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METHAMPHETAMINE REMEDIATION RESEARCH ACT OF 2007

OCTOBER 26, 2007.—Ordered to be printed

Mrs. BOXER, from the Committee on Environment and Public
Works, submitted the following

R E P O R T

[To accompany S. 635]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred the bill (S. 635) to provide for a research program for remediation of closed methamphetamine production laboratories, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends the bill do pass.

PURPOSE AND SUMMARY OF THE LEGISLATION

The purpose of the bill is to establish a Federal research program to support the development of voluntary guidelines to help states address some toxic waste from former methamphetamine laboratories.

BACKGROUND AND NEED FOR THE LEGISLATION

Methamphetamine, or “meth”, is a powerful drug that can cause serious problems with addiction. Symptoms of meth use range from nervousness to convulsions and brain damage. Chronic meth use can increase tolerance and dependence, resulting in users taking more frequent and higher doses, which can lead to violent and paranoid behavior. Federal law makes the use or manufacture of meth illegal without the appropriate authorization.

A variety of outdoor and indoor areas can serve as meth labs. A lab can use relatively simple materials, such as mason jars, hot plates, pressure cookers, and plastic tubing, and the ingredients used to manufacture meth are commercially available anywhere in

the U.S. The main ingredient can be either pseudoephedrine or ephedrine, two chemicals that are present in many over-the-counter cold and asthma medications, and the other chemicals are available in gasoline, drain cleaners, fertilizer and matches. The manufacture process requires almost no technical knowledge, and the recipe—as well as step-by-step instructions—is freely and easily available on the Internet.

Many laboratories produce meth in states across the nation. In 1993, the Drug Enforcement Administration (DEA) estimated a total seizure of 218 meth labs. In 2005 federal, state and local law enforcement officers netted more than 12,500 labs, dumpsites and other meth-related activities. Between 2003 and 2005 the DEA has reported more than 54,000 meth-related incidents in every state in the U.S.

Many of the chemicals used to make meth can be toxic, reactive, flammable, or corrosive. Every pound of meth produced can result in up to five pounds of toxic byproducts. This waste can easily be poured down drains or spilled onto the ground, where chemicals can migrate into drinking wells and leach into the soil.

Many labs are found when they catch fire or explode, causing injuries or death to those manufacturing the drug as well as law enforcement officers, fire fighters and others who respond. During use and production, meth and other harmful chemicals are released into the air and distributed throughout the area. These chemicals can contaminate the interior of residences, including walls, countertops, furnishing, carpets, and floors.

State and local governments or property owners are usually responsible for cleaning up contamination from a lab. Although various statutes and regulations address cleanup issues, such activities generally occur in two parts. First, contaminants, including chemicals, equipment, and other material, are removed from the area. Generally, law enforcement secures the site down and protects evidence. Second, less obvious contamination is identified, property owners are notified, and responsibility for the cleanup may pass to them, though the law may recommend or require homeowners to hire a cleanup contractor.

There are no national rules or guidance directing the cleanup of a residential meth lab, and states and localities vary in their approach to ensuring public health is protected at such sites. Cleanup actions can involve one or more of the following measures: ventilation, encapsulation or sealing of interior surfaces, removal of drywall, decontamination of ventilation or wastewater systems, and removal of soil or treatment of contaminated groundwater. Costs can vary greatly depending on the type of remediation. When state and local governments pay to cleanup contamination from a lab they can apply to receive up to \$25,000 in reimbursement from the federal Environmental Protection Agency (EPA).

Many state and local entities have created rules and guidelines for the cleanup of meth labs. Some states with significant experience addressing meth lab cleanup issues have existing law and regulations. Others have little or no guidance. However, public officials across the country are concerned about the cleanup of meth labs and many have asked for assistance in addressing this issue.

SUMMARY OF MAJOR PROVISIONS OF THE BILL

The bill requires the Administrator at the EPA to create a program to research residues from methamphetamine production.

The bill directs the Administrator, in consultation with National Institute for Standards and Technology (NIST), to create voluntary guidelines for preliminary site assessment and remediation of methamphetamine laboratories.

The bill requires the Administrator to head a meeting of state agencies, individuals and organizations to share best practices and identify research needs.

The bill also directs NIST, in consultation with the Administrator, to support a research program to facilitate the development of methamphetamine laboratory detection technologies, emphasizing field test kits and site detection.

The bill mandates that the EPA enter into an arrangement with the National Academy of Sciences to study the status and quality of research on the residual effects of meth labs, identify research gaps, and recommend an EPA research agenda.

