUBLIC NOTICE.**—The Alliance shall give at least 30 days' public notice of each meeting of the Alliance.

(2) **MEETINGS OPEN TO THE PUBLIC.**—Each meeting of the Alliance shall be open to the public.

(3) **MINUTES.**—The minutes of each meeting of the Alliance shall be made available to and readily accessible by the public.

(h) **ANNUAL REPORT.**—Each year the Alliance shall prepare and make publicly available a report that—

(1) includes a description of all programs, projects, and contracts and other agreements undertaken by the Alliance during the previous year and those planned for the current year; and

(2) details the allocation of Alliance resources for each such program and project.

SEC. 107. ASSESSMENTS.

(a) **RATE.**—The assessment rate shall be equal to two-tenths-cent per gallon of No. 1 distillate and No. 2 dyed distillate.

(b) **COLLECTION RULES.**—

(1) **COLLECTION AT POINT OF SALE.**—The assessment shall be collected at the point of sale of No. 1 distillate and No. 2 dyed distillate by a wholesale distributor to a person other than a wholesale distributor, including a sale made pursuant to an exchange.

(2) **RESPONSIBILITY FOR PAYMENT.**—A wholesale distributor—

(A) shall be responsible for payment of an assessment to the Alliance on a quarterly basis; and

(B) shall provide to the Alliance certification of the volume of fuel sold.

(3) **NO OWNERSHIP INTEREST.**—A person that has no ownership interest in No. 1 distillate or No. 2 dyed distillate shall not be responsible for payment of an assessment under this section.

(4) **FAILURE TO RECEIVE PAYMENT.**—

(A) **REFUND.**—A wholesale distributor that does not receive payments from a purchaser for No. 1 distillate or No. 2 dyed distillate within 1 year of the date of sale may apply for a refund from the Alliance of the assessment paid.

(B) **AMOUNT.**—The amount of a refund shall not exceed the amount of the assessment levied on the No. 1 distillate or No. 2 dyed distillate for which payment was not received.

(5) **IMPORTATION AFTER POINT OF SALE.**—The owner of No. 1 distillate or No. 2 dyed distillate imported after the point of sale—

(A) shall be responsible for payment of the assessment to the Alliance at the point at which the product enters the United States; and

(B) shall provide to the Alliance certification of the volume of fuel imported.

(6) **LATE PAYMENT CHARGE.**—The Alliance may establish a late payment charge and rate of interest to be imposed on any person who fails to remit or pay to the Alliance any amount due under this title.

(7) **ALTERNATIVE COLLECTION RULES.**—The Alliance may establish, or approve a request of the oilheat industry in a State for, an alternative means of collecting the assessment if another means is determined to be more efficient or more effective.

(c) **SALE FOR USE OTHER THAN AS OILHEAT.**—No. 1 distillate and No. 2 dyed distillate sold for uses other than as oilheat are excluded from the assessment.

(d) **INVESTMENT OF FUNDS.**—Pending disbursement under a program, project, or contract or other agreement the Alliance may invest funds collected through assessments, and any other funds received by the Alliance, only—

(1) in obligations of the United States or any agency of the United States;

(2) in general obligations of any State or any political subdivision of a State;

(3) in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(4) in obligations fully guaranteed as to principal and interest by the United States.

(e) **STATE, LOCAL, AND REGIONAL PROGRAMS.**—

(1) **COORDINATION.**—The Alliance shall establish a program coordinating the operation of the Alliance with the operator of any similar State, local, or regional program created under State law (including a regulation), or similar entity.

(2) **FUNDS MADE AVAILABLE TO QUALIFIED STATE ASSOCIATIONS.**—

(A) **IN GENERAL.**—

(i) **BASE AMOUNT.**—The Alliance shall make available to the qualified State association of each State an amount equal to 15 percent of the amount of assessments collected in the State.

(ii) **ADDITIONAL AMOUNT.**—

(I) **IN GENERAL.**—A qualified State association may request that the Alliance provide to the association any portion of the remaining 85 percent of the amount of assessments collected in the State.

(II) **REQUEST REQUIREMENTS.**—A request under this clause shall—

(aa) specify the amount of funds requested;

(bb) describe in detail the specific uses for which the requested funds are sought;

(cc) include a commitment to comply with this title in using the requested funds; and

(dd) be made publicly available.

(III) **DIRECT BENEFIT.**—The Alliance shall not provide any funds in response to a request under this clause unless the Alliance determines that the funds will be used to directly benefit the oilheat industry.

