

CONGRESS OF THE UNITED STATES
CONGRESSIONAL BUDGET OFFICE

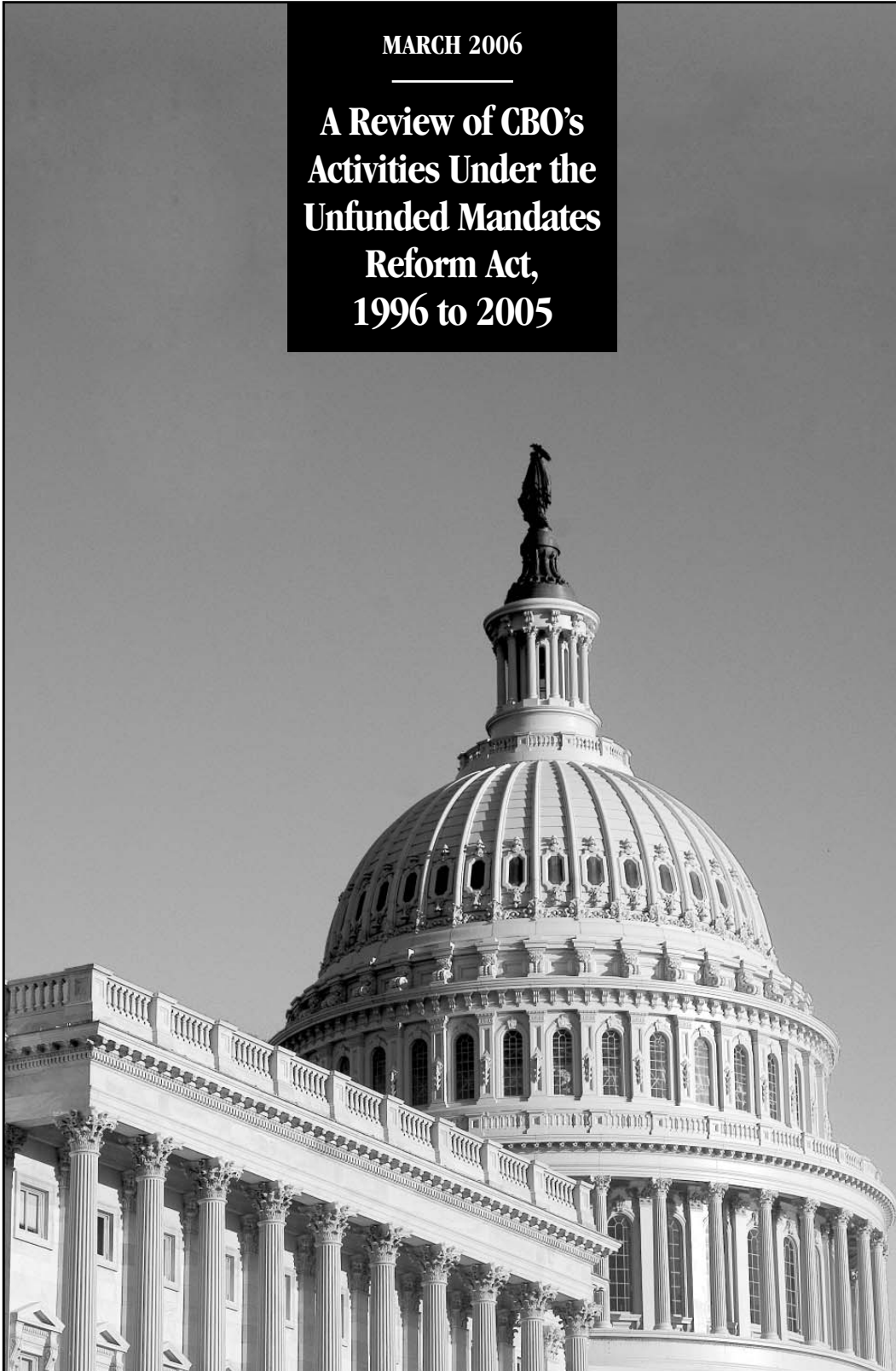
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CBO

REPORT

MARCH 2006

**A Review of CBO's
Activities Under the
Unfunded Mandates
Reform Act,
1996 to 2005**





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Note

In this report, annual dollar thresholds for mandates are calculated on a fiscal year basis, and tables reflect calendar years.

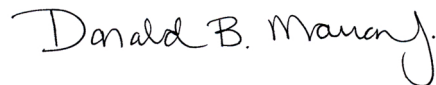


Preface

In this report, the Congressional Budget Office (CBO) reviews its activities over the past decade under the Unfunded Mandates Reform Act of 1995 (UMRA). The report covers legislation considered by the Congress during the years 1996 to 2005 that would impose mandates on state, local, or tribal governments or on the private sector.

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Leah Mazade edited the paper, and Loretta Lettner proofread it. Ernestine McNeil drafted the tables for the report, and Maureen Costantino took the cover photo and prepared the final version for publication. Lenny Skutnik produced the printed copies. This report is also available at CBO's Web site (www.cbo.gov).



Donald B. Marron
Acting Director

March 2006



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A Review of CBO's Activities Under the Unfunded Mandates Reform Act, 1996 to 2005

The Unfunded Mandates Reform Act (UMRA), which was enacted in March 1995 and went into effect on January 1, 1996, established procedures for providing information to the Congress about proposed federal mandates.¹ Specifically, the law increased the amount of information regarding the impact of federal mandates on state, local, and tribal governments and on the private sector that is available to the Congress during the legislative process (title I of UMRA) and to executive branch agencies during rulemaking (title II). The mandates law encourages policymakers to take that information into account in developing laws and regulations.

UMRA defines a mandate as any provision in legislation, statute, or regulation that would impose an enforceable duty on state, local, or tribal governments or on the private sector; that would reduce or eliminate the amount of funding authorized to cover the costs of an existing mandate; or that would increase the stringency of conditions or reduce federal funding for certain mandatory programs, such as Medicaid or the Child Support Enforcement program. Duties that are imposed as a condition for receiving federal assistance or that arise from participating in a voluntary federal program generally are not defined as mandates under UMRA.²

This report summarizes the mandate-related activities of the Congressional Budget Office (CBO) since 1996 and discusses trends in the number of federal mandates considered by the Congress over the past decade.³ The report also presents a compilation of the significant mandates

that have become law since UMRA was enacted (see Appendix A) and summarizes CBO's activities under the law in 2005, identifying mandates that were considered and enacted last year (see Appendix B). Appendix C provides an overview of the basic requirements of UMRA.

Trends in Federal Mandates Under UMRA

Title I of UMRA increased the amount of information available about legislation that contains federal mandates by requiring CBO to provide the Congress with estimates of the costs of proposed mandates. Title I also requires that authorizing committees add information about mandates to their reports, which includes the mandate statements that CBO prepares. In those statements, CBO must address whether the federal mandates in a bill would impose direct costs that are greater than the thresholds established in the mandates law. (In 2005, those thresholds, which are adjusted annually for inflation, were \$62 million for intergovernmental mandates and \$123 million for private-sector mandates.)⁴ If CBO cannot estimate the cost of a mandate, its statement must indicate that such an estimate is not feasible and explain why.

In the 10 years since UMRA took effect, CBO has provided mandate cost statements for nearly all of the bills reported by the Congress's authorizing committees. Upon request, the agency has also provided mandate statements for many proposed floor amendments and some confer-

1. UMRA's provisions are set out in Public Law 104-4.

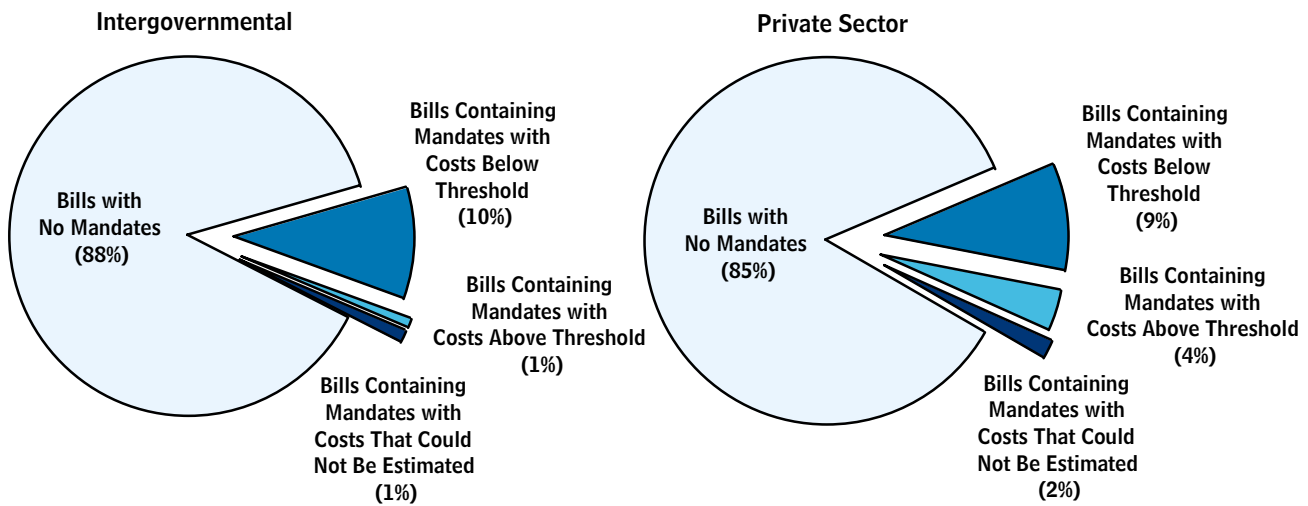
2. For a more detailed discussion of the treatment of intergovernmental mandates under UMRA, see Congressional Budget Office, *Identifying Intergovernmental Mandates* (January 6, 2005).

3. CBO's previous reports on UMRA can be found at www.cbo.gov.

4. Initial thresholds under the law were \$50 million for intergovernmental mandates and \$100 million for private-sector mandates. They have been adjusted annually for inflation since then.

Figure 1.

Few of the 5,769 Bills Reviewed by CBO from 1996 to 2005 Contained Intergovernmental or Private-Sector Mandates



Source: Congressional Budget Office.

Note: The figure of 5,769 mandates represents official mandate statements transmitted to the Congress by CBO, mostly for bills reported by committees. CBO also completed a number of preliminary reviews and informal estimates for other legislative proposals, which are not included in this figure. Mandate statements may cover more than one mandate. Also, because the same mandate sometimes appears in multiple bills, a single mandate may be addressed in more than one CBO statement.

ence reports. In addition, before the markup of proposed legislation, committee staff and individual Members have on occasion requested CBO’s determination of whether the legislation would create any new federal mandates and, if so, whether the mandates’ costs would exceed the thresholds set by UMRA.

CBO’s observations about federal mandates and their costs over the past 10 years include the following:

- Most of the legislation that the Congress considered between 1996 and 2005 did not contain federal mandates as UMRA defines them (see Figure 1);
- Most of the mandates that CBO examined would not have imposed costs that exceeded the thresholds set by UMRA (see Figure 1);
- More than half of the intergovernmental mandates that CBO examined over the period were preemptions

in the form of prohibitions on state and local governments;

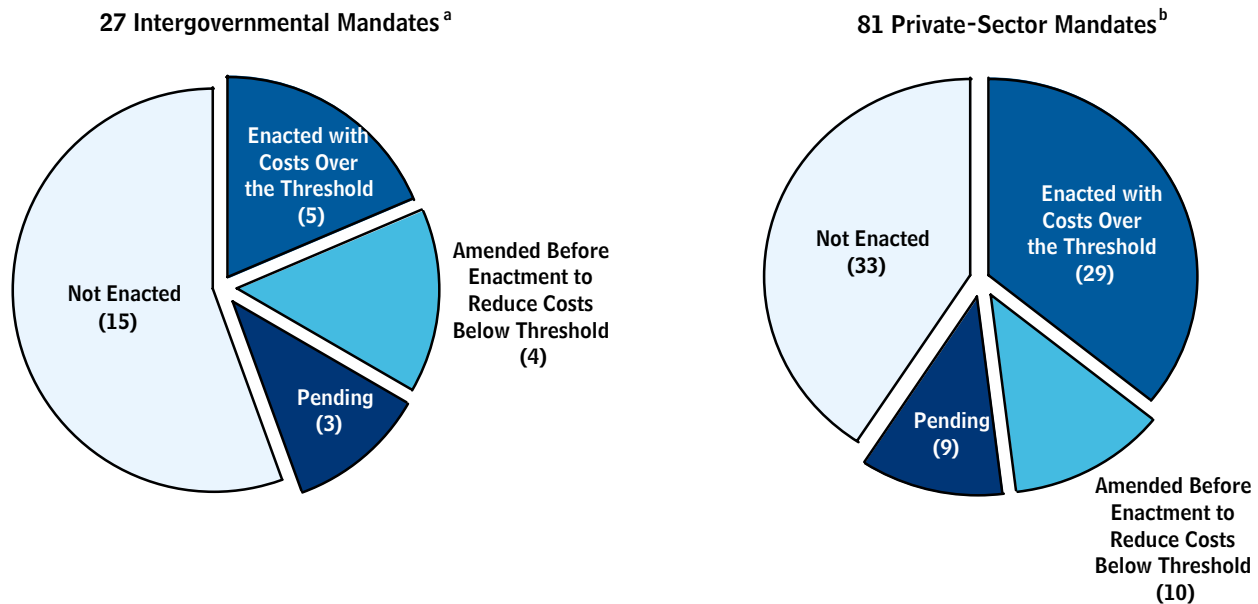
- Relatively few mandates whose costs exceeded UMRA’s thresholds were enacted into law during the past 10 years (see Figure 2); and
- Many bills that CBO reviews would impose new conditions for the receipt of federal assistance, which are not considered mandates under UMRA. In many cases, such legislation would provide funding to cover some or all of the additional costs associated with the proposed law.

Mandates in Legislative Proposals

Of the roughly 5,800 bills and other legislative proposals that CBO formally reviewed during the 1996-2005 period, about 700 (12 percent) contained intergovernmental mandates, and about 800 (15 percent) contained

Figure 2.

Few Intergovernmental or Private-Sector Mandates with Estimated Costs Above the UMRA Thresholds Were Enacted from 1996 to 2005



Source: Congressional Budget Office.

Note: The UMRA thresholds, which are adjusted annually for inflation, were \$50 million for intergovernmental mandates and \$100 million for private-sector mandates in 1996. They had risen to \$62 million and \$123 million, respectively, by 2005.

- a. The 64 bills that CBO identified as having intergovernmental mandates over the threshold contained 27 separate mandates.
 b. The 197 bills that CBO identified as having private-sector mandates over the threshold contained 81 separate mandates.

private-sector mandates (see Table 1).⁵ Those percentages have varied only slightly from one Congress to another. Generally, over the 10-year period, the number of bills and legislative proposals containing private-sector mandates exceeded the number containing intergovernmental mandates by about 18 percent.

The Costs of Mandates in Legislation Reviewed by CBO

Most of the mandates that CBO examined would not have imposed costs that exceeded the thresholds set by UMRA. Only 64 bills (1 percent of those reviewed) included intergovernmental mandates whose annual costs would have been above the threshold, by CBO's estimate. Nearly 200 bills (about 3 percent) had private-sector

mandates whose costs would have exceeded the threshold. Few of the bills with either kind of mandate, however, would have provided federal funding to offset the mandate's costs.

For another 39 bills (1 percent), CBO could not determine whether the costs of intergovernmental mandates would exceed the statutory thresholds. For private-sector mandates, that proportion was 2 percent. The reasons CBO could not make a determination varied. In some cases, uncertainty about the mandate's scope (both about how extensive its requirements would be and who would be affected) made it impossible to estimate its costs. In other instances, uncertainty arose regarding how to treat the costs of a mandate's extension: UMRA does not specify whether CBO should measure the cost of an extension relative to the mandate's current costs or assume that the mandate will expire and that it must measure the costs of the extension as if the requirement were new. In addition, CBO could not determine the costs of some mandates

5. Those numbers represent official mandate statements transmitted to the Congress by CBO for bills, proposed amendments, and conference reports. CBO also completed a number of preliminary reviews and informal estimates for other legislative proposals, which are not part of the totals presented in this report.

Table 1.

Number of Mandate Statements Prepared by CBO for Bills, Proposed Amendments, and Conference Reports, 1996 to 2005

	1996 ^a	1997	1998	1999	2000	2001	2002	2003	2004	2005	Total, 1996- 2005
Intergovernmental Mandates											
Total Number of Statements Transmitted	718	521	541	573	706	389	649	615	557	500	5,769
Number of Statements That Identified Mandates	69	64	64	81	77	50	60	86	66	83	700
Mandate costs would exceed the threshold ^b	11	8	6	4	3	4	6	7	9	6	64
Mandate costs could not be estimated	6	7	7	0	1	3	5	5	2	3	39
Private-Sector Mandates											
Total Number of Statements Transmitted	673	498	525	556	697	389	645	613	555	500	5,651
Number of Statements That Identified Mandates	91	65	75	105	86	66	73	100	71	91	823
Mandate costs would exceed the threshold ^b	38	18	18	20	6	18	19	24	14	22	197
Mandate costs could not be estimated	2	5	9	13	7	8	14	18	10	11	97

Source: Congressional Budget Office.

