

CONGRESS OF THE UNITED STATES  
CONGRESSIONAL BUDGET OFFICE

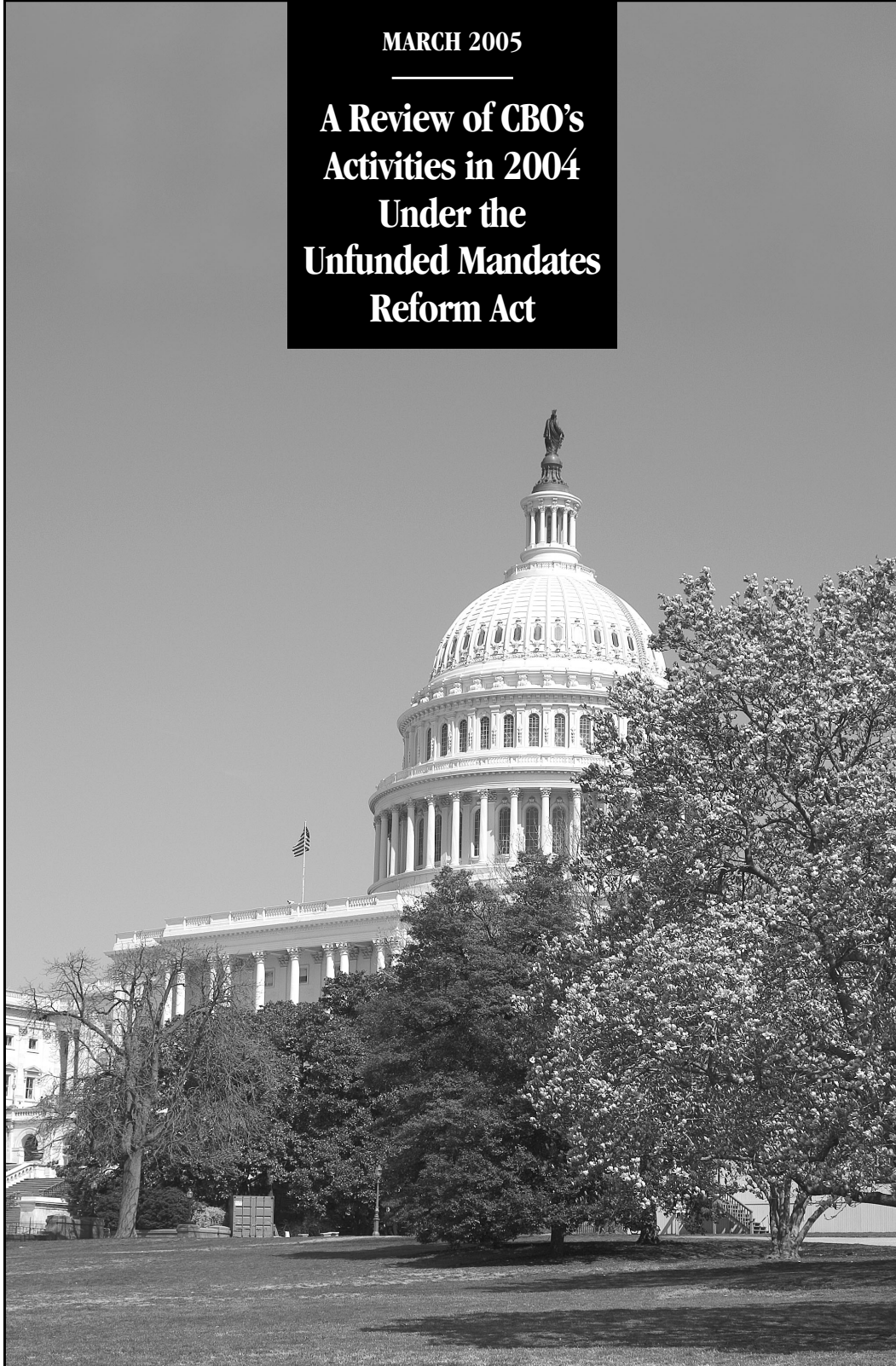
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CBO

REPORT

MARCH 2005

**A Review of CBO's  
Activities in 2004  
Under the  
Unfunded Mandates  
Reform Act**







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## **Note**

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

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## Preface

**T**his report is the Congressional Budget Office's (CBO's) annual review of its activities under the Unfunded Mandates Reform Act of 1995 (UMRA). The report covers legislation considered by the Congress in 2004 that would impose mandates on state, local, or tribal governments or on the private sector.