The bill authorizes \$1.75 million for each of the Fiscal Years 2007 and 2008 for EPA and authorizes \$0.75 million for each of the Fiscal Years 2007 through 2008 for NIST.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The Methamphetamine Remediation Research Act of 2007

Section 2. Findings

Finds that meth use is a serious and growing problem and that state and local entities need assistance in addressing contamination from laboratories that create meth.

Section 3. Voluntary guidelines

Directs the Administrator of the EPA, in consultation with NIST, to create within one year voluntary guidelines for the remediation of former methamphetamine labs. These guidelines shall apply to preliminary site assessments and the remediation of residual contaminants.

In developing guidelines, the Administrator must consider relevant standards, guidelines and requirements in Federal, State and local laws and regulations; the varying types and locations of former methamphetamine labs; and expected costs.

These guidelines should assist state and local governments. To help accomplish this goal, the Administrator shall work with state and local governments and other relevant nonfederal agencies and organizations, including through the conference required by section 5, to promote and encourage the appropriate adoption of these guidelines.

Directs the Administrator to update the voluntary guidelines in consultation with states and other interested parties, and to incorporate new research findings and other new knowledge in these guidelines.

Section 4. Research program

Mandates that the Administrator establish a research program to support the development and updating of the voluntary guidelines discussed in section 3. This research program must examine a variety of issues, including identifying chemicals of concern, assessing the health effects of exposure to chemicals of concern, addressing such adverse effects and to minimize exposures, evaluating cleanup techniques, and supporting other priorities identified by the Administrator in consultation with states and other entities.

Section 5. Technology transfer conference

Requires the Administrator, within 90 days of the date of enactment and every three years thereafter, to convene a conference of state officials and entities and organizations involved with the impacts of former methamphetamine laboratories. The Administrator shall provide conference participants with information on the voluntary guidelines and the research program's findings. The conference shall also provide nonfederal entities with a forum to discuss their views on the voluntary guidelines.

Requires the Administrator, within three months of each conference, to submit to Congress and make available to the public, a report summarizing the conference proceedings. This report shall also include recommendations or concerns and a description of how the Administrator plans to respond to such issues.

Section 6. Residual effects study

Requires the Administrator, within six months after the date of enactment, to enter into an agreement with the National Academy of Sciences to study the status and quality of research on the residual effects of methamphetamine laboratories. The study shall identify gaps in research and recommend a research agenda for the program described in section 4. The study shall focus on the potential impacts of methamphetamine laboratories on residents of buildings where labs are or were located.

Section 7. Methamphetamine detection research and development program

Requires the Director of NIST, in consultation with the Administrator, to support a research program to develop new detection technologies for methamphetamine, with emphasis on field test kits and site detection. The program shall also focus on standard reference materials and validation procedures for methamphetamine detection testing.

Section 8. Savings clause

Clarifies that nothing in the Act changes or shall be construed to change any authority of EPA or of any other entities under any State or Federal environmental law or regulation.

Section 9. Authorization of appropriations

Authorizes \$1.75 million for each of Fiscal Years 2007 and 2008 for EPA. Authorizes \$0.75 million for each of Fiscal Years 2007 and 2008 for NIST.

Legislative History, Committee Views and Votes

COMMITTEE VIEWS

This Act authorizes a program that requires the Administrator of the EPA, within one year, to develop voluntary guidelines on preliminary site assessments and the remediation of residual contaminants from methamphetamine laboratories. The Committee expects the voluntary guidelines to be largely based on a review of existing science and guidance. For these initial guidelines, the Committee believes the Administrator should evaluate the existing science and state guidelines, using resources such as the National Alliance for Model State Drug Laws.

The Committee expects the EPA to take into consideration a variety of factors, including the need to protect public health and the estimated cost of carrying out any proposed guidelines. The Committee believes the Administrator should remain cognizant of those who bear these costs, including in particular property owners, and the potential health threats to children, families, and individuals who may inhabit the residence after cleanup.

The Committee expects the voluntary guidelines to evolve over time by using new research. To accomplish this goal, the Committee expects the Administrator to use the research program to update and revise the voluntary guidelines as new findings become available.

The Committee realizes that very little funding—federal, state, local or private—is directed at this problem. The Administration has recognized this problem in the Office of National Drug Control Policy's Synthetic Drug Control Strategy: A Focus on Methamphetamine and Prescription Drug Abuse. This Strategy put EPA in charge of developing and establishing methamphetamine laboratory remediation guidelines. The Committee notes that the Drug Enforcement Agency has reported more than 54,000 methamphetamine-related incidents between 2003–2005. Therefore, the Committee believes that the federal government should expand the range and commitment of activities consistent with the magnitude and seriousness of this problem. The Committee expects EPA to quickly implement the research program.

