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Before the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia; Committee on Homeland Security and Governmental Affairs, U.S. Senate

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UNFUNDED MANDATES

Analysis of Reform Act's Coverage and Views on Possible Next Steps

Statement of Orice M. Williams, Director
Strategic Issues





Highlights of [GAO-05-533T](#), a testimony before the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia; Committee on Homeland Security and Governmental Affairs, U.S. Senate

Why GAO Did This Study

The Unfunded Mandates Reform Act of 1995 (UMRA) was enacted to address concerns about federal statutes and regulations that require nonfederal parties to expend resources to achieve legislative goals without being provided funding to cover the costs. UMRA generates information about the nature and size of potential federal mandates but does not preclude the implementation of such mandates. At various times in UMRA's 10-year history, Congress has considered legislation to amend aspects of the act to address ongoing questions about its effectiveness.

This testimony is based on GAO's reports, *Unfunded Mandates: Analysis of Reform Act Coverage* (GAO-04-637, May 12, 2004) and *Unfunded Mandates: Views Vary About Reform Act's Strengths, Weaknesses, and Options for Improvement* (GAO-05-454, March 31, 2005). Specifically, this testimony addresses (1) UMRA's procedures for the identification of federal mandates and GAO's analysis of the implementation of those procedures for statutes enacted and major rules issued in 2001 and 2002, and (2) the views of a diverse group of parties familiar with UMRA on the significant strengths and weaknesses of the act as the framework for addressing mandate issues and potential options for reinforcing the strengths or addressing the weaknesses.

www.gao.gov/cgi-bin/getrpt?GAO-05-533T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Orice M. Williams, (202) 512-5837, williamso@gao.gov.

UNFUNDED MANDATES

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What GAO Found

The identification and analysis of intergovernmental and private sector mandates is a complex process under UMRA. Proposed legislation and regulations are subject to various definitions, exceptions, and exclusions before being identified as containing mandates at or above UMRA's cost thresholds. Also, some legislation and rules may be enacted or issued via procedures that do not trigger UMRA reviews. In 2001 and 2002, 5 of 377 statutes enacted and 9 of 122 major or economically significant final rules issued were identified as containing federal mandates at or above UMRA's thresholds. Despite the determinations under UMRA, at least 43 other statutes and 65 rules resulted in new costs or negative financial consequences that affected nonfederal parties might perceive as unfunded or underfunded federal mandates.

GAO obtained information from 52 knowledgeable parties, who provided a significant number of comments about UMRA, specifically, and federal mandates, generally. Their views often varied across and within the five sectors we identified (academic/think tank, public interest advocacy groups, business, federal agencies, and state and local governments). Overall, the numerous strengths, weaknesses, and options for improvement identified during the review fell into several broad themes, including, among others, UMRA-specific issues such as the act's coverage and enforcement, and more general issues about the design, funding, and evaluation of federal mandates. UMRA's coverage was, by far, the most frequently cited issue by parties from the various sectors. Parties across most sectors said that UMRA's numerous definitions, exclusions, and exceptions leave out many federal actions that might significantly impact nonfederal entities and suggested that they should be revisited. However, a few parties, primarily from the public interest advocacy sector, viewed UMRA's narrow coverage as a strength that should be maintained. Another issue on which the parties had particularly strong views was the perceived need for better evaluation and research of federal mandates and more complete estimates of both the direct and indirect costs of mandates on nonfederal entities. The most frequently suggested option to address these evaluation issues was more post-implementation evaluation of existing mandates or "look backs" at their effectiveness.

Going forward, the issue of unfunded mandates raises broader questions about assigning fiscal responsibilities within our federal system. The long-term fiscal challenges facing the federal and state and local governments and the continued relevance of existing programs and priorities warrant a national debate to review what the government does, how it does business, and how it finances its priorities. Such a reexamination includes considering how responsibilities for financing public services are allocated and shared across the many nonfederal entities in the U.S. system.

