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AMENDING THE PROTECT ACT TO MAKE INDIAN TRIBES ELIGIBLE FOR AMBER ALERT GRANTS

SEPTEMBER 5, 2017.—Ordered to be printed

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

R E P O R T

[To accompany S. 772]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 772) to amend the PROTECT ACT to make Indian tribes eligible for AMBER Alert grants, having considered the same, reports favorably thereon without amendment and recommends the bill do pass.¹

PURPOSE

The purpose of S. 772 is to amend the *PROTECT Act of 2003*, and add Indian tribes as eligible awardees for grant programs that help assemble AMBER Alert systems for law enforcement agencies. Doing so will broaden the scope of an AMBER Alert and increase the likelihood that issuing an AMBER Alert will result in the successful recovery of a child in danger. Where tribal communication systems may fall short, state and regional broadcasters will be able to fill the gap. This legislation, S. 772, re-authorizes funding to update and install broadcast and media infrastructure for this purpose.

BACKGROUND

The AMBER Alert Program was named in honor of 9-year-old Amber Hagerman who, in January 1996, was abducted in Arlington, Texas and later found murdered. The AMBER Alert System

¹*The PROTECT Act of 2003*, Pub. L. No. 108-21, 117 Stat. 650 (2003) (codified as amended at 42 U.S.C. § 5791c).

began to take shape at the state level, when broadcasters in the Dallas-Fort Worth area partnered with local law enforcement to develop an early warning system to help rescue abducted children.

Enacted on April 30, 2003,² the *PROTECT Act of 2003* was intended to address crimes of violence against children. As part of those efforts, the *PROTECT Act* created an AMBER Alert Coordinator within the U.S. Department of Justice (DOJ).³ Currently, the Assistant Attorney General for the Office of Justice Programs (OJP) serves as the Coordinator, helping to eliminate geographic gaps in AMBER networks, provide regional AMBER network coordination, and provide guidance on criteria for issuing an AMBER Alert.

The *PROTECT Act* also authorized \$30 million in federal matching grants for states to update AMBER communications infrastructure and equipment, as well as provided educational and training opportunities.⁴ By 2005, all fifty states had operational AMBER Alert programs, and today the program operates across state and jurisdictional boundaries. As of February 2017, since its inception, the AMBER Alert Program has been responsible for the successful return of 868 children.⁵

The *PROTECT Act* has not been re-authorized. Today the AMBER Alert Training and Technical Assistance Program funding is currently awarded through a competitive process from the Missing and Exploited Children (MEC) Programs account. Annual appropriations for MEC Programs have averaged approximately \$67 million since Fiscal Year 2013.⁶ The vast majority of MEC Program funding is distributed to the National Center for Missing and Exploited Children, and well as the Internet Crimes Against Children Program.⁷

THE AMBER ALERT IN INDIAN COUNTRY

In 2007, the OJP announced the “AMBER Alert in Indian Country Initiative” to establish and expand child recovery practices, capacity, and resources in tribal communities.⁸ AMBER Alert plans were developed in thirteen selected tribal communities.⁹ The Office of Juvenile Justice and Delinquency Prevention (OJJDP) conducted assessments of capabilities at all sites, and provided a range of training and technical assistance to tribal law enforcement authorities.

A total of \$5.4 million was awarded under this initiative from 2007–2010. The purpose of the program was to, among other things, provide direct training to tribal members and authorities, evaluate the geographic and infrastructure challenges at each pilot

²*Id.*

³*Id.* at § 301(a).

⁴*Id.* at §§ 303(h), 304(f).

⁵The National Center for Missing and Exploited Children, available at <http://www.missingkids.org/AMBER>.

⁶Program Summary for Fiscal Year 2017, U.S. Department of Justice, Office of Juvenile and Delinquency Prevention, MEC Program, available at https://ojp.gov/about/pdfs/OJJDP_Missing%20and%20Exploited%20Children%20Prog%20Summary_For%20FY%2017%20PresBud.pdf.

⁷*Id.*

⁸Press Release, U.S. Department of Justice, \$82.7 Million Provided to Tribal Communities for Law and Justice System Improvements (November 28, 2007), available at https://www.justice.gov/archive/opa/pr/2007/November/07_ag_947.html.

⁹Memorandum, U.S. Department of Justice, Office of Justice Programs, Amber Alert Reaches Indian Country, available at <https://ojp.gov/newsroom/pdfs/ambertribal.pdf>.

site, and investigate the possibility of partnering with neighboring states that had already deployed advanced AMBER Alert systems.

Deficiencies in the AMBER Alert Program in Indian Country was highlighted in a recent high-profile child abduction case on the Navajo Nation in Arizona. On May 2, 2016, an eleven-year-old Indian girl, was abducted on the Navajo Nation, along with her nine-year-old brother. While her brother escaped, she was found dead the next day. Her family members, and others in the community, contend that she would still be alive but for a delay in communications with off-reservation authorities who eventually issued the AMBER Alert.

