CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

May 1, 2000

H.R. 3125
Internet Gambling Prohibition Act of 2000

As ordered reported by the House Committee on the Judiciary April 6, 2000

SUMMARY

H.R. 3125 would prohibit gambling conducted over the Internet or an interactive computer service. CBO estimates that implementing this legislation would not result in any significant cost to the federal government. Because enactment of H.R. 3125 could affect direct spending and receipts, pay-as-you-go procedures would apply to the bill. However, CBO estimates that any impact on direct spending and receipts would not be significant.

H.R. 3125 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) because it would preempt certain state liability laws and prohibit certain state and local lottery activities. However, CBO estimates that these mandates would currently impose no costs on state, local, or tribal governments and that future costs, if any, would not exceed the threshold established by the act during the next five years ($55 million in 2000, adjusted annually for inflation).

H.R. 3125 would impose new private-sector mandates, as defined in UMRA, on operators of Internet sweepstakes and contests, certain gambling businesses that would use wireless communication systems to transfer data, and providers of Internet service. CBO expects that the costs of those mandates would not exceed the threshold in UMRA for private-sector mandates ($109 million in 2000, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

Because H.R. 3125 would establish a new federal crime relating to gambling, the federal government would be able to pursue cases that it otherwise would not be able to prosecute. CBO expects, however, that most cases would be pursued under state law. Therefore, we estimate that any increase in federal costs for law enforcement, court proceedings, or prison operations would not be significant. Any such additional costs would be subject to the availability of appropriated funds.

H.R. 3125 would require the Department of Justice, not later than three years after enactment, to submit a report on the enforcement of the bill's provisions and on the extent of Internet gambling. CBO estimates that preparing and completing the report would cost less than $500,000, subject to the availability of appropriated funds.

Because those prosecuted and convicted under the bill could be subject to criminal fines, the federal government might collect additional fines if the bill is enacted. 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 small number of cases involved. Because any increase in direct spending would equal the amount of fines collected (with a lag of one year or more), the additional direct spending also would be negligible.

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. Enacting H.R. 3125 could affect both direct spending and receipts, but CBO estimates that any such effects would be negligible.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 3125 contains intergovernmental mandates as defined by UMRA. CBO estimates that these mandates would currently impose no costs on state, local, or tribal governments and that future costs, if any, would not exceed the threshold established by the act in the next five years ($55 million in 2000, adjusted annually for inflation).

The bill would impose two types of mandates on the state and local governments. First, it would preempt state liability laws by granting immunity to providers of interactive computer services if third parties use their facilities in ways that violate federal and state laws regulating gambling. CBO estimates that states would incur no direct costs to comply with this mandate.

H.R. 3125 also would prohibit state and local governments that conduct lotteries 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 use or 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. However, we do not expect that such losses would exceed the threshold established by UMRA ($55 million in 2000, adjusted annually for inflation) in the next five years.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 3125 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. The status of some Internet contests, particularly lotteries or raffles that require entry fees, is ambiguous.

H.R. 3125 would impose new private-sector mandates, as defined in UMRA, on operators of Internet sweepstakes and contests, 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 not exceed the threshold in UMRA for private-sector mandates ($109 million in 2000, adjusted annually for inflation).

First, the bill would prohibit persons engaged in a gambling business from conducting lotteries, raffles, or other, similar contests 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. Further, the prohibition would not affect privately-operated Internet contests that do not require entry fees. The prohibition would also not apply to certain other 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.

Second, H.R. 3125 would impose a new mandate on some gambling businesses. The bill would prohibit the use of certain interactive computer services "to place, receive, or otherwise make a bet or wager." Under H.R. 3125 it would be illegal for gambling businesses to operate electronic gaming devices linked together by a wireless means of communication that do not meet certain technical requirements. Devices of this type are legal in some states, but are not popular with gambling businesses. Linked electronic gaming devices, such as progressive slot machines, typically use dedicated phone lines rather than wireless systems, which are susceptible to interference from other signals. The bill, moreover, would not prohibit wireless systems that are regulated by the states and meet the technical requirements. For these reasons, CBO estimates that the costs of the mandate would be low.

Finally, the bill would impose new mandates on Internet service providers (ISPs). H.R. 3125 would require Internet service providers to terminate the accounts of customers who run gambling businesses or promote illegal gambling and to block specific foreign gambling Internet sites when given an official notice of noncompliance 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 low. Because such notices would apply to specific subscriber accounts (or foreign sites), 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.

H.R. 3125 would impose an additional mandate on Internet service providers by requiring them to offer their residential customers filtering software (or equivalent systems) that would block access by children to gambling Internet sites. CBO estimates that the cost of complying with the mandate would be small because such software is commonly available. The bill would permit providers to charge reasonable fees for the use of the software, allowing them to pass the cost on to their customers.

PREVIOUS CBO ESTIMATE

On July 15, 1999, CBO transmitted a cost estimate for S. 692, a similar bill reported by the Senate Committee on the Judiciary on June 17, 1999. Both bills would prohibit gambling conducted over the Internet or an interactive computer service, but would provide for different exemptions from this prohibition. H.R. 3125, unlike S. 692, would not prohibit tribal governments from operating certain games of chance and therefore would not impose intergovernmental mandates with costs exceeding the threshold specified in UMRA.

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