CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

October 6, 2000

H.R. 2987
Methamphetamine and Club Drug Anti-Proliferation Act of 2000

As reported by the House Committee on the Judiciary on September 21, 2000

SUMMARY

H.R. 2987 would authorize appropriations to the Drug Enforcement Administration (DEA), the Office of National Drug Control Policy (ONDCP), and the Department of Health and Human Services (HHS) to combat the production, trafficking, and abuse of amphetamine and methamphetamine. This legislation also would enable qualifying physicians who wish to dispense certain narcotic drugs for detoxification treatment to apply to HHS for a waiver of the DEA's registration requirements. Finally, the bill would increase the recommended penalties for certain offenses involving amphetamine and other substances and would amend various laws relating to controlled substances.

CBO estimates that implementing the legislation would cost $409 million over the 2001-2005 period. This total assumes that part of the amounts authorized to be appropriated to DEA, ONDCP, and HHS are increased annually to account for anticipated inflation. Alternatively, if no increases to account for inflation are assumed, we estimate that implementing the bill would cost $393 million over the next five years. In addition, CBO estimates that enacting H.R. 2987 would increase direct spending for Medicaid benefits by $30 million over the 2001-2005 period. Because the bill would affect direct spending and receipts, pay-as-you-go procedures would apply.

H.R. 2987 contains both an intergovernmental and a private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the costs of the intergovernmental mandate would not be significant and would not meet the threshold established in that act ($55 million in 2000, adjusted annually for inflation). Overall, the bill would benefit state, local, and tribal governments. H.R. 2987 would impose new private-sector mandates as defined by UMRA on firms that manufacture or sell certain drug paraphernalia and retailers of certain products containing pseudoephedrine and phenylpropanolamine. CBO estimates that the cost of those mandates would fall below the

threshold established by UMRA for private-sector mandates ($109 million in 2000, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 2987 is shown in the following table. The costs of this legislation fall within budget functions 550 (health), 750 (administration of justice), and 800 (general government).

	By Fiscal Year, in Millions of Dollars				
	2001	2002	2003	2004	2005
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
DEA Programs					
Estimated Authorization Level	36	15	10	10	10
Estimated Outlays	22	23	11	10	10
ONDCP Programs					
Estimated Authorization Level	27	28	29	30	14
Estimated Outlays	15	26	28	30	25
HHS Programs					
Estimated Authorization Level	54	54	45	46	46
Estimated Outlays	18	45	46	44	46
Federal Prison System					
Estimated Authorization Level	a	1	2	3	4
Estimated Outlays	a	1	2	3	4
Total Changes					
Estimated Authorization Level	117	98	86	89	74
Estimated Outlays	55	95	87	87	85
CHANGES IN DIRECT SPENDING					
Medicaid					
Estimated Budget Authority	a	5	5	10	10
Estimated Outlays	a	5	5	10	10

a. Less than $500,000.

BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 2987 will be enacted near the beginning of fiscal year 2001. The bill would increase costs for several agencies funded through annual appropriations. It also would increase the cost of the Medicaid program and have a small impact on the amount of fines and penalties collected for violations of federal laws.

Spending Subject to Appropriation

For this estimate, CBO assumes that the necessary amounts will be appropriated for each fiscal year and that outlays will follow historical spending rates for the authorized activities or for similar programs. Because the bill would authorize such sums as necessary for some programs, CBO included annual adjustments for anticipated inflation in this estimate.

Drug Enforcement Administration. H.R. 2987 would authorize the appropriation of $81 million over the 2001-2005 period for DEA to combat the manufacturing and trafficking of amphetamine and methamphetamine. This would include $20 million in 2001 for DEA to train law enforcement personnel to investigate clandestine drug laboratories and to reimburse state and local governments for costs to clean up drug laboratories.

Office of National Drug Control Policy. CBO estimates that the bill would authorize the appropriation of $128 million over the 2001-2005 period for ONDCP. This total includes $15 million for fiscal year 2001 and additional estimated amounts of $15 million to $16 million for each of fiscal years 2002 through 2004 for ONDCP to combat the trafficking of amphetamine and methamphetamine.

