

NATIVE AMERICAN METHAMPHETAMINE ENFORCEMENT
AND TREATMENT ACT OF 2007

MARCH 8, 2007.—Ordered to be printed

Mr. CONYERS, from the Committee on the Judiciary,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 545]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 545) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to clarify that territories and Indian tribes are eligible to receive grants for confronting the use of methamphetamine, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 545, the “Native American Methamphetamine Enforcement and Treatment Act of 2007,” amends the Omnibus Crime Control and Safe Streets Act of 1968 to include or reaffirm territories and Indian tribes as eligible grant recipients under programs to: (1) curtail the manufacture, sale, and use of methamphetamine; (2) aid children in homes in which methamphetamine or other drugs are unlawfully manufactured, distributed, dispensed, or used; and (3) reduce methamphetamine use by pregnant and parenting women.

BACKGROUND AND NEED FOR THE LEGISLATION

Last year, Congress enacted the Combat Methamphetamine Epidemic Act of 2005 as Title VII of the USA PATRIOT Improvement and Reauthorization Act of 2005. Included in the Combat Methamphetamine Epidemic Act were provisions that authorized funding for three important grant programs within the Department of Justice: (1) The COPS Hot Spots Program; (2) the Drug-Endangered Children program; and (3) the Pregnant and Parenting Women Offenders program. Although Indian tribes and territories were included as eligible grant recipients under the Pregnant and Parenting Women Offenders program, they were inadvertently left out as possible grant recipients under the COPS Hot Spots Program and the Drug- Endangered Children Program. H.R. 545 allows Indian tribes and territories to apply for and receive funding under all three grant programs.

In 2005, the Drug Enforcement Administration and State and local law enforcement officials reported 12,484 seizures of illegal methamphetamine laboratories and related chemicals, equipment, and hazardous waste refuse in 48 states. The DEA seized over 2,148 kilograms of methamphetamine, which represents almost a 30% increase from the amount seized in 2004. The threat is even greater in Native American communities, where surveys of past-year methamphetamine use have shown that Native American communities have more than double the methamphetamine use rate of other ethnicities. Additionally, over 70% of Indian tribes surveyed by the Bureau of Indian Affairs identified methamphetamine as the drug that posed the greatest threat to their reservation and also estimated that at least 40% of violent crime cases investigated in Indian Country involve methamphetamine in some capacity.

H.R. 545 will ensure that territories and, consistent with tribal sovereignty, Indian tribes can apply for the COPS Hot Spots and Drug-Endangered Children grant programs, just as States can, and will also ensure adequate coordination with tribal service providers for tribes receiving funds under the Pregnant and Parenting Women Offenders Program.

HEARINGS

The Committee’s Subcommittee on Crime, Terrorism, and Homeland Security held 1 day of hearings on H.R. 545 on February 6, 2007. Testimony was received from two witnesses: Congressman Tom Udall of New Mexico, and Ben Shelly, Vice President of the Navajo Nation.

COMMITTEE CONSIDERATION

On February 6, 2007, the Subcommittee on Crime, Terrorism, and Homeland Security met in open session and ordered H.R. 545 favorably reported by a voice vote, a quorum being present. On February 7, 2007, the Committee met in open session and ordered H.R. 545 favorably reported without amendment, by a voice vote, a quorum being present.

Vote of the Committee

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following rollcall votes occurred during the Committee's consideration of H.R. 545:

An amendment offered by Mr. Jordan to prohibit the use of funds made available under this section for performing any abortion, except where the life of the mother would be endangered if the fetus were carried to term, was defeated by a rollcall vote of 20 to 15.

ROLLCALL NO. 1

	Ayes	Nays	Present
Mr. Conyers, Jr., Chairman		X	
Mr. Berman		X	
Mr. Boucher			
Mr. Nadler		X	
Mr. Scott		X	
Mr. Watt		X	
Ms. Lofgren		X	
Ms. Jackson Lee		X	
Ms. Waters		X	
Mr. Meehan		X	
Mr. Delahunt		X	
Mr. Wexler		X	
Ms. Sánchez		X	
Mr. Cohen		X	
Mr. Johnson		X	
Mr. Gutierrez		X	
Mr. Sherman			
Mr. Weiner		X	
Mr. Schiff		X	
Mr. Davis		X	
Ms. Wasserman Schultz		X	
Mr. Ellison		X	
Mr. Smith (Texas)	X		
Mr. Sensenbrenner, Jr.	X		
Mr. Coble	X		
Mr. Gallegly	X		
Mr. Goodlatte	X		
Mr. Chabot			
Mr. Lungren	X		
Mr. Cannon	X		
Mr. Keller	X		
Mr. Issa	X		
Mr. Pence			
Mr. Forbes	X		
Mr. King	X		
Mr. Feeney	X		
Mr. Franks	X		
Mr. Gohmert	X		
Mr. Jordan	X		
Total	15	20	

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 545, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 15, 2007.

Hon. JOHN CONYERS, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 545, the Native American Methamphetamine Enforcement and Treatment Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226-2860.