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Leah Mazade edited the report, and Loretta Lettner proofread it. Ernestine McNeil drafted the tables; Maureen Costantino took the cover picture and prepared the final version for publication. Annette Kalicki and Simone Thomas prepared the electronic version for CBO's Web site ([www.cbo.gov](http://www.cbo.gov)).

Douglas Holtz-Eakin  
Director

March 2005





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# A Review of CBO's Activities in 2004 Under the Unfunded Mandates Reform Act

## Introduction

The Unfunded Mandates Reform Act (UMRA), enacted a decade ago, established procedures for providing information about proposed federal mandates.<sup>1</sup> That act defines a mandate as any provision in legislation, statute, or regulation that would impose an enforceable duty on state, local, or tribal governments or the private sector; that would reduce or eliminate the amount of funding authorized to cover the costs of existing mandates; or that would increase the stringency of conditions or make cuts in federal funding for certain mandatory programs. Duties that are imposed as a condition of federal assistance or that arise from participating in a voluntary federal program generally are not mandates as defined by UMRA.

Title I of UMRA increased the amount of information available about legislation containing such federal mandates by requiring that the Congressional Budget Office (CBO) provide the Congress with estimates of proposed mandates' costs. Title I also required that authorizing committees add information about mandates to their reports, including mandate statements prepared by CBO. In those statements, CBO must address whether the federal mandates contained in a bill would impose direct

costs that are greater than the thresholds established in the mandates law. (In 2004, those thresholds, which are adjusted annually for inflation, were \$60 million for intergovernmental mandates and \$120 million for private-sector mandates.) If CBO cannot estimate the cost of a mandate, its statement must indicate that such an estimate is not feasible and explain why.

UMRA also established procedural rules for both the House and Senate that enforce the requirements of title I of UMRA. The rules are designed to make it more difficult for the Congress to consider legislation unless it has some information about any mandates that the legislation contains. Those rules are enforced through the use of points of order. Thus, 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 creates 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 House resolves the issue according to its established rules and procedures. Although such procedural requirements do not preclude the Congress from passing bills that contain mandates, they may introduce additional hurdles that can help focus policymakers' deliberations on unfunded mandates. (See Appendix A for a more detailed description of title I of UMRA.)

This report is CBO's annual assessment of its mandate-related activities, updating information provided in its eight previous reports on UMRA.<sup>2</sup> Specifically, the report:

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1. The Congressional Budget Office (CBO) has been estimating the effect of federal legislation on state and local governments since 1982. Initially, the State and Local Government Cost Estimates Act of 1981 required CBO to estimate the costs that state and local governments would incur to carry out or comply with "any significant bill or resolution." UMRA repealed that law, narrowed the types of intergovernmental mandates that CBO must identify, and required more in-depth analysis of their impact. UMRA also lowered the cost that triggers the need for an intergovernmental estimate from \$200 million a year to \$50 million (adjusted annually for inflation). In practice, CBO continues to provide the Congress, when feasible, with estimates of all proposed federal budgetary effects on state and local governments, regardless of their cost and regardless of whether they stem from mandates as defined by UMRA.

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2. CBO's previous reports on UMRA can be found at [www.cbo.gov](http://www.cbo.gov).

- Identifies mandates that were enacted into law in 2004;
- Provides an overview of all mandate statements prepared by CBO in 2004; and
- Shows trends in the number of federal mandates considered by the Congress since 1996.

By CBO's estimate, few mandates with costs that exceeded the UMRA thresholds were enacted into law in 2004. Furthermore, most of the legislation that the Congress considered last year did not contain federal mandates as UMRA defines them. Those results are consistent with the pattern of experience under UMRA: since the law was enacted, CBO has reviewed more than 570 pieces of legislation each year, on average, and identified intergovernmental mandates in an average of 12 percent of them and private-sector mandates in an average of 14 percent.

## Public Laws Enacted in 2004 That Contain Mandates

The Congress and the President enacted 300 public laws in 2004, 21 of which contained one or more intergovernmental mandates as defined by UMRA and 19 of which contained one or more private-sector mandates (see Table 1 on page 7 and Table 2 on page 10).