Notes: The numbers in this table represent official mandate statements transmitted to the Congress by CBO. The Unfunded Mandates Reform Act (UMRA) requires CBO to complete mandate statements for every bill and joint resolution of a public nature reported by an authorizing committee and to review amendments and other legislative proposals as requested. In addition, although not required by law, CBO has completed a number of preliminary reviews and informal estimates for other legislative proposals that are not included in this table.

CBO prepared more intergovernmental mandate statements than private-sector statements over the 1996-2005 period because in some cases, the agency was asked to review a specific bill, amendment, or conference report solely for intergovernmental mandates. (In those cases, no private-sector analysis was transmitted to the requesting Member or committee.)

A mandate statement may cover more than one mandate. Also, because the same mandate sometimes appears in multiple bills, a single mandate may be addressed in more than one CBO mandate statement.

c. CBO began preparing mandate statements in January 1996, in the middle of the 104th Congress. The figures for 1996 reflect bills on the calendar in January 1996 and bills reported by authorizing committees thereafter.

d. The UMRA thresholds, which are adjusted annually for inflation, were \$50 million for intergovernmental mandates and \$100 million for private-sector mandates in 1996. They had risen to \$62 million and \$123 million, respectively, by 2005.

because it had no basis for predicting what regulations would be issued to implement them.

More than half of the intergovernmental mandates that CBO identified were explicit preemptions of state or local authority. For example, H.R. 29, the Securely Protect Yourself Against Cyber Trespass Act (considered by the 109th Congress), would preempt state laws relating to the use of computer spyware. In many cases, such preemptions would not result in additional costs to state, local, or tribal governments because they would not require

those governments to take any action. However, because they would limit the exercise of state authority and preclude the application of state laws, they are considered intergovernmental mandates under UMRA.

Mandates Enacted into Law

One purpose of UMRA is to promote informed decisions by the Congress about the appropriateness of imposing federal mandates on other levels of government or the private sector and about the desirability of providing financial assistance for the costs of intergovernmental man-

dates. Title I of the law established various procedural requirements to encourage policymakers to take the costs of federal mandates into account before their enactment. For example, Members of Congress may raise a point of order against a bill if the committee reporting it has not published a statement by CBO about whether the legislation contains any intergovernmental or private-sector mandates and, if so, what they are estimated to cost. (See Appendix C for additional discussion of points of order.) In addition, Members of Congress may raise a point of order against a bill that would create an intergovernmental mandate whose costs would exceed the threshold specified by UMRA unless the legislation provided funding to cover those costs. For the bill to continue to be considered on the floor of the House or Senate, any point of order must be waived by a majority vote.⁶

Although the Congress has used UMRA's explicit enforcement mechanism relatively infrequently (roughly two dozen times in the House and twice in the Senate) when considering bills, it has not enacted many mandates that were contained in bills reported from authorizing committees. It has also changed several pieces of legislation before enactment to either eliminate mandates or lower their costs.

Over the 1996-2005 period, CBO identified 27 separate intergovernmental mandates in legislation that it reviewed whose costs exceeded the UMRA threshold.⁷ Of those 27 mandates, five were enacted:

- An increase in the minimum wage (Public Law 104-188, enacted in 1996). CBO estimated that the required increase would cost state and local governments (as employers) more than \$1 billion during the first five years that it was in effect.
- A reduction in federal funding to administer the Food Stamp program (Public Law 105-185, enacted in

6. The Congressional budget resolution (H. Con. Res. 95) for fiscal year 2006 increased the number of votes necessary in the Senate to waive a point of order under UMRA from a simple majority to a 60-vote supermajority. The 60-vote requirement is scheduled to expire September 30, 2010.

7. Because CBO prepares mandate statements for every public bill reported by a House or Senate authorizing committee and because both bodies may consider the same or similar mandates in more than one piece of legislation, the number of separate mandates included in legislation is smaller than the total number of mandate statements that CBO prepared.

1998). That change costs the states between \$200 million and \$300 million a year, in CBO's estimation.

- A preemption of state taxes on premiums for certain prescription drug plans (Public Law 108-173, enacted in 2003). Under that preemption, CBO estimates, states will lose about \$70 million in revenues in 2006 (the first year in which the mandate will be in effect). That drop in revenues will grow to about \$95 million in 2010.
- A temporary preemption of state authority to tax certain Internet services and transactions (Public Law 108-435, enacted in 2004). That preemption (which continues through 2007) will result in a reduction in state and local government revenues totaling at least \$300 million, according to CBO's estimates.
- A requirement that state and local governments meet certain standards for issuing driver's licenses, identification cards, and vital-statistics documents (Public Law 108-458, enacted in 2004). CBO estimates that state and local governments will have to spend more than \$100 million over the 2005-2009 period to comply with the standards and that the costs in at least one of those years will exceed the UMRA threshold. The law authorizes the appropriation of funds to provide grants to state and local governments to pay for those costs, and \$40 million was subsequently appropriated in fiscal year 2006 for that purpose.

In addition, from 1996 to 2005, the Congress amended four intergovernmental mandates before their enactment to reduce their costs below the UMRA threshold and considered but did not enact 15 other mandates. Legislation that was pending at the end of 2005 contained three mandates (see Table A-1).

The 197 bills that CBO identified as having private-sector mandates whose costs exceeded the UMRA threshold contained 81 separate mandates. Of those, 29 have been enacted:

- Nine revenue-raising provisions in the tax code, which require individuals or firms to pay more in taxes;
- Five mandates that affect health insurance—requirements for portability of insurance coverage, minimum time for maternity stays, requirements for private health insurance providers under the Medicare pro-

gram, parity in insurance coverage that provides mental health as well as other medical benefits, and various requirements relating to pediatric research that apply to drug manufacturers;

- Seven mandates that affect specific industries—telecommunications reform, changes in milk pricing, country-of-origin labels for certain foods, a new safety requirement for automobiles, expanded safety requirements for commercial motor carriers, a minimum requirement for renewable fuels in motor fuels, and new requirements for credit agencies, lenders, and merchants that handle credit transactions;
- Three mandates involving fees—specifically, a fee on manufacturers and importers of tobacco products, increases in existing fees and new fees for certain patent and trademark services, and a fee on airline travel;⁸
- Two mandates—one increasing the minimum wage and the other raising federal employees' contributions for retirement—that affect a worker's take-home pay;
- One mandate that imposes new requirements on sponsors of immigrants;
- One mandate that changes procedures for administering bankruptcy claims; and
- One mandate that changes procedures for collecting and using campaign contributions.

Of the 81 separate private-sector mandates that CBO identified over the period, the Congress amended 10 of them before their enactment to reduce their costs below the threshold; it considered but did not enact another 33 mandates. Legislation considered in the first session of the 109th Congress included nine private-sector mandates whose status was pending at the end of 2005 (see Table A-2).

Only a small fraction of the almost 2,300 public laws enacted since 1996 contained federal mandates that were not reviewed by CBO. In a few cases, mandates were enacted in appropriation bills, which CBO does not review

under the provisions of UMRA. In other cases, bills that contained mandates were not reported by an authorizing committee, and in still other instances, mandates were added to legislation after CBO's review.

Costs Not Associated with Mandates

Over the past 10 years, CBO has identified more than 2,000 bills that would affect the budgets of state, local, or tribal governments but that do not fit UMRA's definition of a mandate. The majority of those bills dealt primarily with conditions for receiving federal aid or participating in a voluntary federal program and, in CBO's estimation, would not have had a significant net effect on the budgets of those governments.

According to UMRA, the conditions attached to most forms of federal assistance (including most grant programs) are not mandates. Yet complying with such conditions can sometimes be costly. States often consider new conditions on existing grant programs to be duties not unlike mandates. The two examples cited most often are the requirements for receiving federal funding under the 2001 No Child Left Behind Act (Public Law 107-110) and the 1975 Individuals with Disabilities Education Act, or IDEA (Public Law 94-142). Those laws require school districts to undertake many activities, including, respectively, designing and implementing statewide achievement tests and preparing individualized education plans for disabled children. Such requirements, which states say are costly, are conditions for receiving federal assistance and thus are not considered mandates under UMRA. That federal assistance is substantial, however: appropriations in 2006 for elementary and secondary education and IDEA totaled about \$34 billion.

A Review of CBO's Activities in 2005 Under UMRA

In all, CBO reviewed 500 bills and other legislative proposals in 2005 to determine whether they included federal mandates (see Table 2). About 17 percent (83) of those bills or proposals contained intergovernmental mandates, and about 1 percent (6) contained mandates whose costs would exceed the annual intergovernmental threshold under UMRA (\$62 million in 2005 dollars). CBO also found private-sector mandates in about

8. The fee on airline travel was enacted to provide funding for airport security.

Table 2.**Number of Mandate Statements Prepared by CBO for Bills, Proposed Amendments, and Conference Reports in 2005**

	Intergovernmental Mandates	Private-Sector Mandates
Total Number of Statements Transmitted	500	500
Number of Statements That Identified Mandates	83	91
Mandate costs would exceed the threshold ^a	6	22
Mandate costs could not be estimated	3	11

Source: Congressional Budget Office.

Notes: The numbers in this table represent official mandate statements transmitted to the Congress by CBO. The Unfunded Mandates Reform Act (UMRA) requires CBO to complete mandate statements for every bill and joint resolution of a public nature reported by an authorizing committee and to review amendments and other legislative proposals as requested. In addition, although not required by law, CBO has completed a number of preliminary reviews and informal estimates for other legislative proposals that are not included in this table.

A mandate statement may cover more than one mandate. Also, because the same mandate sometimes appears in multiple bills, a single mandate may be addressed in more than one CBO mandate statement.

e. In 2005, the UMRA thresholds, which are adjusted annually for inflation, were \$62 million for intergovernmental mandates and \$123 million for private-sector mandates.

18 percent (91) of the bills and amendments that it examined; about 4 percent (22) of the mandates examined had costs that exceeded the annual private-sector threshold (\$123 million in 2005 dollars). (Tables B-1 and B-2 list all of the bills CBO examined in 2005 that contained mandates.)

No intergovernmental mandates with costs above the thresholds were enacted in 2005 (see Table 3 on page 9). However, one mandate with uncertain costs—a prohibition against pursuing lawsuits that target certain manufacturers or sellers of firearms and ammunition products—did become law in that year.

In contrast, seven of the private-sector mandates that CBO identified in 2005 whose costs were estimated to exceed the threshold or were uncertain were enacted in that year:⁹

9. One intergovernmental and three private-sector mandates were enacted early in 2006; see Tables A-1 and A-2.

- A change in procedures for administering bankruptcy claims;¹⁰
- An expansion of certain safety requirements to cover owners and operators of commercial motor vehicles that transport nine to 15 passengers;¹¹
- Three mandates in the Energy Policy Act:¹²
 - A requirement that motor fuels contain a minimum amount of renewable fuels,
 - A requirement that appliances meet new energy conservation standards, and

10. Public Law 109-8, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, enacted April 20, 2005.

11. Public Law 109-59, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, enacted August 10, 2005.

12. Public Law 109-58, the Energy Policy Act of 2005, enacted August 8, 2005.

- An extension of regulatory fees and new security requirements for nuclear facilities;
- A prohibition on lawsuits against certain manufacturers or sellers of firearms and ammunition products, and related trade associations, when such products are used unlawfully to do harm;¹³ and
- An extension of a ban on all imports from Burma.¹⁴

In 2005, CBO also identified more than 200 bills that contained provisions that would have resulted in other impacts on state, local, or tribal governments—impacts that were not the result of mandates as defined by UMRA. As in previous years, most of those provisions dealt with conditions for receiving federal aid or participating in a voluntary federal program. In such cases, state, local, and tribal governments are subject to the conditions imposed by the federal government only if they choose to participate in the program or accept federal funds.

Of the 161 public laws enacted in 2005, about 7 percent (11) contained intergovernmental mandates as UMRA defines them (see Table 4). In CBO's estimation, none of those mandates will impose annual costs on state, local, or tribal governments that exceed the threshold, although one—the Protection of Lawful Commerce in Arms Act—will have costs that CBO could not estimate during its review.¹⁵ Only two of the laws enacted in 2005—the Department of the Interior, Environment, and Related Agencies Appropriations Act of 2006 and the Transportation, Treasury, Housing and Urban Development, the

Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006—contained intergovernmental mandates that CBO had not reviewed at some point during the legislative process.¹⁶ CBO estimates, however, that the cost of those mandates will not be significant.

A review of the public laws enacted in 2005 found that 12 percent (19) contained private-sector mandates (see Table 5). Of those 19 laws, CBO estimates that four will impose mandates with costs that exceed UMRA's annual threshold. In the case of two laws, CBO could not determine whether the costs of the mandates would exceed UMRA's threshold.

Five public laws contained private-sector mandates that were not reviewed by CBO before they were enacted. Two of them—an extension of an excise tax on gasoline and an extension of the mandate requiring private health plans to cover mental health and medical benefits equally—were not considered by an authorizing committee and hence did not require review under UMRA. Three mandates—a three-month extension and, subsequently, an extension through June 2006 of reclamation fees imposed on operators of coal mines and a conservation fee for certain helicopter operators—were enacted as part of an appropriation law, which CBO reviews for mandates only when specifically requested. Of the mandates not reviewed by CBO prior to enactment, only one—a provision extending through June 2006 the requirement that operators of coal mines pay fees associated with the Abandoned Mine Reclamation Fund—has costs that would exceed UMRA's threshold for private-sector mandates.¹⁷

13. Public Law 109-92, the Protection of Lawful Commerce in Arms Act, enacted October 26, 2005.

14. Public Law 109-39, the Burmese Freedom and Democracy Act of 2003, enacted July 27, 2005.

15. That law prohibits state, local, and tribal governments from pursuing lawsuits against certain manufacturers or sellers of firearms and ammunition products.

16. The mandates in those laws prohibit the District of Columbia from granting a zoning variance for a particular property and preempt the authority of that government to raise certain revenue.

17. The extension in fees was enacted in Public Law 109-54, the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006.

Table 3.

Status of Mandates Identified by CBO in 2005 Whose Costs Would Exceed the Statutory Thresholds or Could Not Be Estimated

Topic	Mandate	Status at End of February 2006 ^a
Intergovernmental Mandates Whose Costs Would Exceed the Statutory Threshold^b		
Child Support Enforcement	Decreases federal funding for the child support program	Enacted in Public Law 109-171 on February 8, 2006 (S. 1932)
Employment Eligibility Verification	Requires state and local governments that recruit or refer employees to verify the work eligibility of all employees	Passed the House on December 16, 2005 (H.R. 4437)
Protection of Personal Identity	Limits the sale, display, and use of Social Security numbers by state, local, and tribal governments	Placed on the Senate calendar on December 8, 2005 (S. 1408)
Regulation of Indian Gaming	Prohibits the Lytton Rancheria in California from installing and operating electronic bingo machines on certain tribal lands	Placed on the Senate calendar on September 12, 2005 (S. 113)
Safe Harbor for Manufacturers and Distributors of MTBE	Limits states' and local governments' rights in court	Contained in H.R. 6 and H.R. 1640; the provision was dropped before H.R. 6 was enacted as Public Law 109-58 on August 8, 2005
Intergovernmental Mandates Whose Costs Could Not Be Estimated		
National Drug Control Policy	Gives the Director of the Office of National Drug Control Policy the authority to extend testing standards to colleges and athletes in Divisions I and II of the National Collegiate Athletic Association (more than half of the colleges in those divisions are public institutions)	Reported by the House Committee on Government Reform on May 26, 2005 (H.R. 2565, H.R. 2829)
Protection of Lawful Commerce in Arms	Prohibits state, local, and tribal governments from pursuing lawsuits against manufacturers or sellers of firearms and ammunition products	Enacted in Public Law 109-92 on October 26, 2005 (S. 397)
Private-Sector Mandates Whose Costs Would Exceed the Statutory Threshold^b		
Asbestos Compensation	Prohibits individuals from bringing or maintaining a civil action that alleges injury as a result of asbestos exposure; requires defendant companies and their insurers to pay annual assessments to the federal Asbestos Fund; requires asbestos settlement trusts to transfer their assets to the Asbestos Fund	Failed to waive the Congressional Budget Act with respect to the measure in the Senate; recommitted to the Senate Committee on the Judiciary on February 14, 2006 (S. 852)

Continued

Table 3.**Continued**

Topic	Mandate	Status at End of February 2006 ^a
Private-Sector Mandates Whose Costs Would Exceed the Statutory Threshold^b (Continued)		
Ballast Water Management	Prohibits certain vessels from discharging ballast water except after conducting ballast water exchange in compliance with federal regulations, using ballast water treatment that meets the performance standards specified in the bill, or using environmentally sound alternative ballast water treatment approved by the Secretary of Homeland Security; requires owners and operators of vessels to conduct all ballast water management operations in accordance with a management plan that meets the requirements prescribed and approved by the Secretary	Placed on Senate calendar on November 16, 2005 (S. 363)
Bankruptcy	Changes procedures for administering bankruptcy claims; requires new disclosures by petition preparers, debt-relief agencies, and credit card companies	Enacted in Public Law 109-8 on April 20, 2005 (S. 256)
Commercial Motor Vehicle Safety	Expands certain safety requirements to cover owners and operators of commercial motor vehicles that transport nine to 15 passengers; requires certain registered motor carriers to file a bond with the Secretary of Transportation	Enacted in Public Law 109-59 on August 10, 2005 (H.R. 3)
Requirements for Defined-Benefit Pension Plans	Increases premiums that sponsors of single-employer pension plans are required to pay to the Pension Benefit Guaranty Corporation; requires sponsors to make additional disclosures to plan participants and beneficiaries; reforms the funding rules for multiemployer defined-benefit pension plans such that some sponsors would be required to increase the amount of annual contributions that they make to their plans	Enacted in Public Law 109-171 on February 8, 2006 (S. 1783, H.R. 2830)
Employment Eligibility Verification	Requires employers and other entities that hire, recruit, or refer individuals for employment to verify the work eligibility of all employees	Passed the House on December 16, 2005; pending in the Senate (H.R. 4437)
Federal Deposit Insurance Reform	Increases deposit insurance premiums for depository institutions; prohibits banks, savings associations, and credit unions that are not well capitalized from accepting employee benefit plan deposits	The provision increasing premiums was enacted in Public Law 109-173 on February 15, 2006 (H.R. 4636); other provisions were enacted in Public Law 109-171 on February 8, 2006 (H.R. 1185, S. 1932)

Continued

Table 3.

