

## Calendar No. 585

106TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
{ 106-306

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TO AUTHORIZE THE INTEGRATION AND CONSOLIDATION  
OF ALCOHOL AND SUBSTANCE ABUSE PROGRAMS AND  
SERVICES PROVIDED BY INDIAN TRIBAL GOVERNMENTS,  
AND FOR OTHER PURPOSES

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JUNE 6, 2000.—Ordered to be printed

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Mr. CAMPBELL, from the Committee on Indian Affairs,  
submitted the following

### REPORT

[To accompany S. 1507]

The Committee on Indian Affairs, to which was referred the bill (S. 1507) to authorize the integration and consolidation of alcohol and substance abuse programs and services provided by Indian tribal governments, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

#### PURPOSE

The purpose of this legislation is twofold: to enable Indian tribes to consolidate and integrate alcohol and other substance abuse programs into one program for purposes of management and accounting, thus making it simpler and more efficient to operate than a number of smaller programs with different auditing and reporting standards; and to recognize that tribal governments, as the local entities directly responsible for the well-being of their populations, can best determine the most effective and appropriate goals and methods for establishing and implementing these programs in their communities.

#### BACKGROUND

Native communities continue to be plagued by alcohol and substance abuse at staggering rates and this abuse is wreaking havoc on Native families across the country. The incidence of alcohol and substance abuse among American Indian and Alaskan Native

adults is far greater than that of the general population. Alcoholism occurs among American Indian and Alaskan Natives at a rate that is 579% greater than the general population. Deaths that are caused by alcoholism occur at a rate that is 440% higher than that of the general population.

Unfortunately, alcohol also continues to be an important risk factor associated with the top three killers of American Indian and Alaskan Native youth—accidents, suicide, and homicide. Based on 1993 data, the rate of mortality due to alcoholism among American Indian and Alaskan Native youth ages 15 to 24 was 5.2 per 100,000 which is 17 times the rate for whites of the same age. Native Americans have higher rates of alcohol and drug use than any other racial or ethnic group. Despite previous treatment and preventive efforts, alcoholism and substance abuse continue to be prevalent among Native youth: 82% of Native adolescents admit to having used alcohol, compared with 66% of non-Native youth. In a 1994 school-based study, 39% of Native high school seniors reported having “gotten drunk” and 39% of Native children acknowledged using marijuana.

Alcohol and substance abuse also contribute to other health and social problems including sexually transmitted diseases, child and spousal abuse, poor school achievement and dropout, drunk-driving related deaths, mental health problems, general feelings of hopelessness and, too commonly, suicide.

In order to deal with the devastating affects of alcoholism and substance abuse in all communities, Congress has authorized and appropriated program monies in nearly every federal agency within the federal structure. Many of these programs are available to tribes, but even where tribes secure access to program funding from several different sources, the amounts are generally so low and the auditing and reporting requirements so onerous that it is simply not cost effective for a tribe to attempt to operate a program which combines all the funds available because of the myriad reporting requirements attendant to each source of funds. An informal survey made by committee staff in May of 1999 identified approximately twenty programs in at least seven federal departments which tribes may access for the prevention and treatment of alcohol and other substance abuse.

This bill addresses that problem by allowing for the submission of a plan to consolidate the funding and develop a single plan to meet auditing and other reporting requirements.

The provisions of S. 1507 are based on the principles and proven success of Public Law 102-477, which authorizes the integration and consolidation of job training and employment related activities into one program. The “477” program has been widely recognized as one of the most successful economic development programs benefitting tribes enacted to date. Based on the success of the original “477” model, the members of the Committee have considered and approved its application in the area of substance abuse and treatment.

The original “477” program was designed to provide tribes with a mechanism to take full advantage of the wide variety of employment training programs, while minimizing administrative time and costs, and reducing federal paperwork. By all accounts, the “477” program has been successful in achieving its objective.

Tribes and tribal consortia who operate “477” programs report increased success and satisfaction with the programs administered pursuant to Pub.L. 102–477, in that they have increased the service population and reduced several administrative functions involved with the operation of federal programs. Equally important, under “477” tribes have the authority to tailor a program to fit the specific needs of their community, which increases effectiveness and satisfaction.

S. 1507 expands the concept of unifying federal funding into the areas of mental health, alcohol and substance abuse programs are ideal for program integration because it is common for funds distributed by federal programs to Indian tribes to be awarded in small amounts. It is not uncommon for a tribe to receive a number of different federal grants and program dollars, each involving different audit, reporting and management requirements.