### Intergovernmental Mandates

Most of the intergovernmental mandates—those that impose duties on state, local, or tribal governments—that were enacted in 2004 will not impose significant costs on those governments.<sup>3</sup> In CBO's estimation, only two will impose costs that exceed UMRA's annual threshold of \$60 million:

- The Internet Tax Nondiscrimination Act (Public Law 108-435), which temporarily preempts states' authority to tax certain Internet services and transactions (CBO estimated in 2003 that this preemption would result in revenue losses to state and local governments totaling at least \$325 million through 2007); and

- The Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458), which requires state and local governments to comply with federal standards for driver's licenses, identification cards, and vital-statistics documents. (CBO estimates that state and local governments will have to spend more than \$100 million over the 2005-2009 period to comply with those standards and that the costs in at least one year of the next five will exceed the UMRA threshold. The act authorizes the appropriation of funds to provide grants to state and local governments to pay for those costs.)

Four laws enacted in 2004 contained intergovernmental mandates that were not reviewed by CBO before they were enacted. Three of the laws were appropriation acts—the Consolidated Appropriations Act, 2004; the District of Columbia Appropriations Act, 2005; and the Consolidated Appropriations Act, 2005—which are not generally governed by UMRA; as a result, CBO did not analyze the costs those mandates would impose before the bills were enacted. The fourth bill—the Prevention of Child Abduction Partnership Act—was not reported by an authorizing committee and thus was not reviewed by CBO. None of those mandates, however, in CBO's estimation—and none of the remaining 15 public laws that were enacted in 2004 and that contained intergovernmental mandates—will impose significant costs on other levels of government.

### Private-Sector Mandates

Like the intergovernmental mandates, most of the private-sector mandates in public laws enacted in 2004 have costs that CBO estimates will be below the UMRA threshold. Of the 19 public laws with private-sector mandates that were enacted in 2004, CBO estimates that two will impose mandates with costs above the annual threshold of \$120 million:

- The American Jobs Creation Act of 2004 (Public Law 108-357), which imposes a fee on manufacturers and importers of tobacco products to finance buyout payments to tobacco growers, extends through 2014 the customs user fees that were scheduled to expire after March 1, 2005, and contains several revenue-raising provisions used to offset tax cuts in the act; and
- The Consolidated Appropriations Act, 2005 (Public Law 108-447), increases some existing fees and establishes new ones for certain patent and trademark services. It also requires companies and other entities to

3. For a more in-depth discussion of the treatment of intergovernmental mandates under UMRA, see Congressional Budget Office, *Identifying Intergovernmental Mandates*, Economic and Budget Issue Brief (January 6, 2005).

pay certain fees when filing a petition for an H-1B visa, including a filing fee and a fraud prevention and detection fee, and imposes several additional mandates on the private sector.<sup>4</sup>

In the case of four private-sector mandates enacted in 2004, CBO could not determine whether compliance costs would exceed the threshold. The mandates are a one-year extension on the ban on imports from Burma; new recordkeeping requirements for individuals who manufacture, prescribe, or administer medical products authorized for use in emergencies; a limit on the hours that crew members on towing vessels may work; and an extension of the mandate on air carriers to honor tickets for suspended air service.

Four laws contained private-sector mandates that CBO did not review before their enactment in the 108th Congress. Two of those laws are appropriation acts. (As noted earlier, UMRA does not generally require CBO to analyze the cost of mandates in appropriation bills.) The Consolidated Appropriations Act, 2004, includes two mandates—fees imposed on companies that sell, use, or distribute pesticides and a prohibition against requiring federal contractors to post bonds related to the closing of a national laboratory. The Consolidated Appropriations Act, 2005, contains several mandates, three of which were not formally reviewed by CBO before they were enacted—a prohibition on some air carriers' providing mail service in Alaska, a requirement that satellite carriers retransmit local television signals, and new fees for employers' filing of a petition for an H-1B visa. Another law—an act to amend the Livestock Mandatory Price Reporting Act—contains a mandate that was reviewed in the 106th Congress. (That act extends certain reporting requirements for meat packers.) The fourth law, the Coast Guard and Maritime Transportation Act of 2004, includes a provision that establishes new filing and certification procedures for certain investor-owned vessels. That provision was added after the legislation had been considered in committee.

