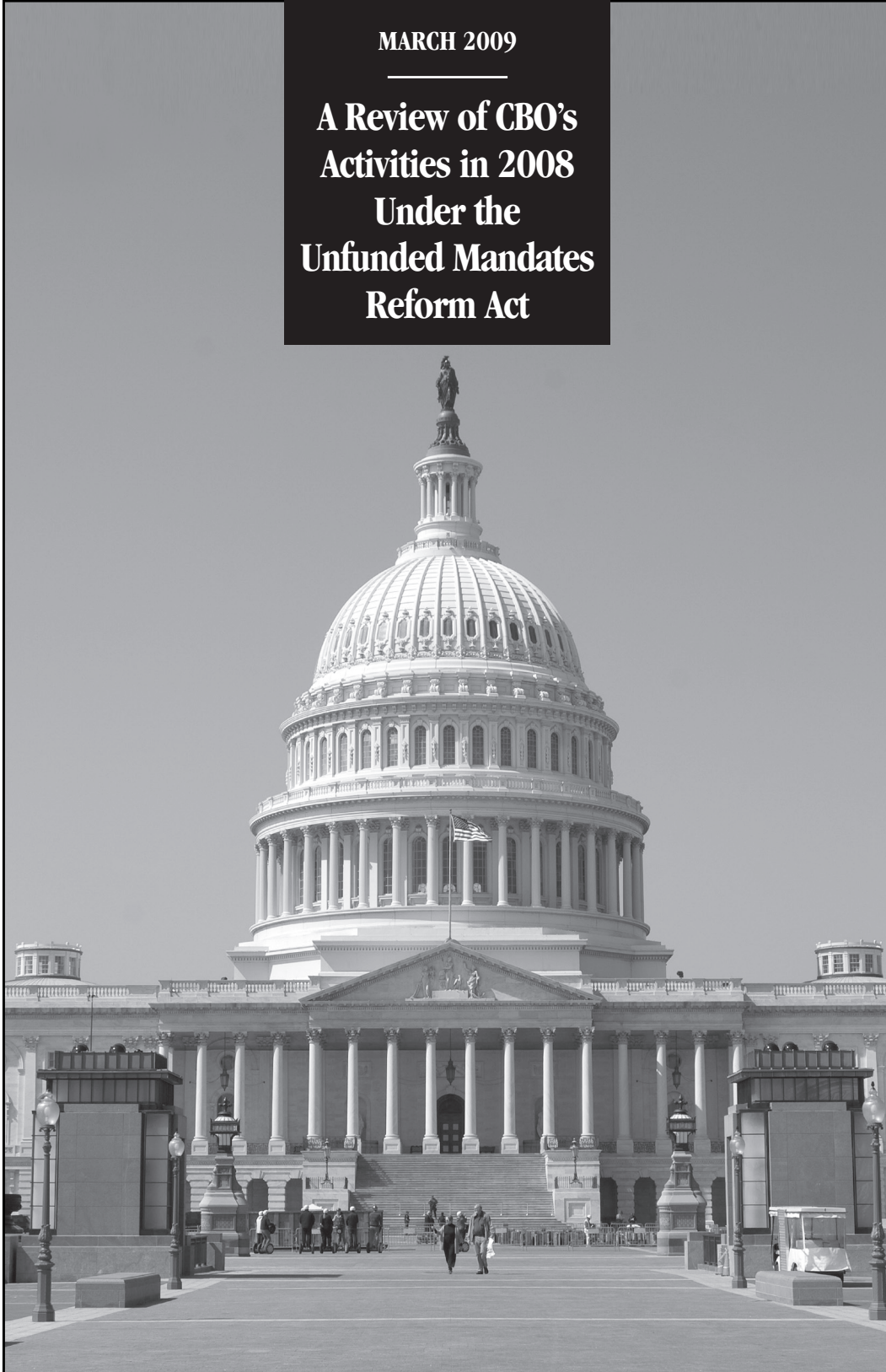


CONGRESS OF THE UNITED STATES
CONGRESSIONAL BUDGET OFFICE

A
CBO
REPORT

MARCH 2009

**A Review of CBO's
Activities in 2008
Under the
Unfunded Mandates
Reform Act**





A Review of CBO's Activities in 2008 Under the Unfunded Mandates Reform Act

March 2009

Note

In this report, thresholds are calculated on a fiscal year basis; tables reflect calendar years.



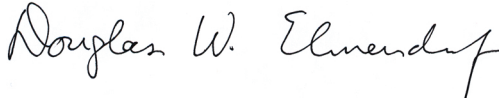
Preface

In this report, part of an annual series that began in 1997, the Congressional Budget Office (CBO) reviews its activities under the Unfunded Mandates Reform Act of 1995. The report covers public laws enacted and legislation considered by the Congress in 2008 that would impose federal mandates on state, local, or tribal governments or on the private sector.

The report was prepared by Leo Lex, chief of the State and Local Government Cost Estimates Unit of CBO's Budget Analysis Division, under the supervision of Theresa Gullo and Pete Fontaine; and by Patrice Gordon, chief of the Private-Sector Mandates Unit of CBO's Micro-economic Studies Division, under the supervision of Joseph Kile.

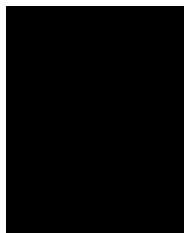
The CBO staff members who prepare the analyses of federal mandates in legislative proposals are listed in Appendix C. Those individuals also assisted in the preparation of this report.

Leah Mazade edited the report, and Christine Bogusz proofread it. Maureen Costantino took the cover photograph and, with the assistance of Donald Price, prepared the report for publication. Lenny Skutnik printed the initial copies, Linda Schimmel handled the print distribution, and Simone Thomas prepared the electronic version for CBO's Web site (www.cbo.gov).



Douglas W. Elmendorf
Director

March 2009



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A Review of CBO's Activities in 2008 Under the Unfunded Mandates Reform Act

The federal government—through laws and regulations—sometimes requires that state, local, and tribal governments and various entities in the private sector expend resources to achieve national goals. In 1995, the Congress enacted and the President signed the Unfunded Mandates Reform Act (UMRA) to ensure that, during the legislative process, the Congress receives information about potential federal mandates before passing a piece of legislation.

UMRA defines a legislative provision as a mandate if that provision, when enacted, would:

- Impose an enforceable duty on state, local, or tribal governments or on the private sector;¹
- Reduce or eliminate funding authorized to cover the costs of existing mandates; or
- Increase the stringency of conditions that apply to certain mandatory programs or make cuts in federal funding for those programs.

Duties imposed as conditions of federal assistance or requirements tied to participating in voluntary federal programs generally are not considered mandates as defined by UMRA.

UMRA established procedures for providing information to the Congress about proposed federal mandates on state, local, and tribal governments and on private-sector entities. The law requires the Congressional Budget Office (CBO) to prepare mandate statements for bills

that are approved by authorizing committees. In those statements, CBO must address whether the direct costs of the federal mandates in a bill would be greater than the thresholds established in UMRA and identify any funding that the bill would provide to cover those costs.² In 2008, those thresholds, which are adjusted annually for inflation, were \$68 million for intergovernmental mandates and \$136 million for private-sector mandates.³ If CBO cannot estimate the cost of a mandate, its statement must indicate that such an estimate is not feasible and explain why.

Not all legislation is subject to UMRA's requirements. In enacting the law, the Congress decided that instances might arise in which budgetary considerations—such as who would bear the costs that a law might impose—should not be part of the debate about a legislative proposal. Thus, bills and other legislation that seek to enforce constitutional or statutory rights, implement international treaty obligations, are necessary for national security, or alter provisions of the Social Security Act related to old-age, survivors', or disability benefits, among other things, are excluded from a review for mandates. (For further details, see Appendix A, which outlines UMRA's key provisions as they apply to CBO.)

In addition to the procedures UMRA established for providing information to the Congress, the law also lays out procedural rules for both the House of Representatives

1. UMRA does not define the term “enforceable duty,” but CBO has interpreted it as encompassing both required and prohibited actions by public and private entities.

2. The Joint Committee on Taxation examines legislative provisions that affect the tax code to identify federal mandates and estimates their costs. CBO's mandate statements incorporate such information.

3. The intergovernmental and private-sector thresholds established in UMRA were \$50 million and \$100 million, respectively, in 1996.

and the Senate to encourage Members to take information about mandates into account when they consider legislation. Those rules are enforced through the use of points of order. A point of order can be raised in the House or Senate against the consideration of legislation if the committee reporting a bill has not published a statement by CBO on intergovernmental and private-sector mandates. In addition, Members of Congress may raise a point of order against legislation that seeks to create an intergovernmental mandate with costs above the threshold specified in UMRA—unless the legislation authorizes or provides funding to cover those costs. If a point of order is raised under UMRA, each chamber resolves the issue according to its established rules and procedures.

CBO prepares a mandate statement at some point during the legislative process for most of the legislation considered by the Congress. In some instances, though, as noted in the tables that are part of this report, CBO does not review a mandate prior to its enactment. That situation may occur when legislation is passed without being considered by a committee (the point at which CBO generally provides its estimates); when a bill is amended, after CBO's review, on the floor or in conference to include a provision that contains a mandate; or, in some cases, when a mandate is included in an appropriation bill, which are not routinely reviewed by CBO for mandates under UMRA.

The number of bills or other legislative proposals that contain mandates and the number of individual mandates that appear in proposed legislation generally differ. Because the House and the Senate may consider the same or similar mandates in more than one piece of legislation, the number of bills that contain mandates can exceed the number of individual mandates considered by the Congress in any given year. Conversely, because one bill may contain several mandates, the number of mandates can exceed the number of bills.

The tables in this report identify mandates in public laws and in other legislation considered by the Congress in 2008:

- Table 1 is a tally of mandates in public laws enacted in 2008;
- Table 2 on page 4 and Table 3 on page 9 list laws enacted in 2008 that contained intergovernmental and private-sector mandates;
- Table 4 on page 16 and Table 5 on page 17 list the individual mandates that CBO reviewed in 2008 whose costs would or could exceed UMRA's thresholds;
- Table 6 on page 21 is a tally of CBO's mandate statements between 2004 and 2008; and
- Table 7 on page 22 and Table 8 on page 28 list the bills and proposals CBO reviewed under UMRA in 2008 that contained mandates.

Most of the legislation that the Congress considered last year did not contain federal mandates as defined in UMRA. That finding is consistent with experience under the law since its enactment; on average, CBO has reviewed about 580 pieces of legislation each year and identified intergovernmental and private-sector mandates in an average of 13 percent and 16 percent of them, respectively. In 2008, just over 8 percent of the legislation that CBO reviewed contained intergovernmental mandates, and 14 percent contained private-sector mandates (see Tables 7 and 8). Again, consistent with experience, lawmakers enacted few mandates last year whose costs, in CBO's estimation, exceeded UMRA's thresholds. Only a small fraction of the public laws enacted since UMRA became effective in 1996 have contained federal mandates with costs estimated to exceed the threshold. (Appendix B lists those mandates.)

Table 1.**Summary of Laws Enacted in 2008 That Contained Mandates**

In 2008, the Congress and the President enacted 285 public laws. Nineteen contained at least one intergovernmental mandate as defined in UMRA, and 29 contained one or more private-sector mandates. In all, those new laws contained only 1 intergovernmental and 15 private-sector mandates with costs that exceeded the statutory thresholds in UMRA of \$68 million and \$136 million, respectively. CBO could not determine whether costs for another 13 private-sector mandates would be above or below the threshold. (For the number of intergovernmental and private-sector mandates enacted during the 2004–2008 period with estimated costs that exceeded the thresholds, see Table B-1 in Appendix B.)

	Intergovernmental Mandates	Private-Sector Mandates
Laws That Contained Mandates	19	29
Total Mandates Enacted	40	64
Mandates whose costs exceed the statutory threshold	1	15
Mandates whose costs may be above or below the statutory threshold	0	13

Source: Congressional Budget Office.

Note: UMRA = Unfunded Mandates Reform Act.

Table 2.

Laws Enacted in 2008 That Contained Intergovernmental Mandates

CBO estimates that most intergovernmental mandates—those that impose duties on state, local, or tribal governments—enacted in 2008 will not impose significant costs on those governments. Of the 40 intergovernmental mandates enacted in 19 laws during 2008, only 1 has costs that CBO estimates will exceed the threshold established in UMRA (for 2008, \$68 million). That mandate requires commuter railroads to install train-control technology and is shown in the table in bold-faced type for Public Law 110-432. (Mandates contained in that law and in others that have costs below the threshold are shown in the regular font.) Only 11 intergovernmental mandates with costs estimated to exceed the annual threshold have been enacted since UMRA became effective in 1996.