Continued

Topic	Mandate	Status at End of February 2006 ^a
Private-Sector Mandates Whose Costs Would Exceed the Statutory Threshold^b (Continued)		
Housing Finance	Requires Fannie Mae and Freddie Mac to establish and manage affordable-housing funds and contribute a percentage of their after-tax income to the fund; establishes a new federal regulator for housing-related GSEs concerned with home mortgages (Fannie Mae, Freddie Mac, and the FHLBs); requires the housing-related GSEs to register at least one class of their capital stock with the SEC under the Securities Act of 1934	Passed the House on October 26, 2005 (H.R. 1461)
Passport Fees	Authorizes the Secretary of State to collect a surcharge on the filing fee for each passport application through the end of fiscal year 2010	Enacted in Public Law 109-167 on January 10, 2006 (H.R. 4501)
Protection of Personal Identity	Requires employers, retailers, schools, colleges, consumer credit-reporting agencies, and other entities that acquire, maintain, or utilize sensitive personal information to develop and maintain a security program for the protection of sensitive information; sets certain procedures for notifying consumers, the federal government, and credit-reporting agencies of security breaches involving personal information	Placed on the Senate calendar on December 8, 2005 (S. 1408)
Renewable Fuels	Requires motor vehicle fuel sold or dispensed to U.S. consumers to contain a certain volume of renewable fuel	Enacted in Public Law 109-58 on August 8, 2005 (S. 10)
Regulation of Prescription Drug Pricing	Places a number of new requirements on drug manufacturers related to sales to exporters and importers; prohibits drug manufacturers from discriminating against exporters and importers of drugs by charging prices for drugs sold to exporters or importers that are higher than those charged to other purchasers or by denying, restricting, or delaying supplies of drugs to exporters and importers	Ordered to be reported by the Senate Committee on Commerce, Science, and Transportation on July 21, 2005 (S. 1392)
Private-Sector Mandates Whose Costs Could Not Be Estimated		
Automobile Safety Standards	Requires manufacturers of passenger motor vehicles sold in the United States with a gross vehicle weight of up to 10,000 pounds to comply with regulations put in place to reduce the death and injuries caused by passenger vehicle rollovers	Placed on the Senate calendar on July 29, 2005 (S. 1567)

Continued

Table 3.**Continued**

Topic	Mandate	Status at End of February 2006 ^a
Private-Sector Mandates Whose Costs Could Not Be Estimated (Continued)		
Financing of Political Campaigns	Requires television stations and providers of cable or satellite television service to charge the lowest unit rate to candidates and to extend those rates to a national committee of a political party on behalf of the candidate; prohibits broadcast stations from preempting political advertising by a candidate or national party except in special circumstances	Placed on the Senate calendar on May 17, 2005 (S. 1053)
Digital Television Transition	Terminates all licenses for broadcasting in analog and requires broadcast stations to cease analog television service on a specific date, with no extensions; requires manufacturers and retail distributors of analog television receivers to display certain language warning consumers about the transition to digital service; requires television broadcasters to air two public service announcements daily during 2008 about the transition to digital programming	Enacted in Public Law 109-171 on February 8, 2006 (S. 1932) ^c
East Asia Security	Imposes certain sanctions on foreign nationals that the President has identified as having exported certain military or defense articles or technology to China	Failed to pass the House on July 14, 2005 (H.R. 3100)
Energy Conservation Standards	Requires energy conservation standards restricting standby-mode energy consumption by household appliances	Enacted in Public Law 109-58 on August 8, 2005 (H.R. 6, H.R. 1640)
Patent and Trademark Fees	Permanently increases the fees that the Patent and Trademark Office collects starting in fiscal year 2007	Ordered to be reported by the House Committee on the Judiciary on November 9, 2005 (H.R. 2791)
Protection of Lawful Commerce in Arms	Prohibits the private sector from pursuing lawsuits against certain manufacturers or sellers of firearms and ammunition products or against related trade associations when such products are used unlawfully to do harm	Enacted in Public Law 109-92 on October 26, 2005 (S. 397)
Reauthorization of Nuclear Fees	Extends the authority of the Nuclear Regulatory Commission to charge licensees (utilities) annual fees to offset 90 percent of its net appropriation	Enacted in Public Law 109-58 on August 8, 2005 (H.R. 6, H.R. 1640)
Safe Harbor for Manufacturers and Distributors of MTBE	Limits individuals' rights in court	Contained in H.R. 6 and H.R. 1640; the provision was dropped before H.R. 6 was enacted as Public Law 109-58 on August 8, 2005

Continued

Table 3.

Continued

Topic	Mandate	Status at End of February 2006 ^a
Private-Sector Mandates Whose Costs Could Not Be Estimated (Continued)		
Sanctions Against Burma	Extends the ban on all imports from Burma for one year	Enacted in Public Law 109-39 on July 27, 2005 (S.J. Res. 18)
Solid Waste Importation	Requires new regulations (within two years of enactment of the following agreement) to implement and enforce the Agreement Concerning the Transboundary Movement of Hazardous Waste between the United States and Canada, which may affect private waste-management companies	Placed on the House calendar on September 27, 2005 (H.R. 2491)

Source: Congressional Budget Office.

Note: MTBE = methyl tertiary butyl ether; GSEs = government-sponsored enterprises; FHLBs = Federal Home Loan Banks; SEC = Securities and Exchange Commission.

- a. The full names and dates of enactment of the public laws referred to in this table follow (ordered by law number):
- Public Law 109-8, Bankruptcy Abuse Prevention and Consumer Protection Act, enacted April 20, 2005;
 - Public Law 109-39, A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, enacted July 27, 2005;
 - Public Law 109-58, Energy Policy Act of 2005, enacted August 8, 2005;
 - Public Law 109-59, Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, enacted August 10, 2005;
 - Public Law 109-92, Protection of Lawful Commerce in Arms Act, enacted October 26, 2005;
 - Public Law 109-167, Passport Services Enhancement Act of 2005, enacted January 10, 2006;
 - Public Law 109-171, Deficit Reduction Act of 2005, enacted February 8, 2006; and
 - Public Law 109-173, Federal Deposit Insurance Reform Conforming Amendments Act of 2005, enacted February 15, 2006.
- b. In 2005, the statutory thresholds under the Unfunded Mandates Reform Act were \$62 million for intergovernmental mandates and \$123 million for private-sector mandates.
- c. Public Law 109-171 terminates all licenses for broadcasting in analog and requires broadcast stations to cease analog television service on February 17, 2009, with no extensions. However, it does not include the other digital television mandates.
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Table 4.

Laws Enacted in 2005 That Contained Intergovernmental Mandates

Public Law Number	Name	Mandate	Was the Mandate Reviewed by CBO Before It Was Enacted?	Do Costs Exceed the Threshold? ^a
109-8	Bankruptcy Abuse Prevention and Consumer Protection Act of 2005	Preempts state laws governing contracts between a debt relief agency and a debtor	Yes	No
		Requires certain state and local income tax procedures to conform to the Internal Revenue Code	Yes	No
109-13	Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005	Requires state and local governments to comply with federal standards for driver's licenses, identification cards, and birth certificates	Yes	No
		Authorizes the Secretary of the Department of Homeland Security to waive any laws necessary to complete construction of a physical barrier between the United States and Mexico near San Diego, California, and preempts state law by prohibiting any court from having jurisdiction to hear claims or ordering relief for damage resulting from the waiver of such laws	Yes	No
109-41	Patient Safety and Quality Improvement Act of 2005	Preempts state disclosure and freedom of information laws	Yes	No
109-43	Medical Device User Fee Stabilization Act of 2005	Extends user fees for manufacturers of medical devices	Yes	No
109-54	Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006	Prohibits the District of Columbia from granting a zoning variance for a particular property	No	No
109-55	Legislative Branch Appropriations Act, 2006 (Title III)	Requires some states to hold elections more quickly than is required under current law—which could cause some states to have to amend their constitution to allow for the change	Yes	No
		Prohibits some states from holding primaries as required under state law	Yes	No

Continued

Table 4.

Continued

Public Law Number	Name	Mandate	Was the Mandate Reviewed by CBO Before It Was Enacted?	Do Costs Exceed the Threshold? ^a
109-58	Energy Policy Act of 2005	Preempts state and local authority governing energy efficiency, the safety of nuclear facilities, and the reliability of electric service	Yes	No
		Requires state and local governments to pay fees and dues to cover the costs of implementing and enforcing reliability standards for electric energy	Yes	No
		Increases state responsibilities in issuing permits to electric utilities	Yes	No
109-59	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users	Expands an existing mandate that requires states' commercial driver's license programs to comply with federal standards	Yes	No
		Increases the costs of complying with an existing mandate relating to registration of unified carriers	Yes	No
		Prohibits schools from purchasing, renting, or leasing certain vehicles unless those vehicles meet certain standards	Yes	No
		Preempts state regulation of motor carriers and licensing of commercial motor vehicle operators	Yes	No
		Broadens other existing federal preemptions	Yes	No
109-92	Protection of Lawful Commerce in Arms Act	Prohibits state, local, and tribal governments from pursuing lawsuits against certain manufacturers or sellers of firearms and ammunition products and related trade associations when such products are used unlawfully to do harm	Yes	Uncertain
		Preempts state liability laws and the authority of state courts to hear such cases	Yes	No

Continued

Table 4.

Continued

Public Law Number	Name	Mandate	Was the Mandate Reviewed by CBO Before It Was Enacted?	Do Costs Exceed the Threshold? ^a
109-115	Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006, (Division B)	Preempts the authority of the District of Columbia to spend its own revenue	No	No
109-144	Terrorism Risk Insurance Extension Act of 2005	Requires certain insurers to offer terrorism insurance	Yes	No
		Requires that certain insurers and their policyholders repay the federal government for the cost of assistance (in the form of assessments and surcharges)	Yes	No
		Preempts state laws regulating insurance	Yes	No

Source: Congressional Budget Office.

a. The threshold for intergovernmental mandates under the Unfunded Mandates Reform Act is adjusted annually for inflation. In 2005, it was \$62 million.

Table 5.

Laws Enacted in 2005 That Contained Private-Sector Mandates

Public Law Number	Name	Mandate	Was the Mandate Reviewed by CBO Before It Was Enacted?	Do Costs Exceed the Threshold? ^a
109-2	Class Action Fairness Act of 2005	Limits the size of awards attorneys may receive in certain class-action settlements that provide coupons to class members	Yes	No
109-6	An act to amend the Internal Revenue Code of 1986 to extend the Leaking Underground Storage Tank Trust Fund financing rate	Extends an excise tax of 0.1 cent per gallon imposed on the sale of gasoline, diesel, and other motor fuels to finance the Leaking Underground Storage Tank Trust Fund	No	No
109-8	Bankruptcy Abuse Prevention and Consumer Protection Act of 2005	Requires bankruptcy attorneys to ensure that the information in documents they submit to the court or to the bankruptcy trustee is factual, in turn causing attorneys to make reasonable inquiries to confirm clients' information	Yes	Yes
		Requires that certain notice disclosures to debtors be made by creditors, preparers of petitions, credit tenders, and credit and charge card companies as part of the bankruptcy process	Yes	No
		Requires credit and charge card companies to provide additional disclosures to consumers in billing statements and in application and solicitation materials; prohibits closing of consumer credit accounts under certain conditions	Yes	No
109-9	Family Entertainment and Copyright Act of 2005	Limits the right of copyright owners to collect compensation under copyright law from persons using or manufacturing technology that enables limited changes to be made to a motion picture for a private home viewing	Yes	No
		Requires manufacturers, licensees, and licensors of such technology to ensure that the technology provides a clear and conspicuous notice that the original performance has been altered	Yes	No

Continued

Table 5.

Continued

Public Law Number	Name	Mandate	Was the Mandate Reviewed by CBO Before It Was Enacted?	Do Costs Exceed the Threshold? ^a
109-13	Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005	Extends for three months the requirement that operators of coal mines pay fees associated with the Abandoned Mine Reclamation Fund	No	No
109-21	Junk Fax Prevention Act of 2005	Requires senders of unsolicited facsimile advertisements to include an opt-out notice, a contact number, and a cost-free mechanism for people who receive such advertisements to submit an opt-out request for the future	Yes	No
109-39	A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003	Extends for one year the ban on all imports from Burma	Yes	Uncertain
109-41	Patient Safety and Quality Improvement Act of 2005	Prohibits an accrediting organization from using certain data in their determination of accreditation	Yes	No
		Prohibits health care providers from taking adverse employment actions if an employee reports certain patient safety data	Yes	No
109-43	Medical Device User Fee Stabilization Act of 2005	Extends and strengthens labeling guidelines for reproducers of medical devices, requiring them to prominently display the name of the manufacturer on each device	Yes	No
		Extends the requirement that producers of medical devices pay user fees to the Food and Drug Administration when submitting applications for marketing approval licensing	Yes	No
109-54	Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006	Extends through June 2006 the requirement that operators of coal mines pay fees associated with the Abandoned Mine Reclamation Fund	No	Yes

Continued

Table 5.

Continued

Public Law Number	Name	Mandate	Was the Mandate Reviewed by CBO Before It Was Enacted?	Do Costs Exceed the Threshold? ^a
109-58	Energy Policy Act of 2005	Requires motor fuels to contain a minimum volume of renewable fuels	Yes	Yes
		Reduces the number of gasoline blends eligible to meet federal air-quality standards	Yes	No
		Requires users of the bulk-power system to comply with standards issued by the newly established regulator, the Electric Reliability Organization, as designated by the Federal Energy Regulatory Commission; requires those users to pay fees and dues to cover the costs of implementing and enforcing reliability standards for electric energy	Yes	No
		Requires appliances to meet new energy efficiency standards	Yes	Uncertain
		Imposes new security requirements on the operation of nuclear facilities and the transport of nuclear materials; requires additional workers at such facilities to undergo background checks; extends indefinitely the Nuclear Regulatory Commission's authority to charge annual fees to offset 90 percent of its net appropriation	Yes	Uncertain
109-59	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users	Imposes new safety requirements on owners and operators of motor vehicles used to transport between nine and 15 passengers	Yes	Yes
		Establishes a national online registration system for certain motor carriers; requires registered motor carriers to file a bond with the Department of Transportation	Yes	Uncertain

Continued

Table 5.