(IV) **MONITORING; TERMS, CONDITIONS, AND REPORTING REQUIREMENTS.**—The Alliance shall—

(aa) monitor the use of funds provided under this clause; and

(bb) impose whatever terms, conditions, and reporting requirements that the Alliance considers necessary to ensure compliance with this title.

SEC. 108. MARKET SURVEY AND CONSUMER PROTECTION.

(a) **PRICE ANALYSIS.**—Beginning 2 years after establishment of the Alliance and annually thereafter, the Secretary of Commerce, using only data provided by the Energy Information Administration and other public sources, shall prepare and make available to the Congress, the Alliance, the Secretary of Energy, and the public, an analysis of changes in the price of oilheat relative to other energy sources. The oilheat price analysis shall compare indexed changes in the price of consumer grade oilheat to a composite of indexed changes in the price of residential electricity, residential natural gas, and propane on an annual national average basis. For purposes of indexing changes in oilheat, residential electricity, residential natural gas, and propane prices, the Secretary of Commerce shall use a 5-year rolling average price beginning with the year 4 years prior to the establishment of the Alliance.

(b) **AUTHORITY TO RESTRICT ACTIVITIES.**—If in any year the 5-year average price composite index of consumer grade oilheat exceeds the 5-year rolling average price composite index of residential electricity, residential natural gas, and propane in an amount greater than 10.1 percent, the activities of the Alliance shall be restricted to research and development, training, and safety matters. The Alliance shall inform the Secretary of Energy and the Congress of any restriction of activities under this subsection. Upon expiration of 180 days after the beginning of any such restriction of activities, the Secretary of Commerce shall again conduct the oilheat price analysis described in subsection (a). Activities of the Alliance shall continue to be restricted under this subsection until the price index excess is 10.1 percent or less.

SEC. 109. COMPLIANCE.

(a) IN GENERAL.—The Alliance may bring a civil action in United States district court to compel payment of an assessment under section 107.

(b) COSTS.—A successful action for compliance under this section may also require payment by the defendant of the costs incurred by the Alliance in bringing the action.

SEC. 110. LOBBYING RESTRICTIONS.

No funds derived from assessments under section 107 collected by the Alliance shall be used to influence legislation or elections, except that the Alliance may use such funds to formulate and submit to the Secretary recommendations for amendments to this title or other laws that would further the purposes of this title.

SEC. 111. DISCLOSURE.

Any consumer education activity undertaken with funds provided by the Alliance shall include a statement that the activities were supported, in whole or in part, by the Alliance.

SEC. 112. VIOLATIONS.

(a) PROHIBITION.—It shall be unlawful for any person to conduct a consumer education activity, undertaken with funds derived from assessments collected by the Alliance under section 107, that includes—

- (1) a reference to a private brand name;
- (2) a false or unwarranted claim on behalf of oilheat or related products; or
- (3) a reference with respect to the attributes or use of any competing product.

(b) COMPLAINTS.—

(1) IN GENERAL.—A public utility that is aggrieved by a violation described in subsection (a) may file a complaint with the Alliance.

(2) TRANSMITTAL TO QUALIFIED STATE ASSOCIATION.—A complaint shall be transmitted concurrently to any qualified State association undertaking the consumer education activity with respect to which the complaint is made.

(3) CESSATION OF ACTIVITIES.—On receipt of a complaint under this subsection, the Alliance, and any qualified State association undertaking the consumer education activity with respect to which the complaint is made, shall cease that consumer education activity until—

- (A) the complaint is withdrawn; or
- (B) a court determines that the conduct of the activity complained of does not constitute a violation of subsection (a).

(c) RESOLUTION BY PARTIES.—

(1) IN GENERAL.—Not later than 10 days after a complaint is filed and transmitted under subsection (b), the complaining party, the Alliance, and any qualified State association undertaking the consumer education activity with respect to which the complaint is made shall meet to attempt to resolve the complaint.

(2) WITHDRAWAL OF COMPLAINT.—If the issues in dispute are resolved in those discussions, the complaining party shall withdraw its complaint.

(d) JUDICIAL REVIEW.—

(1) IN GENERAL.—A public utility filing a complaint under this section, the Alliance, a qualified State association undertaking the consumer education activity with respect to which a complaint under this section is made, or any person aggrieved by a violation of subsection (a) may seek appropriate relief in United States district court.

(2) RELIEF.—A public utility filing a complaint under this section shall be entitled to temporary and injunctive relief enjoining the consumer education activity with respect to which a complaint under this section is made until—

- (A) the complaint is withdrawn; or

(B) the court has determined that the consumer education activity complained of does not constitute a violation of subsection (a).