Sincerely,

PETER R. ORSZAG,
DIRECTOR.

Enclosure

cc: Honorable Lamar S. Smith.
Ranking Member

H.R. 545—Native American Methamphetamine Enforcement and Treatment Act of 2007

H.R. 545 would make U.S. territories and Indian tribes eligible to apply for certain Department of Justice grants to combat the abuse of methamphetamine. Under current law, only states may apply for these grants. CBO estimates that implementing the bill would result in no significant increase in spending for these grant programs. Enacting H.R. 545 would not affect direct spending or receipts.

H.R. 545 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. The bill would make tribal governments eligible to receive grants through three existing Federal programs to combat methamphetamine use.

Any costs to those governments would be incurred voluntarily as conditions of receiving Federal assistance.

The CBO staff contact for this estimate is Mark Grabowicz, who can be reached at 226–2860. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 545 will amend the Omnibus Crime Control and Safe Streets Act of 1968 to include or reaffirm territories and Indian tribes as eligible grant recipients under programs to: (1) curtail the manufacture, sale, and use of methamphetamine; (2) aid children in homes in which methamphetamine or other drugs are unlawfully manufactured, distributed, dispensed, or used; and (3) reduce methamphetamine use by pregnant and parenting women.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8, clause 3 of the Constitution.

ADVISORY ON EARMARKS

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 545 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of Rule XXI.

SECTION-BY-SECTION ANALYSIS

The following discussion describes the bill as reported by the Committee.

Sec. 1. Short Title. This section sets forth the short title of the bill as the “Native American Methamphetamine Enforcement and Treatment Act of 2007.”

Sec. 2. Native American Participation in Methamphetamine Grants. This section amends the Omnibus Crime Control and Safe Streets Act of 1968 to include or reaffirm territories and Indian tribes as eligible grant recipients under programs to: (1) curtail the manufacture, sale, and use of methamphetamine; (2) aid children in homes in which methamphetamine or other drugs are unlawfully manufactured, distributed, dispensed, or used; and (3) reduce methamphetamine use by pregnant and parenting women.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

* * * * *

TITLE I—JUSTICE SYSTEM IMPROVEMENT

* * * * *

PART II—CONFRONTING USE OF METHAMPHETAMINE

SEC. 2996. AUTHORITY TO MAKE GRANTS TO ADDRESS PUBLIC SAFETY AND METHAMPHETAMINE MANUFACTURING, SALE, AND USE IN HOT SPOTS.

(a) PURPOSE AND PROGRAM AUTHORITY.—

(1) PURPOSE.—It is the purpose of this part to assist States, *territories, and Indian tribes (as defined in section 2704)*—

(A) to carry out programs to address the manufacture, sale, and use of methamphetamine drugs; and

(B) to improve the ability of State [and local], *territorial, Tribal, and local* government institutions of to carry out such programs.

(2) GRANT AUTHORIZATION.—The Attorney General, through the Bureau of Justice Assistance in the Office of Justice Programs may make grants to States, *territories, and Indian tribes* to address the manufacture, sale, and use of methamphetamine to enhance public safety.

(3) GRANT PROJECTS TO ADDRESS METHAMPHETAMINE MANUFACTURE SALE AND USE.—Grants made under subsection (a) may be used for programs, projects, and other activities to—

(A) * * *

* * * * *

(C) support State, *Tribal*, and local health department and environmental agency services deployed to address methamphetamine; and

* * * * *

USA PATRIOT IMPROVEMENT AND REAUTHORIZATION ACT OF 2005

* * * * *

TITLE VII—COMBAT METHAMPHETAMINE EPIDEMIC ACT OF 2005

* * * * *

Subtitle E—Additional Programs and Activities

* * * * *

SEC. 755. GRANTS FOR PROGRAMS FOR DRUG-ENDANGERED CHILDREN.

(a) **IN GENERAL.**—The Attorney General shall make grants to States, territories, and Indian tribes (as defined in section 2704 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797d)) for the purpose of carrying out programs to provide comprehensive services to aid children who are living in a home in which methamphetamine or other controlled substances are unlawfully manufactured, distributed, dispensed, or used.

* * * * *

SEC. 756. AUTHORITY TO AWARD COMPETITIVE GRANTS TO ADDRESS METHAMPHETAMINE USE BY PREGNANT AND PARENTING WOMEN OFFENDERS.

(a) **PURPOSE AND PROGRAM AUTHORITY.**—

(1) * * *

(2) **PURPOSES AND PROGRAM AUTHORITY.**—Grants awarded under this section shall be used to facilitate or enhance and collaboration between the criminal justice, child welfare, and State, territorial, or Tribal substance abuse systems in order to carry out programs to address the use of methamphetamine drugs by pregnant and parenting women offenders.

(b) **DEFINITIONS.**—In this section, the following definitions shall apply:

(1) **CHILD WELFARE AGENCY.**—The term “child welfare agency” means the State, territorial, or Tribal agency responsible for child [and/or] or family services and welfare.