Public Law	Title of Legislation	Description of Mandate	Was Mandate Reviewed by CBO Before Enactment? ^a
Laws Containing Intergovernmental Mandates with Costs Above the Statutory Threshold			
110-432	Railroad Safety Improvement Act of 2008	Requires commuter railroads to install train-control technology	No
		Requires railroads to limit the number of hours worked by employees, certify and train employees, comply with new safety standards and procedures, and report information about grade crossings	Yes
		Preempts state laws that require railroads to use certain technology at highway-rail crossings	Yes
		Preempts state laws that require operators of solid-waste facilities to secure a permit before operating such facilities	Yes
Laws Containing Intergovernmental Mandates with Costs Below the Statutory Threshold			
110-181	National Defense Authorization Act for Fiscal Year 2008	Prohibits defense contractors from hiring senior Department of Defense officials within two years after those officials leave the department without first ensuring that the officials have received permission from an ethics board to accept a position	No
		Increases the number of reservists and active-duty service members in the armed forces, thus increasing the cost of existing mandates	Yes
		Requires state, local, and tribal governments, as employers, to comply with new leave requirements under the Family and Medical Leave Act	Yes

Continued

Table 2.

Continued

Laws Enacted in 2008 That Contained Intergovernmental Mandates

Public Law	Title of Legislation	Description of Mandate	Was Mandate Reviewed by CBO Before Enactment? ^a
Laws Containing Intergovernmental Mandates with Costs Below the Statutory Threshold (Continued)			
110-182	An act to extend the Protect America Act of 2007 for 15 days	Preempts legal rights of action	No
		Extends the authority of federal law enforcement to compel providers of communications services to release information about customers and users	No
110-193	An act to make technical corrections to the Federal Insecticide, Fungicide, and Rodenticide Act	Increases registration fees for pesticides	No
110-229	Consolidated Natural Resources Act of 2008	Preempts immigration laws of the Commonwealth of the Northern Mariana Islands	Yes
		Requires the Commonwealth of the Northern Mariana Islands to enforce a cap on the number of alien workers in the commonwealth until the federal immigration requirements in this law go into effect	Yes
		Requires the Commonwealth of the Northern Mariana Islands to operate its refugee program in compliance with an expired agreement with the Department of the Interior	Yes
		Requires the Commonwealth of the Northern Mariana Islands to provide certain information to the Department of Homeland Security	Yes
110-233	Genetic Information Nondiscrimination Act of 2008	Restricts how states may use genetic information in employment practices and in the provision of health care to employees	Yes
110-246 ^b	Food, Conservation, and Energy Act of 2008	Increases the stringency of certain conditions of assistance under the Supplemental Nutrition Assistance Program (formerly known as the Food Stamp program)	Yes
		Subjects property—including state, local, and tribally owned property—to inspections by the Secretary of Agriculture without a warrant if the Secretary believes there to be a noxious weed or livestock pest on the property	Yes

Continued

Table 2.**Continued****Laws Enacted in 2008 That Contained Intergovernmental Mandates**

Public Law	Title of Legislation	Description of Mandate	Was Mandate Reviewed by CBO Before Enactment?^a
Laws Containing Intergovernmental Mandates with Costs Below the Statutory Threshold (Continued)			
110-261	FISA Amendments Act of 2008	Preempts legal rights of action	Yes
		Extends the authority of federal law enforcement to compel providers of communications services to release information about customers and users	Yes
110-273	District of Columbia Water and Sewer Authority Independence Preservation Act	Provides Congressional consent to an agreement between the District of Columbia Water and Sewer Authority (WASA) and the District's chief financial officer (CFO) that states that the CFO will not exercise authority over WASA. The law goes beyond simple consent and contains language that imposes some terms of the agreement	No
110-275	Medicare Improvements for Patients and Providers Act of 2008	Requires states to revise regulatory laws to comply with standards approved by the National Association of Insurance Commissioners	No
110-283	NET 911 Improvement Act of 2008	Limits certain fees on communications services that use a voice-over-Internet protocol (VoIP)	Yes
		Preempts state liability laws	Yes
110-289	Housing and Economic Recovery Act of 2008	Requires state regulators to ensure that mortgage originators who apply for state licenses or renewals meet minimum standards	Yes
		Allows the Federal Housing Finance Agency to take actions that do not comply with state law and preempts some state statute-of-limitation and contract laws	Yes
110-297	Soboba Band of Luiseno Indians Settlement Act	Restricts the tribe's ability to use and lease water	Yes
110-314	Consumer Product Safety Improvement Act of 2008	Preempts product safety standards of the Commonwealth of the Northern Mariana Islands	No

Continued

Table 2.

Continued

Laws Enacted in 2008 That Contained Intergovernmental Mandates

Public Law	Title of Legislation	Description of Mandate	Was Mandate Reviewed by CBO Before Enactment? ^a
Laws Containing Intergovernmental Mandates with Costs Below the Statutory Threshold (Continued)			
110-315	Higher Education Opportunity Act	Requires that schools with tuition and fee increases placing them in the top 5 percent of all schools on such measures submit a description of the reasons behind the increases to the Secretary of Education	Yes
		Requires publishers of college textbooks, including university presses, to provide certain information to professors and to unbundle course materials if requested to do so	Yes
		Requires lenders that offer private education loans to disclose certain information to borrowers at several stages of the loan application process	Yes
		Prohibits lenders from charging borrowers fees for early loan repayment, offering gifts to schools, or using school logos and symbols in loan information and marketing materials	Yes
		Requires schools annually to disclose reimbursements they receive for service on lenders' advisory boards	Yes
		Requires schools to readmit members of the armed forces who have taken a service-related leave	No
110-329	Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009	Extends patent fees	No
		Requires officials in the District of Columbia to submit reports to the Congress	No
		Preempts the authority of states to regulate the sale of ammonium nitrate in a manner that is less stringent than the requirements of the public law	Yes
110-351	Fostering Connections to Success and Increasing Adoptions Act of 2008	Increases the stringency of conditions of assistance under the Foster Care and Adoption Assistance Programs	Yes

Continued

Table 2. **Continued**
Laws Enacted in 2008 That Contained Intergovernmental Mandates

Public Law	Title of Legislation	Description of Mandate	Was Mandate Reviewed by CBO Before Enactment? ^a
Laws Containing Intergovernmental Mandates with Costs Below the Statutory Threshold (Continued)			
110-425	Ryan Haight Online Pharmacy Consumer Protection Act of 2008	Preempts state regulation of controlled substances that are distributed or dispensed via the Internet	Yes
110-457	William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008	Requires state and local officials to notify the Secretary of Health and Human Services within 72 hours if they have reason to believe a person may be a juvenile victim of human trafficking	Yes
		Requires state and local governments to give the Secretary of Health and Human Services access to law enforcement and immigration databases to ensure a custodian's suitability before placement of a child	Yes

Source: Congressional Budget Office.

Note: UMRA = Unfunded Mandates Reform Act; FISA = Foreign Intelligence Surveillance Act; NET = New and Emerging Technologies.

- a. In some cases, mandates may have been reviewed in 2007, during the first session of the 110th Congress.
- b. Public Law 110-246 repealed Public Law 110-234 and amendments made to it, effective on the date of enactment of Public Law 110-246. The mandates in both laws were identical, so only Public Law 110-246 is listed here.

Table 3.**Laws Enacted in 2008 That Contained Private-Sector Mandates**

Of the public laws enacted in 2008, 29 contained one or more private-sector mandates, for a total of 64 such mandates enacted in 2008. Eight of those 29 laws contained 15 mandates that CBO estimates will impose costs on the private sector that exceed the annual threshold established in UMRA—in 2008, \$136 million. (Those 15 mandates appear in the table in bold-faced type.) By comparison, of the public laws enacted from 2004 through 2007, 20 of them contained 30 mandates with estimated costs above the threshold.

The laws enacted in 2008 also contained 13 private-sector mandates that, in total, have costs that may be above the threshold, although CBO could not make a clear determination in those cases. (Those mandates appear in the table in italicized type.) All of the other private-sector mandates enacted in 2008, CBO estimates, will impose costs below the annual threshold established in UMRA and appear in the regular font. (Appendix B lists the intergovernmental and private-sector mandates enacted since 1996 that have estimated costs that exceed the thresholds.)

Public Law	Title of Legislation	Description of Mandate	Was Mandate Reviewed by CBO Before Enactment? ^a
Laws Containing Private-Sector Mandates with Costs Above the Statutory Threshold			
110-189	Cameron Gulbransen Kids Transportation Safety Act of 2007	Requires motor vehicles to have safety devices for power windows and to comply with a rearward visibility performance standard	Yes
		Requires motor vehicles with automatic transmissions to have an antirollaway system	Yes
110-246 ^b	Food, Conservation, and Energy Act of 2008	Extends customs user fees	Yes
		Expands requirements for country-of-origin labeling	Yes
		<i>Requires certain entities involved in foreign currency transactions at the retail level to meet new standards in order to maintain a regulatory exemption and imposes new requirements on certain markets</i>	Yes
		<i>Bans the import of timber harvested in violation of foreign laws</i>	Yes
		Extends the temporary tariff on ethanol	Yes
		Imposes reporting and inspection requirements for agricultural products, restricts certain imports, and modifies agricultural contracts	Yes

Continued

Table 3.

Continued

Laws Enacted in 2008 That Contained Private-Sector Mandates

Public Law	Title of Legislation	Description of Mandate	Was Mandate Reviewed by CBO Before Enactment? ^a
Laws Containing Private-Sector Mandates with Costs Above the Statutory Threshold (Continued)			
110-289	Housing and Economic Recovery Act of 2008	Requires Fannie Mae and Freddie Mac to contribute to a new fund for affordable housing programs	Yes
		<i>Requires the housing-related GSEs to comply with the requirements of their new regulator, the Federal Housing Finance Agency^f</i>	Yes
		<i>Requires appraisers for Federal Housing Administration properties to meet new certification standards and education requirements</i>	No
		Requires loan originators to meet registration and states' licensing requirements	Yes
		Amends the Servicemembers Civil Relief Act to lengthen (from 90 days to 9 months after a service member's military service) the protection and stay-of-proceedings periods with respect to the sale, foreclosure, or seizure of property for a breach of a mortgage obligation	Yes
110-301	Libyan Claims Resolution Act	Eliminates an existing right of action and limits possible recoveries in certain terrorism-related lawsuits against Libya	No
110-314	Consumer Product Safety Improvement Act of 2008	Requires manufacturers, distributors, retailers, and importers of consumer products to abide by new standards and labeling requirements^d	Yes
110-343	Emergency Economic Stabilization Act of 2008	Prohibits insurers from imposing treatment limits or financial requirements on mental health benefits that differ from those placed on medical and surgical benefits	Yes ^e
		Extends through 2009 the Federal Unemployment Tax Act surtax on employers	No
		Extends and increases the excise tax rate for the Oil Spill Liability Trust Fund	No
		Requires an immediate tax on deferred compensation paid by certain foreign entities	Yes ^e

Continued

Table 3.

Continued

Laws Enacted in 2008 That Contained Private-Sector Mandates

Public Law	Title of Legislation	Description of Mandate	Was Mandate Reviewed by CBO Before Enactment? ^a
Laws Containing Private-Sector Mandates with Costs Above the Statutory Threshold (Continued)			
110-343 (Continued)		Extends the excise tax on coal	Yes ^e
		Freezes the deduction allowed for income attributable to the domestic production of oil, gas, or primary products thereof and tightens the limit placed on the tax deduction allowed for foreign oil-related income	No ^{e,f}
		Requires brokers in securities transactions to report the acquisition cost of their customers' investments	Yes ^e
		<i>Could increase deposit insurance premiums for depository institutions relative to premiums being paid before the legislation was enacted</i>	Yes
110-432	Railroad Safety Enhancement Act of 2008	Requires railroad carriers to develop and install train-control technology	Yes ^g
		<i>Requires railroads to limit the number of hours worked by employees, certify and train employees, comply with new safety standards and procedures, and report certain information</i>	Yes
		Requires railroad carriers to provide emergency breathing apparatuses to crew members, comply with restrictions on mechanical and brake inspections, comply with restrictions related to sleeping quarters for railroad employees, and comply with any additional requirements imposed by the Surface Transportation Board	Yes
		Requires Amtrak to develop specific plans, comply with reporting requirements related to financial planning, standardize performance and service quality evaluations, and implement new usage agreements with various public-sector entities	Yes
110-436	An act to extend the Andean Trade Preference Act, and for other purposes	Extends the merchandise processing fee and certain customs user fees	No

Continued

Table 3.