In addition, H.R. 2987 would require ONDCP to ensure that the National Youth Anti-Drug Media Campaign addresses the reduction and prevention of abuse of substances known as club drugs. The campaign currently spends about $5 million per year on this activity. The cost of this provision depends on how intensely ONDCP would choose to address those drugs. For this estimate, CBO assumes ONDCP would be required to make club drugs part of the main focus of the campaign. Based on discussions with ONDCP, CBO estimates that this effort would require the appropriation of $12 million in 2001 and $65 million over the 2001-2005 period.

Department of Health and Human Services. Assuming that amounts appropriated to HHS are increased annually to account for anticipated inflation, CBO estimates that implementing H.R. 2987 would cost $199 million over the 2001-2005 period for HHS programs to prevent the abuse of amphetamine and methamphetamine, including funding for the Substance Abuse

and Mental Health Services Administration (SAMHSA), the National Institute on Drug Abuse (NIDA), and a study by the Institute of Medicine.

The bill would authorize several new activities within SAMHSA and expand existing programs. It would authorize the appropriation of $18 million for fiscal year 2001 and such sums as may be necessary for each fiscal year thereafter for SAMHSA to expand efforts to prevent the abuse of methamphetamine and to fund its additional activities under the waiver program for physicians treating drug addiction. It would authorize the appropriation of $10 million in 2001 and such sums as may be necessary for fiscal year 2002 for the Director of the Center for Substance Abuse Treatment to make grants to states and Indian tribes to expand treatment of methamphetamine or amphetamine abuse. In addition, it would authorize the appropriation of $5 million in 2001 and such sums as may be necessary for each fiscal year thereafter for SAMHSA to make grants to public and nonprofit entities to carry out school and community-based prevention programs related to club drugs.

H.R. 2987 would authorize the appropriation of such sums as are necessary for NIDA to expand its research on methamphetamine use and addiction. The additional funding would be used by NIDA for interdisciplinary studies and clinical trials. Based on information from NIDA, CBO estimates this provision would cost $20 million annually.

Section 124 of the bill would require HHS, within nine months of enactment, to prepare a report on the development of medication to treat addiction to amphetamine and methamphetamine. The study would be conducted through the Institute of Medicine. Based on information from the institute, CBO estimates that it would cost about $1 million in fiscal year 2001 to conduct the study.

Federal Prison System. H.R. 2987 would direct the U.S. Sentencing Commission to increase the penalties for offenses involving amphetamine and certain other drugs to match the level of penalties for offenses involving methamphetamine. The bill also would direct the commission to increase penalties for trafficking in certain chemicals that are used to manufacture amphetamine, methamphetamine, and other specified drugs.

According to the U.S. Sentencing Commission, the longer sentences required by H.R. 2987 would increase the prison population by about 400 prisoners a year by fiscal year 2005. CBO estimates that the cost to support these additional prisoners would be about $10 million over the 2001-2005 period. The full budgetary effects of these provisions would not be realized until 20 to 30 years after enactment. Then the additional prison population resulting from enactment of this bill would stabilize at roughly 800 prisoners per year, assuming no significant change in the number of annual convictions. At that time, the added cost to the prison system would reach about $7 million annually (at 2000 prices), subject to the availability of appropriated funds.

In addition, H.R. 2987 would direct the Bureau of Prisons to establish and maintain a rehabilitation program for substance abusers. The agency currently runs a similar program, so CBO estimates that implementing this provision would not result in any significant additional cost.

Other Programs. H.R. 2987 also would increase costs to other federal agencies including the Veterans Health Administration (VHA) for treatment programs for people addicted to drugs. Because the waiver program under H.R. 2987 would increase the number of doctors prescribing the relevant narcotic drugs used to treat drug addiction, more people would receive those drugs under this legislation. According to VHA, however, people who receive treatment for their addiction need less medical care for other conditions. These effects would at least partially offset each other, but CBO cannot estimate the net impact of H.R. 2987 on VHA's or other agencies' treatment programs.

Direct Spending and Revenues

Enacting H.R. 2987 would increase medicaid spending by about $30 million over the 2001-2005 period. CBO estimates that other effects on direct spending and revenues would not be significant.