S. 1507 authorizes tribes to combine small funding streams into one account, and use one audit and report to inform the federal government of activities carried out in the alcohol, substance abuse and mental health areas.

#### SUMMARY OF MAJOR PROVISIONS

##### *Initiation of program*

This legislation largely tracks the organization of Pub.L. 102–477, and the operation of several of the main provisions of this bill is intended to be the same.

The bill gives the Secretary of Health and Human Services the responsibility of carrying out the coordination of programs at the federal level. The Secretary of Health and Human Services is the ideal official to hold this responsibility because the Secretary has responsibility for the administration of Indian programs and also has a great deal of experience in the implementation of the Indian self-determination policy.

It will be the Secretary’s responsibility to develop and implement the interdepartmental Memorandum of Agreement at the Cabinet level. This Memorandum of Agreement will provide the framework for the implementation and operation of the consolidation program. The Committee does not anticipate that there will be any problem drafting and adopting this Memorandum of Agreement, as there is an existing model readily available.

Initially, the Committee expects that the departments of Health and Human Services, Interior and Education will develop the Memorandum of Agreement. Eventually, every department which funds alcohol and substance abuse and mental health programs will be expected to be signatories to the Memorandum and to participate in a meaningful way.

The Committee expects that, similarly to Pub.L. 102–477, the Memorandum of Agreement for this bill could address the following issues:

1. Advising tribal governments regarding their eligibility to integrate programs and how they may develop and implement a tribal plan for the consolidation of funds.
2. Procedures for the review and approval of plans, including time lines for the review and approval.

3. The agreement which will be used by tribes and department or agencies to govern their relationships under the program. It is anticipated that the agreement that is currently being used will provide guidance to the Secretaries who enter into the Memorandum of Agreement.

4. An expedited process for the review of waiver applications from tribes who participate in this program. Additionally, it is anticipated that appeals from a denial will also be accelerated.

5. An agreement and procedure for the timely payment of funds to tribes who are participants in the program.

The Committee expects that the opportunity to access this program will be extended to all tribes, tribal organizations and tribal consortia who express a desire to participate.

#### *Review and approval of tribal plans*

Central to the success of this program is a tribal plan to operate and consolidate programs. It is the belief of the Committee that tribes can best determine where resources will be used and what type of services are most appropriate to serve their members. Accordingly, the federal agencies that administer program funds which are authorized to be consolidated under this legislation are expected to give deference to tribal allocations of resources and program design.

The Secretary is expected to allow tribes a great deal of flexibility in designing the plan which will be submitted pursuant to this legislation. Creativity in the use of multi-year plans, mix of services and innovative approaches to treatment should not be stifled. The primary objective of this legislation is the reduction of the incidence of alcohol and substance abuse suffered by American Indians and Alaskan Natives. It is clear that traditional treatment approaches to treating these problems have not been effective. Clearly, tribal involvement in developing new and culturally appropriate services is needed. It is expected that the Secretary will keep this in mind when reviewing tribal plans.

The Secretary should focus on the following when reviewing a tribally submitted plan:

1. Does the tribal plan effectively address the purposes of the tribal program, how those purposes meet tribal goals to address the existing problems, and what the projected effect the program is expected to have on individuals served?

2. Does the plan lay out an overall strategy for dealing with alcohol and substance abuse and mental health problems within the tribe's service area?

3. Does the plan integrate other available resources?

Where tribes have integrated or have an intent to consolidate competitive grant programs, it is expected that federal agencies will provide as much flexibility as possible to tribes who are attempting to match grant requirements to tribal needs. The character of a grant program is relevant but, unless there is a statutory mandate, serious consideration should be given to allowing a tribe whose plan does not match with those of a grant to consolidate funds.

*Waiver authority*

As part of the plan submission and review process, the bill provides that the tribal government and federal reviews identify any rules, regulations, policies, procedures or underlying statutory provisions which need to be waived in order to successfully implement the tribal plan.

One of the purposes of this bill is to simplify federal requirements pertaining to the operation of federal programs. The Committee expects that unless a federal requirement is central to the very nature of the program involved, it should be considered an appropriate requirement to be waived under the authority provided.

*Amendments to the bill, as introduced*

The bill as introduced, has been amended by designating the lead agency for coordination and implementation and as the Indian Health Service rather than the Bureau of Indian Affairs, as originally designated. All witnesses who appeared at a hearing held on S. 1507 in October of 1999, recommended that the Indian Health Service be designated the appropriate agency in which the coordination of this program should be maintained.