Continued

Laws Enacted in 2008 That Contained Private-Sector Mandates

Public Law	Title of Legislation	Description of Mandate	Was Mandate Reviewed by CBO Before Enactment? ^a
Laws Containing Private-Sector Mandates Whose Costs May or May Not Exceed the Statutory Threshold			
110-182	An act to extend the Protect America Act of 2007 for 15 days	<i>Extends for an additional 15 days the authority of federal law enforcement officials to compel providers of communications services to release information about customers and to assist with electronic surveillance</i>	No
110-229	Consolidated Natural Resources Act of 2008	<i>Requires employers and aliens lawfully residing or working in the Commonwealth of the Northern Mariana Islands to comply with U.S. immigration laws; reduces the number of permits issued to employers in the commonwealth for temporary alien workers; and requires some aliens to leave the country before their visas expire</i>	Yes
110-261	FISA Amendments Act of 2008	<i>Extends the authority of federal law enforcement officials to compel providers of communications services to release information about customers and to assist with electronic surveillance</i>	Yes
		<i>Authorizes federal and state courts to dismiss civil actions, imposing a mandate on individuals who have or may bring an action against certain electronic communication providers</i>	Yes
110-283	NET 911 Improvement Act of 2008	<i>Prevents certain consumers and third-party users of VoIP services from suing VoIP providers, users, or 911 authorities, imposing a mandate on those consumers and users</i>	Yes
		Requires VoIP providers to establish a point of contact for public safety and government officials relative to 911 service	No
		Requires entities that own 911 components to allow VoIP providers to access those entities' infrastructure	Yes
110-286	Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008	<i>Expands the existing ban on imports from Burma to include certain gems (rubies and jadeite) mined in or extracted from Burma</i>	Yes

Continued

Table 3.

Continued

Laws Enacted in 2008 That Contained Private-Sector Mandates

Public Law	Title of Legislation	Description of Mandate	Was Mandate Reviewed by CBO Before Enactment? ^a
Laws Containing Private-Sector Mandates Whose Costs May or May Not Exceed the Statutory Threshold (Continued)			
110-287	Joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003	<i>Renews the ban on imports from Burma</i>	Yes
		Extends certain customs fees for one week, through October 7, 2017	No
Laws Containing Private-Sector Mandates with Costs Below the Statutory Threshold			
110-181	National Defense Authorization Act for Fiscal Year 2008	Increases the cost of an existing mandate by increasing the number of military service members eligible for protection under the Servicemembers Civil Relief Act	Yes
		Prohibits the issuance of an export license for the sale of parts for the F-14 fighter	Yes
		Prohibits defense contractors from hiring senior Department of Defense officials within two years after those officials leave the department without first ensuring that the officials have received permission from an ethics board to accept a position	No
		Requires employers to comply with new leave requirements under the Family and Medical Leave Act	No
110-188	Do-Not-Call Registry Fee Extension Act of 2007	Extends user fees for access to the Do-Not-Call Registry	Yes
110-191	Andean Trade Preference Extension Act of 2008	Extends the merchandise processing fee for two weeks, through December 27, 2014	No
110-193	An act to make technical corrections to the Federal Insecticide, Fungicide, and Rodenticide Act	Increases registration fees for pesticides	No
110-233	Genetic Information Nondiscrimination Act of 2008	Prohibits health plans and employers from discriminating against individuals on the basis of genetic information and from using genetic information to construct underwriting guidelines	Yes
110-245	Heroes Earnings Assistance and Relief Tax Act of 2008	Extends through 2008 the requirement that health plans offering mental health benefits use the same lifetime limits on those benefits as those that apply to benefits for medical and surgical treatments	Yes

Continued

Table 3. **Continued**
Laws Enacted in 2008 That Contained Private-Sector Mandates

Public Law	Title of Legislation	Description of Mandate	Was Mandate Reviewed by CBO Before Enactment? ^a
Laws Containing Private-Sector Mandates with Costs Below the Statutory Threshold (Continued)			
110-275	Medicare Improvements for Patients and Providers Act of 2008	Requires health plans that offer medigap plans to offer additional benefit packages	No
110-278	Children’s Gasoline Burn Prevention Act	Requires manufacturers of portable gasoline containers to meet child-resistant standards for closures	Yes
110-315	Higher Education Opportunity Act	Requires that schools with tuition and fee increases placing them in the top 5 percent of all schools on such measures submit a description of the reasons behind the increases to the Secretary of Education	Yes
		Requires publishers of college textbooks, including university presses, to provide certain information to professors and to unbundle course materials if requested to do so	Yes
		Requires lenders that offer private education loans to disclose certain information to borrowers at several stages of the loan application process	Yes
		Prohibits lenders from offering gifts to schools, cobranding loans with schools, or charging borrowers early-repayment fees	Yes
		Requires schools annually to disclose reimbursements they receive for service on lenders’ advisory boards	Yes
		Requires schools to readmit military service members who have taken a service-related leave	No
		110-316	Animal Drug User Fee Amendments of 2008
Requires sponsors of new animal drugs that contain active antimicrobial ingredients to submit an annual report to the Food and Drug Administration regarding the amount of those ingredients	Yes		

Continued

Table 3. **Continued**
Laws Enacted in 2008 That Contained Private-Sector Mandates

Public Law	Title of Legislation	Description of Mandate	Was Mandate Reviewed by CBO Before Enactment? ^a
Laws Containing Private-Sector Mandates with Costs Below the Statutory Threshold (Continued)			
110-381	Michelle's Law	Requires group health plans to continue the coverage of full-time students enrolled in a postsecondary institution who take a medically necessary leave of absence	Yes
110-389	Veterans' Benefits Improvement Act of 2008	Requires institutions of higher education to refund tuition and fees paid by students called to military service	Yes
		Limits the interest rate on student loans to 6 percent per year for service members during their period of military service	Yes
110-401	Providing Resources, Officers, and Technology to Eradicate Cyber Threats to Our Children Act of 2008	Requires providers of electronic communication services and remote computing services to supply additional information when reporting suspected violations of child pornography laws to the National Center for Missing and Exploited Children	Yes
110-414	Mercury Export Ban Act of 2008	Prohibits, with some exceptions, the export of elemental mercury	Yes
110-425	Ryan Haight Online Pharmacy Consumer Protection Act of 2008	Prohibits the delivery, distribution, or dispensing of a controlled substance that is a prescription drug over the Internet without a valid prescription	Yes
		Imposes registration and reporting requirements on online pharmacies that in one month dispense 100 or more prescriptions or 5,000 or more dosage units of all controlled substances combined	Yes

Source: Congressional Budget Office.

Note: UMRA = Unfunded Mandates Reform Act; FISA = Foreign Intelligence Surveillance Act; NET = New and Emerging Technologies; VoIP = voice-over-Internet protocol.

- a. In some cases, mandates may have been reviewed in 2007, during the first session of the 110th Congress.
- b. Public Law 110-246 repealed Public Law 110-234 and amendments made to it, effective on the date of enactment of Public Law 110-246. All of the mandates in Public Law 110-234 are included in Public Law 110-246, so only Public Law 110-246 is listed here.
- c. The housing-related GSEs, or government-sponsored enterprises, include Fannie Mae, Freddie Mac, and the Federal Home Loan Banks.
- d. The costs of several of the mandates in Public Law 110-314 are uncertain. However, CBO estimates that the overall cost of the mandates in the law exceeds UMRA's threshold for private-sector mandates.
- e. The Joint Committee on Taxation analyzed legislative provisions amending the Internal Revenue Code to identify private-sector mandates.
- f. The Joint Committee on Taxation reviewed a tax provision in H.R. 6275 that would have denied the deduction to major integrated oil companies and frozen the current deduction for other oil and gas producers. The provision as enacted in Public Law 110-343 freezes the deduction for all oil and gas producers (large and small). Both versions of the mandate have estimated costs that exceed the threshold.
- g. CBO reviewed this mandate as part of H.R. 2095, the Federal Railroad Safety Improvement Act of 2007.

Table 4.

Intergovernmental Mandates Reviewed by CBO in 2008 Whose Costs Would Exceed the Statutory Threshold or Whose Costs Could be Above or Below the Statutory Threshold

In 2008, CBO identified one intergovernmental mandate in legislation with costs exceeding UMRA's statutory threshold (in 2008, \$68 million). In two other cases, CBO could not determine whether the costs of the mandates would exceed the threshold because the scope of the entities that would be affected was uncertain and the nature of future regulations was unknown. None of those mandates were enacted.

Topic	Description of Mandate	Was a Version Enacted?	Did the Enacted Version Exceed the Threshold?
Intergovernmental Mandates with Costs Above the Statutory Threshold			
Sewage Overflow	Requires publicly owned treatment works to monitor, report, and notify the public and public health authorities about sewer overflows (H.R. 2452; S. 2080)	No	n.a.
Intergovernmental Mandates Whose Costs Might or Might Not Exceed the Statutory Threshold			
Commodity Investment Limits	Imposes limits on the amount of commodity-based securities that investors may hold and establishes reporting requirements for pension funds (H.R. 6604)	No	n.a.
Water Quality	Requires public water systems to monitor for perchlorate and to decrease its presence in water supplies (S. 150)	No	n.a.

Source: Congressional Budget Office.

Notes: UMRA = Unfunded Mandates Reform Act of 1995; n.a. = not applicable.

The mandates in this table were identified by the Congressional Budget Office when a bill was reported by an authorizing committee or when CBO was asked to formally review a bill. In some cases, CBO issued more than one formal mandate statement for a topic.

As noted in Table 2, one mandate with costs estimated to exceed the threshold became law in 2008: a requirement in Public Law 110-432 that commuter railroads install train-control technology. Unlike the mandates listed in this table, the mandate on commuter railroads was not reviewed by CBO prior to its enactment.

Table 5.

Private-Sector Mandates Reviewed by CBO in 2008 Whose Costs Would Exceed the Statutory Threshold or Whose Costs Could be Above or Below the Statutory Threshold

In 2008, CBO identified 19 private-sector mandates whose costs were estimated to exceed the annual threshold of \$136 million under UMRA. Seven of those mandates were enacted, as were 8 others that had not been reviewed by CBO during the course of the year. (Those mandates are identified in Table 3.) In addition, CBO identified 13 separate private-sector mandates for which the agency could not determine whether the costs would be above or below the threshold. In 6 of those instances, CBO could not determine the costs of the mandates because the mandates require regulatory action to implement and there was no basis for predicting the cost of those future regulations. In the other 7 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 costs. Two of the mandates with uncertain costs listed below were enacted.

Topic	Description of Mandate	Was a Version Enacted?	Did the Enacted Version Exceed the Threshold?
Private-Sector Mandates with Costs Above the Statutory Threshold			
Availability of Deposited Funds	Requires depository institutions to increase the amount of funds from certain deposits that must be made available for withdrawal by account holders within standard periods (H.R. 6871)	No	n.a.
Chemical Facility Security	Requires owners and operators of certain chemical facilities to submit information to the Department of Homeland Security and to take measures to protect the public from unauthorized chemical releases (H.R. 5577)	No	n.a.
Climate Change	Requires covered facilities to participate in cap-and-trade allowance programs to reduce greenhouse-gas emissions (S. 2191; S. 2191 with an amendment; S. 3036)	No	n.a.
Credit Card Regulation	Requires creditors to submit detailed information to the Board of Governors of the Federal Reserve and prohibits creditors from engaging in certain practices related to issuing credit cards and billing charges (H.R. 5244)	No	n.a.
Customs User Fees	Extends customs user fees (H.R. 2419—Conference)	Yes (P.L. 110-246) ^a	Yes
Excise Tax on Coal	Extends the excise tax on coal (H.R. 6049) ^b	Yes (P.L. 110-343) ^a	Yes
Health Information Privacy	Requires entities that handle health information to comply with new regulations related to the usage, disclosure, and privacy of such information (H.R. 6357)	No	n.a.
Housing Fund	Requires Fannie Mae and Freddie Mac to contribute to a new affordable housing fund and comply with new requirements (H.R. 3221; Senate draft bill—Federal Housing Finance Regulatory Reform Act of 2008)	Yes (P.L. 110-289) ^a	Yes

Continued

Table 5.