(e) ATTORNEY'S FEES.—

(1) MERITORIOUS CASE.—In a case in Federal court in which the court grants a public utility injunctive relief under subsection (d), the public utility shall be entitled to recover an attorney's fee from the Alliance and any qualified State association undertaking the consumer education activity with respect to which a complaint under this section is made.

(2) NONMERITORIOUS CASE.—In any case under subsection (d) in which the court determines a complaint under subsection (b) to be frivolous and without merit, the prevailing party shall be entitled to recover an attorney's fee.

(f) SAVINGS CLAUSE.—Nothing in this section shall limit causes of action brought under any other law.

SEC. 113. SUNSET.

This title shall cease to be effective as of the date that is 4 years after the date on which the Alliance is established.

TITLE II—SMALL HYDROELECTRIC PROJECTS IN ALASKA**SEC. 201. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS.**

Park I of the Federal Power Act (16 U.S.C. 792 et seq.) is amended by adding at the end the following:

“SEC. 32. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS.

“(a) DISCONTINUANCE OF REGULATION BY THE COMMISSION.—Notwithstanding sections 4(e) and 23(b), the Commission shall discontinue exercising licensing and regulatory authority under this Park over qualifying project works in the State of Alaska, effective on the date on which the Commission certifies that the State of Alaska has in place a regulatory program for water-power development that—

“(1) protects the public interest, the purposes listed in paragraph (2), and the environment to the same extent provided by licensing and regulation by the Commission under this part and other applicable Federal laws, including the Endangered Species Act (16 U.S.C. 1531 et seq.) and the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

“(2) gives equal consideration to the purposes of—

- “(A) energy conservation;
- “(B) the protection, mitigation of damage to, and enhancement of, fish and wildlife (including related spawning grounds and habitat);
- “(C) the protection of recreational opportunities;
- “(D) the preservation of other aspects of environmental quality;
- “(E) the interests of Alaska Natives; and
- “(F) other beneficial public uses, including irrigation, flood control, water supply, and navigation; and

“(3) requires, as a condition of a license for any project works—

- “(A) the construction, maintenance, and operation by a licensee at its own expense of such lights and signals as may be directed by the Secretary of the Department in which the Coast Guard is operating, and such fishways as may be prescribed by the Secretary of the Interior or the Secretary of Commerce, as appropriate;
- “(B) the operation of any navigation facilities which may be constructed as part of any project to be controlled at all times by such reasonable rules and regulations as may be made by the Secretary of the Army; and
- “(C) conditions for the protection, mitigation, and enhancement of fish and wildlife based on recommendations received pursuant to the Fish and Wildlife Coordination

Act (16 U.S.C. 661 et seq.) from the National Marine Fisheries Service, the United States Fish and Wildlife Service, and State fish and wildlife agencies.

“(b) DEFINITION OF ‘QUALIFYING PROJECT WORKS’.—For purposes of this section, the term ‘qualifying project works’ means project works—

“(1) that are not part of a project licensed under this Part or exempted from licensing under this part or section 405 of the Public Utility Regulatory Policies Act of 1978 prior to the date of enactment of this section;

“(2) for which a preliminary permit, a license application, or an application for an exemption from licensing has not been accepted for filing by the Commission prior to the date of enactment of subsection (c) (unless such application is withdrawn at the election of the applicant);

“(3) that are part of a project that has a power production capacity of 5,000 kilowatts or less;

“(4) that are located entirely within the boundaries of the State of Alaska; and

“(5) that are not located in whole or in part on any Indian reservation, a conservation system unit (as defined in section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4))), or segment of a river designated for study for addition to the Wild and Scenic Rivers System.

“(c) ELECTION OF STATE LICENSING.—In the case of nonqualifying project works that would be a qualifying project works but for the fact that the project has been licensed (or exempted from licensing) by the Commission prior to the enactment of this section, the licensee of such project may in its discretion elect to make the project subject to licensing and regulation by the State of Alaska under this section.

“(d) PROJECT WORKS ON FEDERAL LANDS.—With respect to projects located in whole or in part on a reservation, a conservation system unit, or the public lands, a State license or exemption from licensing shall be subject to—

“(1) the approval of the Secretary having jurisdiction over such lands; and

“(2) such conditions as the Secretary may prescribe.

“(e) CONSULTATION WITH AFFECTED AGENCIES.—The Commission shall consult with the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce before certifying the State of Alaska's regulatory program.