(2) **CRIMINAL JUSTICE AGENCY.**—The term “criminal justice agency” means an agency of the State, territory, Indian tribe, or local government or its contracted agency that is responsible for detection, arrest, enforcement, prosecution, defense, adjudication, incarceration, probation, or parole relating to the violation of the criminal laws of that State, territory, Indian tribe, or local government.

(3) **INDIAN TRIBE.**—The term “Indian tribe” has the meaning given the term in section 2704 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797d).

(c) **APPLICATIONS.**—

(1) * * *

* * * * *

(3) **ELIGIBLE ENTITIES.**—The Attorney General shall make grants to States, territories, and Indian [Tribes] tribes. Applicants must demonstrate extensive collaboration with the State criminal justice agency and child welfare agency in the planning and implementation of the program.

(4) **CONTENTS.**—In accordance with the regulations or guidelines established by the Attorney General in consultation with the Secretary of Health and Human Services, each application for a grant under this section shall contain a plan to expand the [State’s services] services of the State, territory, or

Indian tribe for pregnant and parenting women offenders who are pregnant women **[and/or]** *or* women with dependent children for the use of methamphetamine or methamphetamine and other drugs and include the following in the plan:

(A) A description of how the applicant will work jointly with the **[State]** criminal justice and child welfare agencies needs associated with the use of methamphetamine or methamphetamine and other drugs by pregnant and parenting women offenders to promote family stability and permanence.

* * * * *

(C) A certification that the State has involved counties, *Indian tribes*, and other units of local government, when appropriate, in the development, expansion, modification, operation or improvement of proposed programs to address the use, manufacture, or sale of methamphetamine.

(D) A certification that funds received under this section will be used to supplement, not supplant, other Federal, State, *tribal*, and local funds.

* * * * *

ADDITIONAL VIEWS

We support H.R. 545, the “Native American Methamphetamine Enforcement and Treatment Act of 2007.” The Act provides urgently-needed grant funds to Native American communities for the enforcement and treatment of methamphetamine addiction.

At the February 6, 2007, hearing before the Subcommittee on Crime, Terrorism, and Homeland Security, Mr. Ben Shelly, Vice President of the Navajo Nation, stated that methamphetamine is the drug of choice in Indian Country. Seventy-four percent of Native Americans surveyed in a recent study say that methamphetamine is the single biggest threat to Native American communities today.

The Combat Methamphetamine Epidemic Act of 2005, which was passed as part of the USA PATRIOT Act Improvement and Reauthorization Act last year, included several critical grant programs to assist states with the escalating methamphetamine problem in this country, and inadvertently failed to include Native American communities as eligible entities for these important grant programs.

The Native American Methamphetamine Enforcement and Treatment Act corrects this oversight and gives Native American communities full access to methamphetamine-related grants. This legislation is critical in our continuing fight to eliminate the methamphetamine epidemic in the U.S.

While we support the bill, we are disappointed that an amendment offered by Mr. Jordan of Ohio was not accepted by the Committee. Mr. Jordan of Ohio offered an amendment to add language identical to that of the Hyde Amendment to provide that “[f]unds made available under this section to any Indian tribe shall not be used to perform any abortion except where the life of the mother would be endangered if the fetus were carried to term.” One of the grant programs addressed in the underlying bill and modified by Mr. Jordan’s amendment provides federal funding for the health care needs of pregnant women. Clearly, Congress has a legitimate concern that such federal grant monies not be used to fund abortions.

The Jordan amendment is constitutional and sound public policy, and should have been adopted by the Committee. Even the most liberal of federal courts—the Ninth Circuit Court of Appeals—recently upheld as constitutional a federal statutory and regulatory program barring military health care programs from providing federal funds for abortions except where the life of the mother would be endangered if the fetus were carried to term. In *Doe v. United States*,¹ the court held that such a statute was rationally related to the legitimate congressional interest in protecting potential life.

¹ 419 F.3d 1058 (9th Cir. 2005).

The Ninth Circuit applied the clear holding of the Supreme Court in *Harris v. McRae*,² which upheld the Hyde Amendment, a restriction appended to Title XIX of the Social Security Act that prohibited the use of federal funds to reimburse the cost of abortions under the Medicaid program except under certain circumstances. As the Ninth Circuit explained in *Doe*, “[b]y subsidizing the medical expenses of indigent women who carry their pregnancies to term while not subsidizing the comparable expenses of women who undergo abortions (except those whose lives are threatened), Congress has established incentives that make childbirth a more attractive alternative than abortion for persons eligible for Medicaid. These incentives bear a direct relationship to the legitimate congressional interest in protecting potential life.”³

LAMAR SMITH.
F. JAMES SENSENBRENNER, JR.
HOWARD COBLE.
BOB GOODLATTE.
DANIEL E. LUNGREN.
CHRIS CANNON.
RIC KELLER.
MIKE PENCE.
STEVE KING.
TOM FEENEY.
TRENT FRANKS.
JIM JORDAN.

○

² 448 U.S. 297 (1980).

³ *Doe*, 419 F.3d at 1063.