Mr. Chairman and Members of the Committee:

I am pleased to have the opportunity to provide testimony today on federal mandates and the Unfunded Mandates Reform Act of 1995 (UMRA).¹ As you know, UMRA was enacted to address concerns expressed by state and local governments about federal statutes and regulations that require nonfederal parties to expend resources to achieve legislative goals without providing funding to cover the costs.² Many federal programs and initiatives, in areas ranging from homeland security to health care and environmental protection, involve shared responsibilities—and benefits—for the federal government, state, local, and tribal governments, and the private sector. Determining the appropriate balance of fiscal responsibility between the federal government, state, local, and tribal governments, and the private sector in carrying out these federal mandates is a constant challenge. As the budgets of federal, state, and local governments become more constrained, balancing the costs of legislative actions with increasingly limited fiscal resources has brought this debate to the forefront.

Mr. Chairman, my testimony today focuses on the findings from two reports we issued over the past year at your request.³ We believe that both are important to this committee in the context of considering possible revisions to UMRA. The first report, issued in May 2004, focused on UMRA's procedures for identifying federal mandates and our analysis of the implementation of those procedures for statutes enacted and major rules issued in 2001 and 2002. Building upon the work of the first report, the second report, which is being released publicly today, focuses on the views of a diverse group of parties from the academic/think tank, business, federal agency, public interest advocacy groups, and state and local governments sectors on the strengths and weaknesses of UMRA and their suggested options for reinforcing the strengths or addressing the weaknesses. While the information gathered for this second report reflects only the perspectives of those individuals who participated in our review,

¹Pub. L. No. 104-4.

²Pub. L. 104-4 pmb. As in the act, we generally refer to the identification of federal mandates, rather than unfunded mandates, in this statement.

³GAO, *Unfunded Mandates: Analysis of Reform Act Coverage*, [GAO-04-637](#) (Washington, D.C.: May 12, 2004) and *Unfunded Mandates: Views Vary About Reform Act's Strengths, Weaknesses, and Options for Improvement*, [GAO-04-454](#) (Washington, D.C.: Mar. 31, 2005).

this information comes from organizations and individuals recognized as being knowledgeable about the implementation of UMRA and/or federal mandate programs.

In summary, our May 2004 report concluded that while information provided under UMRA about potential mandates may have helped to discourage or limit federal mandates, proposed legislation and regulations must pass through multiple steps and meet multiple conditions before being identified as containing mandates at or above UMRA's thresholds. In 2001 and 2002, the period of our review, we found that 5 of 377 statutes and 9 of 122 major or economically significant rules were identified as containing federal mandates at or above UMRA's thresholds. Despite the determinations made under UMRA, we found that some of the statutes and rules that had not triggered UMRA's requirements appeared to have potential financial impacts on affected nonfederal parties similar to those of actions that were identified as mandates at or above UMRA's thresholds. For example, at least 43 statutes and 65 rules issued in 2001 and 2002 resulted in new costs or other negative financial impacts that affected parties might perceive as unfunded or under funded mandates even though they did not meet UMRA's definition of a mandate.

In our most recent report, we found a wide variety of views and perspectives on UMRA specifically and federal mandates more generally. Not surprisingly, the comments provided fell into several broad categories or themes, specifically, (a) UMRA coverage, (b) UMRA enforcement, (c) other UMRA issues including the use and usefulness of the information generated under the Act and consultations with state and other governments, and (d) broader issues involving federal mandates included the design and funding of federal mandates and evaluating those mandates. Those issues discussed most frequently were UMRA's coverage, enforcement, and the evaluation of federal mandates. While there was some broad-based support by parties across most sectors that these are issues that warrant review and reconsideration, there was less agreement about suggested options for dealing with them.