Medicaid. Under current law, physicians wishing to dispense narcotic drugs to treat narcotic dependence must first apply to HHS, which determines whether they are qualified to provide such treatment. Qualified physicians must then apply to DEA to be registered separately to dispense (not prescribe) such narcotic drugs in treatment. H.R. 2987 would permit physicians to dispense and prescribe narcotic drugs in schedules III, IV, or V (the drugs rated the lowest risk for abuse) for maintenance or detoxification treatment, under certain conditions, instead of obtaining a separate DEA registration.

CBO estimates that enacting H.R. 2987 would increase federal Medicaid spending by $30 million over the 2001-2005 period because more Medicaid beneficiaries would receive new schedule III, IV, or V narcotics over that period than under current law. Currently, none of those narcotics are approved for outpatient maintenance or detoxification treatment. Methadone, a schedule II narcotic, is the principal narcotic currently used in treating opiate addiction. The distribution of methadone is regulated so that only certain providers who are registered with DEA may dispense it, and the daily doses usually must be provided in clinical settings and combined with counseling and other treatment services.

The Food and Drug Administration is expected to approve a new substance, buprenorphine, for the treatment of opiate addiction in 2001. According to HHS, buprenorphine is likely to

be approved as a schedule IV or V narcotic because it has been found to have limited euphorigenic effects and therefore low desirability for sale on the street. CBO also anticipates that HHS will issue regulations allowing physicians to prescribe the drug from their offices and to distribute it through commercial pharmacies. However, under current law, many states have their own regulations governing the distribution of narcotics.

H.R. 2987 would specifically waive the DEA registration requirement that would otherwise apply to physicians who wish to prescribe buprenorphine and would allow physicians to prescribe that drug from their office-based settings. In addition, the bill would supersede state regulations for three years. CBO expects that enacting the bill would lead to somewhat wider distribution of buprenorphine than would otherwise occur for two reasons. First, implementation of office-based distribution would probably occur faster than under current law. Second, the regulations that the Administration would issue under current law would probably be more restrictive than the procedures allowed by the bill.

Based on information from NIDA, CBO estimates that ultimately about 100,000 individuals would receive buprenorphine each year if it is distributed through office-based settings. CBO expects that enacting the bill would speed up the penetration of buprenorphine by one to two years and would ultimately lead to 10 percent more people receiving the drug. CBO further estimates that the average annual cost of treatment with buprenorphine would be about $4,600 per person in 2001, evenly divided between the cost of the drug itself and the cost of related medical and mental health services. According to a report by the Institute of Medicine, in 1992 about 12 percent of all methadone treatment was paid for by Medicaid. For this estimate, CBO assumes that the same proportion of buprenorphine treatment would be covered by Medicaid, and that 57 percent of those costs would be reimbursed by the federal government. In addition, CBO estimates that one-quarter of the costs of buprenorphine treatment under the bill either would occur under current law or would be offset by reduced use of other medical or mental health services.

Drug Enforcement Administration. CBO estimates that implementing the waiver provisions of H.R. 2987 would have a negligible effect on the DEA. The agency collects a fee—$70 a year, or $210 every three years—from each practitioner for dispensing controlled substances (including narcotics) and uses these collections, without further appropriation, to fund its registration activities. Because most, if not all, practitioners will dispense some controlled substances that are not covered by the waiver provided by the bill, enacting H.R. 2987 would probably not affect the amount of collections. The bill's effect on DEA's spending for registration activities would be very small because relatively few practitioners are expected to apply for the waiver.

Other Effects. The bill would establish both new federal crimes and greater penalties for existing offenses relating to controlled substances, which could result in increased criminal

fines. Collections of such fines are recorded in the budget as governmental receipts (i.e., revenues), which are deposited in the Crime Victims Fund and spent in subsequent years. Any additional collections are likely to be negligible because of the relatively small number of cases involved. Because any increase in direct spending would equal the fines collected (with a lag of one year or more), the additional direct spending also would be negligible.