LEGISLATIVE HISTORY

On March 29, 2017, Senator McCain introduced S. 772, a bill to amend the *PROTECT Act of 2003* to make Indian tribes eligible for AMBER Alert grants. Senators Daines, Heitkamp, Tester, Udall, and Baldwin are co-sponsors.

The Committee received input on S. 772 at a listening session held on May 10, 2017. The Committee held a duly-called business meeting on June 13, 2017 and ordered S. 772 to be reported favorably without amendment.

Representative Noem and Representative Biggs have introduced identical versions of S. 772 in the House of Representatives (i.e. H.R. 3147, and H.R. 2666 respectively). Both bills have been referred to the House Committee on the Judiciary where they await further consideration.

SUMMARY OF THE BILL

This legislation, S. 772, amends Section 304 of the *PROTECT Act*. The bill adds Indian tribes as possible awardees for grant programs that help assemble AMBER Alert systems for law enforcement agencies. It allows the tribal integration of state and regional AMBER Alert systems as an accepted use of funds. The bill provides the Attorney General with flexibility regarding increasing the federal share of the costs associated with activities allowed under the grant program.

The bill requires the Attorney General to set standards for accountability and transparency in the grant application process. The bill, S. 772, also provides clarity and specificity to the program by clearly defining the term “Indian tribe.” The AMBER Alert Program is re-authorized at \$5 million, with another \$5 million dedicated to developing new communication technologies and activities for enhancing tribal integration with state and regional AMBER Alert networks. Lastly, within one year of enactment, the Attorney General is required to report to Congress with a needs-based assessment of the challenges tribes encounter as it relates to these integration efforts.

SECTION-BY-SECTION ANALYSIS OF BILL AS ORDERED REPORTED

Section 1. Short title

This section sets forth the title of this bill as the “AMBER Alert in Indian Country Act of 2017”.

Sec. 2. Amber alert grants for Indian tribes

This section amends Section 304 of the *PROTECT Act of 2003*.¹⁰ It adds Indian tribes as eligible awardees for grant programs that help assemble AMBER Alert systems for law enforcement agencies. It also allows the tribal integration of state and regional AMBER Alert systems as an authorized use of funds awarded.

Section 2 provides the Attorney General with flexibility as it relates to increasing the federal share of costs associated with activities allowed under the grant program. The Attorney General is required to set standards for accountability and transparency in the grant application process. Lastly, this section provides clarity and specificity to the program by clearly defining the term “Indian tribe.”

The AMBER Alert Program is re-authorized at \$5 million for Fiscal Year 2018 (FY18) for both state and tribal AMBER Alert grants. Another \$5 million is re-authorized for FY18 to promote states and tribes to develop new communication technologies, and enhance tribal integration with existing state and regional AMBER Alert networks. Both amounts will remain available until expended.

Sec. 3. Report to Congress

Within one year of enactment, the Attorney General is required to report to Congress with a needs-based assessment of the challenges Indian tribes encounter as it relates to AMBER Alert network integration at the state and local level.

COST AND BUDGETARY CONSIDERATIONS

JULY 21, 2017.

Hon. JOHN HOEVEN,
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. 772, the AMBER Alert in Indian Country Act of 2017.

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

Sincerely,

KEITH HALL.

Enclosure.

S. 772 would reauthorize the AMBER alert grant program and extend grant eligibility to Indian tribes. The AMBER alert program is a partnership among law enforcement agencies, transportation agencies, and communication providers to provide alerts on child abduction cases. Under current law, that funding is only available to states.

The bill would authorize the appropriation of \$10 million in 2018—\$5 million for AMBER alert grants and an additional \$5 million for the Department of Justice to carry out activities related to integrating state, regional, and tribal communication plans and developing new technologies to improve AMBER alert communications. Assuming appropriation of the authorized amounts, CBO es-

¹⁰*Id.*, *supra*, note 1.

timates that implementing the bill would cost \$10 million over the 2018–2022 period. In previous years no funds have been appropriated for those efforts.

Enacting S. 772 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting S. 772 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 772 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. Local and tribal governments could benefit from provisions in the bill that extend the program and make Indian tribes eligible for Department of Justice grants for AMBER alert services. Any costs to those governments, including matching contributions, would result from complying with conditions of assistance.

The CBO staff contact for this estimate is Janani Shankaran (for federal costs), and Rachel Austin (for intergovernmental mandates). The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 772 will have minimal impact of regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

The Committee received comments from the U.S. Department of Justice through Eileen M. Garry, the Acting Administrator for the Office of Juvenile Justice and Delinquency Prevention within the Office of Justice Programs. Ms. Garry appeared before the Committee at a listening session held on May 10, 2017. In her comments, Ms. Garry expressed no opposition to S. 772.

CHANGES IN EXISTING LAW

In accordance with Committee Rules, subsection 12 of rule XXVI of the Standing Rules of the Senate is waived.