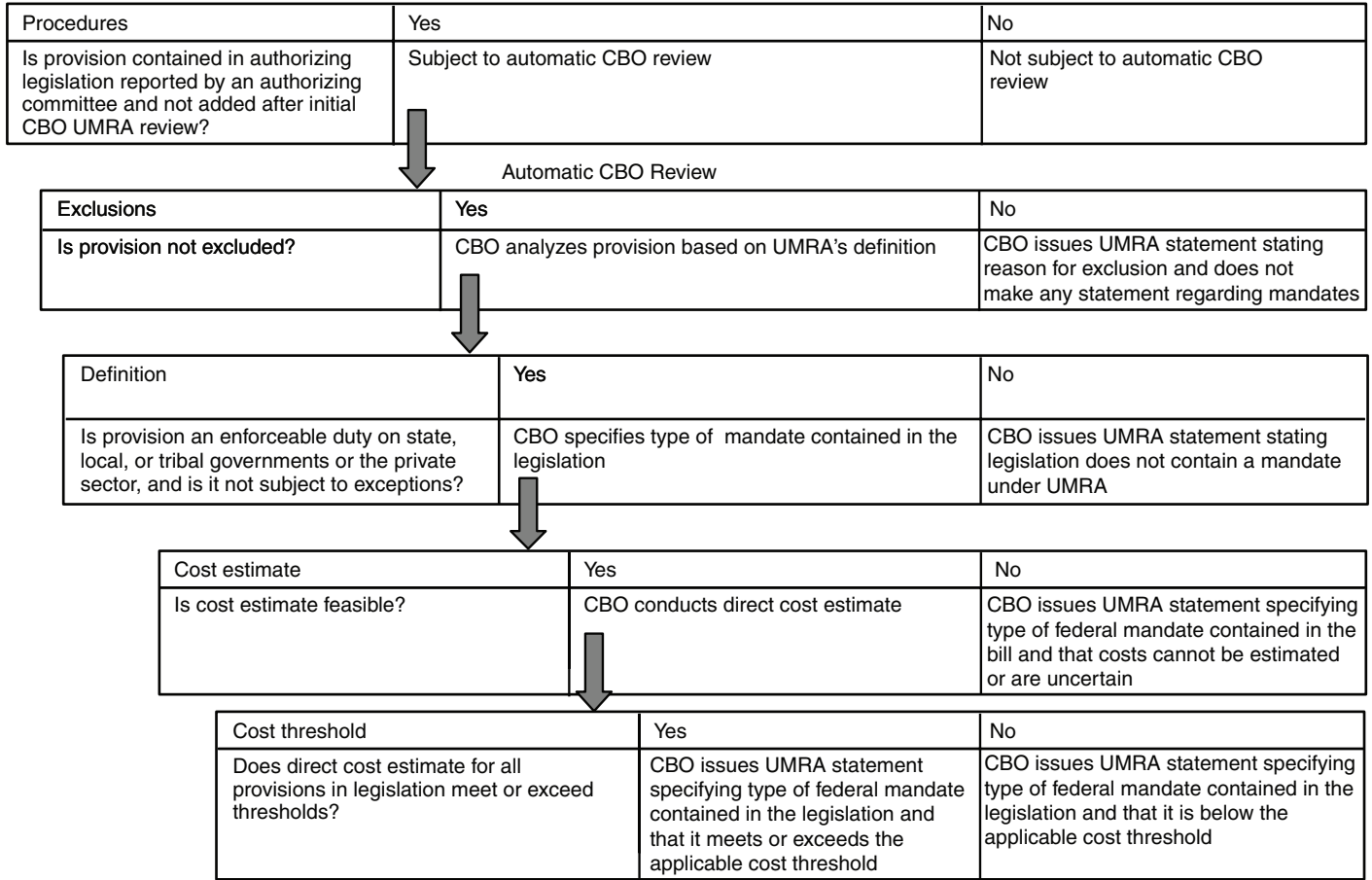
Identification of Mandates Under UMRA Is Complex