A definition of "substance abuse" has also been added. This definition was added in response to concerns that the program monies consolidated pursuant to this authorization could not be used to treat inhalant abuse, which is a growing problem among American Indian and Alaskan Native youth. It is the intent of the Committee that funds used under this authorization may be used to treat inhalant abuse where a tribe determines that to be necessary. The definition is by no means exclusive, and any omissions should not be deemed as evidence that a particular type of substance abuse is not included.

Additionally, section 5 of this legislation has been amended to address the different types of programs which may be included in a tribe's plan for consolidation. The bill, as introduced, originally authorized the consolidation of formula funded programs.

The Committee was made aware that formula funding is rarely used to fund alcohol and substance abuse programs, and that the majority of funds used for these programs are competitive or other grant programs. Accordingly, the Committee has changed this authorization to include grant programs and other types of funding that may be distributed to tribes for the treatment of alcohol, substance abuse or mental health treatment.

Testimony from the Indian Health Service and the Bureau of Indian Affairs indicated that both agencies also had a concern with the provisions of section 5 regarding the availability of grant funding. The concern focused on whether the original language of the bill allowed tribes to access grants without competing. The agencies pledged to present a report to the Committee in January or February of 2000, which would address this issue and discuss viable alternatives to the original language. However, the Committee has not received a report from either agency. In drafting amendments to section 5, considerable thought was given to the provision which allows grant funds to be consolidated. The Committee recognizes that without the inclusion of grant monies this program authority would not be effective. Yet there was a great deal of concern about this legislation having a chilling effect on the ability of tribes to

compete for grant money. The Committee did not want the effect on this law to be a predisposition on the part of the administration to deny grant applications submitted by tribes because it was unwilling to have grant programs consolidated. At the same time, the Committee wanted to protect the grant process. Accordingly, a tribe must still apply for and win a competitive grant before it can include it in a consolidation plan.

This section accommodates the granting agency by allowing a consolidation where the tribe's plan to include grant funds is essentially the same as the requirements of the grant program. This allows some flexibility for the tribe, but still requires that tribes significantly conform to the requirements of the grant program. The other option is to allow the agency the discretion to authorize a consolidation where the plan does not conform to grant program's reporting requirements.

Finally, an amendment was made to the bill which clarifies that programs that provide for treatment of mental health problems are also available for consolidation. Quite often, alcohol and substance abuse problems are symptoms of or are triggered by other mental health problems. Without treating the mental health problem at the same time as the alcohol or substance abuse problem, the effect of treatment is limited. Accordingly, the Committee amended the bill to allow the inclusion of mental health programs.

#### LEGISLATIVE HISTORY

On August 5, 1999, S. 1507 was introduced by Senator Campbell, and was referred to the Committee on Indian Affairs. Senator Murkowski was added a cosponsor on April 11, 2000. The Committee held a hearing on S. 1507 on October 13, 1999. On March 29, 2000, the Committee voted unanimously to order the substitute amendment to the bill to be reported favorably to the full Senate.

#### SECTION BY SECTION ANALYSIS

##### *Section 1. Short title*

The Act may be cited as the *Native American Alcohol and Substance Abuse Program Consolidation Act of 1999*.

##### *Sec. 2. Statement of purpose*

There are two purposes of this Act. One is to enable Indian tribes to consolidate and integrate alcohol and other substance abuse programs and the other is to recognize that Indian tribes can best determine the goals and methods for establishing and implementing alcohol and substance abuse programs for their communities.

##### *Sec. 3. Definitions*

This section contains definitions for "Federal Agency," "Indian Tribe", "Indian", "Secretary", and "Substance Abuse".

##### *Sec. 4. Integration of services authorized*

The Secretary of the Department of Health and Human Services in cooperation with the other appropriate Secretaries shall, upon the receipt of an acceptable plan from an Indian tribe, authorize the tribe to consolidate its federally-funded alcohol and substance abuse programs into a single, coordinated, comprehensive program.

*Sec. 5. Programs affected*

The programs affected shall include alcohol, substance abuse and mental health programs. This section addresses the different types of funding mechanisms and how they may be consolidated. First, formula-funded program are authorized to be consolidated. Also, programs funded through grant-making are also authorized for consolidation, which may be accomplished in either of two ways: (1) the Secretary determines that the reporting requirements are essentially the same as those of the grant, or (2) the Secretary determines that the tribes may consolidate the grant using other reporting requirements. Finally, programs that are funded through any other funding scheme are also authorized for consolidation.

