



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

July 7, 2005

H.R. 2565

A bill to reauthorize the Office of National Drug Control Policy Act and to establish minimum drug-testing standards for major professional sports leagues

*As ordered reported by the House Committee on Government Reform
on May 26, 2005*

SUMMARY

H.R. 2565 would reauthorize operations of the Office of National Drug Control Policy (ONDCP) and programs administered by that office through 2010. Major programs administered by ONDCP include the High-Intensity Drug Trafficking Areas program, the National Youth Anti-Drug Media Campaign, and the Counterdrug Technology Assessment Center. In addition, the legislation would direct ONDCP to oversee drug policies of professional sports leagues. Under the bill, these leagues would be required to ban the use of certain drugs and set mandatory minimum drug-testing requirements for professional athletes. The bill would increase penalties for leagues and athletes that do not comply with these requirements.

CBO estimates that implementing H.R. 2565 would cost nearly \$2.5 billion over the 2006-2010 period, assuming appropriation of the necessary amounts. By reauthorizing ONDCP's authority to accept and spend monetary gifts and requiring enforcement of the legislation through the FTC, enacting H.R. 2565 could increase direct spending and revenues, but CBO estimates that any such effects would be negligible.

H.R. 2565 contains two intergovernmental mandates, as defined in the Unfunded Mandates Reform Act (UMRA), but CBO cannot determine if the costs would exceed the threshold established in that act (\$62 million in 2005, adjusted annually for inflation).

H.R. 2565 would impose several private-sector mandates, as defined in UMRA, on major professional sports leagues. CBO estimates that the total direct cost of those mandates would fall well below the annual threshold established by UMRA for private-sector mandates (\$123 million in 2005, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 2565 is shown in the following table. The costs of this legislation fall within budget functions 370 (commerce and housing credit), 750 (administration of justice), and 800 (general government).

	By Fiscal Year, in Millions of Dollars					
	2005	2006	2007	2008	2009	2010
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law for ONDCP						
Budget Authority ^a	508	0	0	0	0	0
Estimated Outlays	504	201	34	11	0	0
Proposed Changes:						
Reauthorization of ONDCP						
Estimated Authorization Level	0	517	525	536	545	555
Estimated Outlays	0	315	486	520	541	551
ONDCP Drug Standards for Professional Sports Leagues						
Estimated Authorization Level	0	8	8	8	8	8
Estimated Outlays	0	7	8	8	8	8
Total Proposed Changes						
Estimated Authorization Level	0	525	533	544	553	563
Estimated Outlays	0	322	494	528	549	559
Total Spending Under H.R. 2565 for ONDCP						
Estimated Authorization Level	508	525	533	544	553	563
Estimated Outlays	504	523	528	539	549	559

NOTES: Components may not sum to totals because of rounding.

a. The 2005 level is the amount appropriated for that year for programs administered by the Office of National Drug Control Policy.

BASIS OF ESTIMATE

For this estimate, CBO assumes that the bill will be enacted near the end of fiscal year 2005, that the necessary amounts will be provided each year, and that spending will follow historical patterns for the ONDCP and its programs.

Spending Subject to Appropriation

Reauthorization of ONDCP. Section 103 would authorize the appropriation of such sums as necessary to operate the ONDCP, other federal drug control programs, the Counterdrug Technology Assessment Center, and the High-Intensity Drug Trafficking Areas Program through fiscal year 2010. The current authorization for ONDCP expired at the end of fiscal year 2003 (although the office continued to receive funding in 2004 and 2005). Because the bill does not specify funding levels, CBO estimated the cost of continuing to operate those federal drug control programs by adjusting the amounts appropriated for those purposes in 2005 for anticipated inflation. On that basis, we estimate that implementing those programs over the 2006-2010 period would cost \$2.4 billion.

Drug Standards for Professional Sports. H.R. 2565 would require Major League Baseball (MLB), the National Football League (NFL), the National Basketball Association (NBA), and the National Hockey League (NHL) to adopt the performance-enhancing drug standards established by the U.S. Anti-Doping Agency. Those standards include a list of drugs that athletes are prohibited to use (i.e., steroids, amphetamines, and illegal hormones) and minimum drug-testing requirements. The legislation also would create mandatory penalties for individuals who fail such tests. ONDCP would oversee the professional sports drug standards and have the authority to require other professional or collegiate sports leagues to comply with the new drug standards. Finally, the legislation would require the agency, working through a commission, to report on the use of performance-enhancing drugs in college and high school sports.