H.R. 2987 would provide for mandatory restitution in cases involving the manufacture of amphetamine or methamphetamine. Any amounts of restitution made to the federal government would be deposited into the Assets Forfeiture Fund and spent from that fund, mostly in the same year. Thus, enacting H.R. 2987 could increase both revenues deposited into the fund and direct spending from the fund. However, CBO estimates that any increased revenues or spending would not exceed $500,000 in any year.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. (The effects on receipts would be less than $500,000 a year.) For the purposes of enforcing pay-as-you-go procedures, only the effects in the budget year and the succeeding four years are counted.

	By Fiscal Year, in Millions of Dollars									
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Changes in outlays	0	5	5	10	10	10	5	5	5	5
Changes in receipts	0	0	0	0	0	0	0	0	0	0

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 2987 contains an intergovernmental mandate as defined in UMRA. The bill would preempt a state's ability to preclude the distribution of certain narcotic drugs for detoxification treatment, unless a state specifically enacted a law allowing for such preclusion within three years of the bill's enactment. Because states would not be required to take any action, however, CBO estimates the costs associated with this preemption would be insignificant.

The bill also would make a number of changes to current law that would benefit state, local, and tribal governments. First, it would allow state and local governments to receive restitution for crimes relating to the illegal use or production of amphetamines and methamphetamines. Those governments could see a small increase in revenue from this provision, but CBO estimates that the revenue generated would not be significant. Other provisions of the bill would authorize federal funding for research conducted by a public university, and make federal funds available to state, local, and tribal governments to cover expenses incurred to clean up some illicit drug laboratories. Further, provided certain conditions were met, the bill would allow state and local law enforcement entities to obtain training, funding to facilitate the employment of additional personnel, and other assistance from the federal government. Finally, H.R. 2987 would enable the federal government to provide grants or enter into cooperative agreements with states, Indian tribes, or other qualified public or private entities to carry out a variety of activities to combat drug abuse.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 2987 would impose new private-sector mandates as defined by UMRA on firms that manufacture or sell certain drug paraphernalia and retailers of certain products containing pseudoephedrine and phenylpropanolamine. CBO estimates that the cost of those mandates would fall below the threshold established by UMRA for private-sector mandates ($109 million in 2000, adjusted annually for inflation).

By expanding the definition of drug paraphernalia, the bill would make it unlawful to sell or transport certain items primarily intended or designed for use in the manufacture of methamphetamines (such as speed) or for the introduction of such drugs into the human body. According to the Department of Justice, very few items would fall under this definition. The direct costs of this mandate, as measured by lost net income, would be negligible.

The bill also would increase recording requirements for retailers of certain products containing pseudoephedrine and phenylpropanolamine. Under current law, retailers must keep sales records, including the purchaser's identity, for transactions involving more than 24 grams of pseudoephedrine or phenylpropanolamine, unless the product is contained in blister packs. The bill would require retailers to keep sales records for transactions involving more than 9 grams of pseudoephedrine or phenylpropanolamine (unless if sold in blister packs) or sales involving individual packages that exceed 3 grams in weight. The incremental costs of complying with the mandate are likely to be small since few retail transactions are large enough to trigger the requirement. Moreover, retailers already have in place training and reporting procedures to comply with the existing requirement.

PREVIOUS CBO ESTIMATE

On September 28, 1999, CBO transmitted a cost estimate for S. 486, the Methamphetamine Anti-Proliferation Act of 1999, as reported by the Senate Committee on the Judiciary on August 5, 1999. The two bills would authorize similar programs but provide different levels of funding. In the estimate for S. 486, CBO did not include the costs to the Medicaid program of changing the law to make schedule III, IV, and V narcotics more easily distributed.

ESTIMATE PREPARED BY:

Health and Human Services: Cynthia Dudzinski Smith

Medicaid: Eric Rollins

Veterans Health Administration: Sam Papenfuss

All Other Federal Costs: Mark Grabowicz

Impact on State, Local, and Tribal Governments: Susan Van Deventer and Shelley Finlayson

Impact on the Private Sector: Tim VandenBerg

ESTIMATE APPROVED BY:

Peter H. Fontaine
Deputy Assistant Director for Budget Analysis