## Mandate Statements Prepared by CBO in 2004

Last year, CBO provided mandate cost statements to the Congress for nearly all of the bills reported by authorizing

4. The H-1B visa allows a U.S. company to employ a foreign individual for up to six years in a specialty occupation.

committees and for many other proposed bills and amendments. In all, CBO reviewed more than 550 bills and other legislative proposals to determine whether they contained federal mandates (see Table 3 on page 16). As in previous years, most of that legislation did not contain federal mandates as defined by UMRA; only about 12 percent (66 bills) had intergovernmental mandates, and 13 percent (71 bills) contained mandates that applied to the private sector. (Appendix B lists all of the bills and proposals containing mandates that were reviewed by CBO in 2004.) Over half of the intergovernmental mandates for which CBO provided estimates were preemptions of state and local authority.

## Mandates Considered in 2004 That Had Estimated Costs Above the Statutory Thresholds

Most of the mandate-containing legislation that the Congress considered in 2004 would not have imposed costs that exceeded UMRA's annual thresholds, in CBO's estimation. Only 2 percent (nine bills) had intergovernmental mandates with costs higher than the \$60 million annual threshold; another two bills (less than 1 percent) had mandates whose costs could not be determined. Similarly, CBO estimated that only about 3 percent (14) of the bills that contained private-sector mandates would have imposed costs greater than the \$120 million threshold. For another 2 percent (10 bills), CBO could not determine whether the costs of their mandates would have exceeded the threshold.

As a result of action in both the House and Senate, the Congress may consider the same or similar mandates in more than one piece of legislation. Consequently, the number of different mandates included in legislation is smaller than the total number of mandates presented in the mandate statements that CBO prepared.

### Intergovernmental Mandates

In 2004, nine bills contained five intergovernmental mandates whose costs exceeded UMRA's threshold (see Table 4 on page 17):

- A requirement that state and local governments meet certain standards for issuing driver's licenses, identification cards, and vital-statistics documents (H.R. 10, five versions; enacted in Public Law 108-458);

- A prohibition on displaying Social Security numbers on certain public documents (H.R. 2971);
- A requirement to pay overtime for certain workers (H.R. 4520);
- A requirement that certain public transportation agencies train employees in security procedures (H.R. 5082); and
- An increase in the minimum wage (a proposed Senate amendment to H.R. 4).
- New safety standards for manufacturers of motor vehicles and manufacturers of tires (S. 1978);
- An increase in the number of workers covered by the overtime pay provisions of the Fair Labor Standards Act (H.R. 4520—Senate version);
- A net increase in patent and trademark fees (H.R. 1561—Senate version; enacted in Public Law 108-447);
- New requirements under the Employee Retirement Income Security Act of 1974 that would affect sponsors, administrators, and fiduciaries of private pension plans (S. 2424; some provisions enacted in Public Law 108-218);

### Private-Sector Mandates

CBO provided 14 statements for legislation in 2004 that contained 13 separate private-sector mandates with costs above the statutory threshold (see Table 4):

- New procedures and medical criteria to qualify for a cause of action in personal injury and wrongful death claims arising from asbestos exposure, and—to pay for claims under the new procedures—assessments levied on defendant companies and their insurers and the mandatory transfer of assets from private trust funds (S. 2290);
- Safety requirements for owners and operators of commercial motor vehicles that transport nine to 15 passengers (H.R. 3550);
- A requirement that Fannie Mae and Freddie Mac contribute to a fund that supports underserved markets (S. 1508);
- Several provisions that would boost tax revenues related to alcohol fuels by amending the Internal Revenue Code (H.R. 3971);
- Several tax provisions that would increase revenues by amending the Internal Revenue Code regarding tax shelters and deductions for certain fines, penalties, and other items (S. 882);
- A requirement that television broadcast stations increase the amount of their local and public affairs programming (S. 2820);
- An increase in the minimum wage paid to employees covered by the Fair Labor Standards Act (a proposed Senate amendment to H.R. 4);
- New fees for manufacturers and importers of tobacco products—one that would fund the administrative costs incurred by the Food and Drug Administration to regulate tobacco products and the other to be deposited in a trust fund to finance payments to tobacco growers (H.R. 4520—Senate version; the trust fund fee was enacted in Public Law 108-357); and
- New requirements for telecommunications carriers and mobile-phone service providers to protect the privacy of wireless subscribers (S. 1963).