The procedures under UMRA for the identification and analysis of intergovernmental and private sector mandates are very complex. Moreover, some potential mandates are enacted through procedures that never require them to be reviewed under UMRA. For example, UMRA does not require the automatic review of potential mandates contained in appropriation bills, nor does the act cover rules that were issued as final

without having been preceded by a notice of proposed rulemaking. Even if proposed legislation or regulations are reviewed under UMRA, those provisions are subject to various definitions, exclusions, and exceptions before being identified as containing mandates at or above UMRA's cost thresholds. For example, UMRA does not apply to legislative provisions that cover constitutional rights, discrimination, emergency aid, accounting and auditing procedures for grants, national security, treaty ratification, and certain parts of Social Security. As figure 1 illustrates, a provision in legislation must pass through a multiple step process before the Congressional Budget Office prepares required statements identifying and estimating the costs of mandates in legislation that meet certain criteria and determines whether or not those estimated costs meet or exceed UMRA's thresholds.⁴

⁴UMRA has several titles. Title I requires congressional committees and the Congressional Budget Office to identify and provide information on potential federal mandates in certain legislation. Similarly, title II of UMRA requires federal agencies to prepare a written statement identifying the costs and benefits of federal mandates contained in certain regulations and consult with affected parties. For legislation, the thresholds are direct costs (in the first 5 fiscal years that the relevant mandates would be effective) of \$50 million or more for intergovernmental mandates and \$100 million or more for private sector mandates, while the threshold for regulations is expenditures of \$100 million or more in any year. The dollar thresholds are in 1996 dollars and are adjusted annually for inflation.

Figure 1: The Multistep Process Necessary for CBO to Identify Federal Mandates in Proposed Legislation



Source: GAO.

Based on UMRA's requirements, we found that few provisions in statutes or rules are considered mandates as defined by UMRA. As mentioned previously, in 2001 and 2002, the period of our review, only 5 of the 377 statutes enacted and 9 of the 122 major rules issued contained federal mandates at or above UMRA's thresholds. All 5 statutes and 9 rules contained private sector mandates and only one final rule—an Environmental Protection Agency standard on arsenic in drinking water—contained an intergovernmental mandate.

Despite the determinations made under UMRA, nonfederal parties affected by federal actions viewed many more federal actions in statute and regulation as containing unfunded or under funded mandates. When we explored this issue, we found that some of the statutes and rules that had not triggered UMRA's requirements appeared to have potential financial impacts on affected parties similar to those of actions that had been flagged as containing mandates at or above UMRA's thresholds. Specifically, we identified at least 43 statutes and 65 rules issued in 2001 and 2002 that resulted in new costs or other negative financial impacts on nonfederal parties that the affected parties might perceive as unfunded or under funded mandates even though they did not meet UMRA's definition of a mandate or did not meet or exceed UMRA's thresholds. For these statutes and rules, CBO or federal agencies most often had determined that the estimated direct costs or expenditures, as defined by UMRA, would not meet or exceed the applicable thresholds or that one or more of the other definitions, exclusions, or exclusions applied. These findings raised the question of whether UMRA, given its procedures, definitions, and exclusions, adequately captures and subjects to scrutiny federal statutory and regulatory actions that might impose significant financial or other burdens on affected nonfederal parties. To begin to address this question, you asked us to obtain the views of a diverse group of parties knowledgeable about UMRA and federal mandates.

Views of Parties Regarding UMRA and Unfunded Mandates

Parties from the various sectors provided a variety of comments but they generally fell into several broad themes. UMRA's coverage was the most frequently cited theme, with comments provided by all the sectors (academic/think tank, business, federal agencies, public interest advocacy groups, and state and local governments). Issues involving enforcement were the second most frequently cited but with far fewer parties providing comments. Other themes that emerged from the comments included the use and usefulness of the information generated under UMRA, UMRA's analytic framework, and consultation under UMRA. Finally, issues involving the design and funding and evaluation of federal mandates also emerged as themes.