Continued

Public Law Number	Name	Mandate	Was the Mandate Reviewed by CBO Before It Was Enacted?	Do Costs Exceed the Threshold? ^a
109-79	An act to extend by 10 years the authority of the Secretary of Commerce to conduct the quarterly financial report program	Extends the authority of the Secretary of Commerce to conduct a mandatory quarterly survey of certain companies to provide information on their business and financial data to the Bureau of the Census	Yes	No
109-92	Protection of Lawful Commerce in Arms Act	Prohibits the private sector from pursuing lawsuits against gun manufacturers, sellers, and trade associations; prohibits licensed importers, manufacturers, or dealers of handguns from selling, delivering, or transferring those weapons to certain persons unless secure storage and safety options are provided	Yes	Uncertain
109-96	An act to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes	Classifies contact lenses, including decorative noncorrective lenses, as medical devices, making sellers, prescribers, and manufacturers of decorative noncorrective lenses subject to the more stringent federal regulatory requirements for medical devices	Yes	No
109-115	Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006	Requires operators of helicopters to pay a \$3 conservation fee per passenger to fly over designated conservation areas; prohibits helicopters from flying lower than 1,000 feet on the eastern segment or 500 feet on the western segment of the boundaries of the Sloan Canyon National Conservation Area	No	No
109-132	Valles Caldera Preservation Act of 2005	Directs the Secretary of Agriculture to acquire the mineral interests located on the Baca Ranch without the owner's consent should negotiations for a sale fail after 60 days	Yes	No

Continued

Table 5.

Continued

Public Law Number	Name	Mandate	Was the Mandate Reviewed by CBO Before It Was Enacted?	Do Costs Exceed the Threshold? ^a
109-144	Terrorism Risk Insurance Revision Act of 2005	Requires certain insurers to offer terrorism insurance	Yes	No
		Requires certain insurers and their policyholders to repay the federal government for the cost of assistance (in the form of assessments and surcharges)	Yes	No
109-151	Employee Retirement Preservation Act of 2005	Extends for one year the mandate requiring private group health plans and health insurance issuers to cover mental health and medical benefits equally, in terms of annual and lifetime dollar limits	No	No

Source: Congressional Budget Office.

a. The threshold for private-sector mandates under the Unfunded Mandates Reform Act is adjusted annually for inflation. In 2005, it was \$123 million.

Proposed Mandates Whose Estimated Costs Exceeded UMRA's Thresholds, 1996 to 2005

This appendix lists proposed mandates that the Congressional Budget Office (CBO) identified during the 1996-2005 period as having costs that exceeded the statutory thresholds established by the Unfunded Mandates Reform Act (UMRA). CBO identified 27 separate intergovernmental mandates whose costs exceeded the UMRA threshold. Of those 27 mandates, five were enacted with costs exceeding the threshold; four were amended before they were enacted so that their costs were reduced to fall below the threshold; three were pending at the end of calendar year 2005; and 15 were not enacted (see Table A-1

for a list of the 12 mandates that were enacted in some form or are still pending).

During the 1996-2005 span, CBO identified 81 private-sector mandates whose costs exceeded the UMRA threshold. Of those mandates, 29 were enacted with costs above the threshold; 10 were amended before they were enacted so that their costs were below the threshold; nine were pending at the end of 2005; and 33 were not enacted (see Table A-2 for a list of the 48 mandates that were enacted in some form or are still pending).

Table A-1.

Intergovernmental Mandates Enacted or Under Consideration Whose Estimated Costs Exceeded the Statutory Threshold at CBO's Initial Review

Topic	Mandate	Public Law ^a	Did the Enacted Version Exceed the Threshold? ^b
104th Congress, Second Session (1996)			
Minimum Wage	Increases the minimum wage	104-188	Yes
Health Insurance	Requires mental health parity in insurance plans	104-191	No
Immigration	Requires Social Security numbers on driver's licenses	104-208	No
Securities Regulation	Preempts states' securities laws and fees	104-290	No
105th Congress (1997 to 1998)			
Food Stamps	Shifts administration costs of the Food Stamp program to the states; preempts states' authority to tax Internet access	105-185	Yes
Taxes on Internet Access	Preempts states' authority to tax Internet access	105-277	No
106th Congress (1999 to 2000)			
None			
107th Congress (2001 to 2002)			
None			
108th Congress (2003 to 2004)			
Prescription Drugs	Preempts state taxes on prescription coverage through Medicare	108-173	Yes
Taxes on Internet Access	Extends the preemption of states' authority to tax Internet access	108-435	Yes
Immigration	Creates federal standards for state identification documents	108-458	Yes
109th Congress, First Session (2005)			
Eligibility to Work	Requires state and local governments to verify the eligibility of public employees	Pending (H.R. 4437)	n.a.
Tribal Gaming	Prohibits a tribal government from installing and operating electronic bingo machines on certain tribal lands	Pending (S. 113)	n.a.

Continued

Table A-1.
Continued

Topic	Mandate	Public Law ^a	Did the Enacted Version Exceed the Threshold? ^b
109th Congress, First Session (2005), Continued			
Child Support Enforcement	Reduces federal payments for the Child Support Program	Pending (Enacted in 2006 as part of Public Law 109-171)	n.a.

Source: Congressional Budget Office.

Notes: Mandates in this table are those identified by the Congressional Budget Office when a bill was reported by an authorizing or conference committee or when CBO was asked to do a formal review. Because more than one bill may contain the same mandate, the 197 bills with intergovernmental mandates whose costs exceeded the threshold contained 27 separate mandates. In some cases, more than one formal CBO statement was issued for each mandate topic.

n.a. = not applicable.

- a. Following are the full names and dates of enactment of the public laws and the names and status of the bills referred to in this table (laws are ordered by number):
- Public Law 104-188, Employee Commuting Flexibility Act of 1996, enacted August 20, 1996;
 - Public Law 104-191, Health Insurance Portability and Accountability Act of 1996, enacted August 21, 1996;
 - Public Law 104-208, Omnibus Consolidated Appropriations Act, 1997, enacted September 30, 1996;
 - Public Law 104-290, National Securities Market Improvements Act of 1996, enacted October 11, 1996;
 - Public Law 105-185, Agricultural Research, Extension, and Education Reform Act of 1998, enacted June 23, 1998;
 - Public Law 105-277, Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, enacted October 21, 1998;
 - Public Law 108-173, Medicare Prescription Drug Improvement and Modernization Act of 2003, enacted December 8, 2003;
 - Public Law 108-435, Internet Tax Nondiscrimination Act, enacted December 3, 2004;
 - Public Law 108-458, Intelligence Reform and Terrorism Prevention Act of 2004, enacted December 17, 2004;
 - Public Law 109-171, Deficit Reduction Act of 2005, enacted February 8, 2006;
 - H.R. 4437, Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005, passed by the House of Representatives on December 16, 2005; and
 - S. 113, a bill to modify the dates as of which certain tribal land of the Lytton Rancheria of California is deemed to be held in trust, placed on the Senate calendar September 12, 2005.
- b. The threshold for intergovernmental mandates under the Unfunded Mandates Reform Act, which is adjusted annually for inflation, was \$50 million in 1996 and rose to \$62 million in 2005.
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Table A-2.**Private-Sector Mandates Enacted or Under Consideration Whose Estimated Costs Exceeded the Statutory Threshold at CBO's Initial Review**

Topic	Mandate	Public Law ^a	Did the Enacted Version Exceed the Threshold? ^b
104th Congress (1996)			
Milk Standards	Imposes fees and other requirements on dairy farmers	104-105	No ^c
Health Insurance (Maternity Stays)	Requires certain health plans to provide for minimum-length maternity stays	104-204	Yes
Health Insurance (Portability)	Requires health insurers to improve portability and continuity of health insurance coverage	104-191	Yes
Immigration	Imposes requirements on sponsors of immigrants	104-208	Yes
Minimum Wage	Increases the minimum wage paid by employers that are covered under the Fair Labor Standards Act	104-188	Yes
Small Business Job Protection	Contains miscellaneous tax provisions	104-188	Yes
Telecommunications	Requires carriers to provide interconnection and universal service and to block certain programs	104-104	Yes
Welfare	Revises provisions of the earned income tax credit and imposes requirements on sponsors of immigrants	104-193	Yes
105th Congress (1997 to 1998)			
Airport and Airway Trust Fund	Reinstates the airline ticket tax	105-2	Yes
Budget Reconciliation (Medicare)	Imposes requirements on private health insurance providers	105-33	Yes
Budget Reconciliation (Federal Employee Retirement)	Increases required contributions for retirement	105-33	Yes
Budget Reconciliation (Revenues)	Contains several revenue-raising provisions	105-34	Yes
Financial Services	Restricts investment activities of Federal Home Loan Banks	106-102	No ^d
Internal Revenue Service Restructuring and Reform	Changes the deduction for accrued vacation pay and contains several other revenue-raising provisions	105-206	Yes

Continued

Table A-2.**Continued**

Topic	Mandate	Public Law ^a	Did the Enacted Version Exceed the Threshold? ^b
105th Congress (Continued)			
Patient Protection/ Patients' Bill of Rights	Imposes new requirements on managed health care and other forms of health insurance	105-277 (One provision)	No ^e
Reauthorization of Federal Surface Transportation Programs	Contains excise tax provisions	105-178	Yes
Tax Code Changes	Changes the tax treatment of certain distributions	105-277 (One provision)	Yes ^f
106th Congress (1999 to 2000)			
Milk Price Structure	Changes the method by which minimum prices are established for fluid milk in different regions of the country	106-113	Yes
Relief for Technology Workers	Imposes minimum wage and additional requirements on employers of H-1B workers	106-311	No ^g
Taxpayer Relief and Tax Extenders	Changes or imposes taxes to raise revenues	106-170	Yes ^h
Work Incentives Improvement	Changes or imposes taxes to raise revenues	106-170	No ⁱ
107th Congress (2001 to 2002)			
Aviation Security	Imposes a user fee to fund aviation-security programs; requires security enhancements on aircraft; imposes additional security procedures	107-71	Yes
Campaign Finance Reform	Changes procedures for collection and use of campaign contributions	107-155	Yes
Child Passenger Protection	Requires a lap- and shoulder-belt harness in the center-rear seating position of automobiles	107-318	Yes
Country-of-Origin Labeling	Requires country-of-origin labeling on certain products	107-171	Yes
Mental Health Parity	Requires private group health plans and health insurance issuers to cover mental health and medical benefits equally, in terms of annual and lifetime dollar limits	107-147	Yes
Milk Marketing Orders	Establishes new minimum prices for fluid milk in different regions	107-171	No

Continued

Table A-2.

Continued

Topic	Mandate	Public Law ^a	Did the Enacted Version Exceed the Threshold? ^b
108th Congress (2003 to 2004)			
Tax Offset Provisions	Limits nonaccrual accounting; alters treatment of indebtedness for S corporations	107-147	Yes
Consumer Credit	Requires credit agencies to provide free credit reports and include certain features in consumer credit files; requires merchants to truncate account numbers on credit card receipts printed electronically; requires lenders to disclose credit scores when approving certain loan applications	108-159	Yes
Expatriation of Offshore Profits	Eliminates some of the tax-favored treatment afforded to transactions of corporations previously incorporated in the United States that have reincorporated offshore	108-357	No ^j
Medicare Prescription Drug Coverage	Prohibits private health insurers that offer supplemental medigap policies from offering policies that include prescription drug coverage to any Medicare beneficiary who enrolls in the new Part D prescription drug program	108-173	No
Patent and Trademark Fees	Increases existing fees and establishes new fees for certain patent and trademark services	108-447	Yes
Pediatric Drug Research	Requires drug manufacturers, at the request of the FDA, to conduct studies to determine the safety and efficacy of drugs and biological products for use in children and to develop appropriate formulations	108-155	Yes
Private Pension Plans	Amends ERISA to make several changes in the operations of private pension plans affecting plans' sponsors, administrators, and fiduciaries	108-218 (One provision)	No ^k
Tax Shelter Transparency	Changes the tax treatment of reportable transactions and tax shelters	108-357	No ^l
Tobacco Product Fees	Imposes new fees on manufacturers and importers of tobacco products (one fee funds the administrative costs incurred by the FDA in regulating tobacco products, and the other is deposited in a trust fund to finance buyout payments to tobacco growers)	108-357 (Trust fund fee)	Yes ^m

Continued

Table A-2.**Continued**

Topic	Mandate	Public Law ^a	Did the Enacted Version Exceed the Threshold? ^b
109th Congress (2005)			
Asbestos Compensation	Prohibits individuals from bringing or maintaining a civil action that alleges injury as a result of asbestos exposure; requires defendant companies and their insurers to pay annual assessments to the federal Asbestos Fund; requires asbestos settlement trusts to transfer their assets to the Asbestos Fund	Pending	n.a.
Ballast Water Management	Requires ballast water management plans and extended recordkeeping by U.S. vessels; requires vessels to implement a ballast water treatment program starting in 2009	Pending	n.a.
Bankruptcy	Changes procedures for administering bankruptcy claims; requires new disclosures by petition preparers, debt relief agencies, and credit and charge card companies	109-8	Yes
Commercial Motor Vehicle Safety	Expands certain safety requirements to cover owners and operators of commercial motor vehicles that transport nine to 15 passengers; requires certain registered motor carriers to file a bond with the Secretary of Transportation	109-59	Yes
Requirements for Defined-Benefit Pension Plans	Increases premiums that sponsors of single-employer pension plans are required to pay to the Pension Benefit Guaranty Corporation; requires sponsors to make additional disclosures to plan participants and beneficiaries; reforms the funding rules for multiemployer defined-benefit pension plans such that some sponsors would be required to increase the amount of annual contributions that they make to their plans	Pending as of 2005 (Some provisions enacted in 2006) ¹	Yes
Employment Eligibility Verification	Requires employers and other entities that hire, recruit, or refer individuals for employment to verify the work eligibility of all employees	Pending	n.a.
Deposit Insurance	Increases deposit insurance premiums for depository institutions	Pending as of 2005 (Some provisions enacted in 2006) ⁰	Yes

Continued

Table A-2.

Continued

Topic	Mandate	Public Law ^a	Did the Enacted Version Exceed the Threshold? ^b
109th Congress (Continued)			
Housing Finance	Requires Fannie Mae and Freddie Mac to establish and manage affordable-housing funds and contribute a percentage of their after-tax income to the fund	Pending	n.a.
Passport Fees	Imposes a surcharge on the filing fee of each passport application through the end of fiscal year 2010	Pending as of 2005 (Some provisions enacted in 2006) ^p	Yes
Protection of Personal Identity	Requires employers, retailers, schools, colleges, consumer credit-reporting agencies, and other entities that acquire, maintain, or utilize sensitive personal information to develop and maintain a security program for the protection of sensitive information; sets certain procedures for notifying consumers, the federal government, and credit-reporting agencies of security breaches involving personal information	Pending	n.a.
Renewable Fuels	Requires motor vehicle fuel sold or dispensed to U.S. consumers to contain a certain volume of renewable fuel	109-58	Yes
Regulation of Prescription Drug Pricing	Places a number of new requirements on drug manufacturers relating to sales to exporters and importers; prohibits drug manufacturers from discriminating against exporters and importers of drugs by charging prices for drugs sold to exporters or importers that are higher than those charged to other purchasers or by denying, restricting, or delaying supplies of drugs to exporters and importers	Pending	n.a.

Source: Congressional Budget Office.

Notes: Mandates in this table are those identified by the Congressional Budget Office when a bill was reported by an authorizing or conference committee or when CBO was asked to do a formal review. Because more than one bill can contain the same mandate, the 197 bills with private-sector mandates above the threshold contained 81 separate mandates. In some cases, more than one formal CBO statement was issued for each mandate topic.

n.a. = not applicable; H-1B workers = skilled foreign workers who are admitted temporarily to the United States to work for U.S. employers; FDA = Food and Drug Administration; ERISA = Employee Retirement Income Security Act; S corporation = a corporation with 75 or fewer stakeholders that is taxed as a partnership but receives the benefits of incorporation.