Continued

Private-Sector Mandates Reviewed by CBO in 2008 Whose Costs Would Exceed the Statutory Threshold or Whose Costs Could be Above or Below the Statutory Threshold

Topic	Description of Mandate	Was a Version Enacted?	Did the Enacted Version Exceed the Threshold?
Private-Sector Mandates with Costs Above the Statutory Threshold (Continued)			
Immigration/Employment Eligibility Verification	Requires employers to verify the eligibility of workers for employment (H.R. 4088)	No	n.a.
Lead Standard	Imposes reporting requirements and makes existing standards more restrictive for firms that renovate properties containing lead paint (S. 3639)	No	n.a.
Low-Noise Aircraft/Safety Standards for Helicopters	Prohibits the operation of certain aircraft that are not in compliance with low-noise standards and imposes new safety standards for equipping and operating helicopters used in medical emergencies (Senate draft bill—Aviation Investment and Modernization Act of 2008)	No	n.a.
Marine Vessel Emissions Reduction	Sets fuel and emissions standards for certain marine vessels (S. 1499)	No	n.a.
Mental Health Parity	Prohibits insurers from imposing treatment limits or financial requirements on mental health benefits that differ from those placed on medical and surgical benefits (A draft amendment provided to CBO on October 1, 2008, in the nature of a substitute for H.R. 1424)	Yes (P.L. 110-343) ^a	Yes
OCS Conservation-of-Resources Fees	Establishes a conservation-of-resources fee that applies to existing federal oil and gas leases in the Gulf of Mexico (H.R. 4074; H.R. 6899)	No	n.a.
Patent Application Procedures/Patent Infringement	Requires patent applicants and holders to submit reports and analyses, and pay fees; eliminates the remedies patent holders have with respect to financial institutions whose use of a “check collection system” constitutes patent infringement (S. 1145)	No	n.a.
Revenue-Raising Provisions: Alternative Minimum Tax Relief	Alters the tax treatment of income received by general partners in private equity and hedge funds; requires that additional information regarding the gross amount of credit and debit card transactions be reported to the Internal Revenue Service; denies the section 199 deduction for major integrated oil companies and freezes the current deduction for other oil and gas producers (H.R. 6275) ^b	Modified version of one provision related to oil and gas producers (P.L. 110-343) ^a	Yes ^c

Continued

Table 5.

Continued

Private-Sector Mandates Reviewed by CBO in 2008 Whose Costs Would Exceed the Statutory Threshold or Whose Costs Could be Above or Below the Statutory Threshold

Topic	Description of Mandate	Was a Version Enacted?	Did the Enacted Version Exceed the Threshold?
Private-Sector Mandates with Costs Above the Statutory Threshold (Continued)			
Revenue-Raising Provisions: Energy and Tax Extenders	Requires an immediate tax on deferred compensation paid by certain foreign entities; delays until 2019 the implementation of rules for allocating interest expense between domestic and foreign sources (H.R. 6049) ^b	One provision (P.L. 110-343) ^a	Yes ^d
Revenue-Raising Provisions: Housing Assistance	Requires brokers to report their customers' basis (the acquisition cost of assets) in securities transactions; delays and limits the implementation of worldwide allocation of interest expense until 2010 (H.R. 5720) ^b	One provision (P.L. 110-343) ^a	Yes ^e
Tobacco Products Regulation	Requires manufacturers and importers of tobacco products to pay fees and to abide by new content, labeling, and marketing requirements (H.R. 1108; S. 625)	No	n.a.
Private-Sector Mandates Whose Costs Might or Might Not Exceed the Statutory Threshold			
Ban Defense Exports to Pakistan	Prohibits export of major defense equipment to Pakistan (S. 3263)	No	n.a.
CNMI Immigration	Requires employers and aliens lawfully residing or working in the Commonwealth of the Northern Mariana Islands to comply with U.S. immigration laws; reduces the number of permits issued to employers in the commonwealth for temporary alien workers; requires some aliens to leave the country before their visas expire (H.R. 3079)	Yes (P.L. 110-229) ^a	Uncertain
Commercial Seafood Safety	Could impose new regulations on importers, exporters, sellers, and distributors of seafood (S. 2688)	No	n.a.
Combustible Dust	Implements new standards to prevent explosions of combustible dust at industrial establishments that manufacture, process, or otherwise handle materials that produce combustible dust (H.R. 5522)	No	n.a.
Commodity Investment Limits	Imposes limits on investments in certain commodities and establishes reporting requirements for entities that participate in futures exchanges and over-the-counter markets (H.R. 6604)	No	n.a.
Defined-Contribution Retirement Plans	Imposes new requirements on parties that enter into contracts for providing services to a defined-contribution retirement plan; requires plan administrators to disclose additional information to participants in defined-contribution plans (H.R. 3185)	No	n.a.
Limitation of a Right to Seek Compensation	Eliminates an existing right to file a claim for damages by limiting the liability of New York City and any entity with a property interest in the World Trade Center on September 11, 2001 (H.R. 7174)	No	n.a.

Continued

Table 5.

Continued

Private-Sector Mandates Reviewed by CBO in 2008 Whose Costs Would Exceed the Statutory Threshold or Whose Costs Could be Above or Below the Statutory Threshold

Topic	Description of Mandate	Was a Version Enacted?	Did the Enacted Version Exceed the Threshold?
Private-Sector Mandates Whose Costs Might or Might Not Exceed the Statutory Threshold (Continued)			
Modifying Mortgage Agreements	Allows bankruptcy judges to modify the rights of claim holders by making changes to the terms of home mortgage agreements; requires claim holders to provide notices about fees during the bankruptcy process (H.R. 3609; S. 2136)	No	n.a.
Oil-Spill Prevention	Requires merchant mariners to follow new medical standards and procedures to be set by the U.S. Coast Guard (S. 2699)	No	n.a.
Ownership of Cross-Media Properties	Repeals the Federal Communications Commission rule allowing owners of newspapers, television stations, and radio stations to own cross-media properties (S.J. Res. 28)	No	n.a.
Railroad Antitrust Regulations	Subjects railroad carriers to certain antitrust statutes (H.R. 1650; H.R. 6707)	No	n.a.
Sanctions Against Burma	Renews the ban on all imports from Burma, or Myanmar (S.J. Res. 41)	Yes (P.L. 110-287) ^a	Uncertain
Sanctions Against Iran	Bans certain imports from and exports to Iran; freezes the assets of family members and certain associates of Iranian government officials subject to sanctions (H.R. 7112; S. 3227; S. 3445)	No	n.a.

Source: Congressional Budget Office.

Notes: The mandates in this table were identified by the Congressional Budget Office when a bill was reported by an authorizing committee or when CBO was asked to formally review a bill. In some cases, CBO issued more than one formal mandate statement for a topic.

UMRA = Unfunded Mandates Reform Act; n.a. = not applicable; P.L. = Public Law; OCS = Outer Continental Shelf; CNMI = Commonwealth of the Northern Mariana Islands.

- a. The full names and dates of enactment of the public laws referred to in this table follow (ordered by law number):
 - Public Law 110-229, Consolidated Natural Resources Act of 2008, enacted May 8, 2008;
 - Public Law 110-246, Food, Conservation, and Energy Act of 2008, enacted June 18, 2008;
 - Public Law 110-287, A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, enacted July 29, 2008;
 - Public Law 110-289, Housing and Economic Recovery Act of 2008, enacted July 30, 2008; and
 - Public Law 110-343, Emergency Economic Stabilization Act of 2008, enacted October 3, 2008.
- b. The Joint Committee on Taxation examines legislative provisions affecting the tax code to identify federal mandates and estimate their costs. Such information is incorporated into CBO's mandate statements.
- c. A provision that freezes the deduction for major integrated oil companies and freezes the current deduction for other oil and gas producers was enacted in Public Law 110-343. That provision is similar to one reviewed in H.R. 6275 that would deny the deduction for the major oil companies and freeze the deduction for other companies.
- d. A provision that requires an immediate tax on deferred compensation paid by certain foreign entities was enacted in Public Law 110-343.
- e. A provision requiring brokers to report their customers' basis in securities transactions was enacted in Public Law 110-343.

Table 6.**Number of Mandate Statements Transmitted by CBO, 2004 to 2008**

CBO provides mandate statements to the Congress for most of the bills that are reported by authorizing committees and for many other bills and proposed amendments. Most of that legislation is never enacted; of the proposals that are enacted, most contain no federal mandates as defined in UMRA. In 2008, CBO reviewed 679 bills and other legislative proposals, and only 8 percent (57 bills or proposals) contained intergovernmental mandates, the smallest percentage of such mandates in any year since UMRA's enactment. (The average from 2004 to 2007 was 16 percent.) About 14 percent (96 bills) of CBO's estimates in 2008 identified private-sector mandates (compared with 18 percent, on average, for the 2004–2007 period).

Of the bills and proposals CBO analyzed last year, less than 1 percent had intergovernmental mandates with costs greater than the annual threshold (in 2008, \$68 million), and about 3 percent had private-sector mandates with estimated costs that exceeded the 2008 threshold for those mandates (\$136 million). Both of those percentages are lower than the average for the preceding four years. (Tables 7 and 8 list all of the bills and proposals containing mandates that CBO reviewed in 2008.)

	2004	2005	2006	2007	2008
Intergovernmental Mandates					
Total Number of Statements Transmitted	557	500	478	703	679
Number of Statements That Identified Mandates	66	83	88	111	57
Mandate costs of the legislation would exceed the threshold	9	6	12	5	2
CBO could not determine whether mandate costs of the legislation would exceed the threshold	2	3	3	4	2
Private-Sector Mandates					
Total Number of Statements Transmitted	555	500	474	703	679
Number of Statements That Identified Mandates	71	91	93	160	96
Mandate costs of the legislation would exceed the threshold	14	22	23	44	23
CBO could not determine whether mandate costs of the legislation would exceed the threshold	10	11	21	32	17

Source: Congressional Budget Office.

Notes: UMRA = Unfunded Mandates Reform Act of 1995.

Although not required by law, CBO has completed preliminary reviews and informal estimates for other legislative proposals that are not included in this table.

In some years, CBO prepared more intergovernmental mandate statements than private-sector statements because sometimes 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. And because the same mandate sometimes appears in multiple bills, a single mandate may be addressed in more than one CBO mandate statement. For example, only two of the mandate statements CBO transmitted in 2008 identified intergovernmental mandates with costs estimated to exceed the annual threshold of \$68 million in that year, and both statements focused on the same mandate as it appeared in two separate bills.

Table 7.

Bills Reviewed by CBO in 2008 That Contained Intergovernmental Mandates

Of the 679 bills or legislative proposals that CBO reviewed for mandates as defined in UMRA, 57 contained—or could contain—intergovernmental mandates. Of those 57 bills, 2 contained mandates with costs that CBO estimated would exceed the statutory threshold established in UMRA (for 2008, \$68 million). In cases in which a particular bill was considered by more than one committee, the table lists the various versions of the bill. Mandates whose costs exceed the statutory threshold appear in bold-faced type in the table; mandates with uncertain costs are in italicized type; and mandates with costs below the threshold are depicted in the regular font.

Bill Number (Committee or Status)	Title of Legislation	Description of Mandate
Bills Containing Intergovernmental Mandates with Costs Above the Statutory Threshold		
H.R. 2452	Sewage Overflow Community Right-to-Know Act	Requires publicly owned treatment works to monitor, report, and notify the public and public health authorities about sewer overflows
S. 2080	Sewage Overflow Community Right-to-Know Act	Requires publicly owned treatment works to monitor, report, and notify the public and public health authorities about sewer overflows
Bills Containing Intergovernmental Mandates Whose Costs Might or Might Not Exceed the Statutory Threshold		
H.R. 6604 (As passed by the House)	Commodity Markets Transparency and Accountability Act of 2008	<i>Imposes limits on the amount of commodity-based securities that investors may hold and establishes reporting requirements for pension funds</i>
S. 150	Protecting Pregnant Women and Children from Perchlorate Act of 2008	<i>Requires public water systems to monitor for perchlorate and to decrease its presence in water supplies</i>
Bills Containing Intergovernmental Mandates with Costs Below the Statutory Threshold		
H.R. 971	Community Pharmacy Fairness Act of 2007	Preempts state laws governing antitrust practices as they apply to pharmacies
H.R. 1108	Family Smoking Prevention and Tobacco Control Act	Requires tribal governments that manufacture tobacco products to comply with federal regulations Preempts certain state laws governing tobacco products
H.R. 1237	Cytology Proficiency Improvement Act of 2008	Requires public hospitals with clinical laboratories to comply with management and recordkeeping requirements
H.R. 1759	Managing Arson Through Criminal History (MATCH) Act of 2007	Preempts the authority of tribal governments and requires tribes that choose not to participate in arson registries to enter into agreements with nearby states to provide such services
H.R. 2419 (As agreed to by the conference committee)	Food, Conservation, and Energy Act of 2008	Increases the stringency of conditions of assistance in the Supplemental Nutrition Assistance Program (formerly known as the Food Stamp program) Requires state, local, and tribal governments to comply with warrantless searches of premises

Continued

Table 7.