Based on information from ONDCP, CBO expects that three new attorneys and requisite support staff would be required to oversee the drug policies of MLB, the NFL, the NBA, and the NHL. This would include promulgating standards for leagues to follow and preparing annual reports to the Congress. In addition, the agency would be required to study the use of performance-enhancing drugs in high school and collegiate sports. The commission would report to Congress annually with recommendations for reducing drug use. ONDCP expects that this provision would require the agency to conduct an annual survey on steroid use among high school and college athletes. Based on information from ONDCP, CBO estimates that this study and additional personnel would cost \$7 million in 2006 and about \$40 million over the 2006-2010 period.

Revenues and Direct Spending

H.R. 2565 would reauthorize ONDCP to accept donations of real and personal property. Monetary gifts are classified in the budget as revenues, and spending of such sums would constitute direct spending. According to ONDCP, it has not received any gifts in recent

years and does not expect to receive any under this authority. Hence, CBO estimates that any additional revenues and direct spending under H.R. 2565 would be negligible.

In addition, the bill would authorize the FTC to enforce the law regarding the use of performance-enhancing drugs in professional sports leagues. CBO expects that the sports leagues would comply with the new minimum drug standards and that any increase in civil penalties resulting from enactment of H.R. 2565 would be insignificant. (Such penalties are recorded in the budget as revenues.)

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 2565 contains two intergovernmental mandates as defined in UMRA: a preemption of state privacy laws and new authority for the Director of ONDCP to regulate public institutions of higher education. Section 724 (9) would require professional sporting leagues to publicly disclose the identity of any player who tests positive for a banned substance. That requirement would preempt numerous state privacy protections but would likely impose no costs on state, local, or tribal governments.

The bill also would give the ONDCP director the authority to extend testing standards to colleges and athletes in Divisions I and II of the National Collegiate Athletic Association (NCAA)—more than half of which are public. Such a requirement could be costly to those institutions. It is unclear if the ONDCP director would choose to extend testing requirements to colleges and college athletes or what testing requirements would be included if the program was extended to such athletes. If the director chose to extend testing requirements, institutions participating in Divisions I and II of the NCAA could be required to test athletes multiple times per year for substances for which they do not currently test, imposing significant costs on such institutions. For example, information from ONDCP indicates that drug tests that conform to United States Anti-Doping standards could cost up to \$600 per test; the current NCAA random testing program costs over \$300 per test, including administrative costs. Until future regulations and testing regimes are clearly defined, CBO cannot estimate the total costs that would result from enacting this provision.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 2565 would impose several private-sector mandates, as defined in UMRA, on major professional sports leagues. CBO estimates that the total direct cost of those mandates would fall well below the annual threshold established by UMRA for private-sector mandates (\$123 million in 2005, adjusted annually for inflation).

The bill would require Major League Baseball, the National Football League, the National Basketball Association, and the National Hockey League to implement drug-testing programs for performance-enhancing drugs consistent with the standard established by the U.S. Anti-Doping Agency (USADA). The leagues would be required to test, without advance notice, their players at least three times during the regular season and at least twice during the off-season. Currently, the sports leagues conduct their own testing, so the cost of the mandate would be the increase in cost attributable to the additional drug-testing.

Based on information from the USADA, the cost of drug-testing of athletes could be up to \$600 per test. The cost of the testing would include locating the athletes in the off-season, shipping charges, and the comprehensive analysis of samples at a laboratory approved by the USADA. According to representatives of the major sports leagues, approximately 4,000 athletes would need to be tested. Therefore, CBO estimates that the direct cost would not be large relative to the UMRA threshold.

H.R. 2565 also would require the leagues to certify to the Director of the Office of National Drug Control Policy that it has consulted with the USADA in the development of their test distribution planning, method of testing, and adjudication process. Under the bill, the leagues also would be required to publicly disclose the identity of any athlete who has tested positive, the penalty imposed, and the tested substance. In addition, the leagues would be required to provide certain reports to the Congress. Currently, the leagues have their own procedures for test distribution, testing, and adjudication as well as providing some public disclosure of test results and penalties. Thus, CBO expects that the cost to comply with those mandates would be small.

In addition, H.R. 2565 could impose a new mandate if the United States Boxing Commission is established. The bill would require the Commission to implement drug-testing programs for professional boxing consistent with the standard established by the USADA. According to the Association of Boxing Commissions, almost all states currently require drug testing of boxers prior to professional fights. This bill would expand the number of drug tests and could include as many as 7,000 boxers to be tested. However, the bill does not specify who would be responsible for the cost of such testing.

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