- a. The full names and dates of enactment of the public laws referred to in this table follow (ordered by law number):
- Public Law 104-104, Communications Decency Act of 1996, enacted February 8, 1996;
 - Public Law 104-105, Farm Credit System Reform Act of 1996, enacted February 10, 1996;
 - Public Law 104-188, Employee Commuting Flexibility Act of 1996, enacted August 20, 1996;
 - Public Law 104-191, Health Insurance Portability and Accountability Act of 1996, enacted August 21, 1996;
 - Public Law 104-193, Child Care and Development Block Grant Amendments of 1996, enacted August 22, 1996;
 - Public Law 104-204, Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, enacted September 26, 1996;
 - Public Law 104-208, Omnibus Consolidated Appropriations Act, 1997, enacted September 30, 1996;
 - Public Law 105-002, Airport and Airway Trust Fund Tax Reinstatement Act of 1997, enacted February 28, 1997;
 - Public Law 105-033, Balanced Budget Act of 1997, enacted August 5, 1997;
 - Public Law 105-034, Taxpayer Relief Act of 1997, enacted August 5, 1997;
 - Public Law 105-178 Transportation Equity Act for the 21st Century, enacted June 9, 1998;
 - Public Law 105-206, Internal Revenue Service Restructuring and Reform Act of 1998, enacted July 22, 1998;
 - Public Law 105-277, Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, enacted October 21, 1998;
 - Public Law 106-102, Gramm-Leach-Bliley Act, enacted November 12, 1999;
 - Public Law 106-113, Consolidated Appropriations Act, 2000; enacted November 29, 1999;
 - Public Law 106-170, Ticket to Work and Work Incentives Improvement Act of 1999, enacted December 17, 1999;
 - Public Law 106-311, An act to increase the amount of fees charged to employers who are petitioners for the employment of H-1B non-immigrant workers, and for other purposes, enacted October 17, 2000;
 - Public Law 107-071, Aviation and Transportation Security Act, enacted November 19, 2001;
 - Public Law 107-147, Job Creation and Worker Assistance Act of 2002, enacted March 9, 2002;
 - Public Law 107-155, Bipartisan Campaign Reform Act of 2002, enacted March 27, 2002;
 - Public Law 107-171, Farm Security and Rural Investment Act of 2002, enacted May 13, 2002;
 - Public Law 107-318, Anton's Law, enacted December 4, 2002;
 - Public Law 108-155, Pediatric Research Equity Act of 2003, enacted December 3, 2003;
 - Public Law 108-159, Fair and Accurate Credit Transactions Act of 2003, enacted December 4, 2003;
 - Public Law 108-173, Medicare Prescription Drug, Improvement, and Modernization Act of 2003, enacted December 8, 2003;
 - Public Law 108-218, Pension Funding Equity Act of 2004, enacted April 10, 2004;
 - Public Law 108-357, American Jobs Creation Act of 2004, enacted October 22, 2004;
 - Public Law 108-447, Consolidated Appropriations Act, 2005, enacted December 8, 2004;
 - Public Law 108-458, Intelligence Reform and Terrorism Prevention Act of 2004, enacted December 17, 2004.
 - Public Law 109-008, Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, enacted April 20, 2005;
 - Public Law 109-058, Energy Policy Act of 2005, August 8, 2005;
 - Public Law 109-059, Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, enacted August 10, 2005; and
 - Public Law 109-167, Passport Services Enhancement Act of 2005, enacted January 10, 2006;
- b. The threshold for private-sector mandates under the Unfunded Mandates Reform Act, which is adjusted annually for inflation, was \$100 million in 1996 and rose to \$123 million in 2005.
- c. The mandate would have required that milk sold for use as a fluid contain greater amounts of nonfat solids than were previously required. Such a mandate would have locked in higher fluid-milk prices, imposing costs on dairy processors and manufacturers. The enacted version of the farm bill did not contain the higher fluid-milk standards.
- d. Several provisions of the financial services legislation that passed were enacted in Public Law 106-102, the Gramm-Leach Bliley Act of 1999. The mandate on Federal Home Loan Banks, first considered in H.R. 10, the Financial Services Competition Act of 1997, was not enacted.

- e. The Omnibus Consolidated and Emergency Supplemental Appropriations Act (Public Law 105-277) contains a provision requiring some health plans to pay for reconstructive surgery following mastectomies.
 - f. The Omnibus Consolidated and Emergency Supplemental Appropriations Act (Public Law 105-277) contains a provision that changes the tax treatment of distributions from regulated investment companies and real estate investment trusts.
 - g. Separate legislation to increase from \$500 to \$1,000 a fee paid by employers who petition for the employment of H-1B workers (Public Law 106-311). The requirement to pay H-1B workers a minimum wage did not pass.
 - h. Ten tax provisions that were mandates in other bills passed in the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170). The three largest of those mandates repeal the installment method for most taxpayers using the accrual basis, change the treatment of income and services provided by taxable subsidiaries of real estate investment trusts, and prevent the conversion of ordinary income from short-term capital gains into income eligible for long-term capital gains tax rates.
 - i. Portions of the bill but not the tax mandates passed in the Ticket to Work and Work Incentives Improvement Act of 1999.
 - j. The mandate first appeared in S. 2119 in 2002 with estimated costs exceeding the threshold. A modified version of the proposal was enacted in Public Law 108-357.
 - k. One provision that required administrators of multiemployer defined-benefit plans to provide notices was enacted in Public Law 108-218.
 - l. The provisions relating to reportable transactions and tax shelters were amended so that the estimated costs of those provisions are below the threshold in the first five years that the mandates are in effect.
 - m. Only the fee for deposit in the tobacco trust was enacted in Public Law 108-357.
 - n. Some provisions were enacted in 2006 in Public Law 109-171, the Deficit Reduction Act of 2005.
 - o. One provision was enacted in Public Law 109-171; other provisions were enacted in Public Law 109-173, the Federal Deposit Insurance Reform Conforming Amendments Act of 2005.
 - p. The provisions were enacted in Public Law 109-167, the Passport Services Enhancement Act of 2005, on January 10, 2006.
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Bills Reviewed by CBO in 2005 That Contained Mandates

This appendix lists legislation the Congressional Budget Office (CBO) reviewed during the legislative process in 2005 that would impose federal mandates—regardless of whether the estimated costs of those mandates would be higher or lower than the thresholds calculated under the provisions of the Unfunded Mandates Reform Act and regardless of whether the legislation was enacted.

Table B-1 lists (in numerical order) bills that CBO identified as having intergovernmental mandates; in some cases, the list includes more than one version of a bill if that bill was considered by more than one committee. Table B-2 provides the same information for bills that contain private-sector mandates.

Table B-1.

Bills Reviewed by CBO in 2005 That Contained Intergovernmental Mandates

Bill Number (Committee)	Name	Mandate
Intergovernmental Mandates Whose Costs Would Exceed the Statutory Threshold^a		
n.a. ^b	Reconciliation Recommendations of the House Committee on Ways and Means	Decreases federal funding for the child support program
H.R. 6 (As introduced)	Energy Policy Act of 2005	Limits states' rights in courts; preempts state laws related to energy efficiency and electric reliability
H.R. 1640	Energy Policy Act of 2005	Limits states' rights in courts; preempts state laws related to energy efficiency and electric reliability and would increase the cost of an existing mandate
H.R. 4437	Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005	Requires state and local governments that recruit or refer employees to verify the work eligibility of all employees
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	Makes the Lytton Rancheria subject to certain requirements of the Indian Gaming Regulatory Act
S. 1408	Identity Theft Protection Act	Limits the sale, display, and use of Social Security numbers by state, local, and tribal governments; requires educational entities to comply with certain regulations of the Federal Trade Commission; preempts the laws in 17 states regarding the treatment of personal information; places certain notification requirements on state insurance authorities and states' Attorneys General
Intergovernmental Mandates Whose Costs Would Fall Below the Statutory Threshold^a		
n.a. ^b	Reconciliation Recommendations of the House Committee on Financial Services	Preempts New York state law
n.a. ^b	Reconciliation Recommendations of the House Committee on Energy and Commerce	Requires public television stations to move to digital programming earlier than under current law
H.R. 3	Transportation Equity Act: A Legacy for Users	Preempts state laws restricting the use of utility service vehicles
H.R. 6 (Conference agreement)	Energy Policy Act of 2005	Limits states' rights in courts; preempts state laws related to energy efficiency and electric reliability
H.R. 29	SPY Act	Preempts state laws related to "spyware"
H.R. 418	REAL ID Act of 2005	Requires state and local governments to comply with federal standards for issuing driver's licenses and identification cards

Continued

Table B-1.**Continued**

Bill Number (Committee)	Name	Mandate
Intergovernmental Mandates Whose Costs Would Fall Below the Statutory Threshold^a (Continued)		
H.R. 420	Lawsuit Abuse Reduction Act of 2005	Preempts state laws governing state court procedures
H.R. 525	Small Business Health Fairness Act of 2005	Preempts state taxing authority and laws regulating health insurance
H.R. 554	Personal Responsibility in Food Consumption Act of 2005	Prohibits state, local, and tribal governments from pursuing certain civil lawsuits concerning obesity or related health conditions; preempts state liability laws and the authority of state courts to hear such cases
H.R. 744	Internet Spyware (I-SPY) Prevention Act of 2005	Preempts states' enactment of certain civil penalties
H.R. 748	Child Interstate Abortion Notification Act	Requires doctors in public hospitals to provide parental notification before performing an abortion on a minor
H.R. 889	Coast Guard and Maritime Transportation Act of 2005	Creates new authority for the Coast Guard to regulate and charge fees for the inspection of certain vessels
H.R. 972 (International Affairs)	Trafficking Victims Protection Reauthorization Act of 2005	Preempts state laws and requires courts to order the property of convicted traffickers to be forfeited to the federal government
H.R. 972 (Judiciary)	Trafficking Victims Protection Reauthorization Act of 2005	Preempts state laws and requires courts to order the property of convicted traffickers to be forfeited to the federal government
H.R. 1065 (Judiciary)	United States Boxing Commission Act	Preempts the regulating authority of certain state boxing commissions; creates new subpoena power
H.R. 1065 (Energy and Commerce)	United States Boxing Commission Act	Preempts the regulating authority of certain state boxing commissions; creates new subpoena power
H.R. 1185	Federal Deposit Insurance Reform Act of 2005	Preempts certain New York state banking laws
H.R. 1412	Delaware River Protection Act of 2005	Requires public entities to notify the Coast Guard if the entity has released an object that might obstruct the navigable waters of the Delaware River
H.R. 1461	Federal Housing Financing Reform Act of 2005	Preempts state statute of limitation and contract laws
H.R. 1461, as amended	Federal Housing Financing Reform Act of 2005, with a proposed amendment provided to CBO on July 12	Preempts state statute of limitation and contract laws

Continued

Table B-1.

Continued

Bill Number (Committee)	Name	Mandate
Intergovernmental Mandates Whose Costs Would Fall Below the Statutory Threshold^a (Continued)		
H.R. 1461, as amended	Federal Housing Financing Reform Act of 2005, with a proposed amendment provided to CBO on June 24	Preempts state statute of limitation and contract laws
H.R. 1815	National Defense Authorization Act for Fiscal Year 2006	Increases the cost of existing mandates included in the Servicemembers Civil Relief Act by increasing the number of active-duty servicemembers and reservists; preempts the application of state licensing requirements for lawyers practicing in certain states
H.R. 1817 (Judiciary)	Department of Homeland Security Authorization Act for Fiscal Year 2006	Preempts state and local laws regarding public access to information about critical infrastructure
H.R. 1817 (Energy and Commerce)	Department of Homeland Security Authorization Act for Fiscal Year 2006	Preempts state and local laws regarding public access to information about critical infrastructure
H.R. 1817 (Homeland Security)	Department of Homeland Security Authorization Act for Fiscal Year 2006	Preempts state and local laws regarding public access to information about critical infrastructure
H.R. 2046	Servicemembers' Health Insurance Protection Act of 2005	Extends requirements to provide insurance under the Servicemembers Civil Relief Act to certain reservists; prohibits public entities that provide health insurance from raising premiums for servicemembers when they return from active-duty service and choose to reinstate previously held policies
H.R. 2355	Health Care Choice Act of 2005	Preempts state licensing laws for out-of-state issuers of health insurance
H.R. 2491	International Solid Waste Importation and Management Act of 2005	Preempts certain state regulations for the transport of solid waste; requires local waste facilities to comply with regulations regarding the acceptance of solid waste from foreign countries
H.R. 2791	United States Patent and Trademark Fee Modernization Act of 2005	Permanently increases the fees charged for patent and trademark applications
H.R. 3084	Drug Free Sports Act	Preempts state privacy laws
H.R. 3132	Children's Safety Act of 2005	Requires background checks and alternative placements in the foster care program
H.R. 3205	Patient Safety and Quality Improvement Act of 2005	Preempts state privacy and freedom of information laws

Continued

Table B-1.**Continued**

Bill Number (Committee)	Name	Mandate
Intergovernmental Mandates Whose Costs Would Fall Below the Statutory Threshold^a (Continued)		
H.R. 3408	A bill to reauthorize the Livestock Mandatory Reporting Act of 1999 and to amend the swine reporting provisions of that Act	Extends an existing mandate that preempts state and local regulation of livestock
H.R. 3496	National Capital Transportation Amendments Act of 2005	Requires WMATA to meet several requirements before selling or developing certain properties
H.R. 3505	Financial Services Regulatory Relief Act of 2005	Preempts certain state securities laws and imposes requirements on state regulators of financial institutions
H.R. 3699 (Energy and Commerce)	Federal and District of Columbia Real Property Act of 2005	Terminates certain claims of the District of Columbia against the United States
H.R. 3699 (Transportation and Infrastructure)	Federal and District of Columbia Real Property Act of 2005	Terminates certain claims of the District of Columbia against the United States
H.R. 3699 (Government Reform)	Federal and District of Columbia Real Property Act of 2005	Terminates certain claims of the District of Columbia against the United States
H.R. 3889 (Judiciary)	Methamphetamine Epidemic Elimination Act	Preempts state laws that regulate pharmaceutical sales; requires publicly owned pharmacies to control the sale of certain medications
H.R. 3889 (Energy and Commerce)	Methamphetamine Epidemic Elimination Act	Preempts state laws that regulate pharmaceutical sales; requires publicly owned pharmacies to control the sale of certain medications
H.R. 3893	Gasoline for America's Security Act of 2005	Preempts state and local authority to implement clean fuel programs and to authorize the siting of refineries within their borders
H.R. 3909	Hurricane Check Cashing Relief Act of 2005	Preempts state laws that restrict the ability of the FDIC and NCUA to recover certain funds
H.R. 4437	Manager's Amendment to H.R. 4437, the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005	Requires state and local governments that recruit or refer employees to verify the work eligibility of all employees
n.a. ^c	Reconciliation Recommendations of the Senate Committee on Commerce, Science and Transportation	Requires public television stations to move to a digital format earlier than under current law

Continued

Table B-1.**Continued**

Bill Number (Committee)	Name	Mandate
Intergovernmental Mandates Whose Costs Would Fall Below the Statutory Threshold^a (Continued)		
n.a. ^c	Reconciliation Recommendations of the Senate Committee on Banking, Housing, and Urban Affairs	Preempts state statute of limitations laws
S. 10	Energy Policy Act of 2005	Preempts state and local energy efficiency standards and state authority over electric utilities
S. 103	Combat Meth Act of 2005	Preempts state laws that regulate pharmaceutical sales; requires publicly owned pharmacies to control the sale of certain medications
S. 148	Professional Boxing Amendments Act of 2005	Requires state, local, and tribal boxing commissions to meet certain standards
S. 256	Bankruptcy Abuse Prevention and Consumer Protection Act of 2005	Preempts state laws governing contracts between debt relief agencies and states; requires state and local tax procedures to conform to certain Internal Revenue Code provisions
S. 256 (House Judiciary)	Bankruptcy Abuse Prevention and Consumer Protection Act of 2005	Preempts state laws governing contracts between debt relief agencies and states; requires state and local tax procedures to conform to certain Internal Revenue Code provisions
S. 306	Genetic Information Nondiscrimination Act of 2005	Preempts state confidentiality laws governing genetic information
S. 362	Marine Debris Research Prevention and Reduction Act	Requires Coast Guard to issue regulations that instruct ports on how to dispose of waste from ships
S. 363	Ballast Water Management Act of 2005	Preempts state authority to impose greater penalties or fees for violations; requires vessels owned by state and local governments to comply with standards for ballast water management
S. 467	Terrorism Risk Insurance Extension Act of 2005	Requires that certain insurers offer terrorism insurance; requires that certain insurers and their policyholders repay the federal government for the cost of assistance; preempts state laws regulating insurance
S. 544	Patient Safety and Quality Improvement Act of 2005	Preempts state freedom of information laws governing the disclosure of information to certified patient safety organizations
S. 606	Reliable Fuels Act	Preempts state liability claims based on the renewable content of their fuel

Continued

Table B-1.