Continued

Bills Reviewed by CBO in 2008 That Contained Intergovernmental Mandates

Bill Number (Committee or Status)	Title of Legislation	Description of Mandate
Bills Containing Intergovernmental Mandates with Costs Below the Statutory Threshold (Continued)		
H.R. 3079	Northern Mariana Islands Immigration, Security, and Labor Act	Preempts immigration laws in and requires certain actions to be taken by the Commonwealth of the Northern Mariana Islands
H.R. 3221 (As passed by the Senate)	Housing and Economic Recovery Act of 2008	Preempts state statute-of-limitation and contract laws Requires state regulators to enforce minimum standards for licensing of mortgage loan originators Removes the ability of state and local governments to seek damages in certain cases
H.R. 4081	Prevent All Cigarette Trafficking Act of 2007	Increases reporting requirements on tribal entities that sell cigarettes Preempts state, local, and tribal laws related to the delivery and sale of tobacco products
H.R. 4088	Secure America Through Verification and Enforcement Act of 2007	Requires employers, including public entities, to verify the eligibility of workers for employment Requires state offices to maintain records related to birth registries Preempts state authority to regulate employers
H.R. 4137 (As passed by the House)	College Opportunity and Affordability Act of 2008	Prohibits colleges and universities from accepting gifts from private lenders in exchange for any advantage or consideration provided to those lenders Requires colleges and universities to offer in-state tuition rates to active-duty members of the armed forces and their dependents Requires certain institutions of higher education to report information about tuition increases, textbooks, readmission of service members, and education loans Requires publishers of college textbooks, including public colleges and universities, to provide certain information to individuals who make decisions on which texts are used in classes and to make supplementary materials available for purchase Preempts some state contract laws related to Perkins loans Imposes disclosure requirements on lenders that offer education loans
H.R. 4841	Soboba Band of Luiseno Indians Settlement Act	Restricts the ability of the Soboba Band of Luiseno Indians to use and lease water that the band receives from a settlement

Continued

Table 7. **Continued**
Bills Reviewed by CBO in 2008 That Contained Intergovernmental Mandates

Bill Number (Committee or Status)	Title of Legislation	Description of Mandate
Bills Containing Intergovernmental Mandates with Costs Below the Statutory Threshold (Continued)		
H.R. 5293	Shoshone-Paiute Tribes of the Duck Valley Reservation Water Rights Settlement Act	Requires tribes to adopt water policies
H.R. 5522	Combustible Dust Explosion and Fire Prevention Act of 2008	Preempts state laws governing safety standards to prevent combustible dust explosions
H.R. 5546	Credit Card Fair Fee Act of 2008	Preempts state antitrust laws
H.R. 5577	Chemical Facility Anti-Terrorism Act of 2008	Requires owners and operators of certain chemical facilities, including public facilities, to submit information to the Department of Homeland Security and to take measures to protect the public from unauthorized chemical releases Preempts state public information laws and any state or local laws that conflict with activities outlined in the bill
H.R. 5579	Emergency Mortgage Loan Modification Act of 2008	Removes the ability of state and local governments to seek damages in certain cases
H.R. 5658	National Defense Authorization Act for Fiscal Year 2009	Increases the number of military service members who are eligible for benefits under the Servicemembers Civil Relief Act, including tax deferments from state and local governments
H.R. 5658 (As passed by the House)	Duncan Hunter National Defense Authorization Act for Fiscal Year 2009	Increases the number of military service members who are eligible for benefits under the Servicemembers Civil Relief Act, including tax deferments from state and local governments
H.R. 5912	A bill to amend title 39, United States Code, to make cigarettes and certain other tobacco products nonmailable, and for other purposes	Prohibits two tribes from mailing tobacco products Requires public entities to respond to subpoenas
H.R. 5959	Intelligence Authorization Act for Fiscal Year 2009	Creates new subpoena powers
H.R. 6126	Fairness in Nursing Home Arbitration Act of 2008	Prohibits long-term care facilities from requiring predispute agreements
H.R. 6225	Improving SCRA and USERRA Protections Act of 2008	Requires public institutions of higher education to refund tuition and fees to service members if they have to leave school for military service Prohibits public utilities from charging some military service members fees for terminating utility contracts Prohibits state and local governments from imposing certain taxes on some spouses of military service members

Continued

Table 7.

Continued

Bills Reviewed by CBO in 2008 That Contained Intergovernmental Mandates

Bill Number (Committee or Status)	Title of Legislation	Description of Mandate
Bills Containing Intergovernmental Mandates with Costs Below the Statutory Threshold (Continued)		
H.R. 6353	Ryan Haight Online Pharmacy Consumer Protection Act of 2008	Preempts state regulation of controlled substances that are distributed or dispensed via the Internet
H.R. 6357	Protecting Records, Optimizing Treatment, and Easing Communication Through Healthcare Technology	Requires governments as providers and insurers of health care to comply with new federal standards regarding protected health information
H.R. 6598	Prevention of Equine Cruelty Act of 2008	Prohibits slaughter of horses for human consumption
H.R. 6658	Disaster Response, Recovery, and Mitigation Enhancement Act of 2008	Extends liability protection and requires employers to allow members of urban search-and-rescue teams to reclaim their jobs after deployment to a disaster
H.R. 6842	National Capital Security and Safety Act	Requires the District of Columbia to make its laws consistent with the Supreme Court's decision in <i>District of Columbia v. Heller</i>
H.R. 6899	Comprehensive American Energy Security and Consumer Protection Act	Prevents state utility regulators from setting limits on the amount of money a utility may recover for costs associated with energy efficiency and renewable energy activities Requires states to review and update residential and commercial building codes governing energy efficiency standards
H.R. 7321	Auto Industry Financing and Restructuring Act	Preempts state antitrust laws that govern communication regarding restructuring plans between auto manufacturers and interested parties
S. 24	Perchlorate Monitoring and Right-to-Know Act of 2008	Requires public water systems to monitor for and disclose the presence of perchlorate
S. 27	San Joaquin River Restoration Settlement Act	Extends the authority of the Secretary of the Interior to acquire property through the use of eminent domain to implement the settlement
S. 625	Family Smoking Prevention and Tobacco Control Act	Preempts certain laws governing tobacco products Requires tribal governments that manufacture and distribute tobacco products to comply with federal regulations
S. 1145	Patent Reform Act of 2007	Requires patent applicants and holders to submit reports and pay fees

Continued

Table 7.

Continued

Bills Reviewed by CBO in 2008 That Contained Intergovernmental Mandates

Bill Number (Committee or Status)	Title of Legislation	Description of Mandate
Bills Containing Intergovernmental Mandates with Costs Below the Statutory Threshold (Continued)		
S. 1193 (As passed by the House with a proposed Senate amendment)	Albuquerque Indian School Act	Imposes a mandate on public landowners by extending the authority of the Secretary of the Interior to exercise eminent domain for the purpose of implementing a water settlement
S. 1387	Federal Greenhouse Gas Registry Act of 2008	Requires certain facilities to submit information to a registry of greenhouse-gas emissions
S. 1695	Biologics Price Competition and Innovation Act of 2007	Preempts state laws that restrict pharmacies from substituting certain drugs without first consulting with a prescribing physician
S. 1911	Toxic Chemical Exposure Reduction Act of 2007	Directs community water systems to disclose the potential health risks associated with the chemical compound trichloroethylene in their annual consumer confidence reports
S. 2084	School Safety and Law Enforcement Improvement Act of 2007	Expands an existing mandate that preempts state and local laws that prohibit the carrying of concealed weapons
S. 2191	America's Climate Security Act of 2007	Requires publicly owned electric power facilities to reduce greenhouse-gas emissions annually through 2050 and to submit reports and information to the Environmental Protection Agency
S. 2191 (With an amendment)	America's Climate Security Act of 2007	Requires publicly owned electric power facilities to reduce greenhouse-gas emissions annually through 2050 and to submit reports and information to the Environmental Protection Agency
S. 2685	Truth in Cigarette Labeling Act of 2008	Prohibits tribes from advertising cigarettes in certain ways
S. 2838	Fairness in Nursing Home Arbitration Act	Prohibits long-term care facilities from requiring predispute agreements
S. 2907	International Fisheries Stewardship and Enforcement Act	Requires public entities to respond to subpoenas
S. 2913	Shawn Bentley Orphan Works Act of 2008	Limits awards to copyright holders in civil actions
S. 2996	Intelligence Authorization Act for Fiscal Year 2009	Creates new subpoena powers
S. 3023	Veterans' Benefits Improvement Act of 2008	Requires public institutions of higher education to comply with a cap on annual interest rates for some student loans

Continued

Table 7.

Continued

Bills Reviewed by CBO in 2008 That Contained Intergovernmental Mandates

Bill Number (Committee or Status)	Title of Legislation	Description of Mandate
Bills Containing Intergovernmental Mandates with Costs Below the Statutory Threshold (Continued)		
S. 3036 (With a substitute amendment)	Lieberman-Warner Climate Security Act of 2008	Requires publicly owned electric power facilities to reduce greenhouse-gas emissions annually through 2050 and to submit reports and information to the Environmental Protection Agency
S. 3038	Improved Adoption Incentives and Relative Guardianship Support Act of 2008	Increases the stringency of conditions of assistance for states and tribal governments that operate foster care and adoption assistance programs ^a
S. 3109	Hazardous Waste Electronic Manifest Establishment Act	Requires facilities that receive hazardous waste to submit manifests to the Environmental Protection Agency in electronic form and to comply with tracking requirements
S. 3639	Protect Pregnant Women and Children from Dangerous Lead Exposures Act of 2008 (formerly S. 3495)	Imposes reporting requirements and makes existing standards more restrictive for entities that renovate properties containing lead paint
S. _____ (Draft legislation)	Federal Housing Finance Regulatory Reform Act of 2008	Prohibits lawsuits in some circumstances and preempts state statute-of-limitation and contract laws Requires states to implement a licensing system
S. _____ (Draft legislation)	Aviation Investment and Modernization Act of 2008	Requires state and local governments to allow the Federal Aviation Administration to access their criminal justice data, warning systems, and communication systems
Bills That Might or Might Not Contain an Intergovernmental Mandate		
S. 2657	A bill to require the Secretary of Commerce to prescribe regulations to reduce the incidence of vessels colliding with North Atlantic right whales by limiting the speed of vessels, and for other purposes	Imposes speed restrictions on public ferries

Source: Congressional Budget Office.

Note: SCRA = Servicemembers Civil Relief Act; USERRA = Uniformed Services Employment and Reemployment Rights Act.

a. The foster care and adoption assistance programs are large entitlements under UMRA, and as such, conditions of assistance can be mandates.

Table 8.

Bills Reviewed by CBO in 2008 That Contained Private-Sector Mandates

Of the 679 bills or legislative proposals that CBO reviewed in 2008, 96 contained—or could contain—private-sector mandates. That number includes 23 bills that contained mandates with costs that CBO estimated would exceed the statutory threshold in UMRA (in 2008, \$136 million). If a particular bill was considered by more than one committee, the various versions of the bill are included. Mandates whose costs exceed the statutory threshold appear in bold-faced type in the table; mandates with uncertain costs are in italicized type; and mandates with costs below the threshold are depicted in the regular font.

Bill Number (Committee or Status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Costs Above the Statutory Threshold^a		
H.R. 1108	Family Smoking Prevention and Tobacco Control Act	<p>Requires manufacturers and importers of tobacco products to pay a fee and to make certain disclosures to the Department of Health and Human Services about those products</p>
		<p><i>Imposes new requirements related to the labeling and advertising of cigarette and smokeless tobacco products</i></p>
		<p><i>Prohibits cigarettes or any of their component parts from containing certain additives or artificial or natural flavors</i></p>
		<p><i>Requires manufacturers and distributors of tobacco products to comply with federal regulations relating to those products' content, labeling, and marketing</i></p>
H.R. 2419 (Conference agreement)	Food, Conservation, and Energy Act of 2008	<p>Extends customs user fees</p>
		<p><i>Expands country-of-origin labeling requirements</i></p>
		<p><i>Requires entities involved in certain retail foreign currency transactions to meet new standards in order to maintain a regulatory exemption and imposes new requirements on certain markets</i></p>
		<p><i>Bans the import of timber harvested in violation of foreign laws</i></p>
		<p>Extends the temporary tariff on ethanol</p>
		<p>Imposes reporting and inspection requirements for agricultural products, restricts certain imports, and modifies agricultural contracts</p>
H.R. 3221 (As passed by the Senate with an amendment transmitted to CBO)	Housing and Economic Recovery Act of 2008	<p>Requires Fannie Mae and Freddie Mac to make contributions to an affordable housing fund</p>
		<p>Requires Fannie Mae and Freddie Mac to pay assessments to a new regulator</p>

Continued

Table 8.

Continued

Bills Reviewed by CBO in 2008 That Contained Private-Sector Mandates

Bill Number (Committee or Status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Costs Above the Statutory Threshold^a (Continued)		
H.R. 4074	San Joaquin River Restoration Settlement Act	<p>Establishes a conservation-of-resources fee on existing nonproducing federal oil and gas leases in the Gulf of Mexico</p> <p>Imposes a mandate if the Secretary of the Interior condemns property to implement the settlement</p>
H.R. 4088	Secure America Through Verification and Enforcement Act of 2007, or the SAVE Act of 2007	<p>Requires employers to verify the eligibility of workers for employment</p> <p>Requires employers to notify employees of inconsistencies related to their Social Security account number</p> <p>Requires employees to correct those inconsistencies with the Social Security Administration within 10 days</p>
H.R. 5244	Credit Cardholders' Bill of Rights Act of 2008	<p>Requires creditors to submit detailed information on a semiannual basis to the Board of Governors of the Federal Reserve and prohibits creditors from engaging in certain credit card billing and issuing practices</p>
H.R. 5577	Chemical Facility Anti-Terrorism Act of 2008	<p>Requires owners and operators of certain chemical facilities to submit information to the Department of Homeland Security and take measures to protect the public from unauthorized chemical releases</p>
H.R. 5720	Housing Assistance Tax Act of 2008	<p>Requires brokers in securities transactions to report the acquisition cost of their customers' investments^b</p> <p>Delays and limits the implementation of worldwide allocation of interest expense^b</p>
H.R. 6049	Energy and Tax Extenders Act of 2008	<p>Extends the excise tax on coal^b</p> <p>Imposes an immediate tax on deferred compensation paid by certain foreign entities^b</p> <p>Delays the implementation of rules for allocating interest expense between domestic and foreign sources^b</p>

Continued

Table 8.