UMRA Coverage Generally Viewed as a Weakness but a Few Parties Disagree

Given the findings from our May 2004 report, it's not surprising that UMRA's coverage, including its numerous definitions, exclusions, and exceptions, was the most frequently cited issue by parties from all five sectors. Most parties from the state and local governments, federal agency, business, and

academic/think tank sectors viewed UMRA's narrow coverage as a major weakness that leaves out many federal actions with potentially significant financial impacts on nonfederal parties. However, a few parties, from public interest advocacy groups and academic/think tank sectors, considered some of the existing exclusions important or identified UMRA's narrow scope as one of the Act's strengths.

The comments about weaknesses in UMRA's coverage ranged from general to specific. For example, some parties commented, in general, about the number of exclusions and exemptions. Others provided more specific comments, including points regarding issues with the exclusion of indirect costs and UMRA's cost thresholds for legislative and regulatory mandates, which result in excluding many federal actions that may significantly impact nonfederal entities. Others raised more fundamental concerns about the exclusions for appropriations and other legislation not covered by the Act and for rules issued by independent regulatory agencies, which are also not covered by UMRA but can result in provisions that contain mandates. CBO estimates that in 2004, 5 of the 8 laws containing federal mandates (as defined by UMRA) that it did not review before enactment, were appropriations acts.⁵ Finally, parties from the state and local government sector also identified concerns about gaps in UMRA's coverage of federal preemption of state and local authority.⁶ Although some preemptions are covered by UMRA such as those that preempt state or local revenue raising authority, they are covered only for legislative actions and not for federal regulations. According to CBO's 2005 report on unfunded mandates, "Over half of the intergovernmental mandates for

⁵CBO, *A Review of CBO's Activities in 2004 Under the Unfunded Mandates Reform Act* (Washington D.C.: March 8, 2005).

⁶Preemption refers to the power of the federal government to enact statutes that override state laws. This power derives from the supremacy clause of the United States Constitution, which states that "The Laws of the United States...shall be the supreme Law of the Land...any Thing in the Constitution or Laws of any state to the Contrary notwithstanding." U.S. Const. art. VI, cl. 2. For example, the Internet Tax Freedom Act prohibits states from enacting a tax on Internet access or multiple or discriminatory taxes on electronic commerce between October 1998 and November 2004 and preempts any state or local laws enacted during this period. Pub. L. No. 105-277, Div. C, Tit. XI, § 1101 (1998) (amended 2004). Title I of UMRA only applies to legislation that prohibits states from raising revenue, such as the Internet Tax Freedom Act. 2 U.S.C. § 658(3)(A)(i). Other preemptions of states' regulatory authority are not subject to UMRA's enforcement scheme.

which CBO provided estimates [in 2004] were preemptions of state and local authority.”⁷

Despite the widespread view in several sectors that UMRA’s narrow coverage leaves out federal actions with potentially significant impacts on nonfederal entities, there was less agreement by parties about how to address this issue. The options ranged from general to specific but those most frequently suggested were:

- Generally revisit, amend, or modify the definitions, exceptions, and exclusions under UMRA and expand UMRA’s coverage.
- Clarify UMRA’s definitions and ensure their consistent implementation across agencies to ensure that all covered provisions are being included.
- Change the cost thresholds and/or definitions that trigger UMRA by, for example, lowering the threshold for legislative or executive reviews and expanding cost definitions to include indirect costs.
- Eliminate or amend the definitional exceptions for conditions of federal financial assistance or that arise from participation in voluntary federal programs.
- Expand UMRA coverage to all preemptions of state and local laws and regulations, including those nonfiscal preemptions of state and local authority.