### Mandates Considered in 2004 Whose Costs Could Not Be Determined

For a number of intergovernmental and private-sector mandates, CBO could not determine whether their costs would exceed UMRA's thresholds. In some cases, uncertainty about the mandate's scope (both how extensive its requirements would be and who would be affected) made it impossible to estimate the mandate's costs. In other instances, estimating the costs of extending an existing mandate was difficult. UMRA does not specify whether CBO should measure the cost of the extension relative to the mandate's current costs or assume that the mandate will expire and that it must measure the costs of the mandate's extension as if the requirement were new. In the case of customs user fees, for example, the mandate's costs would be either zero or well above the threshold, depending on the comparison that CBO had used. As it has done in similar cases, CBO reported a bill's costs using both comparisons to ensure that lawmakers received as much information as possible about potential mandates.

### Intergovernmental Mandates

CBO could not determine whether the costs of two intergovernmental mandates—a requirement that chemical facilities conduct vulnerability assessments (S. 994) and new requirements for compacts between states and tribes that govern gaming activities on tribal lands (S. 1529)—exceeded the threshold (see Table 4). In both cases, unknown factors precluded a determination. CBO had no basis for predicting what regulations the Department of Homeland Security or the Department of the Interior would issue to implement the mandates. In addition, because the negotiation of gaming compacts between states and tribes is so complex, CBO could not foresee the outcome of that process.

### Private-Sector Mandates

Threshold determinations could not be made by CBO for eight separate private-sector mandates in 10 bills (see Table 4):

- A requirement that chemical facilities undertake specific measures to protect against terrorist attacks or other categories of chemical releases (S. 994);
- A prohibition on distributing and broadcasting to the public certain violent television programs during specific hours unless those programs can be electronically blocked (S. 2056);
- An extension through 2014 of the requirement to pay fees for customs services (H.R. 4520, enacted in Public Law 108-357);
- A prohibition on a person's commercial use of information from a database generated by another person if proper authorization has not been granted (H.R. 3872 and H.R. 3261);
- New requirements applicable to nuclear facilities and shippers of hazardous materials that are designed to address security threats (H.R. 10—House Judiciary Committee);
- Requirements that operators of marine terminals and certain vessels maintain waste receptacles and keep records of waste disposal (S. 2488);
- A one-year extension of the ban on all imports from Burma (H.J. Res. 97 and S.J. Res. 39, enacted in Public Law 108-272); and

- A prohibition on the purchase, sale, or display of a Social Security number to the general public (H.R. 2971).

In five of the eight cases, CBO could not determine the costs of mandates in the legislation because it had no basis for predicting what regulations would be issued to implement the mandates. In two instances—the prohibitions on misappropriating databases and on imports from Burma—CBO did not have enough information to determine the scope and incremental impact of the prohibitions. In the case of customs user fees, CBO estimated the amount to be collected in fees; however, because the mandate would have extended an existing requirement, CBO did not make a threshold determination.

### Mandate Statements Prepared Since UMRA Went Into Effect

CBO has been reviewing bills according to the provisions of UMRA for nine years. Most of the legislation that the Congress considered between 1996 and 2004 did not contain federal mandates as UMRA defines them. Of the roughly 5,200 bills and other legislative proposals that CBO reviewed during that period, 617 (12 percent) contained intergovernmental mandates, and 732 (14 percent) contained private-sector mandates (see Table 5 on page 21). Those percentages have varied only slightly from one Congress to another.

Most of the mandates that CBO examined would not have imposed costs higher than the thresholds set by UMRA. About 1 percent of the bills that CBO reviewed had intergovernmental mandates whose costs exceeded the threshold established in the law, and another 1 percent had costs that could not be estimated. For private-sector mandates, about 3 percent of bills had mandates whose costs were greater than the statutory threshold. About 2 percent of bills had mandates whose private-sector costs could not be estimated.