Continued

Bills Reviewed by CBO in 2008 That Contained Private-Sector Mandates

Bill Number (Committee or Status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Costs Above the Statutory Threshold^a (Continued)		
H.R. 6275	Alternative Minimum Tax Relief Act of 2008	<p>Alters the tax treatment of investment services income (carried interest) of general partners in private equity and hedge funds^b</p> <p>Denies the section 199 deduction for major integrated oil companies and freezes the current deduction for other oil and gas producers^b</p> <p>Bases a foreign corporation's eligibility for reduced withholding rates under tax treaties on the availability of benefits for its foreign parent corporation^b</p> <p>Requires banks to report additional information regarding the gross amount of credit and debit card transactions to the Internal Revenue Service^b</p>
H.R. 6357	PRO(TECH)T Act of 2008	<p>Requires entities that handle health information to comply with new regulations related to the usage, disclosure, and privacy of such information</p>
H.R. 6871	Expedited Funds Availability Dollar Limits Adjustment Act of 2008	<p>Requires depository institutions to increase the amount of funds from certain deposits that must be made available to account holders for withdrawal within standard periods</p>
H.R. 6899	Comprehensive American Energy Security and Consumer Protection Act	<p>Establishes a conservation-of-resources fee to be applied to existing federal oil and gas leases in the Gulf of Mexico</p> <p><i>Creates a renewable portfolio standard for the generation of electricity</i></p> <p><i>Requires oil companies that own automotive fueling stations to have at least one alternative fuel pump available at their stations by 2018</i></p> <p><i>Updates the residential and commercial building codes governing energy-efficiency standards</i></p> <p>Bans the export of oil produced in Alaska</p>

Continued

Table 8.

Continued

Bills Reviewed by CBO in 2008 That Contained Private-Sector Mandates

Bill Number (Committee or Status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Costs Above the Statutory Threshold^a (Continued)		
S. 625	Family Smoking Prevention and Tobacco Control Act	<p>Requires manufacturers and importers of tobacco products to pay a fee and to make certain disclosures to the Department of Health and Human Services about those products</p> <p><i>Imposes new requirements related to the labeling and advertising of cigarette and smokeless tobacco products</i></p> <p><i>Prohibits cigarettes or any of their component parts from containing certain additives or artificial or natural flavors</i></p> <p><i>Requires manufacturers and distributors of tobacco products to comply with federal regulations relating to the products' content, labeling, and marketing</i></p>
S. 1145	Patent Reform Act of 2007	<p>Requires patent applicants and holders to submit reports and analyses, and pay fees</p> <p>Eliminates the remedies that patent holders have with respect to financial institutions whose use of a "check collection system" constitutes patent infringement</p> <p><i>Imposes a mandate on producers of generic drugs if the director of the Patent and Trademark Office grants an exception that allows an extension of certain patents</i></p>
S. 1499	Marine Vessel Emissions Reduction Act of 2007	<p>Sets fuel and emissions standards for certain marine vessels</p>
S. 2191	America's Climate Security Act of 2007	<p>Requires covered facilities to participate in cap-and-trade allowance programs to reduce greenhouse-gas emissions</p> <p><i>Imposes restrictions on the disposal of certain hydrofluorocarbon substitutes</i></p> <p><i>Requires fuel providers to reduce the average life-cycle greenhouse-gas emissions in transportation fuel</i></p> <p><i>Updates the residential and commercial building codes governing energy-efficiency standards</i></p>

Continued

Table 8.

Continued

Bills Reviewed by CBO in 2008 That Contained Private-Sector Mandates

Bill Number (Committee or Status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Costs Above the Statutory Threshold^a (Continued)		
S. 2191 (With an amendment)	America's Climate Security Act of 2007	<p>Requires covered facilities to participate in cap-and-trade allowance programs to reduce greenhouse gas emissions</p> <p>Imposes restrictions on the disposal of certain hydrofluorocarbon substitutes</p> <p><i>Requires fuel providers to reduce the average life-cycle greenhouse-gas emissions in transportation fuel</i></p> <p><i>Updates the residential and commercial building codes governing energy-efficiency standards</i></p>
S. 3036 (Substitute amendment)	Lieberman-Warner Climate Security Act of 2008	<p>Requires covered facilities to participate in cap-and-trade allowance programs to reduce greenhouse-gas emissions</p> <p>Imposes restrictions on the disposal of certain hydrofluorocarbon substitutes</p> <p><i>Requires fuel providers to reduce the average life-cycle greenhouse-gas emissions in transportation fuel</i></p> <p><i>Updates the residential and commercial building codes governing energy-efficiency standards</i></p>
S. 3639	Protect Pregnant Women and Children from Dangerous Lead Exposures Act of 2008 (Formerly S. 3495)	<p>Imposes reporting requirements and makes existing standards more restrictive for firms that renovate properties containing lead paint</p>
S. _____ (Draft legislation)	Aviation Investment and Modernization Act of 2008	<p>Prohibits the operation of certain aircraft that are not in compliance with low-noise standards</p> <p><i>Imposes new safety requirements for helicopters that are used for emergency medical services</i></p> <p>Requires air carriers to have contingency plans for delayed flights and to disclose information about the frequency of delayed flights</p>

Continued

Table 8.

Continued

Bills Reviewed by CBO in 2008 That Contained Private-Sector Mandates

Bill Number (Committee or Status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Costs Above the Statutory Threshold^a (Continued)		
S. _____ (Draft legislation)	Federal Housing Finance Regulatory Reform Act of 2008	<p>Requires Fannie Mae and Freddie Mac to make payments to new federal funds to support federal housing programs</p> <p><i>Requires Fannie Mae, Freddie Mac, and the Federal Home Loan Banks to comply with the requirements of their new regulator, the Federal Housing Finance Agency</i></p> <p>Prohibits entities that invest in pooled residential mortgages from suing the servicers of those pools</p> <p>Requires Fannie Mae and Freddie Mac to pay assessments to a new regulator</p> <p>Requires the originators of mortgage loans to register with a national registration system and pay fees</p>
S. _____ (Draft legislation)	Dodd Substitute Amendment for H.R. 1424	<p>Prohibits group health plans and issuers of group health insurance from imposing treatment limits or financial requirements on mental health benefits that differ from those placed on medical and surgical benefits</p> <p><i>Could increase premiums for deposit insurance</i></p>
Bills Containing Private-Sector Mandates Whose Costs Might or Might Not Exceed the Statutory Threshold		
H.R. 1650	Railroad Antitrust Enforcement Act of 2008	<i>Subjects railroad carriers to antitrust laws</i>
H.R. 3079 (Senate Committee on Energy and Natural Resources)	Northern Mariana Islands Immigration, Security, and Labor Act	<i>Requires employers and aliens lawfully residing or working in the Commonwealth of the Northern Mariana Islands to comply with U.S. immigration laws; reduces the number of permits issued to employers in the commonwealth for temporary alien workers; and requires some aliens to leave the country before their visas expire</i>
H.R. 3185	401(k) Fair Disclosure for Retirement Security Act of 2008	<p><i>Imposes new requirements on parties that enter into contracts for services to a defined-contribution retirement plan</i></p> <p><i>Requires plan administrators to disclose additional information to participants in defined-contribution plans</i></p>
H.R. 3609	Emergency Home Ownership and Mortgage Equity Protection Act of 2007	<p><i>Allows bankruptcy judges to modify the rights of claim holders by making changes to the terms of home mortgage agreements</i></p> <p>Requires claim holders to give notice of fees during the bankruptcy process</p>

Continued

Table 8.

Continued

Bills Reviewed by CBO in 2008 That Contained Private-Sector Mandates

Bill Number (Committee or Status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates Whose Costs Might or Might Not Exceed the Statutory Threshold (Continued)		
H.R. 5522	Combustible Dust Explosion and Fire Prevention Act of 2008	<i>Requires employers to comply with standards to protect workers from combustible dust hazards</i>
H.R. 6604 (As passed by the House)	Commodity Markets Transparency and Accountability Act of 2008	<i>Imposes limits on investments in certain commodities and establishes reporting requirements on entities that participate in futures exchanges and over-the-counter markets</i>
H.R. 6707	Taking Responsible Action for Community Safety Act	<i>Requires railroads to meet new standards for certain transactions that involve acquiring or merging with another railroad</i>
H.R. 7112 (As passed by the House)	Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2008	<i>Bans certain imports from and exports to Iran</i> <i>Freezes the assets of certain associates of Iranian government officials and requires financial institutions that hold the assets to report information</i> <i>Imposes license requirements on exports to certain countries</i>
H.R. 7174	James Zadroga 9/11 Health and Compensation Act of 2008	<i>Eliminates an existing right to file a claim for damages by limiting the liability of New York City and any entity with a property interest in the World Trade Center on September 11, 2001</i>
S. 2136	Helping Families Save Their Homes in Bankruptcy Act of 2008	<i>Allows bankruptcy judges to modify the rights of claim holders by making changes to the terms of home mortgage agreements</i> <i>Limits the amount of a debtor's assets available to creditors</i> <i>Requires claim holders to give notice of fees during the bankruptcy process</i>
S. 2699	Oil Spill Prevention Act of 2008	<i>Requires merchant mariners to follow certain safety standards set by the U.S. Coast Guard</i>
S. 3227	Iran Sanctions Act of 2008	<i>Bans certain imports from and exports to Iran</i> <i>Freezes the assets of certain Iranian government officials subject to sanctions and requires financial institutions that hold the assets to report information</i>

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Table 8.

Continued

Bills Reviewed by CBO in 2008 That Contained Private-Sector Mandates

Bill Number (Committee or Status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates Whose Costs Might or Might Not Exceed the Statutory Threshold (Continued)		
S. 3263	Enhanced Partnership with Pakistan Act of 2008	<i>Prohibits the export of certain defense equipment to Pakistan</i>
S. 3445	Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2008	<i>Bans certain imports from and exports to Iran</i> <i>Freezes the assets of certain Iranian government officials subject to sanctions and requires financial institutions that hold the assets to report information</i> <i>Imposes license requirements on exports to certain countries</i>
S.J. Res. 28	A joint resolution disapproving the rule submitted by the Federal Communications Commission with respect to broadcast media ownership	<i>Repeals a rule that allowed owners of newspapers, television stations, and radio stations to own cross-media properties in a single market</i>
S.J. Res. 41	A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003	<i>Renews the ban on imports from Burma, or Myanmar</i>
Bills Containing Private-Sector Mandates with Costs Below the Statutory Threshold		
H.R. 299 (Senate Committee on Energy and Natural Resources)	Lowell National Historical Park Boundary Adjustment Act	Imposes a mandate on private landowners if the National Park Service acquires their land by means of condemnation
H.R. 758	Breast Cancer Protection Act of 2007	Places new requirements on group health plans and health insurers related to treatments for breast cancer that are covered and the length of hospital stays for such treatments
H.R. 1014	Heart Disease Education, Analysis Research, and Treatment for Women Act	Requires manufacturers of new drugs, medical devices, and biological products to provide more detailed information when submitting applications to the Food and Drug Administration for approval
H.R. 1187 (House Committee on Natural Resources)	Gulf of the Farallones and Cordell Bank National Marine Sanctuaries Boundary Modification and Protection Act	Expands the boundaries of the Gulf of the Farallones and Cordell Bank National Marine Sanctuaries, extending regulations to the added areas that prohibit certain activities

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Table 8.

