



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

September 12, 2005

### **S. 113**

#### **A bill to modify the date as of which certain tribal land of the Lytton Rancheria of California is deemed to be held in trust**

*As ordered reported by the Senate Committee on Indian Affairs on June 29, 2005*

#### **SUMMARY**

S. 113 would eliminate a provision of the Omnibus Indian Advancement Act that effectively made certain land held in trust for the Lytton Rancheria tribe eligible for use as a gaming site without meeting certain requirements of the Indian Gaming Regulatory Act (IGRA). CBO estimates that implementing S. 113 would have no significant impact on the federal budget.

Making the Lytton Band of Indians subject to the requirements of IGRA would be considered an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA). While the total cost of this mandate is very uncertain, CBO expects that it would likely exceed the threshold established in UMRA (\$62 million in 2005, adjusted annually for inflation) in at least one of the next five years. S. 113 contains no private-sector mandates as defined in UMRA.

The bill would amend legislation enacted in 2000 that ordered the Department of the Interior (DOI) to take land in California into trust for the Lytton Rancheria. That legislation contained a provision deeming the trust status of that land to be retroactive, effectively permitting the tribe to install electronic bingo machines or slot machines without meeting the conditions imposed by section 20 of IGRA. Section 20 requires additional regulatory review and approval of proposed Indian gaming facilities by DOI and the appropriate governor as well as consultation with local communities. S. 113 would delete that provision of the 2000 act, thereby making the tribe's gaming operations subject to section 20 of IGRA.

#### **ESTIMATED COST TO THE FEDERAL GOVERNMENT**

If S. 113 is enacted, DOI would probably incur additional administrative expenses to review a proposal by the Lytton Rancheria for approval of its plans to operate gaming machines on the affected land. CBO estimates that such costs would be less than \$500,000.

Based on information provided by the Department of Justice, CBO assumes that the United States would not be held responsible for economic losses incurred by the tribe if it is unable to obtain approvals to operate gaming machines on the trust land as a result of enacting this legislation. If a court were to determine that the government must compensate the tribe for such a possible loss, however, federal spending (probably from the Claims and Judgments Trust Fund) would be significant. We estimate that enacting this legislation would have no effect on other direct spending or revenues.

## **ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS**

By making the Lytton Rancheria land subject to section 20 of IGRA, S. 113 would significantly affect the Rancheria's gaming operations. The affected site is currently in use as a card room, but the tribe plans to install 500 electronic bingo machines by the fall of 2005, and possibly more in the future. Should S. 113 be enacted, the tribe would be prohibited from operating these machines until they completed the process required by section 20 of IGRA and received the necessary approvals. It is uncertain whether the tribe would receive such approvals or how long the process might take. In the meantime, the tribe would lose the earnings from those machines. These lost earnings would be the primary cost of the mandate.

Based on information received from tribal representatives and from the National Indian Gaming Commission, CBO estimates that the annual cost of the mandate, in the form of lost earnings, could reach \$50 million to \$100 million within the next five years. The tribe also would incur administrative and legal costs to comply with the additional conditions. This estimate is subject to a great deal of uncertainty concerning both the level of revenue that would be generated by the initial 500 machines, as well as the possibility that the tribe would expand its operations in the absence of this legislation. It is also possible that the threat of this legislation would affect the situation even without it becoming law. CBO believes it is likely, however, that the cost would exceed the UMRA threshold at some point within the next five years. (The threshold is \$62 million in 2005, adjusted annually for inflation.)

## **ESTIMATED IMPACT ON THE PRIVATE SECTOR**

S. 113 contains no private-sector mandates as defined in UMRA.

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