CONGRESSIONAL BUDGET OFFICE
MANDATES STATEMENT

July 12, 2002

H.R. 3215

Combating Illegal Gambling Reform and Modernization Act

As ordered reported by the House Committee on the Judiciary on June 18, 2002

SUMMARY

H.R. 3215 would expand current federal laws that govern certain gambling activities. The bill would prohibit the use of communications facilities to transmit bets or wagers, or information assisting in the placement of bets or wagers, except for those communications that occur within the same state or are physically on Indian lands within a state, and that are legally authorized therein.

The bill contains intergovernmental mandates as defined by the Unfunded Mandates Reform Act (UMRA). CBO estimates that the total costs of complying with those intergovernmental mandates, which would be borne primarily by tribal governments, would exceed the threshold established in UMRA ($58 million in 2002, adjusted annually for inflation).

H.R. 3215 also would impose new private-sector mandates, as defined in UMRA, on operators of Internet lotteries, certain gambling businesses that would use wireless communication systems to transfer data, and providers of Internet service. CBO expects that the costs of those private-sector mandates would fall well below the threshold in UMRA ($115 million in 2002, adjusted annually for inflation).

INTERGOVERNMENTAL MANDATES CONTAINED IN THE BILL

H.R. 3215 would prohibit the use of communications facilities to transmit bets or wagers, or information assisting in the placing of bets or wagers, except for those communications that occur within the same state or are physically on Indian lands within a single state. This prohibition would likely preclude tribal interstate gaming activities that use linked interactive games, such as linked bingo, over broadband communications channels. Linked bingo occurs when several tribes, either within a state or across many states, use an interactive computer service to simultaneously play one bingo game, thereby increasing the potential payoff available to all participants. Assuming the bill would prohibit tribes from operating these games, the prohibition would constitute an intergovernmental mandate as defined by UMRA.

H.R. 3215 also would prohibit state and local governments that conduct lotteries from using communication facilities covered by the bill to provide access to the lottery in any place that is not a licensed retail outlet.

ESTIMATED DIRECT COSTS OF MANDATES TO STATE, LOCAL, AND TRIBAL GOVERNMENTS

Is the Statutory Threshold Exceeded ($58 million in 2002, adjusted annually for inflation)?

Yes.

Total Direct Costs of Mandates

Linked Bingo. Bingo is considered a Class II form of gaming, which is currently regulated by the tribes themselves and the National Indian Gaming Commission, under guidelines set forth in the Indian Gaming Regulatory Act (IGRA). Assuming the bill would have the effect of barring the use of such linked bingo machines, CBO estimates that the net costs to tribal governments would exceed the threshold established in UMRA ($58 million in 2002, adjusted annually for inflation).

Currently, many tribes are linked together to play bingo over state lines. CBO cannot determine the exact amount of net revenue generated from the bingo games because much of the information is proprietary. Based on information provided by the companies that provide these machines and some of the tribes that use them, however, we estimate that, conservatively, the cost to tribal governments would total more than $200 million a year. CBO considers the cost of this mandate to be the net revenues that tribal governments would lose if this activity were interpreted to be illegal under the bill. Net revenues are the funds remaining from total bets after associated operating expenses are paid and payments are made to winners. Assuming a conservative growth rate, the net revenue loss could increase to over $300 million by 2007.

State and Local Lotteries. State and local governments also would be prohibited from using the Internet or other technology covered by the bill to provide access to the lottery in any place that is not public. While no governments currently plan to use the Internet for these purposes, as technology expands and becomes more widely used in the home (a nonpublic place), it is possible that, in the absence of this bill, some would offer such options. CBO cannot estimate the future loss of income from this prohibition because it is not clear if or when such access to lotteries would be provided by state and local governments.

PRIVATE-SECTOR MANDATES CONTAINED IN THE BILL

H.R. 3215 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. It thus 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.

H.R. 3215 would impose new private-sector mandates, as defined in UMRA, on operators of Internet lotteries, certain gambling businesses that use wireless communication systems to transfer data, and providers of Internet service. CBO expects that the costs of these mandates would fall well below the threshold in UMRA for private-sector mandates ($115 million in 2002, adjusted annually for inflation).

First, the bill would prohibit persons engaged in a gambling business from conducting lotteries over the Internet. Specifically, the bill would forbid any Internet contest in which participants stake or risk "something of value" and the "opportunity to win is predominantly subject to chance." 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, and most businesses that would be affected by the prohibition are located in foreign countries. Domestic lotteries are generally run by states and Indian tribes. The prohibition would also not apply to certain popular legal games that charge fees, including sports and educational contests, such as the popular fantasy sports leagues. Consequently, CBO expects that the costs of this mandate would not be significant.

H.R. 3215 would impose a new mandate on gambling businesses. The bill would prohibit anyone engaged in a gambling business from knowingly using a communication facility, including transmissions by satellite or microwave, 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. According to industry sources, almost all Internet gambling businesses operate outside of the United States and currently no gambling business utilizes satellite or microwave transmission. Therefore, CBO estimates that the direct cost of the mandate would be minimal, if any.

Finally, the bill would impose new mandates on Internet service providers. H.R. 3215 would require Internet service providers to remove or disable access to a specific gambling Internet site when notified by state or federal 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 small. Because such notices would apply to specific subscriber accounts, the cost per order would also be low. Consequently, CBO estimates that the costs to Internet service providers of complying with this mandate would be small.

ESTIMATE PREPARED BY:

Impact on State, Local, and Tribal Governments: Angela Seitz
Impact on the Private Sector: Paige Piper/Bach

ESTIMATE APPROVED BY:

Robert A. Sunshine
Assistant Director for Budget Analysis