CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

June 26, 2006

H.R. 4777
Internet Gambling Prohibition Act

As ordered reported by the House Committee on the Judiciary on May 25, 2006

SUMMARY

H.R. 4777 would broaden the coverage of the current laws against Internet gambling and would increase penalties for such offenses. The bill would authorize the appropriation of $10 million for each of fiscal years 2007 through 2010 for the Department of Justice to investigate and prosecute violators of the bill's provisions.

Assuming appropriation of the authorized amounts, CBO estimates that implementing the bill would cost $40 million over the 2007-2011 period. H.R. 4777 could affect direct spending and receipts, but we estimate that any such effects would be less than $500,000 annually.

H.R. 4777 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that costs to state, local, and tribal governments, if any, would be small, and would not exceed the threshold established in UMRA ($64 million in 2006, adjusted annually for inflation).

H.R. 4777 would impose new private-sector mandates, as defined in UMRA, on certain gambling businesses that use wireless communication systems to transfer data, providers of Internet service, and individuals seeking damages against providers of Internet service who have taken actions required by certain law enforcement notices. Based on information from government and industry sources, CBO expects that the aggregate direct cost of complying with those mandates would fall below the annual threshold established by UMRA for private-sector mandates ($128 million in 2006, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 4777 is shown in the following table. For this estimate, CBO assumes that the bill will be enacted by the beginning of fiscal year 2007.

CBO assumes that the amounts authorized by the bill will be appropriated by the start of each fiscal year and that outlays will follow the historical rate of spending for similar activities. The costs of this legislation fall within budget function 750 (administration of justice).

	By Fiscal Year, in Millions of Dollars				
	2007	2008	2009	2010	2011
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization Level	10	10	10	10	0
Estimated Outlays	8	10	10	10	2

In addition to the costs shown in the table, enacting H.R. 4777 could increase collections of civil and criminal fines for violations of the bill's provisions. CBO estimates that any additional collections would not be significant because of the relatively small number of additional cases likely to be affected. Civil fines are recorded as revenues. Criminal fines are recorded as revenues, deposited in the Crime Victims Fund, and subsequently spent without further appropriation.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 4777 contains intergovernmental mandates as defined in UMRA because it would preempt the authority of states to regulate certain gambling activities within their borders, prohibit the sale by states of lottery tickets over the Internet, and require Internet Service Providers (ISPs)—some of which are governmental entities—to disable certain features when notified by law enforcement agencies. Most gaming activities conducted by tribal entities would not be affected.

CBO estimates that the costs of complying with these mandates would be small for several reasons. First, several states—including Michigan and Missouri—have passed or are considering legislation that would make Internet gambling illegal under state law, limiting the effect of this legislation on those states. Second, no state currently sells lottery tickets over the Internet, so the federal prohibition would be unlikely to result in lost revenues over the next five years. Finally, based on information from the Department of Justice, CBO estimates that the number of public ISPs that would be required to act would be small. CBO estimates, therefore, that the net costs of these mandates to state, local, and tribal governments would not exceed the threshold established in UMRA ($64 million in 2006, adjusted annually for inflation).

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 4777 would impose new private-sector mandates, as defined in UMRA, on certain gambling businesses that use wireless communication systems to transfer data, providers of Internet service, and individuals seeking damages against providers of Internet service who have taken actions required by certain law enforcement notices. Based on information from government and industry sources, CBO expects that the aggregate direct cost of complying with those mandates would fall below the annual threshold established by UMRA for private-sector mandates ($128 million in 2006, adjusted annually for inflation).

Gambling Businesses and the use of Communication Facilities

The bill would prohibit anyone engaged in a gambling business from knowingly using a communication facility for the transmission of bets or wagers, or for the transmission of a communication that entitles the recipient to receive money or credit as a result of bets or wagers when the transmission occurs in interstate or foreign commerce, within U.S. special maritime or territorial jurisdiction, or into or out of the United States. The prohibitions would apply to transmissions by wire, cable, radio, or an electromagnetic, photo-electronic or photo-optical system. The bill defines bets or wagers to include any contest in which participants stake or risk "something of value" and the "opportunity to win is predominantly subject to chance," including the purchase of a chance to win a lottery. Thus, the bill would prohibit persons engaged in a gambling business from conducting lotteries over the Internet. The prohibition would not apply to certain popular legal games that charge fees, including sports and educational contests.

H.R. 4777 would have only a limited effect on the private sector because the Federal Interstate Wire Act ("Wire Act") currently prohibits the use of wire communication facilities to place or receive bets or wagers or to transmit information that assists persons who place bets or wagers on sporting events and certain contests. The Wire Act applies to all wires and cables used to transmit information across state lines, including telephone lines, cable television systems, and the Internet, and effectively prohibits many forms of Internet gambling. Other federal statutes, such as racketeering laws, also apply to Internet gambling. It is not clear, however, that existing federal law prohibits all forms of Internet gambling.

According to the National Gambling Impact Study Commission Report, no known privately operated Internet lotteries are located in the United States. Privately operated lotteries are generally illegal under state laws. Domestic lotteries are generally run by states and Indian tribes. Moreover, according to industry sources, almost all Internet gambling businesses operate outside of the United States and currently no viable gambling business uses the communication systems added under this bill. Therefore, CBO expects that the costs of this mandate would be minimal.

Interactive Computer Services

The bill also would impose a mandate on interactive computer services commonly known as Internet service providers. H.R. 4777 would require ISPs to remove or disable access to a specific Internet site when notified by law enforcement agencies. Based on information from the Department of Justice, CBO estimates that the number of Internet service providers that would receive such notices would be low. In addition, according to industry sources, many ISPs currently remove or disable access when requested by law enforcement. Consequently, CBO estimates that the costs to ISPs of complying with this mandate would be small.

In addition, the bill would prohibit a person from receiving any damages, penalty, or forfeiture in civil or criminal proceedings from a person or entity for any act done in compliance with any notice from a law enforcement agency pursuant to this bill. Because the bill would eliminate existing rights to seek compensation for damages caused by certain acts, it would impose a private-sector mandate. The direct cost of the mandate would be the forgone net value of awards and settlements in such claims. According to government and industry sources, no such lawsuits have been filed, and those sources expect that it is unlikely that there will be many such cases in the future. Consequently, CBO estimates that the direct cost of the mandate would be small relative to the annual threshold.

PREVIOUS CBO ESTIMATES

On May 26, 2006, CBO transmitted a cost estimate for H.R. 4411, the Unlawful Internet Gambling Enforcement Act of 2006, as ordered reported by the House Committee on the Judiciary on May 25, 2006. The bill would impose a mandate by requiring the Secretary of the Treasury and the Board of Governors of the Federal Reserve System to prescribe regulations that would require financial institutions to identify and block restricted transactions in connection with unlawful gambling. CBO was not able to determine the direct cost of complying with the mandate because the regulations have not been prescribed.

On March 30, 2006, CBO transmitted a cost estimate for H.R. 4411 as ordered reported by the House Committee on Financial Services on March 15, 2006. Those two bills are virtually identical, the mandates are the same, and CBO estimated that implementing either version of H.R. 4411 would cost about $2 million over the 2007-2011 period, assuming appropriation of the necessary amounts.

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