The Committee also would like to note that the Drug Enforcement Agency's (DEA), "National Clandestine Laboratory Register," is a useful tool in providing an estimate of the general scope of the meth lab problem. The Committee believes that the DEA information should include the cleaning of residences in accordance with local regulations. The Committee urges the DEA to develop transparent procedures for listing and de-listing a residence on the Register.

The Act requires the Administrator to hold a Technology Transfer Conference. The Committee believes the Conference will provide an important information sharing forum for stakeholders across the country. The first Conference should help the Administrator and stakeholders to draft voluntary guidelines. Future Conferences should provide the Administrator and stakeholders with, among other things, an opportunity to discuss implementation of the guidelines, transfer expertise, disseminate new research findings, and to update the research agenda. The Committee expects the Administrator to include a broad array of stakeholders at Conference,

including those involved in activities related to the impacts of former meth labs, such as local law enforcement and nonprofit organizations like the National Jewish Medical and Research Center and the National Alliance for Model State Drug Laws.

VOTES

The Senate Committee on Environment and Public Works discharged H.R. 798, a companion measure to a version of S. 635 introduced in the 109th Congress, and the Senate passed H.R. 798 on December 9, 2006. On June 6, 2007 the Senate Committee on Environment and Public Works favorably reported the Methamphetamine Remediation and Research Act of 2007 (S. 635) on a voice vote without amendment.

REGULATORY IMPACT STATEMENT

The committee finds that the bill contains no administrative burden on private entities and would benefit such entities by helping to clarify applicable methods for cleaning up areas affected by methamphetamine laboratories.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), the committee finds that S. 635 contains no intergovernmental or private-sector mandates as defined in the Act and would benefit state and local governments.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control act requires a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. S. 635 would cost about \$3 million over the 2008–2009 period, assuming appropriation of the authorized amount in 2008. S. 635 would not affect direct spending or receipts.

S. 635—Methamphetamine Remediation Research Act of 2007

Summary: S. 635 would establish a new research program for the cleanup of clandestine laboratories shut down by law enforcement that have been used to produce methamphetamine. This legislation would authorize the appropriation of \$2.5 million for each of fiscal years 2007 and 2008 for the Environmental Protection Agency (EPA) and the National Institute of Standards and Technology (NIST) to support such a program. Such efforts by EPA and NIST would include establishing guidelines on assessing sites and cleaning up contaminants, holding a conference to discuss research and guidelines with interested parties, and supporting research for the development of the guidelines and new detection technologies. Finally, the bill would authorize a study by the National Academy of Sciences on the residual effects of methamphetamine.

CBO estimates that implementing S. 635 would cost about \$3 million over the 2008–2009 period, assuming appropriation of the authorized amount in 2008. Enacting S. 635 would not affect direct spending or receipts.

S. 635 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would benefit state and local governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 635 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment). For this estimate, CBO assumes that S. 635 will be enacted by the start of fiscal year 2008 and that the amount authorized by the bill for that year will be appropriated. (We assume no further appropriations for fiscal year 2007.) Estimated outlays are based on historical spending patterns for similar programs.

| | | By fiscal year, in millions of dollars— | | | | |
|--|--|---|------|------|------|------|
| | | 2008 | 2009 | 2010 | 2011 | 2012 |
| CHANGES IN SPENDING SUBJECT TO APPROPRIATION | | | | | | |
| EPA Research Program: | | | | | | |
| Authorization Level | | 2 | 0 | 0 | 0 | 0 |
| Estimated Outlays | | 1 | 1 | 0 | 0 | 0 |
| NIST Research Program: | | | | | | |
| Authorization Level | | 1 | 0 | 0 | 0 | 0 |
| Estimated Outlays | | 1 | 0 | 0 | 0 | 0 |
| Total Changes: | | | | | | |
| Authorization Level | | 3 | 0 | 0 | 0 | 0 |
| Estimated Outlays | | 2 | 1 | 0 | 0 | 0 |

Intergovernmental and private-sector impact: S. 635 contains no intergovernmental or private-sector mandates as defined in UMRA and would benefit state and local governments.

Estimate prepared by: Federal costs: Susanne S. Mehlman; Impact on State, local, and tribal governments: Neil Hood; Impact on the private sector: Craig Cammarata.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW

Section 12 of rule XXVI of the Standing Rules of the Senate requires the committee to publish changes in existing law made by the bill as reported. Passage of this bill will make no changes to existing law.