Continued

Bill Number (Committee)	Name	Mandate
Intergovernmental Mandates Whose Costs Would Fall Below the Statutory Threshold^a (Continued)		
S. 667	Personal Responsibility and Individual Development for Everyone Act	Limits the amount of child support states can retain for their own use and preempts state liability laws
S. 687	Software Principles Yielding Better Levels of Consumer Knowledge Act	Preempts state laws that prohibit the use of certain types of computer software and places requirements on states' Attorneys General
S. 732	Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005	Requires states to use certain technology to verify identities before issuing commercial driver's licenses
S. 852	Fairness in Asbestos Injury Resolution Act of 2005	Preempts state laws relating to asbestos claims and prevents state courts from ruling on those cases; requires state governments to comply with requests for information from the Asbestos Insurance Commission
S. 858	Nuclear Fees Reauthorization Act of 2005	Extends an existing mandate that requires holders of public licenses for nuclear facilities to pay user fees to the Nuclear Regulatory Commission
S. 864	Nuclear Security Act of 2005	Preempts state laws and regulations related to the safety of nuclear facilities
S. 865	Price-Anderson Amendments Act of 2005	Increases the annual premium paid by holders of public licenses for nuclear facilities
S. 1042	National Defense Authorization Act for Fiscal Year 2006	Increases the cost of existing mandates included in the Servicemembers Civil Relief Act by increasing the number of active-duty servicemembers and reservists; preempts the application of state licensing requirements for lawyers practicing in certain states
S. 1063	IP-Enabled Voice Communications and Public Safety Act of 2005	Limits certain fees that states can charge providers of Internet-based telephone services; preempts state liability laws; requires public safety agencies to comply with requests for information
S. 1086	Jacob Wetterling, Megan Nicole Kanka, and Pam Lychner Sex Offender Registration and Notification Act, or Sex Offender Registration and Notification Act	Requires Indian tribes that choose not to establish registries of sex offenders to delegate that authority to nearby states to provide such services
S. 1110	Engine Coolant and Antifreeze Bittering Agent Act of 2005	Preempts state laws that require the addition of a bittering agent to antifreeze and imposes a uniform federal standard

Continued

Table B-1.**Continued**

Bill Number (Committee)	Name	Mandate
Intergovernmental Mandates Whose Costs Would Fall Below the Statutory Threshold^a (Continued)		
S. 1197	Violence Against Women Act of 2005	Increases the number of protection orders that state, tribal, and territorial governments must enforce
S. 1295	National Indian Gaming Commission Accountability Act of 2005	Increases fees paid by tribes to the National Indian Gaming Commission
S. 1392	FTC Reauthorization Act of 2005	Preempts state laws governing pharmacies under some circumstances that involve foreign pharmacies
S. 1420	Medical Device User Fee Stabilization Act of 2005	Extends requirements for manufacturers of medical devices to pay fees
S. 1567	Surface Transportation Safety Improvement Act of 2005	Replaces single-state registration systems; requires states to issue learner's permits for commercial drivers; restricts purchases of vans by schools
S. 1753	National Alert System and Tsunami Preparedness Act	Requires public broadcasting stations to install equipment that relays alerts
S. 2032	Public Transportation Terrorism Prevention Act of 2005	Requires certain public transportation agencies to join the Information Sharing and Analysis Center
Intergovernmental Mandates Whose Costs Could Not Be Determined		
H.R. 800	Protection of Lawful Commerce in Arms Act	Prohibits state, local, and tribal governments from pursuing lawsuits against manufacturers or sellers of firearms and ammunition products; preempts state liability laws and the authority of state courts to hear such cases
H.R. 2565	Office of National Drug Control Policy Reauthorization Act	Preempts state privacy laws; creates new authority for the Director of the office to regulate public institutions of higher education
H.R. 2829	Office of National Drug Control Policy Reauthorization Act of 2005	Preempts state privacy laws; creates new authority for the Director of the office to regulate public institutions of higher education

Source: Congressional Budget Office.

Note: n.a. = not applicable; UMRA = Unfunded Mandates Reform Act; WMATA = Washington Metropolitan Area Transit Authority; FDIC = Federal Deposit Insurance Corporation; NCUA = National Credit Union Administration; FTC = Federal Trade Commission.

- a. In 2005, the threshold for intergovernmental mandates, which is adjusted annually for inflation, was \$62 million.
- b. The provisions of this legislation were included in H.R. 4241, the Deficit Reduction Act of 2005.
- c. The provisions of this legislation were included in S. 1932, the Deficit Reduction Act of 2005.

Table B-2.**Bills Reviewed by CBO in 2005 That Contained Private-Sector Mandates**

Bill Number (Committee)	Name	Mandate
Private-Sector Mandates Whose Costs Would Exceed the Statutory Threshold^a		
n.a. ^b	Reconciliation Recommendations of the House Committee on Financial Services for Deposit Insurance Reform	Requires certain depository institutions to pay higher premiums for federal deposit insurance
n.a. ^b	Reconciliation Recommendations of the House Committee on Education and the Workforce	Increases the per-participant premiums paid by plan sponsors to the Pension Benefit Guaranty Corporation (PBGC); creates a termination premium for sponsors whose plans are terminated by the PBGC on an involuntary or distressed-termination basis
H.R. 3	Transportation Equity Act: A Legacy for Users	Extends certain federal motor carrier safety regulations to cover additional commercial motor carriers; requires certain registered motor carriers to file a bond with the Department of Transportation
H.R. 6 (Conference agreement)	Energy Policy Act of 2005	Requires motor vehicle fuel to have a minimum level of renewable fuel; authorizes stricter testing, conservation, and labeling standards for certain manufactured appliances; extends the Nuclear Regulatory Commission's ability to regulate nuclear facilities and the transport of nuclear materials, including creating stricter security standards for nuclear facilities; requires refineries or importers to continue to reduce aggregate toxic air pollution; establishes the Electric Reliability Organization to regulate users of the bulk-power system
H.R. 1185	Federal Deposit Insurance Reform Act of 2005	Increases deposit insurance premiums for depository institutions; prohibits banks, savings associations, and credit unions that are not well capitalized from accepting employee benefit plan deposits
H.R. 1461 (Financial Services)	Federal Housing Finance Reform Act of 2005	Requires Fannie Mae and Freddie Mac to contribute to a new affordable-housing fund; creates a new regulator for the housing-related GSEs (Fannie Mae, Freddie Mac, and the Federal Home Loan Banks)
H.R. 1461, as amended (Financial Services)	Federal Housing Finance Reform Act of 2005 (with a draft amendment regarding the affordable-housing funds that was provided to CBO on June 24, 2005)	Requires Fannie Mae and Freddie Mac to contribute to a new affordable-housing fund; creates a new regulator for the housing-related GSEs (Fannie Mae, Freddie Mac, and the Federal Home Loan Banks)

Continued

Table B-2.**Continued**

Bill Number (Committee)	Name	Mandate
Private-Sector Mandates Whose Costs Would Exceed the Statutory Threshold^a (Continued)		
H.R. 1461, as amended (Financial Services)	Federal Housing Finance Reform Act of 2005 (with a draft amendment regarding the affordable-housing funds that was provided to CBO on July 12, 2005)	Requires Fannie Mae and Freddie Mac to contribute to a new affordable-housing fund; creates a new regulator for the housing-related GSEs (Fannie Mae, Freddie Mac, and the Federal Home Loan Banks)
H.R. 2830 (Education and Workforce)	Pension Protection Act of 2005	Increases premiums paid by sponsors of single-employer pension plans to the Pension Benefit Guaranty Corporation; requires employer pension plans to make additional disclosures to plan participants and beneficiaries; changes the funding rules for multi-employer pension plans, causing some sponsors to increase the amount of annual contributions that they make to their plans
H.R. 2830 (Ways and Means)	Pension Protection Act of 2005	Increases premiums paid by sponsors of single-employer pension plans to the Pension Benefit Guaranty Corporation; requires employer pension plans to make additional disclosures to plan participants and beneficiaries; changes the funding rules for multi-employer pension plans causing some sponsors to increase the amount of annual contributions that they make to their plans
H.R. 4437 (Judiciary)	Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005	Requires employers and other entities that recruit or refer employees to verify the eligibility of all employees with the Department of Homeland Security and maintain a record of the verification
H.R. 4501	Passport Services Enhancement Act of 2005	Imposes a surcharge on the filing fee for each passport application through the end of fiscal year 2010
n.a. ^c	Reconciliation Recommendations of the Senate Committee on Banking, Housing, and Urban Affairs	Requires certain depository institutions to pay higher premiums for federal deposit insurance
n.a. ^c	Reconciliation Recommendations of the Senate Committee on Health, Education, Labor, and Pensions	Increases the per-participant premium rates paid to the Pension Benefit Guaranty Corporation by sponsors of single-employer and multiemployer defined-benefit pension plans; creates a termination premium for sponsors of single-employer plans whose plans are terminated on an involuntary or distressed-termination basis

Continued

Table B-2.**Continued**

Bill Number (Committee)	Name	Mandate
Private-Sector Mandates Whose Costs Would Exceed the Statutory Threshold^a (Continued)		
S. 10	Energy Policy Act of 2005	Requires gasoline sold in the United States to contain a minimum volume of renewable fuels; imposes new energy conservation standards on household and commercial appliances; imposes new energy efficiency testing requirements on certain appliances; requires users of the bulk-power system to comply with new reliability standards; imposes fees and dues to cover the costs of implementing and enforcing the reliability standards; prohibits the manufacturing and importing of mercury vapor lamp ballasts after January 1, 2008; increases the maximum annual premium for Nuclear Regulatory Commission licensees from \$10 million to \$15 million
S. 256 (Judiciary)	Bankruptcy Abuse Prevention and Consumer Protection Act of 2005	Changes procedures for administering bankruptcy claims
S. 256 (House Judiciary)	Bankruptcy Abuse Prevention and Consumer Protection Act of 2005	Changes procedures for administering bankruptcy claims
S. 363	Ballast Water Management Act of 2005	Requires ballast water management plans and extended recordkeeping by U.S. vessels; requires vessels to implement a ballast water treatment program starting in 2009
S. 852	Fairness in Asbestos Injury Resolution Act of 2005	Establishes new procedures for a cause of action in personal injury and wrongful death claims arising from asbestos exposure; requires individuals filing such claims to meet specified medical criteria
S. 1392	Federal Trade Commission Reauthorization Act of 2005	Places a number of new requirements on drug manufacturers relating to the pricing of sales to exporters and importers; imposes stricter information reporting requirements on drug manufacturers and Internet pharmacies; limits the ability of U.S. consumers to purchase drugs from unregistered foreign pharmacies

Continued

Table B-2.

Continued

Bill Number (Committee)	Name	Mandate
Private-Sector Mandates Whose Costs Would Exceed the Statutory Threshold^a (Continued)		
S. 1408	Identity Theft Protection Act	Requires employers, schools, consumer credit-reporting agencies, and other entities that acquire, maintain, or utilize sensitive personal information to develop and maintain a security program; sets certain procedures for notifying consumers, the Federal Trade Commission, and credit-reporting agencies of security breaches involving personal information; if requested by consumer, prohibits credit-reporting agencies from releasing credit reports to any third parties without authorization from consumers; limits the sale, display, and use of Social Security numbers
S. 1783	Pension Security and Transparency Act of 2005	Makes several changes to the sponsorship and administration of single-employer and multiemployer private pension plans
Private-Sector Mandates Whose Costs Would Fall Below the Statutory Threshold^a		
n.a. ^b	Reconciliation Recommendations of the House Committee on Transportation and Infrastructure	Increases vessel tonnage duties for operators entering the United States from any foreign port or place
n.a. ^b	Reconciliation Recommendations of the House Committee on the Judiciary	Requires employers to pay a fee when a petition is made for an L-1 visa allowing their foreign employees to transfer to work for companies in the United States; prohibits employers from passing along the costs to their L-1 visa employees
H.R. 29	Securely Protect Yourself Against Cyber Trespass Act	Requires individuals to provide a notice and obtain authorization from the owner or authorized user of a computer before installing an information-collection program; requires providers of information-collection programs to include certain functions in their software
H.R. 458	Military Personnel Financial Services Protection Act	Prohibits the sale of periodic-payment-plan certificates; requires a registered securities association to provide a process to receive and respond to inquires about disciplinary actions taken against brokers and dealers; requires insurers and producers of life insurance products to make certain disclosures when selling or soliciting life insurance products on military installations

Continued

Table B-2.**Continued**

Bill Number (Committee)	Name	Mandate
Private-Sector Mandates Whose Costs Would Fall Below the Statutory Threshold^a (Continued)		
H.R. 513	527 Reform Act of 2005	Changes the definition of a political committee in the Internal Revenue Code to include certain 527 organizations; requires those organizations to register as political committees with the Federal Election Commission and comply with current regulations on federal campaign finance
H.R. 554	Personal Responsibility in Food Consumption Act of 2005	Prohibits lawsuits against manufacturers and sellers of food products seeking damages for injury owing to weight gain, obesity, or any health condition associated with obesity as a result of consumption of their products
H.R. 748	Child Interstate Abortion Notification Act	Requires doctors, in certain cases, to provide parental notification before performing an abortion on a minor
H.R. 1065 (Energy and Commerce)	United States Boxing Commission Act	Requires private entities of the boxing industry to be licensed by the United States Boxing Commission (USBC) and to comply with USBC standards; requires entities, if subpoenaed, to provide testimony, evidence, and materials related to any investigations conducted by the USBC
H.R. 1065 (Judiciary)	United States Boxing Commission Act	Requires private entities of the boxing industry to be licensed by the United States Boxing Commission (USBC) and to comply with USBC standards; requires entities, if subpoenaed, to provide testimony, evidence, and materials related to any investigations conducted by the USBC
H.R. 1316	527 Fairness Act of 2005	Requires certain organizations registered under section 527 of the Internal Revenue Code that are filing financial reports with the Internal Revenue Service to file periodic reports with the Federal Election Commission as well
H.R. 1412	Delaware River Protection Act of 2005	Requires owners of objects other than vessels to notify the Coast Guard and the U.S. Army Corps of Engineers if those objects become obstructions to navigation in U.S. waters; increases the federal limits on liability for tank vessels
H.R. 1630	Amtrak Reauthorization Act of 2005	Requires Amtrak to submit an annual comprehensive business plan and a bimonthly supplemental report for fiscal years 2006 to 2008 to the Secretary of Transportation and to the Congress

Continued

Table B-2.

Continued

Bill Number (Committee)	Name	Mandate
Private-Sector Mandates Whose Costs Would Fall Below the Statutory Threshold^a (Continued)		
H.R. 1815	National Defense Authorization Act for Fiscal Year 2006	Increases the number of servicemembers and reservists on active duty; increases the number of servicemembers and reservists eligible for protection under the Servicemembers Civil Relief Act (such protections prohibit creditors from charging more than 6 percent interest on certain debts of servicemembers and protect servicemembers from certain civil liabilities while on active duty)
H.R. 2046	Servicemembers' Health Insurance Protection Act of 2005	Prohibits health insurance providers from raising premiums for servicemembers when they return from active-duty service and choose to reinstate or continue previously held policies; ensures that reservists whose activation is canceled before they report for duty can continue or reinstate their health care coverage without delay
H.R. 2385	A bill to extend by 10 years the authority of the Secretary of Commerce to conduct the quarterly financial report program	Extends by 10 years the authority of the Secretary of Commerce to require certain companies to provide survey information on their business and financial data to the Bureau of the Census
H.R. 2565	Office of National Drug Control Policy Reauthorization Act	Requires major league baseball, the National Football League, the National Basketball Association, and the National Hockey League to implement drug-testing programs for performance-enhancing substances based on federal standards; requires the leagues to publicly disclose the identity of any athlete who has tested positive, the penalty imposed, and the tested substance and to provide certain reports to the Congress; requires the United States Boxing Commission, if established, to implement drug-testing programs for professional boxing
H.R. 2829	Office of National Drug Control Policy Reauthorization Act of 2005	Requires major league baseball, the National Football League, the National Basketball Association, and the National Hockey League to implement drug-testing programs for performance-enhancing substances based on federal standards; requires the leagues to publicly disclose the identity of any athlete who has tested positive, the penalty imposed, and the tested substance and to provide certain reports to the Congress; requires the United States Boxing Commission, if established, to implement drug-testing programs for professional boxing

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Table B-2.**Continued**

Bill Number (Committee)	Name	Mandate
Private-Sector Mandates Whose Costs Would Fall Below the Statutory Threshold^a (Continued)		
H.R. 3084	Drug Free Sport Act	Requires major league baseball, the National Football League, the National Basketball Association, the National Hockey League, major league soccer, the Arena Football League, and any other professional league as determined by the Secretary of Commerce to implement drug-testing programs for performance-enhancing substances based on federal standards; requires the leagues to publicly disclose the identity of any athlete who has tested positive and is then suspended; requires the leagues to establish an appeals process with an arbiter
H.R. 3132	Children's Safety Act of 2005	Authorizes the Attorney General or another agency authorized by the Attorney General to collect DNA samples from individuals who have been arrested or detained for federal offenses; expands the reporting requirements for sex offenders to apply to individuals who have been convicted of or been adjudicated for certain sex offenses
H.R. 3205	Patient Safety and Quality Improvement Act of 2005	Prohibits health care providers from taking adverse employment actions if an employee reports certain patient safety data
H.R. 3408	A bill to reauthorize the Livestock Mandatory Reporting Act of 1999 and to amend the swine reporting provisions of that Act	Extends through 2010 the requirements for beef, pork, and lamb packing plants to report certain pricing data under the Livestock Mandatory Reporting Act; requires additional electronic price reports for all sows and boars purchased by pork plants
H.R. 3421	A bill to reauthorize the United States Grain Standards Act, to facilitate the official inspection at export port locations of grain required or authorized to be inspected under such Act, and for other purposes	Extends through 2010 the required payment by grain exporters of certain fees
H.R. 3505	Financial Services Regulatory Relief Act of 2005	Prohibits interstate branching by certain depository institutions controlled by commercial firms; expands the authority of federal banking agencies over certain depository institutions and institution-affiliated parties with respect to safety and soundness enforcement; restricts participation in the affairs of financial institutions by people convicted of certain crimes