As I mentioned previously, while most parties thought UMRA’s narrow coverage was a weakness, a few parties from academic/think tank and public interest advocacy groups sectors view UMRA coverage differently. They viewed UMRA’s narrow scope as one of its primary strengths. In fact, rather than expanding UMRA’s coverage, these parties said that it should be kept narrow and that the exceptions and exclusions are needed. Between 1996 and 2004, CBO reports that of 5,269 intergovernmental statements, 617 had mandates and of 5,151 private sector statements, 732 had

⁷CBO’s March 2005 UMRA report.

mandates.⁸ Of the mandates identified by CBO, about 9 percent of the intergovernmental mandates and almost 24 percent of private sector mandates had costs that would exceed the thresholds. As discussed at our January 26, 2005, symposium on UMRA and federal mandates, some parties also identified a number of suggestions that they could not support, namely any attempt to expand UMRA to cover constitutional or civil rights or excluding private sector mandates.

UMRA Enforcement

Issues involving UMRA enforcement were the second most frequently cited issue but with far fewer parties from each sector commenting. Parties across and within sectors had differing views on both the enforcement mechanisms provided in the law itself and the level of effort exercised by those responsible for implementing UMRA's provisions. Many of the comments focused on the point of order—one of the primary tools used to enforce UMRA requirements in title I of UMRA. Although the point of order provides members of Congress the opportunity to raise challenges to hinder the passage of legislative provisions containing an unfunded intergovernmental mandate, views were mixed about its effectiveness. Those representing state and local government and federal agency sectors said that the point of order should be retained because it has been successful in reducing the number of unfunded mandates by acting as a deterrent to their enactment, without greatly impeding the process. Conversely, some parties primarily from academic/think tank, business, and federal agency sectors did not believe the point of order has been effective in preventing or deterring the enactment of mandates and suggested options to strengthen it. Moreover, others commented about its infrequent use.⁹

⁸According to CBO's 2005 report, the numbers represent official mandate statements transmitted to Congress by CBO. CBO prepared more intergovernmental mandate statements than private-sector mandate statements because in some cases it was asked to review a specific bill, amendment, or conference report solely for intergovernmental mandates. These numbers also exclude preliminary reviews and informal estimates for other legislative proposals. Finally, mandate statements may cover more than one mandate. Similarly, CBO may address a single mandate in more than one statement.

⁹In the last 10 years, at least 13 points of order under UMRA were raised in the House of Representatives and none in the Senate. Only 1 of the 13, regarding a proposed minimum wage increase as part of the Contract with America Advancement Act in 1996, resulted in the House voting to reject consideration of a proposed provision.

Some parties said the point of order needs to be strengthened by making it more difficult to defeat. One suggested revision was to require a three-fifths vote in Congress, rather than a simple majority, to overturn a point of order. This change was believed to strengthen the “institutional salience of UMRA” and to ensure that no mandate under UMRA could be enacted if it was supported only by a simple majority. As you know, on March 17, 2005, the Senate approved the fiscal year 2006 budget, which included a provision that would increase to 60 the number of votes needed to overturn an UMRA point of order in the Senate.¹⁰

A few parties from the federal agency and academic/think tank sectors commented on another enforcement mechanism for regulatory mandates—UMRA’s judicial review provision, which subjects any agency compliance or noncompliance with certain provisions in the Act to judicial review. Most felt that this mechanism does not provide meaningful relief or remedies if federal agencies have not complied with the requirements of UMRA because of its limited focus. Specifically, judicial review is limited to requirements that pertain to preparing UMRA statements and developing federal plans for mandates that may significantly impact small government agencies. Furthermore, if a court finds that an agency has not prepared a written statement or developed a plan for one of its rules, the court can order the agency to do the analysis and include it in the regulatory docket for that rule; but the court may not block or invalidate the rule. The few parties commenting about judicial review suggested expanding it to provide more opportunities for judicial challenges and more effective remedies when noncompliance of the Act’s requirements occur. A few parties primarily from the academic/think tank and public interest advocacy groups sectors said that efforts to limit or stop implementation of mandates through legal action might be unwarranted, because UMRA was not intended to preclude the enactment of federal mandates. They were primarily concerned about litigation being used to slow down the regulatory process.