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Bills Reviewed by CBO in 2008 That Contained Private-Sector Mandates

Bill Number (Committee or Status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Costs Below the Statutory Threshold (Continued)		
H.R. 1187 (Senate Committee on Commerce, Science and Transportation)	Gulf of the Farallones and Cordell Bank National Marine Sanctuaries Boundary Modification and Protection Act	Expands the boundaries of the Gulf of the Farallones and Cordell Bank National Marine Sanctuaries, extending regulations to the added areas that prohibit certain activities
H.R. 1237	Cytology Proficiency Improvement Act of 2008	Requires clinical laboratories to comply with management and recordkeeping requirements Requires individuals who screen and interpret cytological preparations to take continuing education courses
H.R. 1746 (House Committee on Foreign Affairs)	Holocaust Insurance Accountability Act of 2007	Requires insurers to electronically file information about Holocaust-era policies with the Secretary of Commerce
H.R. 1746 (House Committee on Financial Services)	Holocaust Insurance Accountability Act of 2008	Requires insurers to respond to inquiries related to Holocaust-era policies and to report the information supplied to the Holocaust Claims Processing Office
H.R. 2744	Airline Flight Crew Technical Corrections Act	Expands an existing mandate to require employers to allow additional employees to take up to 12 workweeks of unpaid leave for certain family and medical reasons
H.R. 2851	Michelle's Law	Requires group health plans to continue the coverage of full-time students who are enrolled in a postsecondary institution and take a medically necessary leave of absence
H.R. 2964	Captive Primate Safety Act	Prohibits the sale or transport of nonhuman primates in interstate or foreign commerce
H.R. 3221 (As passed by the Senate)	Foreclosure Prevention Act of 2008	Extends the period during which a military service member is protected from mortgage foreclosure under the Servicemembers Civil Relief Act Extends for one year the existing period of interest rate limits under the Servicemembers Civil Relief Act Requires creditors to provide additional disclosures to consumers

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Table 8.

Continued

Bills Reviewed by CBO in 2008 That Contained Private-Sector Mandates

Bill Number (Committee or Status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Costs Below the Statutory Threshold (Continued)		
H.R. 4081	Prevent All Cigarette Trafficking (PACT) Act	Increases reporting, recordkeeping, and tax collection requirements affecting entities that sell cigarettes Prohibits individuals from mailing tobacco products through the U.S. Postal Service Prohibits the sale of certain tobacco products
H.R. 4137 (As passed by the House)	College Opportunity and Affordability Act of 2008	Prohibits colleges and universities from accepting gifts from private lenders in exchange for any advantage or consideration provided to those lenders Requires certain institutions of higher education to report information about tuition increases, textbooks, readmission of military service members, and education loans Requires publishers of college textbooks to provide certain information to individuals who make decisions on which texts are used in classes and to make supplementary materials available for purchase Imposes disclosure and reporting requirements on lenders that offer education loans
H.R. 5546	Credit Card Fair Fee Act of 2008	Requires the largest issuers, acquirers, and owners of covered electronic payment systems and the largest merchants using a covered electronic payment system to follow certain reporting requirements Eliminates an existing right to seek compensation for damages under certain antitrust laws
H.R. 5579	Emergency Mortgage Loan Modification Act of 2008	Eliminates an existing right to seek damages against mortgage servicers in certain cases
H.R. 5658 (House Committee on Armed Services)	Duncan Hunter National Defense Authorization Act for Fiscal Year 2009	Increases the number of military service members eligible for benefits under the Servicemembers Civil Relief Act, increasing the cost of an existing mandate
H.R. 5658 (As passed by the House)	Duncan Hunter National Defense Authorization Act for Fiscal Year 2009	Increases the number of military service members eligible for benefits under the Servicemembers Civil Relief Act, increasing the cost of an existing mandate Modifies the terms of existing contracts with the Department of Defense by requiring certain defense contractors to report certain criminal behavior

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Table 8.

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Bills Reviewed by CBO in 2008 That Contained Private-Sector Mandates

Bill Number (Committee or Status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Costs Below the Statutory Threshold (Continued)		
H.R. 5719	Taxpayer Assistance and Simplification Act of 2008	Prohibits the use of certain words and abbreviations relating to the Department of the Treasury in Internet domain addresses
H.R. 5741	Shark Conservation Act of 2008	Prohibits the possession, transfer, or landing of shark fins without the carcass naturally attached
H.R. 5788	Halting Airplane Noise to Give Us Peace Act of 2008	Prohibits individuals on commercial flights from engaging in voice communication through VoIP services
H.R. 5876	Stop Child Abuse in Residential Programs for Teens Act of 2008	Imposes minimum health and safety standards for private residential programs for teenagers with emotional, behavioral, mental health, or substance abuse problems or disorders
H.R. 5912	A bill to amend title 39, United States Code, to make cigarettes and certain other tobacco products nonmailable, and for other purposes	Prohibits the use of the U.S. Postal Service to ship tobacco products Expands the authority of the Postmaster General to issue subpoenas
H.R. 5959	Intelligence Authorization Act for Fiscal Year 2009	Creates new subpoena power for an Inspector General of the Intelligence Community and extends the subpoena power of the National Commission for the Review of Research and Development Programs of the U.S. Intelligence Community
H.R. 6003	Passenger Rail Investment and Improvement Act of 2008	Requires Amtrak to comply with requirements related to financial planning and accounting, performance of train operations, planning and implementation of development projects, and purchases of U.S.-made products
H.R. 6126	Fairness in Nursing Home Arbitration Act of 2008	Prohibits long-term care facilities from requiring predispute agreements
H.R. 6225	Improving SCRA and USERRA Protections Act of 2008	Requires institutions of higher education to provide a prorated refund of tuition and fees to students called to military service Prohibits public utilities and other service providers from charging fees to some military service members for terminating contracts Limits the interest rate on student loans to 6 percent per year for service members during their period of military service

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Table 8.

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Bills Reviewed by CBO in 2008 That Contained Private-Sector Mandates

Bill Number (Committee or Status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Costs Below the Statutory Threshold (Continued)		
H.R. 6308	Municipal Bond Fairness Act	Requires bond rating agencies to establish and maintain a standardized rating scale for all types of securities
H.R. 6353	Ryan Haight Online Pharmacy Consumer Protection Act of 2008	Imposes registration and reporting requirements on online pharmacies that dispense a large amount of medications Requires all online pharmacies to comply with disclosure, licensing, and reporting requirements
H.R. 6432	Animal Drug User Fee Amendments of 2008	Requires manufacturers of drugs for use in animals to pay specified fees to the Food and Drug Administration and to submit reports to the agency about certain products
H.R. 6433	Animal Generic Drug User Fee Act of 2008	Requires sponsors of new generic drugs for use in animals to pay user fees to the Food and Drug Administration
H.R. 6493 (As passed by the House)	Aviation Safety Enhancement Act of 2008	Prohibits air carriers from hiring or contracting with former Federal Aviation Administration safety inspectors under certain circumstances
H.R. 6598	Prevention of Equine Cruelty Act of 2008	Prohibits any activities in interstate or foreign commerce related to the slaughter of horses for human consumption
H.R. 6630	A bill to prohibit the Secretary of Transportation from granting authority to a motor carrier domiciled in Mexico to operate beyond United States municipalities and commercial zones on the United States-Mexico border unless expressly authorized by Congress	Prohibits motor carriers based in Mexico from operating in the United States beyond the 25-mile commercial zone of the United States-Mexico border
H.R. 6658	Disaster Response, Recovery, and Mitigation Enhancement Act of 2008	Expands liability protection for urban search-and-rescue response team members and requires employers to allow members of those teams to reclaim their jobs following deployment to a disaster
H.R. 6908	Health Insurance Source of Injury Clarification Act of 2008	Requires group health plans to disclose the limits and restrictions on coverage in a timely manner to health plan sponsors and participants
H.R. 7321	Auto Industry Financing and Restructuring Act	May limit the right of private entities to seek damages under certain antitrust laws for negotiations authorized by the bill
S. 24	Perchlorate Monitoring and Right-to-Know Act of 2008	Requires public water systems to monitor for and disclose the presence of perchlorate

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Table 8.

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Bills Reviewed by CBO in 2008 That Contained Private-Sector Mandates

Bill Number (Committee or Status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Costs Below the Statutory Threshold (Continued)		
S. 27	San Joaquin River Restoration Settlement Act	Imposes a mandate if the Secretary of the Interior condemns property to implement the settlement
S. 150	Protecting Pregnant Women and Children from Perchlorate Act of 2008	Requires public water systems to comply with monitoring requirements and national primary drinking water standards for perchlorate
S. 431	Keeping the Internet Devoid of Sexual Predators Act of 2007	Requires convicted sex offenders to report e-mail addresses and screen names for inclusion in the National Sex Offender Registry
S. 906	Mercury Export Ban of 2008	Prohibits the export of elemental mercury
S. 1171	Northwestern New Mexico Rural Water Projects Act	Imposes a mandate on landowners if the Secretary of the Interior condemns land to implement the bill
S. 1193 (As passed by the House with a proposed Senate amendment)	Omnibus Public Land Management Act of 2008	Imposes a mandate on landowners by extending the authority of the Secretary of the Interior to exercise eminent domain for the purpose of implementing a water settlement
S. 1387	Federal Greenhouse Gas Registry Act of 2008	Requires facilities to report to the greenhouse-gas registry that the bill would establish
S. 1695	Biologics Price Competition and Innovation Act of 2007	Requires manufacturers of brand-name biologics to participate in a process that accelerates the litigation of patent challenges by manufacturers of follow-on biologics
S. 1911	Toxic Chemical Exposure Reduction Act of 2007	Requires community water systems to report the potential health risks associated with the chemical compound trichloroethylene
S. 2685	Truth in Cigarette Labeling Act of 2008	Prohibits manufacturers of cigarettes from making certain claims or representations based on Federal Trade Commission tests
S. 2838	Fairness in Nursing Home Arbitration Act	Prohibits long-term care facilities from requiring predispute agreements
S. 2907	International Fisheries Stewardship and Enforcement Act	Authorizes the National Oceanic and Atmospheric Administration to issue investigative subpoenas
S. 2913	Shawn Bentley Orphan Works Act of 2008	Limits awards to copyright holders in civil actions

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Table 8.

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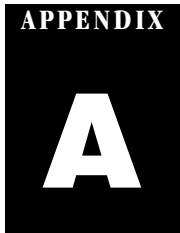
Bills Reviewed by CBO in 2008 That Contained Private-Sector Mandates

Bill Number (Committee or Status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Costs Below the Statutory Threshold (Continued)		
S. 2996	Intelligence Authorization Act for Fiscal Year 2009	Creates new subpoena power for an Inspector General of the Intelligence Community and a Foreign Intelligence and Information Commission and extends the subpoena authority of an existing commission
S. 3023	Veterans' Benefits Improvement Act of 2008	Requires institutions of higher education to provide a prorated refund of tuition and fees to students called to military service Limits the interest rate on student loans to 6 percent per year for service members during their period of military service
S. 3109	Hazardous Waste Electronic Manifest Establishment Act	Requires certain facilities to comply with requirements of hazardous waste manifests
S. 3297	A bill to advance America's priorities	Prohibits the sale or transport of nonhuman primates in interstate or foreign commerce
Bills That Might or Might Not Contain a Private-Sector Mandate		
S. 2657	A bill to require the Secretary of Commerce to prescribe regulations to reduce the incidence of vessels colliding with North Atlantic right whales by limiting the speed of vessels, and for other purposes	Imposes speed restrictions on certain vessels ^c
S. 2688	Commercial Seafood Consumer Protection Act	<i>Could impose new requirements on importers, exporters, sellers, and distributors of seafood^d</i>

Source: Congressional Budget Office.

Note: UMRA = Unfunded Mandates Reform Act; PRO(TECH)T = Protecting Records, Optimizing Treatment, and Easing Communication through Healthcare Technology; VoIP = voice-over-Internet protocol; SCRA = Servicemembers Civil Relief Act; USERRA = Uniformed Services Employment and Reemployment Rights Act.

- a. In certain cases, proposed legislation reviewed by CBO contained multiple mandates, some of which did not have costs exceeding the statutory threshold.
 - b. The Joint Committee on Taxation examines legislative provisions that affect the tax code for federal mandates and estimates their costs. Such information is incorporated into CBO's mandate statements.
 - c. The cost of this mandate, if imposed, would fall below the threshold.
 - d. The cost of this mandate depends on future regulatory action and could not be determined.
-



An Overview of Key Provisions in the Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (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 on the private sector.

- Title I, Legislative Accountability and Reform, requires the Congressional Budget Office (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.

Key Provisions of Title I of UMRA

Title I of the Unfunded Mandates Reform Act attempts to ensure that the Congress receives information about the potential direct costs of federal mandates before enacting legislation. UMRA requires CBO and authorizing committees in the Congress to develop and report information about the existence and costs of mandates in proposed legislation. The act also establishes mechanisms to bring that information to the attention of the Congress before legislation is considered on the floor of the House or Senate.

Defining Mandates and Their Costs

Under UMRA, a mandate is 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 are imposed as a condition of federal assistance or that arise from participation in a voluntary federal program are not mandates. In the case of some large entitlement programs under which \$500 million or more is provided annually to state, local, or tribal governments, a new condition on, or a reduction in, federal assistance would be a mandate, but only if states lack the flexibility to offset the new costs or the loss of federal funding with reductions elsewhere in the program.