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Table B-2.**Continued**

Bill Number (Committee)	Name	Mandate
Private-Sector Mandates Whose Costs Would Fall Below the Statutory Threshold^a (Continued)		
H.R. 3648	A bill to impose additional fees with respect to immigration services for intracompany transferees	Requires employers to pay a fee when a petition is made for an L-1 visa allowing their foreign employees to transfer to work for companies in the United States; prohibits employers from passing along the costs to their L-1 visa employees
H.R. 3889 (Judiciary)	Methamphetamine Epidemic Elimination Act	Regulates retail businesses and persons involved in the sale and distribution of medications that contain ephedrine, pseudoephedrine, or phenylpropanolamine; expands current reporting requirements for certain importers and exporters of such chemicals
H.R. 3889 (Energy and Commerce)	Methamphetamine Epidemic Elimination Act	Regulates retail businesses and persons involved in the sale and distribution of medications that contain ephedrine, pseudoephedrine, or phenylpropanolamine; expands current reporting requirements for certain importers and exporters of such chemicals
H.R. 3893	Gasoline for America's Security Act of 2005	Limits the number of federally approved fuel blends; requires natural gas service providers to submit annual reports to the Federal Energy Regulatory Commission regarding the conditions of service for each shipper served
H.R. 4437	Manager's Amendment (received December 13, 2005) to the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005	Phases in requirements for employers and other entities that recruit or refer employees to verify the eligibility of new and existing employees with the Department of Homeland Security and maintain a record of the verification
n.a. ^c	Reconciliation Recommendations of the Senate Committee on the Judiciary	Requires employers to pay a \$750 fee when a petition is made for a transfer of a foreign employee or for a first-time extension of an L-1 visa; requires employers to pay an additional fee of \$500 for certain H-1B visas and employers or individuals as petitioners to pay a fee of \$500 for certain other employment-based visas; prohibits employers from passing along the fee to their L-1 visa employees
n.a. ^c	Senate Commerce Reconciliation—Digital Transition and Public Safety Act of 2005	Requires the FCC to terminate all licenses for broadcasting in analog and requires broadcast stations to cease analog television service by April 7, 2009; increases the license fees assessed under the Communications Act of 1934 by \$10 million in fiscal year 2006

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Table B-2.**Continued**

Bill Number (Committee)	Name	Mandate
Private-Sector Mandates Whose Costs Would Fall Below the Statutory Threshold^a (Continued)		
S. 5	Class Action Fairness Act of 2005	Potentially limits the size of awards attorneys receive in certain class action settlements; requires defendants to make certain notifications and disclosures to the appropriate official of each state in which a class member resides and to the appropriate federal official within 10 days after a proposed settlement is filed in court
S. 103	Combat Meth Act of 2005	Regulates retail businesses and persons involved in the sale and distribution of medications that contain ephedrine or pseudoephedrine
S. 148	Professional Boxing Amendments Act of 2005	Requires private entities of the boxing industry to be licensed by the United States Boxing Commission and to comply with additional safety standards, standard changes for contracts, and the filing of reports; requires entities, if subpoenaed, to provide testimony, evidence, or materials related to any investigations conducted by the commission
S. 167 (House Judiciary)	Family Entertainment and Copyright Act of 2005	Limits the right of copyright owners to collect compensation under copyright law from persons using or manufacturing a technology that enables them to make limited changes to a motion picture for a private home viewing; requires some manufacturers, licensees, or licensors to ensure that the technology provides a clear and conspicuous notice that the performance of the motion picture has been altered from the performance intended by the director or copyright holder of the motion picture
S. 172	A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes	Reclassifies all contacts, including decorative and noncorrective lenses, as medical devices, thereby requiring sellers, prescribers, and manufacturers of such products to comply with more stringent federal regulatory requirements
S. 212	Valles Caldera Preservation Act of 2005	Directs the Secretary of Agriculture to acquire the mineral interests located on the Baca Ranch without the seller's consent should negotiations for a sale fail after 60 days

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Table B-2.

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Bill Number (Committee)	Name	Mandate
Private-Sector Mandates Whose Costs Would Fall Below the Statutory Threshold^a (Continued)		
S. 306	Genetic Information Nondiscrimination Act of 2005	Prohibits the use of genetic information by employers in employment decisions; prohibits the use of genetic information by health insurers in making enrollment determinations and setting insurance premiums
S. 362	Marine Debris Research Prevention and Reduction Act	Requires the Coast Guard to issue regulations that improve the disposal of plastics and other garbage by public and private ports as well as by owners and operators of small commercial vessels
S. 467	Terrorism Risk Insurance Extension Act of 2005	Requires certain insurance companies to extend the requirement to offer terrorism insurance through calendar year 2007; extends both the requirement that the federal government recoup some of the costs of such financial assistance provided to certain insurers and the government's authority to make assessments sufficient to recover all federal payments
S. 544	Patient Safety and Quality Improvement Act of 2005	Prohibits health care providers from taking adverse employment actions if an employee reports certain patient safety data
S. 606	Reliable Fuels Act	Requires domestic refiners, blenders, and importers of gasoline to ensure that gasoline sold or dispensed to consumers in the contiguous United States contains a minimum volume of renewable fuels; increases the amount of renewable fuel that is blended into gasoline; bans the use of MTBE in gasoline; requires manufacturers of fuel and fuel additives to test their products for environmental or public health effects
S. 667	Personal Responsibility and Individual Development for Everyone Act	Requires the administrator of a group health plan to notify a state child support enforcement agency under certain circumstances when a child loses health care coverage
S. 687	Software Principles Yielding Better Levels of Consumer Knowledge Act, or SPY BLOCK Act	Prohibits some activities allowed under current law by persons who cause software to be installed that can be used to collect information from or take control of a computer without the consent of the authorized user

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Table B-2.**Continued**

Bill Number (Committee)	Name	Mandate
Private-Sector Mandates Whose Costs Would Fall Below the Statutory Threshold^a (Continued)		
S. 714	Junk Fax Prevention Act of 2005	Requires facsimile senders to include an opt-out notice that is clear, conspicuous, and on the first page; requires the notice to include a domestic contact telephone and facsimile machine number for the recipient to transmit such a request to the sender as well as a cost-free mechanism by which a recipient may transmit such a request
S. 864	Nuclear Security Act of 2005	Increases costs borne by licensees to pay for fingerprint checks by increasing the number of individuals requiring background checks; requires certain nuclear sites to correct any security defects identified during the Nuclear Regulatory Commission's (NRC) force-on-force security evaluations; establishes new guidelines for tracking and controlling individual spent-fuel rods and segments by nuclear power plants; requires NRC licensees that possess or transport certain radiation sources to identify those sources and report any loss or change in their location to the NRC
S. 865	Price-Anderson Amendments Act of 2005	Increases the maximum annual premium for Nuclear Regulatory Commission licensees from \$10 million to \$15 million
S. 1042	National Defense Authorization Act for Fiscal Year 2006	Increases the number of servicemembers and reservists on active duty; increases the number of servicemembers and reservists eligible for protection under the Servicemembers Civil Relief Act (such protections prohibit creditors from charging more than 6 percent interest on certain debts of servicemembers and protect servicemembers from certain civil liabilities while on active duty)
S. 1063	IP-Enabled Voice Communications and Public Safety Act of 2005	Requires all providers of Internet-based telephone services to offer full access to necessary 911 components
S. 1086	Jacob Wetterling, Megan Nicole Kanka, and Pam Lychner Sex Offender Registration and Notification Grant Act	Expands the reporting requirements for individuals who have been convicted of certain sex offenses; requires such sex offenders to appear before persons designated by the participating state in which they will reside, work, or attend school and provide notice within five days after each change of name, residence, employment, or student status

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Table B-2.**Continued**

Bill Number (Committee)	Name	Mandate
Private-Sector Mandates Whose Costs Would Fall Below the Statutory Threshold^a (Continued)		
S. 1110	Engine Coolant and Antifreeze Bittering Agent Act of 2005	Requires coolant and antifreeze manufacturers to include denatonium benzoate in those of their product mixtures that comprise more than 10 percent ethylene glycol; requires that detailed records be kept of any bittering agents used in their products
S. 1197	Violence Against Women Act of 2005	Prohibits international marriage brokers from providing personal contact information, photographs, or general information about the background of any individual under the age of 18; imposes new requirements on international marriage brokers regarding the release or protection of information related to protective orders or involvement with victims of certain crimes; authorizes the Attorney General to collect DNA samples from individuals who have been arrested or detained for federal offenses under regulations to be established by the Attorney General
S. 1230	Highway Reauthorization and Excise Tax Simplification Act of 2005	Requires a chief executive or other designated officer to include a signed declaration with the federal annual income tax return of certain companies
S. 1280	Coast Guard Authorization Act of 2005	Requires mortgagees of documented vessels engaged in coastwise commercial trade and fishing to submit reports to the Secretary of Transportation; requires vessels that engage in the moving of mooring equipment from one point over or onto the U.S. Outer Continental Shelf (OCS) to another such point in connection with exploring or developing resources on the OCS to be registered in the United States and have a certificate of endorsement from the Coast Guard
S. 1312	Reducing Conflicts of Interests in the Representation of Indian Tribes Act of 2005	Prohibits some former federal employees from working on certain matters related to Indian tribes
S. 1420	Medical Device User Fee Stabilization Act of 2005	Extends and strengthens labeling guidelines for reprocessors; extends the requirement that producers of medical devices continue to pay user fees to the Food and Drug Administration when submitting applications for marketing approval and licensing

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Table B-2.**Continued**

Bill Number (Committee)	Name	Mandate
Private-Sector Mandates Whose Costs Would Fall Below the Statutory Threshold^a (Continued)		
S. 1516	Passenger Rail Investment and Improvement Act of 2005	Requires Amtrak to submit an annual budget and a five-year fiscal plan to the Secretary of Transportation and the Department of Transportation's (DOT's) Inspector General and to implement a modern financial accounting and reporting system, subject to review by DOT; requires Amtrak to evaluate the performance of each long-distance passenger rail route annually
S. 1566	Commodity Exchange Reauthorization Act of 2005	Prohibits unregistered affiliates of futures commission merchants, unregistered affiliates of broker-dealers, or "notice-registered" broker-dealers from being excluded from the jurisdiction of the CFTC in their retail foreign currency transactions
S. 1753	National Alert System and Tsunami Preparedness Act	Requires any licensee providing commercial mobile service to elect whether or not to participate in the transmission of National Alert System alerts; requires nonprofit broadcasting stations to install the necessary equipment to enable the reception, relay, and retransmission of alerts by the National Alert System
Private-Sector Mandates Whose Costs Could Not Be Estimated		
n.a. ^b	Reconciliation Recommendations of the House Energy and Commerce Committee Reconciliation Bill—Digital Television Transition Act of 2005	Terminates all licenses for broadcasting in analog and requires broadcast stations to cease analog television service on December 31, 2008; requires manufacturers and retail distributors of analog television receivers to display certain language warning consumers about the transition to digital; requires multichannel video program distributors to include notices in the bills they send to their subscribers and television broadcasters to air two public service announcements daily to notify consumers of the transition to digital; requires television manufacturers to include digital tuners in all sets of a certain size sold in the United States

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Table B-2.

Continued

Bill Number (Committee)	Name	Mandate
Private-Sector Mandates Whose Costs Could Not Be Estimated (Continued)		
H.R. 6 (As introduced)	Energy Policy Act of 2005	Limits the liability of manufacturers of motor fuels in claims based on a defective product relating to motor vehicle fuel containing MTBE or renewable fuel; requires that gasoline sold in the United States contain a minimum volume of renewable fuels; increases the maximum annual premium for Nuclear Regulatory Commission (NRC) licensees from \$10 million to \$15 million; requires users of the bulk-power system to comply with standards issued by the newly established Electric Reliability Organization (ERO); directs the ERO to assess fees to cover the costs of implementing and enforcing its standards; imposes energy conservation standards for household appliances; limits the types of fuels that may be used to comply with environmental standards; directs the NRC to issue new security regulations for the operation of nuclear facilities and the transport of nuclear materials; extends indefinitely the NRC's current authority to charge annual fees to offset 90 percent of its net appropriation
H.R. 800	Protection of Lawful Commerce in Arms Act	Prohibits the private sector from pursuing lawsuits against certain manufacturers or sellers of firearms and ammunition products and related trade associations when such products are used unlawfully to do harm
H.R. 1640	Energy Policy Act of 2005	Limits the liability of manufacturers of motor fuels in claims based on a defective product relating to motor vehicle fuel containing MTBE or renewable fuel; requires that gasoline sold in the United States contain a minimum volume of renewable fuels; bans the use of MTBE in gasoline effective no later than December 31, 2014; requires users of the bulk-power system to comply with new standards and pay fees to cover the costs of regulation; imposes new energy conservation standards for household appliances; limits the types of fuels that may be used to comply with environmental standards; directs the Nuclear Regulatory Commission (NRC) to issue new security regulations for the operation of nuclear facilities and the transport of nuclear materials; extends indefinitely the NRC's current authority to charge annual fees to offset 90 percent of its net appropriation

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Table B-2.

Continued

Bill Number (Committee)	Name	Mandate
Private-Sector Mandates Whose Costs Could Not Be Estimated (Continued)		
H.R. 2491	International Solid Waste Importation and Management Act of 2005	Requires the Environmental Protection Agency to issue regulations to implement and enforce the Agreement Concerning the Transboundary Movement of Hazardous Waste between the United States and Canada, which may impose new requirements on waste management companies
H.R. 2791	United States Patent and Trademark Fee Modernization Act of 2005	Establishes and increases fees for certain patent and trademark services
H.R. 3100	East Asia Security Act of 2005	Imposes certain sanctions on foreign nationals that the President has identified as having exported certain military or defense articles or technologies to China
S. 858	Nuclear Fees Reauthorization Act of 2005	Extends the Nuclear Regulatory Commission’s current authority to charge annual fees to offset 90 percent of its net appropriation through 2011
S. 1053	527 Reform Act of 2005	Requires television broadcast stations and providers of cable or satellite television service to charge the lowest unit rate to candidates and to extend those rates to a national committee of a political party on behalf of the candidate; prohibits the broadcast stations from preempting political advertising by a candidate or the national party except in the case of circumstances beyond the control of the licensee; changes the definition of a political committee to include certain organizations defined in section 527 of the Internal Revenue Code, which would require those organizations to register with and provide reports to the Federal Election Commission (FEC); requires political committees to revise the way in which their expenses are allocated and reported to the FEC

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Table B-2.**Continued**

Bill Number (Committee)	Name	Mandate
Private-Sector Mandates Whose Costs Could Not Be Estimated (Continued)		
S. 1567	Surface Transportation Safety Improvement Act of 2005	Imposes numerous requirements related to safety and consumer protection on entities in the transportation industry—manufacturers of motor vehicles, motor carriers, shippers and carriers of hazardous materials, and businesses involved in the transportation of household goods
S.J. Res. 18	A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003	Renews for one year the ban on all imports from Burma

Source: Congressional Budget Office.

Note: n.a. = not applicable; GSE = government-sponsored enterprise; MTBE = methyl tertiary butyl ether; FCC = Federal Communications Commission; CFTC = Commodity Futures Trading Commission; H-1B workers = skilled foreigners who are admitted temporarily to the United States to work for U.S. employers; L-1 visa workers = skilled foreigners who are temporarily admitted to the United States to work for their employer (intracompany transferee).

- a. In 2005, the threshold for private-sector mandates under the Unfunded Mandates Reform Act, which is adjusted annually for inflation, was \$123 million.
- b. Provisions of the reconciliation recommendations of the House committees were collected in H.R. 4241, the Deficit Reduction Act of 2005.
- c. Provisions of the reconciliation recommendations of the Senate committees were collected in S. 1932, the Deficit Reduction Act of 2005.

The Unfunded Mandates Reform Act: A Review

The Unfunded Mandates Reform Act (UMRA) comprises four titles that address how various parts of the federal government should handle proposed and existing mandates imposed on state, local, and tribal governments and the private sector.