Commenting parties from business, federal agency, and state and local governments sectors questioned some federal agencies’ compliance with UMRA requirements and the effectiveness of enforcement mechanisms to address this perceived noncompliance. They mentioned the failure of some agencies to consult with state, local and tribal governments when

¹⁰As of April 11, 2005, the fiscal year 2006 budget was in conference negotiations with the House of Representatives.

developing regulations that may have a significant impact on nonfederal entities. Likewise, at least one party of each of the three sectors expressed concerns about the lack of accurate and complete information provided by federal agencies, which are responsible for determining whether a rule includes a mandate and whether it exceeds UMRA's thresholds. The perceived lack of compliance with certain UMRA requirements generated several suggested changes to UMRA. However, the only suggestion that had support across parties from multiple sectors was to replicate CBO's role for legislative mandates by creating a new office within OMB that would be responsible for calculating the cost estimates for federal mandates in regulations.

**Parties Across All Sectors
Raise Other Issues
Regarding UMRA, but Little
or No Consensus Emerges**

Parties from all sectors also raised a number of other issues about the use and usefulness of UMRA information (in decreasing the number of unfunded mandates), UMRA's analytic framework, and federal agency consultations with state, local, and tribal governments, but there was no consensus in their views about how these issues should be addressed. The parties provided mixed but generally positive views about the use and usefulness of UMRA information. Some parties commented that the Act does increase awareness of unfunded mandates but thought more could be done to increase its usefulness. However, the only option that attracted multiple supporters was a suggestion for a more centralized approach for generating information within the executive branch similar to the suggestions mentioned about improving enforcement. Parties also provided a number of comments about the provisions of UMRA that establish the analytic framework for cost estimates, which generated a few suggested options aimed at improving the quality of information generated such as including indirect costs for threshold purposes and clarifying certain definitions (e.g. "federal mandates" and "enforceable duty"). UMRA's consultation also emerged as a recurring theme within and across certain sectors. The comments generally were about a perceived lack of consistency across agencies when consulting with state and local governments.

**Sectors Also Raise
Concerns About Federal
Mandates in General**

Parties from all sectors also raised a number of broader issues about federal mandates—namely, the design and funding and evaluation of federal mandates—and suggested a variety of options. While most of the comments were about the evaluation of federal mandates, some parties also raised concerns about the design and funding of mandates, which varied across sectors. Issues raised include: (1) costs for mandates may

vary across different affected nonfederal entities, (2) mismatches between the funding needs of parties compared to federal formulas, and (3) effects of the timing of federal actions and program changes on nonfederal parties. Most often, the comments focused on a perceived mismatch between the costs of federal mandates and the amount of federal funding provided to help carry them out. Others raised issues about the need to address the incentives for the federal government to “over leverage” federal funds by attaching (and often revising) additional conditions for receiving the funding.

Parties, primarily from the academic/think tank sector, suggested a wide variety of options to address their concerns, but there was no broad support for any option. For example, while some parties across four sectors suggested providing waivers or offsets to reduce the costs of the mandates on affected parties or “off ramps” to release them of some responsibilities to fulfill the mandates in a given year if the federal government does not provide sufficient funding. Others said that compliance with federal mandates should not be made contingent on full federal funding and off ramps and waivers can introduce other issues. The option of building into the design of federal mandates “look back” or sunset provisions that would require retrospective analyses of the mandates’ effectiveness and results was also suggested.