“(f) APPLICATION OF FEDERAL LAWS.—Nothing in this section shall preempt the application of Federal environmental, natural resources, or cultural resources protection laws according to their terms.

“(g) OVERSIGHT BY THE COMMISSION.—The State of Alaska shall notify the Commission not later than 30 days after making any significant modification to its regulatory program. The Commission shall periodically review the State's program to ensure compliance with the provisions of this section.

“(h) RESUMPTION OF COMMISSION AUTHORITY.—Notwithstanding subsection (a), the Commission shall reassert its licensing and regulatory authority under this part if the Commission finds that the State of Alaska has not complied with one or more of the requirements of this section.

“(i) DETERMINATION BY THE COMMISSION.—

“(1) Upon application by the Governor of the State of Alaska, the Commission shall within 30 days commence a review of the State of Alaska's regulatory program for water-power development to determine whether it complies with the requirements of subsection (a).

“(2) The Commission's review required by paragraph (1) shall be completed within one year of initiation, and the Commission shall

within 30 days thereafter issue a final order determining whether or not the State of Alaska's regulatory program for water-power development complies with the requirements of subsection (a).

“(3) If the Commission fails to issue a final order in accordance with paragraph (2), the State of Alaska's regulatory program for water-power development shall be deemed to be in compliance with subsection (a).

TITLE III—HYDROELECTRIC PROJECTS IN HAWAII

SEC. 301. PROJECTS ON FRESH WATERS IN THE STATE OF HAWAII.

Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended in the first sentence by striking “several States, or upon” and inserting “several States (except fresh waters in the State of Hawaii, unless a license would be required under section 23), or upon”.

TITLE IV—ARROWROCK DAM HYDROELECTRIC PROJECT

SEC. 401. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 4656, the Commission may, at the request of the licensee for the project and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend until March 26, 2005, the time period during which the licensee is required to commence construction of the project.

ARIZONA NATIONAL FOREST IMPROVEMENT ACT OF 1999

The Senate proceeded to consider the bill (S. 1088) to authorize the Secretary of Agriculture to convey certain administrative sites in national forests in the State of Arizona, to convey certain land to the City of Sedona, Arizona for a wastewater treatment facility, and for other purposes.

S. 1088

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Arizona National Forest Improvement Act of 1999”.

SEC. 2. DEFINITIONS.

In this Act:

(1) **CITY.**—The term “City” means the city of Sedona, Arizona.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture.

SEC. 3. SALE OR EXCHANGE OF ADMINISTRATIVE SITES.

(a) **IN GENERAL.**—The Secretary may, under such terms and conditions as the Secretary may prescribe, sell or exchange any and all right, title, and interest of the United States in and to the following National Forest System land and administrative sites:

(1) The Camp Verde Administrative Site, comprising approximately 213.60 acres, as depicted on the map entitled “Camp Verde Administrative Site”, dated April 12, 1997.

(2) A portion of the Cave Creek Administrative Site, comprising approximately 16 acres, as depicted on the map entitled “Cave Creek Administrative Site”, dated May 1, 1997.

(3) The Fredonia Duplex Housing Site, comprising approximately 1.40 acres, and the

Fredonia Housing Site, comprising approximately 1.58 acres, as depicted on the map entitled “Fredonia Duplex Dwelling, Fredonia Ranger Dwelling”, dated August 28, 1997.

(4) The Groom Creek Administrative Site, comprising approximately 7.88 acres, as depicted on the map entitled “Groom Creek Administrative Site”, dated April 29, 1997.

(5) The Payson Administrative Site, comprising approximately 296.43 acres, as depicted on the map entitled “Payson Administrative Site”, dated May 1, 1997.

(6) The Sedona Administrative Site, comprising approximately 21.41 acres, as depicted on the map entitled “Sedona Administrative Site”, dated April 12, 1997.

(b) **CONSIDERATION.**—Consideration for a sale or exchange of land under subsection (a) may include the acquisition of land, existing improvements, and improvements constructed to the specifications of the Secretary.

(c) **APPLICABLE LAW.**—Except as otherwise provided in this section, any sale or exchange of land under subsection (a) shall be subject to the laws (including regulations) applicable to the conveyance and acquisition of land for the National Forest System.

(d) **CASH EQUALIZATION.**—Notwithstanding any other provision of law, the Secretary may accept a cash equalization payment in excess of 25 percent of the value of any land or administrative site exchanged under subsection (a).