UMRA does not apply to legislative provisions that cover constitutional rights, discrimination, emergency aid, accounting and auditing procedures for grants, national security, treaty ratification, and title II of Social Security (Old-Age, Survivors, and Disability Insurance benefits). About 2 percent of the bills that CBO reviewed in each year of the 1996-2004 period contained provisions that fit within those exclusions. Many of the provisions ap-

plied to national security or Social Security and in general did not contain costly mandates.

In the nine years that UMRA has been in place, five intergovernmental mandates with costs above the threshold have become law:

- An increase in the minimum wage (Public Law 104-188, enacted in 1996). CBO estimated that this requirement would cost state and local governments more than \$1 billion during the first five years it was in effect.
- A reduction in federal funding to administer the Food Stamp program (Public Law 105-185, enacted in 1998). CBO estimated that those funding cuts would cost states between \$200 million and \$300 million a year.
- A preemption of state taxes on premiums for certain prescription drug plans (Public Law 108-173, enacted in 2003). CBO estimated that the preemption would result in states' losing revenues of about \$70 million in 2006 (the first year in which the mandate is effective), increasing to about \$95 million in 2010.
- A temporary preemption (until 2007) of states' authority to tax certain Internet services and transactions (Public Law 108-435, enacted in 2004). CBO estimates that because of the preemption, state and local governments through 2007 will lose revenues totaling at least \$325 million.
- A requirement that state and local governments meet federal standards for issuing driver's licenses, identification cards, and vital-statistics documents (Public Law 108-458, enacted in 2004). In CBO's estimation, that requirement will impose costs totaling more than \$60 million in at least one year of the next five.

Since UMRA became law, the Congress has considered and enacted more legislation that contained private-sector mandates than legislation containing intergovern-

mental mandates. Twenty-six private-sector mandates whose costs CBO determined were higher than the statutory threshold have been enacted since 1996:

- Eight revenue-raising provisions in the tax code, which require individuals or firms to pay more in taxes;
- Five health insurance mandates requiring portability of insurance coverage, a minimum time for maternity stays, changes in Medicare coverage that impose new requirements on private health insurance providers, parity in insurance coverage that provides mental health and other medical benefits, and assessments by drug manufacturers to determine the safety and efficacy of drugs and biological products for use in children and to establish dosing and administration protocols;
- Five mandates affecting specific industries—telecommunications reform, changes in milk pricing, country-of-origin labels for certain foods, a new safety requirement for automobiles, and new requirements for credit agencies, lenders, and merchants that handle credit transactions;
- Four mandates involving fees—specifically, a fee on manufacturers and importers of tobacco products, increases in existing fees and new fees for certain patent and trademark services, new filing fees for H-1B visas, and a fee on airline travel to fund airport security operations;
- Two mandates—one increasing the minimum wage and the other raising federal employees' contributions for retirement—that affect a worker's take-home pay;
- One mandate that imposes new requirements on sponsors of immigrants; and
- One mandate that changes procedures for collecting and using campaign contributions.

**Table 1.**

**Laws Enacted in 2004 That Contain Intergovernmental Mandates**

Public Law Number	Name	Mandate	Was Mandate Reviewed by CBO Before It Was Enacted?	Do Costs Exceed Threshold? <sup>a</sup>
108-199	Consolidated Appropriations Act, 2004	Prohibits the state of New Mexico from requiring federal contractors to post bonds for work related to the closing of the Sandia National Laboratories	No	No
		Restricts the use of local funds by the District of Columbia and preempts certain local authority	No	No
		Prohibits states from adopting emissions standards for certain engines	No	No
108-203	Social Security Protection Act of 2004	Preempts state laws that prohibit the exchange of information between the Social Security Administration and state and local law enforcement officers; requires state and local governments to notify new employers if their positions are not covered by the Social Security program	Yes	No
108-237	Standards Development Organization Advancement Act	Expands existing preemption of state antitrust laws	Yes	No
108-276	Project BioShield Act of 2004	Preempts state laws that limit damages and litigation costs in some cases against biomedical contractors	Yes	No
108-277	Law Enforcement Officers Safety Act	Preempts state laws regarding concealed weapons and requires law enforcement agencies to certify certain officers	Yes	No
108-293	Coast Guard and Maritime Transportation Act of 2004	Requires operators of certain vessels with automatic identification systems to incorporate electronic charts and displays into their equipment	Yes	No
108-326	An act to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa	Exempts the interest on bonds issued by American Samoa from state, local, and territorial taxes	Yes	No
108-335	District of Columbia Appropriations Act, 2005	Restricts the use of local funds by the District of Columbia and preempts certain local authority	No	No