- *Title I, Legislative Accountability and Reform*, requires CBO and authorizing committees in the Congress to develop and report information about the existence and costs of mandates in proposed legislation. It also establishes a mechanism for bringing that information to the attention of the Congress before such legislation is considered on the floor of the House or Senate.
- *Title II, Regulatory Accountability and Reform*, applies to actions of federal agencies in implementing federal law. It requires most agencies in the executive branch (except some independent regulatory agencies) to assess the effects of their regulatory actions on state, local, and tribal governments and on the private sector. It also requires that statements about such effects accompany certain significant regulations, that agencies seek input from other levels of government in developing regulations, and that agencies consider alternatives that would ease the financial burden of regulations.
- *Title III, Review of Federal Mandates*, required the now-defunct Advisory Commission on Intergovernmental Relations (ACIR) to prepare three reports: a baseline study of the costs and benefits of federal mandates imposed on state, local, and tribal governments; a review of the impact of unfunded federal mandates on those governments, along with recommendations for easing, consolidating, or terminating mandates; and an annual report identifying federal court rulings that required state, local, or tribal governments to undertake additional responsibilities and activities.¹
- *Title IV, Judicial Review*, allows for limited judicial review of certain actions by agencies and of rules developed under title II of UMRA.

CBO's Responsibilities Under UMRA

The law requires CBO to give any authorizing committee that reports a bill a statement about the direct costs of any mandates that CBO identifies in the bill. If the total direct costs of all mandates in the bill are above a specific threshold in any of the first five fiscal years in which the mandates would be in effect, CBO must provide an estimate of those costs (if feasible) as well as describe the basis of its estimate.

The mandate statement that CBO prepares must also assess whether the bill authorizes or otherwise provides funding to cover the costs of any new federal mandate. In the case of intergovernmental mandates, the cost statement must, under certain circumstances, estimate the appropriations needed to fund such authorizations for up to 10 years after the mandate takes effect. If CBO cannot estimate the cost of a mandate, its statement must indicate that such an estimate is not feasible and explain why.

Conference committees must “to the greatest extent practicable” ensure that CBO prepares statements for conference agreements or amended bills if those measures contain mandates that were not previously considered by either the House or Senate. Such statements are also required for conference agreements or amended bills if the mandates they contain would impose greater direct costs than those imposed by the version of the legislation considered earlier.

1. ACIR completed and released the report on judicial mandates in July 1995. In January 1996, the commission published a preliminary report on the impact of federal mandates imposed on state and local governments. ACIR received no appropriations after fiscal year 1996 and was terminated at the end of that year.

The Congress may also call on CBO to prepare analyses at other stages of the legislative process. If assistance is requested by the Chairman or Ranking Member of a committee, CBO will help analyze the impact of proposed legislation, conduct special studies of legislative proposals, or compare a federal agency's estimate of the costs of proposed regulations to implement a federal mandate with CBO's estimate of those costs (which is made when the mandate is considered by the Congress).

Thresholds Used in UMRA

In 1996, UMRA set the threshold for costs imposed by intergovernmental mandates at \$50 million with an annual adjustment for inflation. In CBO's estimation, the threshold for fiscal year 2005 was \$62 million. For private-sector mandates, the annual cost threshold in 1996 was \$100 million; by 2005, after adjusting for inflation, the threshold had grown to \$123 million.

Responsibilities of Congressional Committees

In general, when an authorizing committee reports a bill or joint resolution that contains a federal mandate, the report must identify and describe that mandate and include a statement from the Director of CBO about its estimated costs. If that statement cannot be published with the report, the committee is responsible for ensuring that it is published in the *Congressional Record* before the bill or resolution is considered on the floor of the House or Senate. The committee is responsible for promptly providing CBO with a copy of the bill and for identifying any mandates it contains. (In practice, CBO reviews each bill approved by authorizing committees to identify mandates and estimate their costs.)

In addition to CBO's statement, the committee's report must contain a qualitative—and, if practical, quantitative—assessment of the costs and benefits expected to result from the mandates (including the effects on health, safety, and the protection of the environment). The committee must also state the degree to which a federal mandate affects both the public and private sectors and estimate the impact on the competitive balance between entities in those sectors that would result if federal payments were made to compensate for costs imposed on the public sector.

If the bill would impose an intergovernmental mandate, the committee's report must contain a statement of how that mandate would be funded by the federal government, whether the committee intends that the mandate be partially or fully funded, how the funding mechanism relates to the expected direct costs that the respective levels of government might incur, and whether any source of funds exists besides those already identified that would help governments meet the mandate's direct costs.

For amended bills, joint resolutions, and conference reports, the conference committee must ensure, to the greatest extent possible, that the Director of CBO provides a mandate statement if the amended measure contains a federal mandate that had not been previously considered by either body or if the measure contains provisions that would increase the direct costs of a previously considered mandate.

If a bill or joint resolution would cap or reduce federal spending for a large entitlement program, the authorizing committee must specifically say how it intends the states to implement the change and to what extent the legislation provides additional flexibility, if any, to offset states' costs.

Finally, authorizing committees are required, in their annual views and estimates reports to the budget committees, to identify proposals they plan to consider that would have a significant budgetary or financial impact on state, local, or tribal governments or the private sector.

Enforcement Provisions of Title I

Section 425 of the Congressional Budget and Impoundment Control Act of 1974 (Congressional Budget Act), as amended by UMRA, sets out rules for both the House and Senate that enforce the requirements of title I of UMRA. Subsection (a)(1) prohibits the consideration of a reported bill unless the committee has published a statement by CBO about the costs of any mandates. (If CBO provides a statement for intergovernmental mandates but determines that a cost estimate is not feasible, the bill is not in order—that is, it is as if no CBO statement had been provided.)

Subsection (a)(2) prohibits the consideration of any bill, amendment, motion, or conference report that would increase the direct costs of intergovernmental mandates by more than the statutory threshold provided in UMRA—

unless the legislation provides direct spending authority or authorizes appropriations sufficient to cover those costs. If the bill authorizes the appropriation of funds to pay for an intergovernmental mandate, it must also provide a way to terminate or scale back the mandate if the appropriated funds are not sufficient to cover those costs. In such cases, authorizations of appropriations would have to be specified for each year (up to 10 years) after the effective date of the mandate; in the Senate, authorizations would also have to be consistent with the estimated costs of the mandate as determined by the Senate Committee on the Budget. That provision applies to bills that impose new mandates as well as ones that increase the cost of existing mandates.

Finally, although UMRA does not specifically require CBO to analyze the cost of mandates in appropriation bills, subsection (c) of section 425 prohibits the consideration of legislative provisions in appropriation bills (or amendments to them) that increase the direct costs of intergovernmental mandates unless an appropriate CBO statement is provided.

Those rules are not self-enforcing; a Member must raise a point of order to enforce them. In the House, if a Member raises a point of order against a bill, the full House votes on whether to consider the bill regardless of whether there is a violation. In the Senate, if a point of order is raised, the bill may not be considered unless either the Senate waives the point of order or it is overturned by the chair or the full Senate. For more information about points of order, see House Committee on Rules, *The Unfunded Mandate Point of Order*, Parliamentary Outreach Program Newsletter, vol. 106, no. 11 (June 18, 1999), available at www.rules.house.gov/POP/pop106_11.htm.

Appropriation Bills

As noted above, UMRA does not expressly require CBO to prepare mandate statements for appropriation bills, and CBO has never done so. In general, UMRA's points of order do not apply to the provisions of bills or resolutions reported by the appropriations committees (except legislative provisions), even if those provisions would increase the direct costs of an intergovernmental mandate without providing funding and do not have a mandate statement.²

Key Terms

The following terms, which are discussed generally in order of importance, are key to understanding how CBO identifies mandates under UMRA.

Mandate

The law defines a mandate as any provision in legislation, statute, or regulation that would impose an enforceable duty on state, local, or tribal governments or the private sector or that would reduce or eliminate the amount of funding authorized to cover the costs of existing mandates. Duties that arise as a condition of federal assistance or as a result of participating in a voluntary federal program are not mandates.

Mandates in Large Entitlement Grant Programs

Conditions that are attached to federal grant programs are not generally considered mandates under UMRA. In the case of some large entitlement programs, however, a new condition for receiving a grant or a reduction in federal financial assistance may be a mandate if states lack the flexibility to offset the new costs or the loss of federal funding by reducing costs elsewhere in the program. UMRA defines a large entitlement program as a "federal program under which \$500 million or more is provided annually to state, local, or tribal governments under entitlement authority." Today, those programs include Medicaid; Temporary Assistance for Needy Families; child nutrition programs; Food Stamps; the Social Services Block Grant; Vocational Rehabilitation State Grants; grants for foster care, adoption assistance, and independent living; family support payments for the Job Opportunities and Basic Skills program; and Child Support Enforcement. The special definition would also apply to any new entitlement programs that the Congress created that provided \$500 million or more annually to state, local, or tribal governments.

Preemptions

In CBO's view, a mandate may be a positive or negative duty. Thus, if a legislative proposal expressly limited or prohibited state or local regulatory activities, CBO would consider such a limitation to be an enforceable duty on

2. In many cases, it is not clear what constitutes a legislative provision in an appropriation bill. Therefore, CBO prepares mandate statements for those bills only when requested. On an informal basis, however, CBO reviews all appropriation bills as they move through the legislative process and alerts the appropriations clerks if it identifies any intergovernmental mandates.

those levels of government. Consequently, it considers preemptions to be mandates as defined by UMRA.

Taxes

When the federal government assesses a tax, it uses its sovereign power to impose an enforceable duty on those affected by the tax. As such, taxes are considered mandates.

The Congressional Budget Act requires the Joint Committee on Taxation (JCT) to provide revenue estimates for all tax legislation considered by either the House or the Senate. In addition, JCT examines legislative provisions that affect the tax code to identify federal mandates and estimate their costs. Such information is incorporated in CBO's mandate statements.

Direct Costs

The term "direct costs" means the total estimated amount that the private sector or state, local, and tribal governments would be required to spend to comply with a mandate. Such costs are limited to spending that results directly from the enforceable duty imposed by the legislation rather than from the legislation's broad effects on the economy. The direct costs of a mandate also include any amounts that state and local governments are prohibited from raising in the form of revenues to comply with the mandate. Under UMRA, direct costs must be measured on a net incremental basis—that is, the costs above those required to carry out applicable laws, regulations, or professional standards that are in effect when the federal mandate is adopted, minus any direct savings related to the mandate that would result from the proposed legislation.

Because the term "mandate" is defined narrowly, the budgetary impacts that legislation imposes on other governments or the private sector are not all the result of mandates as defined by UMRA. For example, as noted earlier, any costs associated with complying with grant conditions for most new or existing programs are not considered mandate costs under UMRA. Most of the nonmandate costs for other governments or the private sector that CBO identifies when reviewing bills would result from conditions for receiving federal aid or participating in voluntary federal programs.

Determining what constitutes a mandate under UMRA is not a straightforward task. Although an activity (such

as sponsoring an immigrant's entry into the United States) may be voluntary, the federal program that governs such activity (immigration laws) is not. In that instance, a bill imposing new requirements on sponsors of immigrants would constitute a mandate under UMRA. In contrast, other federal programs in which participation is voluntary may impose requirements on their participants that, by UMRA's definition, are not mandates. For example, the National Salvage Motor Vehicle Consumer Protection Act of 1999 (S. 655) contained no intergovernmental mandates, according to CBO. The bill would have imposed additional requirements on states that chose to participate in the National Motor Vehicle Title Information System and additional costs, including higher annual operating expenses and onetime charges to modify vehicle titles and print new forms—which together might have exceeded several million dollars for participating states. Distinctions between what is voluntary in a piece of legislation and what is mandatory are not always clear. But state, local, and tribal governments may incur significant costs under a proposed law when they participate voluntarily. CBO identifies those costs whenever possible.

State, Local, and Tribal Governments

Section 421(12) of the Congressional Budget Act defines "state" as one of the following: a state of the United States, the District of Columbia, a territory or possession of the United States, or an agency, instrumentality, or fiscal agent of a state. According to section 421(8), "local government" is defined as a unit of general local government, a school district, or other special district established under state law.

Section 421(13) defines "tribal government" as an Indian tribe, band, nation, or other organized group or community that is recognized as eligible for special programs and services provided by the United States to Indians because of their special status as Indians. The term also includes Alaskan native villages and regional or village corporations as established in the Alaska Native Claims Settlement Act.

Private Sector

UMRA defines the "private sector" as all people or entities in the United States, including individuals, partnerships, associations, corporations, and educational and nonprofit institutions but excluding state, local, and tribal governments.

Exclusions

In enacting UMRA, the Congress acknowledged that instances might arise in which budgetary considerations—such as who should bear the costs of legislation—should not be part of the debate about a legislative proposal. For that reason, not all legislation is subject to UMRA's requirements. Section 4 of the law excludes bills or provisions from consideration under UMRA if they:

- Enforce the constitutional rights of individuals,
- Establish or enforce statutory rights that prohibit discrimination,
- Provide emergency aid at the request of another level of government,
- Require compliance with accounting and auditing procedures for grants,
- Are necessary for national security or the ratification of a treaty, or
- Relate to programs under title II of Social Security (Old-Age, Survivors, and Disability Insurance benefits).

About 2 percent of the bills that CBO reviews each year contain provisions that fit within those exclusions, but in general, such provisions—even those related to national security or Social Security—do not contain costly mandates. Some of them—for example, the election reform bills enacted in 2001, which concerned the constitutional right of citizens to vote—do impose costly requirements on state and local entities. Nevertheless, because of the scope of UMRA's exclusions, CBO does not estimate those costs as part of its review, and the requirements are not subject to the points of order established by the mandates law.

Changes to UMRA

The Unfunded Mandates Reform Act has increased both the demand for and the supply of information regarding the costs of federal mandates, and that information has played a role in the Congress's debates and decisions. Over the past 10 years, the Congress has enacted changes to provide additional information under the law, and a number of proposals have been put forward to expand or

change title I, largely in an effort to broaden the law's scope or clarify certain key definitions.

Amendments to UMRA Since 1996

To date, lawmakers have made one change to UMRA that relates to the amount of information provided to the Congress and one change that addresses the number of votes necessary to waive a point of order raised in the Senate. The State Flexibility Clarification Act of 1999 (P.L. 106-141) requires authorizing committees and CBO to provide more information in committee reports and mandate statements for legislation that would affect certain large entitlement grant programs, such as Medicaid and the Food Stamp program. In general, that requirement for additional information applies to few bills, and in those cases, CBO has provided such information.³

The Congressional budget resolution (H. Con. Res. 95) for fiscal year 2006 increased the number of votes necessary to waive a point of order under UMRA in the Senate from a simple majority to a 60-vote supermajority.⁴ The resolution extended the supermajority enforcement of waivers and appeals to the points of order associated with unfunded mandates—provided for in sections 425(a)(1) and (2) of the Congressional Budget Act of 1974—for five years until September 30, 2010.

Proposed Changes to UMRA

Since UMRA's enactment, lawmakers and other interested parties have proposed several additional ways to expand or change title I. Most such proposals seek to increase the types of bills that would be subject to UMRA's cost-estimating and point-of-order provisions. One proposal would build on UMRA's perceived success in focusing Congressional attention on unfunded intergovernmental mandates by expanding the law to allow for a point of order against bills that contain private-sector mandates whose costs exceed the statutory threshold. (The act established such a point of order for intergovernmental mandates.) That kind of expansion would create an additional hurdle for private-sector mandates and could increase the demand for information about their costs.

3. See, for example, CBO's cost estimate for the reconciliation recommendations of the House Committee on Ways and Means, October 28, 2005 (available at www.cbo.gov/showdoc.cfm?index=6821&sequence=0).

4. The conference report for House Concurrent Resolution 95 was agreed to in the House and Senate on April 28, 2005.

Another proposal would expand UMRA's definition of a mandate so that a change to an entitlement program that imposed new conditions on states or that decreased federal funding by more than the UMRA threshold would constitute an intergovernmental mandate unless the bill making the change also gave states and localities additional flexibility to offset the new costs. Both of those proposals were included in the Mandates Information Act, which was considered by the 105th and 106th Congresses and introduced in the 107th Congress—but was not enacted.

Other proposals to change or expand UMRA have included broadening the definition of an intergovernmental mandate to include new conditions on any existing grant program; narrowing the exclusions discussed above to ap-

ply only to the provisions allowing for a point of order and not to the requirement that CBO provide cost information; and eliminating the threshold so that any mandate—regardless of its costs—could trigger a point of order. Such a change would allow a point of order to be raised whenever the Congress was considering bills that would preempt state and local authority. As noted above, most such preemptions would impose few or no costs on states and localities.

From CBO's perspective, clarifications to UMRA that would assist in the preparation of mandate statements include defining more clearly what constitutes a "voluntary federal program" and clarifying how the costs of extending an existing mandate should be calculated.

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