CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

June 26, 2014

H.R. 3086
Permanent Internet Tax Freedom Act

As ordered reported by the House Committee on the Judiciary on June 18, 2014

SUMMARY

H.R. 3086 would make permanent a moratorium on state and local taxes on Internet access and some taxes on electronic commerce. Under current law, the moratorium is set to expire on November 1, 2014. CBO estimates that enacting H.R. 3086 would have no impact on the federal budget, but beginning in 2014, it would impose significant annual costs on some state and local governments. The bill would not affect federal direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

By permanently prohibiting state and local government from collecting certain types of taxes, H.R. 3086 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the mandate would cause some state and local governments to lose revenue beginning in November 2014; those losses would exceed the threshold established in UMRA for intergovernmental mandates ($76 million in 2014, adjusted annually for inflation) beginning in 2015. CBO estimates that the direct costs to states and local governments would probably total more than several hundred million dollars annually. The bill contains no private-sector mandates as defined in UMRA.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

CBO estimates that enacting H.R. 3086 would have no impact on the federal budget.

PAY-AS-YOU-GO CONSIDERATIONS: None.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

The Internet Tax Freedom Act (ITFA), as amended, currently prohibits state and local governments from imposing taxes on Internet access and some taxes on electronic commerce until November 1, 2014. The ITFA also contains an exception to this moratorium, sometimes referred to as the grandfather clause, which allows some state and local governments to continue taxing Internet access if such tax was generally imposed and actually enforced prior to October 1, 1998. H.R. 3086 would make permanent the moratorium and eliminate the grandfather clause. Those changes constitute intergovernmental mandates as defined in UMRA because they would prohibit state and local governments from collecting taxes that they otherwise would collect, and in some cases, are currently collecting.

The primary effect of the bill would be the loss of state and local revenue starting in November 2014. UMRA includes in its definition of the direct costs of a mandate the amounts that state and local governments would be prohibited from raising in revenues to comply with the mandate. Eliminating the grandfather clause would result in direct costs (in the form of forgone tax revenues) to those state and local governments that are currently collecting such revenues but would be precluded from doing so after H.R. 3086 is enacted.

While there is some uncertainty about the number of jurisdictions currently collecting affected taxes—and the precise amount of those collections—CBO believes that as many as seven states (Hawaii, New Mexico, North Dakota, Ohio, South Dakota, Texas, and Wisconsin) and several local jurisdictions in those states are currently collecting such taxes. Information from four of those states indicates that the tax collections that would be prohibited total several hundred million dollars annually; those losses would exceed the threshold established in UMRA for intergovernmental mandates ($76 million in 2014, adjusted annually for inflation) for each year, beginning in 2015.

It is possible that if the moratorium were allowed to expire as scheduled under current law, some state and local governments would enact new taxes or decide to apply existing taxes to Internet access and on electronic commerce during the next five years. It is also possible that some governments would repeal existing taxes or preclude their application to those services. Because such changes are difficult to predict, for the purposes of estimating the direct costs of the mandate, CBO considered only the revenues from taxes that are currently in place and actually being collected.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

This bill contains no private-sector mandates as defined in UMRA.

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