About half the parties, representing most sectors commented on the evaluation of federal mandates and offered suggestions to improve mandates, whether covered by the Act or not. Not surprisingly parties in the academic/think tank sector, who felt that the evaluation of federal mandates was especially important because there is a lack of information about the effects of federal mandates on affected parties, provided most of the comments. The issues raised included concerns about the lack of focus on evaluating the effectiveness (results) of the mandates; the questionable accuracy and completeness of cost estimates, particularly ones prepared by federal agencies, and the lack of evaluation of the impact of mandates.

All of these issues are related and the concerns expressed touched upon the need to adequately evaluate mandates in the context of costs, benefits, impacts, and effectiveness of the mandated actions to achieve desired goals. Parties across the sectors suggested that various forms of retrospective analysis are needed for evaluating federal mandates after they are implemented. Some suggestions for retrospective analysis focused on costs and effectiveness of mandates, including comparing them to the estimates and expected outcomes. Others from the state and local

governments sector also suggested focusing on the cumulative costs and effects of mandates—the impact of various related federal actions, which when viewed collectively, may have a substantial impact although any one may not exceed UMRA's thresholds. Finally, parties primarily from the academic/think tank sector suggested examining local and regional impacts of mandates and analyzing the benefits of federal mandates, when appropriate, not just costs.

Observations Regarding Next Steps

As Congress reevaluates UMRA on its 10-year anniversary, the information we provided over the past year provides some useful insights. First, although parties from various sectors generally focused on the areas of UMRA and federal mandates that they would like to see fixed, they also recognized positive aspects and benefits of UMRA. In particular, they commented about the attention UMRA brings to potential consequences of federal mandates and how it serves to keep the debate in the spotlight. I also found it notable that no one suggested repealing UMRA.

Second, when considering changes to UMRA itself, UMRA's narrow coverage stands out as the primary issue for most sectors because it excludes so many actions from coverage under UMRA and contributes to complaints about unfunded or under funded mandates as discussed in both of our reports. Even with an issue such as coverage on which there was some general agreement across most sectors, the variety of suggested options indicates that finding workable solutions will require including all affected parties in the debate.

Third, one of the challenges for Congress and other federal policy makers is to determine which issues and concerns about federal mandates are best addressed in the context of UMRA and which are best considered as part of more expansive policy debates on federal mandates and federalism. On broader policy issues concerning federal mandates, various parties recognized that UMRA is only part of the solution and the issue raises broader public policy questions about structuring and funding mandates in general. These parties made it clear that retrospective analysis is needed to ensure that mandates are achieving their desired goals, which could help provide additional accountability for federal mandates and provide information that could lead to better decisions regarding the design and funding of mandate programs.

Finally, as we move forward in an environment of constrained fiscal resources, the issue of unfunded mandates raises broader questions about

the assignment of fiscal responsibilities within our federal system. Reconsideration of such responsibilities begins with the observation that most major domestic programs, costs, and administrative responsibilities are shared and widely distributed throughout our system. Part of this public policy debate includes a reexamination of the federal government's role in our system and a need to sort out how responsibilities for these

kinds of programs should be financed in the future.¹¹ If left unchecked, unfunded mandates can weaken accountability and remove constraints on decisions by separating the enactment of benefit programs from the responsibility for paying for these programs. Likewise, 100 percent federal financing of intergovernmental programs can pervert fiscal incentives necessary to ensure proper stewardship at the state and local level for shared programs.

Mr. Chairman, once again I appreciate the opportunity to testify on these important issues and I would be pleased to address any questions you or other members of the committee might have.

Contacts and Acknowledgements

If additional information is needed regarding this testimony, UMRA or federal mandates, please contact Orice M. Williams at (202) 512-5837 or williamso@gao.gov or Tim Bober at (202) 512-4432 or bober@gao.gov. Other key contributors to the work which was associated with this testimony were Tom Beall, Kate Gonzalez, and Boris Kachura.

¹¹For a broader discussion of our work on 21st century challenges see, *21st Century Challenges: Reexamining the Base of the Federal Government*, GAO-05-325SP (Washington, D.C.:February 2005).

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