Continued

**Table 1.****Continued**

Public Law Number	Name	Mandate	Was Mandate Reviewed by CBO Before It Was Enacted?	Do Costs Exceed Threshold? <sup>a</sup>
108-357	American Jobs Creation Act of 2004	Imposes a fee on manufacturers and importers of tobacco products, including Indian tribes	Yes	No
108-370	Prevention of Child Abduction Partnership Act	Preempts state and local liability laws	No	No
108-375	Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005	Increases the cost of an existing mandate in the Soldiers and Sailors Civil Relief Act by increasing the number of active-duty service members	Yes	No
		Preempts certain state authority to tax and exempts certain satellite data from state and local public access-to-information laws	Yes	No
108-378	An act to amend the Organic Act of Guam for the purposes of clarifying the local judicial structure of Guam	Preempts local authority and imposes a specific structure on the judiciary of Guam	Yes	No
108-386	2004 District of Columbia Omnibus Authorization Act	Requires the D.C. school board to submit a detailed plan for allocation of education funds	Yes	No
108-405	Justice for All Act	Codifies into federal law certain rights for crime victims in the District of Columbia	Yes	No
108-419	Copyright Royalty and Distribution Reform Act	Requires state, local, or tribal governments, if subpoenaed by the copyright royalty judges, to appear or provide evidence	Yes	No
108-435	Internet Tax Nondiscrimination Act	Prohibits states from charging taxes on Internet access; requires states that currently collect such taxes to stop doing so in one to two years	Yes	Yes
108-447	Consolidated Appropriations Act, 2005 (Division E—Department of the Interior and Related Agencies Appropriations Act, 2005)	Preempts local land-use regulations as they relate to the use of land held in trust by the Department of the Interior for an Indian tribe	No	No

Continued



**Table 1.****Continued**

Public Law Number	Name	Mandate	Was Mandate Reviewed by CBO Before It Was Enacted?	Do Costs Exceed Threshold? <sup>a</sup>
108-447 (Continued)	(Division J—Other Matters)	Expands an existing mandate requiring the District of Columbia to give preference to charter schools in disposing of surplus city property; expands an existing mandate requiring audits of the D.C. Public Charter Schools Board	No	No
108-454	Veterans Benefits Improvement Act	Requires employers to extend health benefits to certain reservists for an additional six months and therefore increases the cost of an existing mandate	Yes	No
108-458	Intelligence Reform and Terrorism Prevention Act of 2004	Requires state and local governments to comply with federal standards for driver's licenses, identification cards, and vital-statistics documents	Yes	Yes
108-487	Intelligence Authorization Act of 2005	Preempts certain state laws related to income taxes	Yes	No
108-496	Federal Employee Dental and Vision Benefits Enhancement Act of 2004	Preempts state and local laws governing health insurance coverage and benefits for federal employees	Yes	No

Source: Congressional Budget Office.

a. In 2004, the threshold for intergovernmental mandates, which is adjusted annually for inflation, was \$60 million.

**Table 2.****Laws Enacted in 2004 That Contain Private-Sector Mandates**

Public Law Number	Name	Mandate	Was Mandate Reviewed by CBO Before It Was Enacted?	Do Costs Exceed Threshold? <sup>a</sup>
108-199	Consolidated Appropriations Act, 2004	Increases pesticide maintenance fees and establishes pesticide registration service fees for companies that sell, use, or distribute pesticides in the United States	No	No
		Prohibits any entity from requiring federal contractors to post bonds for work related to the closing of the Sandia National Laboratories	No	No
108-203	Social Security Protection Act of 2004	Prohibits anyone from offering for a fee information provided free of charge by the Social Security Administration unless such individual makes clear that the information is available free of charge and complies with standards prescribed by the Commissioner regarding such notice	Yes	No
		Imposes a processing charge on private attorneys to whom the Social Security Administration disburses fees related to their representation of successful Supplemental Security Income claimants	Yes	No
108-218	Pension Funding Equity Act of 2004	Requires the administrators of multiemployer defined-benefit plans to provide notices about plan funding to participants, beneficiaries, labor organizations, and employers associated with the plan	Yes	No
108-272	An act approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003	Extends the ban on all imports from Burma for one year	Yes	Uncertain
108-276	Project BioShield Act of 2004	Requires people who manufacture, distribute, prescribe, or administer medical products authorized for use in emergencies to maintain records on their safety and effectiveness	Yes	Uncertain