(e) **SOLICITATION OF OFFERS.**—

(1) **IN GENERAL.**—The Secretary may solicit offers for the sale or exchange of land under this section on such terms and conditions as the Secretary may prescribe.

(2) **REJECTION OF OFFERS.**—The Secretary may reject any offer made under this section if the Secretary determines that the offer is not adequate or not in the public interest.

(f) **REVOCATIONS.**—Notwithstanding any other provision of law, on conveyance of land by the Secretary under this section, any public order withdrawing the land from any form of appropriation under the public land laws is revoked.

SEC. 4. CONVEYANCE TO CITY OF SEDONA.

(a) **IN GENERAL.**—The Secretary may sell to the city of Sedona, Arizona, by quitclaim deed in fee simple, all right, title, and interest of the United States in and to approximately 300 acres of land as depicted on the map in the environmental assessment entitled “Sedona Effluent Management Plan”, dated August 1998, for construction of an effluent disposal system in Yavapai County, Arizona.

(b) **DESCRIPTION.**—A legal description of the land conveyed under subsection (a) shall be available for public inspection in the office of the Chief of the Forest Service, Washington, District of Columbia.

(c) **CONSIDERATION.**—

(1) **FAIR MARKET VALUE.**—As consideration for the conveyance of land under subsection (a), the City shall pay to the Secretary an amount equal to the fair market value of the land as determined by an appraisal acceptable to the Secretary and prepared in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions.

(2) **COST OF APPRAISAL.**—The City shall pay the cost of the appraisal of the land.

(3) **PAYMENT.**—Payment of the amount determined under paragraph (1) (including any interest payable under paragraph (4)) shall be paid, at the option of the City—

(A) in full not later than 180 days after the date of the conveyance of the land; or

(B) in 7 equal annual installments commencing not later than January 1 of the first year following the date of the conveyance and annually thereafter until the total amount has been paid.

(4) **INTEREST RATE.**—Any payment due for the conveyance of land under this section shall accrue, beginning on the date of the conveyance, interest at a rate equal to the current (as of the date of the conveyance) market yield on outstanding, marketable obligations of the United States with maturities of 1 year.

(d) **RELEASE.**—Subject to compliance with all Federal environmental laws by the Secretary before the date of conveyance of land under this section, on conveyance of the land, the City shall agree in writing to hold the United States harmless from any and all claims to the land, including all claims resulting from hazardous materials on the conveyed land.

(e) **RIGHT OF REENTRY.**—At any time before full payment is made for the conveyance of land under this section, the conveyance shall be subject to a right of reentry in the United States if the Secretary determines that—

(1) the City has not complied with the requirements of this section or the conditions prescribed by the Secretary in the deed of conveyance; or

(2) the conveyed land is not used for disposal of treated effluent or other purposes related to the construction of an effluent disposal system in Yavapai County, Arizona.

SEC. 5. DISPOSITION OF FUNDS.

(a) **DEPOSIT OF PROCEEDS.**—The Secretary shall deposit the proceeds of a sale or exchange under this Act in the fund established under Public Law 90-171 (16 U.S.C. 484a) (commonly known as the “Sisk Act”).

(b) **USE OF PROCEEDS.**—Funds deposited under subsection (a) shall be available to the Secretary, without further Act of appropriation, for—

(1) the acquisition, construction, or improvement of administrative facilities for the Coconino National Forest, Kaibab National Forest, Prescott National Forest, and Tonto National Forest; or

(2) the acquisition of land and or an interest in land in the State of Arizona.

AMENDMENT NO. 2803

(Purpose: To reduce the amount of consideration to be paid by the City by the amount of special use permit fees paid by the City)

On page 5, line 15, strike the period at the end and insert “, reduced by the total amount of special use permit fees for wastewater treatment facilities paid by the City to the Forest Service during the period beginning on January 1, 1999, and ending on the earlier of—

(A) the date that is 270 days after the date of enactment of this Act; or

(B) the date on which the full payment is made by the City under paragraph (3)(A) or the date on which first installment payment is made under paragraph (3)(B), depending on the election made by the City under paragraph (3).

On page 5, lines 18 and 19, strike “the amount determined under paragraph (1)” and insert “the consideration required under paragraph (1)”.

The amendment (No. 2803) was agreed to.

The bill (S. 1088), as amended, was passed, as follows:

S. 1088

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Arizona National Forest Improvement Act of 1999”.

SEC. 2. DEFINITIONS.

In this Act:

(1) **CITY.**—The term “City” means the city of Sedona, Arizona.