*Sec. 6. Plan requirements*

The requirements for a plan are to: (1) identify the programs to be integrated; (2) be consistent with the purposes of this Act; (3) describe a comprehensive strategy which identifies the full range of existing and potential programs; (4) describes how the services are to be integrated and delivered and the results expected; (5) identify a single budget; (6) identify the agency or agencies in the tribe to be involved in the delivery of the services; (7) identify any statutory provisions, regulations, policies or procedures that the tribe believes need to be waived; and (8) be approved by the governing body of the tribe.

*Sec. 7. Plan review*

The Secretary of Health and Human Services shall consult with the Secretary of each Federal agency providing funds to be used to implement the plan, and with the tribe submitting the plan. The parties shall identify any waivers necessary to enable the tribal government to implement its plan. The Secretary of the affected agency shall have the authority to provide the waiver.

*Sec. 8. Plan approval*

The Secretary of Health and Human Services shall have 90 days after the receipt of a tribe's plan to approve or disapprove the plan. If the plan is disapproved, the tribal government shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend its plan.

*Sec. 9. Federal responsibilities*

(a) Responsibilities of the Department of Health and Human Services.—Within 180 days following the date of enactment of this Act, the appropriate Secretaries shall enter into an interdepartmental memorandum of agreement providing for the implementation of the plans authorized under this Act. The lead agency under this Act shall be the Indian Health Service within the Department of Health and Human Services. The responsibilities of the lead agency shall include—

- (1) the use of a single report format to be used by a tribe to report on the activities undertaken by the plan;
- (2) the use of a single report format to be used by a tribe to report on all plan expenditures;
- (3) the development of a single system of federal oversight for the plan;

(4) the provision of technical assistance to a tribe appropriate to the plan; and

(5) the convening by an appropriate official of the lead agency (whose appointment is subject to the confirmation of the Senate) and a representative of the Indian tribe of a meeting not less than 2 times during each fiscal year.

(b) Report Requirements.—The single report format shall be developed by the Secretary. It shall contain such information as will allow a determination that the tribe has complied with the requirements incorporated in its approved plan.

*Sec. 10. No reduction in amounts*

In no case shall the amount of Federal funds available to a participating tribe involved in any project be reduced as a result of the enactment of this Act.

*Sec. 11. Interagency fund transfers authorized*

The appropriate Secretaries are authorized to take such action as necessary to provide for interagency transfer of funds otherwise available to a tribe.

*Sec. 12. Administration of funds and overage*

(a) Administration of Funds.—(1) In General.—Program funds shall be administered to allow for a determination that funds from specific programs are spent on allowable activities;

(2) Separate Records Not Required.—The tribe is not required to maintain separate records tracing any services or activities conducted under its approved plan to the individual programs under which funds were authorized.

(b) Overage.—All administrative costs may be commingled and participating Indian tribes shall be entitled to the full amount of such costs.

*Sec. 13. Fiscal accountability*

Nothing in this Act shall be construed to interfere with the ability of the Secretary to fulfill the responsibilities for the safeguarding of Federal funds.

*Sec. 14. Report on statutory and other barriers to integration*

(a) Preliminary Report.—Not later than two years after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives on the implementation of this program.

(b) Final Report.—Not later than five years after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives on the results of the implementation of the program, which identifies statutory barriers to the ability of tribes to integrate more effectively their alcohol, substance abuse and mental health services.

*Sec. 15. Assignment of Federal personnel to State Indian alcohol and drug treatment programs*

Any State with an alcohol and substance abuse program targeted to Indian tribes shall be eligible to receive, at no cost to the State, such Federal personnel assignments deemed appropriate to help insure the success of such program.

COST AND BUDGETARY CONSIDERATIONS

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, June 1, 2000.

Hon. BEN NIGHTHORSE CAMPBELL,  
Chairman, Committee on Indian Affairs,  
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1507, the Native American Alcohol and Substance Abuse Program Consolidation Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Eric Rollins.

Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

*S. 1507—Native American Alcohol and Substance Abuse Program Consolidation Act of 2000*

CBO estimates that implementing S. 1507 would cost about \$600,000 in 2001 and less than \$500,000 annually after that, assuming appropriation of the necessary funds. The bill would permit Indian tribes to consolidate alcohol and substance abuse programs that are currently funded through a number of federal agencies.