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 scope of UMRA is further narrowed by the fact that legislative provisions that deal with constitutional rights, discrimination, emergency aid, accounting and auditing procedures of grants, national security, treaty ratification, and title II of the Social Security Act (Old-Age, Survivors, and Disability Insurance benefits) are excluded from UMRA's procedures.

Direct costs are defined in the law as amounts that mandated entities—governmental or private-sector—would be required to spend to comply with the enforceable duty, including amounts that states, localities, and tribes “would be prohibited from raising in revenues.” Direct costs exclude amounts that mandated entities would spend to comply with applicable laws, regulations, or professional standards in effect when the federal mandate is adopted. In addition, direct costs must be offset by direct savings to the mandated entities that would result from compliance with the mandate or by savings from other provisions of the same legislation that govern the same activity as that affected by the mandate.

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 in the 105th Congress) 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 one-time 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.

In addition, measuring the costs of extending a mandate that is set to expire has, in the past, presented CBO with difficulty in determining whether the statutory thresholds would be exceeded. UMRA is unclear about whether the incremental costs of such an extension should be measured as if the mandate would expire or as if the mandate would continue. That ambiguity has, in previous years, led CBO to report costs using both comparisons. CBO has concluded that the costs of extending a mandate in such cases should be estimated relative to the costs that would be incurred if the mandate were to expire. That method of measuring costs is consistent with the way that certain federal costs are scored and allows for a threshold determination in cases where costs can be estimated.

Mandate Cost Statements: CBO's Role

The law requires CBO to give any Congressional 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 specified threshold in any of the first five fiscal years in which the mandate is effective, CBO must provide an estimate of those costs (if feasible) and the basis of its estimate. The statutory thresholds are \$50 million for intergovernmental mandates and \$100 million for private-sector mandates in 1996 dollars, adjusted annually for inflation. (The thresholds in 2008 were \$68 million for intergovernmental mandates and \$136 million for private-sector mandates.)

The mandate statement that CBO prepares must also include an assessment of 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.

Authorizing committees must publish CBO's mandate statements in their reports or in the *Congressional Record* before a bill is considered on the floor of the House or the Senate. Conference committees must "to the greatest extent practicable" ensure that CBO prepares statements for conference agreements or amended bills if they contain mandates not previously considered by either the House or the Senate or if they impose greater direct costs than the version considered earlier. At the request of a Senator, CBO must estimate the costs of intergovernmental mandates contained in an amendment the Senator may wish to offer.

The Congress may also call on CBO to prepare analyses at other stages of the legislative process. If asked by the chairman or ranking member of a committee, CBO will help committees 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.

Enforcement Mechanisms

Section 425 of UMRA sets out rules for both the House and the Senate that prohibit consideration of legislation unless certain conditions are met. For all reported legislation, consideration is not "in order" unless the committee has published a mandate statement prepared by CBO. That is, UMRA prohibits the consideration of a reported bill unless the committee has published a statement from CBO about the costs of any mandates.

The rules preclude consideration for reported legislation that contains intergovernmental mandates with direct costs above the statutory threshold unless the legislation provides direct spending authority or authorizes appropriations sufficient to cover those costs. An authorization of an appropriation will not be sufficient unless the authorized amounts are specified for each year (up to 10 years) after the effective date and the legislation pro-

vides a way to terminate or scale back the mandate if the federal agency determines that the appropriated funds are not sufficient to cover those costs.

Finally, although UMRA does not specifically require CBO to analyze the cost of mandates in appropriation bills, it is not in order to consider legislative provisions in such bills—or amendments to them—that increase the direct costs of intergovernmental mandates unless an appropriate CBO statement is provided.

Those rules are not automatically enforced, however; a Member must raise a point of order to enforce them. In the House, if a Member raises a point of order, 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.²

Appropriation Bills

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.³

2. 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), www.rules.house.gov/Archives/pop106_11.htm.
3. 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 appropriation clerks if it identifies any intergovernmental mandates.

Public Laws That Contain Federal Mandates as Defined in UMRA

This appendix contains a brief description of intergovernmental and private-sector mandates enacted since 1996 with estimated costs that exceed the thresholds established in the Unfunded Mandates Reform Act of 1995 (UMRA). Table B-1 is a tally of laws enacted during the past five years containing intergovernmental and private-sector mandates.

Intergovernmental Mandates

In the 13 years since UMRA became law, only 11 laws have been enacted that contained intergovernmental mandates with costs above the threshold.¹

An increase in the minimum wage (Public Law [P.L.] 104-188, enacted in 1996, and P.L. 110-28, enacted in 2007): The Congressional Budget Office (CBO) estimated that the increase required by the bill that became P.L. 104-188 would cost state and local governments (in their capacity as employers) more than \$1 billion during the first five years that it was in effect. In the bill that became P.L. 110-28, state, local, and tribal governments would see increased costs of slightly less than \$1 billion during the first five years after the increase went into effect.

A reduction in federal funding for administering the Food Stamp program, now the Supplemental Nutrition Assistance Program (P.L. 105-185, enacted in 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 (P.L. 108-173, enacted in 2003):

CBO estimated that under that preemption, states would lose about \$70 million in revenues in 2006 (the first year in which the mandate was in effect). That drop in revenues was estimated to grow to about \$95 million in 2010.

A temporary preemption of states' authority to tax certain Internet services and transactions (P.L. 108-435, enacted in 2004): In CBO's estimation, that preemption would result in a reduction of at least \$300 million in state and local government revenues. In 2007, the preemption was extended through most of 2011 by P.L. 110-108. CBO estimates that the preemption will result in a reduction of about \$80 million annually in state and local government revenues.

A requirement that state and local governments meet certain standards for issuing driver's licenses, identification cards, and vital-statistics documents (P.L. 108-458, enacted in 2004): CBO estimated that state and local governments would 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 would exceed UMRA's thresholds. The law authorizes the appropriation of funds to provide grants to state and local governments to pay for those costs. In fiscal year 2006, \$40 million was appropriated for that purpose.

The elimination of matching federal payments for some child support spending (P.L. 109-171, enacted in 2006): States will be required to use more of their own resources to administer the program, and CBO estimates that additional state spending will total more than \$100 million annually, beginning in 2008.

A requirement that state and local governments withhold taxes on certain payments for property and services (P.L. 109-222, enacted in 2006): The Joint Committee on Taxation estimated that, beginning in 2011, the cost

1. In 1996, the thresholds for intergovernmental and private-sector mandates were \$50 million and \$100 million, respectively. Those amounts are adjusted annually for inflation and in 2008 were \$68 million and \$136 million, respectively.

Table B-1.

Number of Enacted Laws That Contained Mandates, 2004 to 2008

	2004	2005	2006	2007	2008
Intergovernmental Mandates					
Laws That Contained Mandates	21	11	30	14	19
Total Number of Mandates Enacted	25	23	37	20	40
Mandates whose costs exceed the statutory threshold	2	0	2	3	1
Mandates whose costs might be above or below the statutory threshold	0	1	2	0	0
Private-Sector Mandates					
Laws That Contained Mandates	19	19	39	20	29
Total Number of Mandates Enacted	43	30	66	47	64
Mandates whose costs exceed the statutory threshold	5	4	11	10	15
Mandates whose costs might be above or below the statutory threshold	4	5	11	8	13

Source: Congressional Budget Office.

Note: The thresholds established in the Unfunded Mandates Reform Act of 1995 for intergovernmental and private-sector mandates were \$50 million and \$100 million, respectively, in 1996. CBO has adjusted the statutory thresholds each year for inflation. In 2008, the thresholds for intergovernmental and private-sector mandates were \$68 million and \$136 million, respectively.

of the requirement would exceed the intergovernmental threshold of \$70 million established in UMRA.

Requirements on rail and transit owners and operators. P.L. 110-53, enacted in 2007, required all public transit and rail carriers to train workers and submit reports to the Department of Homeland Security. P.L. 110-432, enacted in 2008, requires commuter railroads to install train-control technology. In both cases, CBO estimated that the cost of the requirements would exceed the threshold in at least one of the first five years following enactment.

Private-Sector Mandates

Since UMRA became law, the Congress and the President have enacted more legislation that contained private-sector mandates than legislation containing intergovernmental mandates. Sixty-eight private-sector mandates whose costs CBO determined were higher than the statutory threshold have been enacted since 1996.²

Twenty-one revenue-raising provisions in 14 public laws require individuals or businesses to pay more in taxes (Public Laws 104-188, 104-193, 105-2, 105-34, 105-

178, 105-206, 105-277, 106-170, 107-147, 108-357, 109-222, 110-28, 110-140, and 110-343).

Seven mandates affect health insurance—requirements for portability of insurance coverage (P.L. 104-191); requirements for minimum maternity stays (P.L. 104-204); requirements for private health insurance providers under the Medicare program (P.L. 105-33); various requirements relating to pediatric research that apply to drug manufacturers (P.L. 108-155); a prohibition, directed toward providers of group health plans, against offering incentives to military retirees to decline enrollment in a group health plan in favor of relying on the military’s health care program (P.L. 109-364); and two mandates requiring parity in insurance coverage for men-

2. The list of enacted private-sector mandates with costs exceeding the threshold is not necessarily comprehensive for the 1996–2001 period. Each year during that time, CBO analyzed the status of mandates in legislation that it had reviewed during the previous year to determine whether those mandates had been enacted. But some mandates that were enacted were not considered by a committee during the legislative process and thus might not have been reviewed by CBO. To address that issue, CBO in 2002 began to review all public laws enacted each year to determine whether they contained private-sector mandates.

tal health as well as other medical benefits (P.L. 107-147 and P.L. 110-343).

Thirteen mandates affect specific industries—changes in the regulation of telecommunications (P.L. 104-104); changes in milk pricing (P.L. 106-113); a new safety requirement for automobiles (P.L. 107-318); new requirements for credit agencies, lenders, and merchants that handle credit transactions (P.L. 108-159); expanded safety requirements for commercial motor carriers (P.L. 109-59); an increase in federal deposit insurance premiums for banks and credit unions (P.L. 109-171); requirements applying to operators of underground coal mines to install equipment to improve accident preparedness (P.L. 109-236); a requirement for rail carriers and bus services to implement security plans and conduct security training (P.L. 110-53); two sets of requirements for country-of-origin labels for various foods (P.L. 107-171 and P.L. 110-246); new safety requirements for automobiles (P.L. 110-189); new safety standards and labeling requirements for consumer products (P.L. 110-314); and a requirement for railroads to develop and install train-control technology (P.L. 110-432).

Four energy-related mandates have been enacted—two changes to the minimum requirements for renewable fuels in motor fuels (P.L. 109-58 and P.L. 110-140), a set of new corporate average fuel economy standards for motor vehicles (P.L. 110-140), and new energy-efficiency standards for appliances and lighting (P.L. 110-140).

Thirteen mandates involve fees—a fee on airline travel (P.L. 107-71), a fee on manufacturers and importers of tobacco products (P.L. 108-357), an increase in existing fees and new fees for certain patent and trademark services (P.L. 108-447), fees for H1-B visas (P.L. 108-447),

three extensions of mining reclamation fees (P.L. 109-54, P.L. 109-234, and P.L. 109-432), a surcharge on the filing fee for passport applications (P.L. 109-167), an extension of user fees for manufacturers of prescription drugs and medical devices (P.L. 110-85), an extension of patent and trademark fees (P.L. 110-161), and three extensions of customs user fees (P.L. 110-138, P.L. 110-246, and P.L. 110-436).

Three mandates affect workers' take-home pay. Two are increases in the minimum wage (P.L. 104-188 and P.L. 110-28), and one is an increase in federal employees' contributions for retirement (P.L. 105-33).

Two mandates affect pension plans. One is an increase in certain premiums paid to the Pension Benefit Guaranty Corporation by sponsors of single-employer and multiemployer defined-benefit pension plans (P.L. 109-171); the other is a shortened schedule for vesting in private retirement funds (P.L. 109-280).

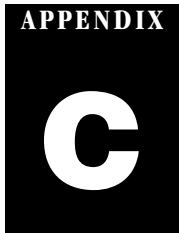
One mandate **imposes new requirements on sponsors of immigrants** (P.L. 104-208).

One mandate **changes procedures for collecting and using campaign contributions** (P.L. 107-155).

One mandate **changes procedures for administering bankruptcy claims** (P.L. 109-8).

One mandate **requires Fannie Mae and Freddie Mac** to contribute to a fund for affordable housing programs (P.L. 110-289).

One mandate **limits possible recoveries** on terrorism-related lawsuits against Libya (P.L. 110-301).



Primary Contributors to CBO's Analyses of Mandates

The following Congressional Budget Office (CBO) staff members prepare the mandate statements that CBO produces for bills and other legislative proposals.¹

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1. During 2008, the following former CBO staff members also contributed to CBO's mandate analyses: Neil Hood, MarDestinee Perez, and Ralph Smith.

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