Under S. 1507, tribes would submit plans to the Department of Health and Human Services (HHS) for approval. HHS would approve or reject plans after consulting with the federal agencies that would be affected. During this approval process, these agencies would be able to waive statutory and other requirements to enable tribes to implement their plans. CBO estimates that the costs of approving plans, monitoring their implementation, and providing technical assistance would cost about \$600,000 in 2001 and \$350,000 annually in later years. The bill would also require HHS to submit reports on the bill's implementation within two and five years of enactment. CBO estimates that these reports would each cost less than \$100,000. The additional costs of S. 1507 would be borne by the Indian Health Service, the lead agency for the bill's implementation.

S. 1507 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. This bill contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act. By allowing tribes to consolidate programs for alcohol and substance abuse, the bill would provide tribes with greater programmatic flexibility.

The CBO staff contact for this estimate is Eric Rollins. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

EXECUTIVE COMMUNICATIONS

DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, DC, October 13, 1999.*

Hon. BEN NIGHTHORSE CAMPBELL,  
*Chairman, Committee on Indian Affairs,  
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: This responds to your request for the views of the Department of the Interior on S. 1507, the Native American Alcohol and Substance Abuse Program Consolidation Act of 1999.

The Department supports S. 1507 for the reasons set forth more specifically below.

Understanding the scope and underlying causes of the alcohol and substance abuse problem, as found in varying degrees within Indian Country, is a difficult task. Yet, proven indicators of alcohol and substance abuse, both behavioral and economic, can be readily observed in many American Indian communities. Examples of co-occurrence indicators come from tribal and federal law enforcement records. Law enforcement records document increasing levels of child abuse, gang activity, youth violence, domestic violence, DWI violations, and drug-related arrests among youth and adult tribal members. Too often Indian tribal members, whether they happen to be perpetrators or non-perpetrators, live in harsh economic conditions—conditions that have shown over time to compound the numbers of alcohol/substance abuse related violence observed in tribal communities. The economic adversity facing a majority of the nation's tribal members was noted in the BIA's 1997 Labor Force Report: almost 50 percent of the adult labor force was unemployed, and, of those employed, 30 percent were still living below the poverty guidelines established by Health and Human Services.

The Indian Health Service (IHS) has published studies suggesting an association between alcohol and drug abuse and the American Indian and Alaska Native suicide rates, which are nearly twice the rates for all races in the United States. Also, according to IHS, 17 times as many Indians and Alaska Natives die from alcoholism than the U.S. white race rate from ages 15 to 24. The Department of Justice Bureau of Justice Statistics has published data showing that Indian and Alaska Native offenders who were under the influence of alcohol and/or drugs committed 55 percent of the violent crimes against other American Indians or Alaska Natives.

One of my priorities for Indian Country was to help direct Bureau of Indian Affairs (BIA) resources to assist Tribes better in reducing alcohol and drug abuse in their communities. Toward that goal, the BIA has initiated interagency agreements and established other interagency liaisons. One promising interagency agreement with the Administration for Native Americans at HHS involves 48 small Tribes in a pilot study to employ a normed screening survey to assess the extent of alcohol problems among all adult members, household by household. After analyzing the assessment information, the Tribes will be designing abuse prevention programs.

As we embark on a new millennium, alcohol and substance abuse in Indian Country shows no sign of reversing itself on its own. The BIA is prepared to continue to use its available resources. The BIA will continue to exercise its role as stated in S. 1507 to improve the quality of life of tribal members by working with individual Tribes to reduce incidents of alcohol and substance abuse taking place in their respective communities.

Currently, we are meeting with representatives of the Corporation for National Service's AmeriCorps program to share resources and strategies to involve our nation's Indian and Alaska Native youth and elders in alcohol and substance abuse community projects.

We view S. 1507 as both a challenge and as an opportunity. S. 1507 provides an opportunity for HHS and BIA to work constructively with each Tribe, to share federal resources, and to help draft or negotiate a quality plan that identifies the Tribes integrated approach to implementing alcohol and substance programs and services.

The Department believes the concept of S. 1507 holds the promise to be as successful in reducing tribal administrative costs and reporting requirements for S. 1507-eligible alcohol and substance abuse prevention programs, as is reflected within the Public Law 102-477 program.

The Department strongly supports the goals and intent of S. 1507. However, the Administration believes that we need to provide the Committee with a report that will be delivered to you early in the next session. The report will outline the most effective and efficient means to implement the concept outlined in the legislation. Further, the Administration believes that S. 1507 should be amended to assign the lead agency coordination responsibility to the Department of Health and Human Services.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

KEVIN GOVER,

*Assistant Secretary for Indian Affairs.*

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill are required to be set out in that accompanying Committee report. The Committee finds that enactment of S. 1507 will not result in any changes in existing law.