Continued

**Table 2.**

**Continued**

Public Law Number	Name	Mandate	Was Mandate Reviewed by CBO Before It Was Enacted?	Do Costs Exceed Threshold? <sup>a</sup>
108-282	An act to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes	Requires manufacturers, packagers, and labelers of processed foods to display on the label the names of the major food allergens from which the ingredients are derived	Yes	No
		Imposes mandates on some manufacturers of generic animal drugs for minor uses or for use in minor species by providing additional market exclusivity to innovators and potentially delaying the time at which the generic products could enter the market	Yes	No
108-293	Coast Guard and Maritime Transportation Act of 2004	Requires operators of certain vessels with automatic identification systems to incorporate electronic charts and displays into their equipment	Yes	No
		Prohibits the use on a vessel's bridge of electronic or other devices that interfere with communications and navigation equipment	Yes	No
		Prescribes the maximum hours of service for individuals engaged in work on a towing vessel that is at least 26 feet in length	Yes	Uncertain
		Requires owners and operators of certain vessels to prepare and submit a plan for responding to a worst-case discharge of oil or a hazardous substance and for responding to a substantial threat of such a discharge	Yes	No
		Requires charterers of documented vessels engaged in coastwise commercial trade and fishing to submit reports to the Secretary of Transportation regarding the qualifications of their vessels	Yes	No
		Requires towing vessels to be subject to inspection by the Coast Guard	Yes	No
		Establishes new filing and certification requirements for certain investor-owned vessels	No	No

Continued

**Table 2.****Continued**

Public Law Number	Name	Mandate	Was Mandate Reviewed by CBO Before It Was Enacted?	Do Costs Exceed Threshold? <sup>a</sup>
108-304	Sports Agent Responsibility and Trust Act	Prohibits a sports agent from providing anything of value to a student athlete or anyone associated with the athlete before entering into a contract; requires an agent to get a signature from a student athlete or the athlete's parent or legal guardian on a specific disclosure document before entering into an agency contract; requires an agent and a student athlete to inform the student's educational institution of the agency contract	Yes	No
108-311	Working Families Tax Relief Act of 2004	Extends the mandate requiring private group health plans and health insurance issuers to cover mental health and medical benefits equally through the end of calendar year 2005	Yes	No
108-357	American Jobs Creation Act of 2004	Extends through 2014 the customs user fees that were scheduled to expire after March 1, 2005	Yes	Extends a mandate with costs above the threshold
		Imposes a fee on manufacturers and importers of tobacco products to finance buyout payments to tobacco growers	Yes	Yes
		Amends the Internal Revenue Code <sup>b</sup>	Yes <sup>c</sup>	Yes
108-358	Anabolic Steroid Control Act of 2004	Adds two dozen new substances to the list of anabolic steroid substances, the manufacturing and distribution of which are regulated under the Controlled Substances Act	Yes	No
108-374	American Indian Probate Reform Act of 2004	Imposes a mandate on certain individuals (distant relatives) who would otherwise inherit interests in Indian trust or restricted land under current law	Yes	No
		Allows the Secretary of the Interior to partition certain fractionated parcels of Indian lands for sale without the express permission of all interest owners	Yes	No

Continued

**Table 2.**

**Continued**

Public Law Number	Name	Mandate	Was Mandate Reviewed by CBO Before It Was Enacted?	Do Costs Exceed Threshold? <sup>a</sup>
108-375	Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005	Increases the cost of existing mandates by expanding the number of active-duty service members covered under the Soldiers and Sailors Civil Relief Act (which requires creditors to reduce the interest rate on service members' obligations to 6 percent when such obligations predate active-duty service and allows courts to temporarily stay certain civil proceedings, such as evictions, foreclosures, and repossessions)	Yes	No
108-384	Brown Tree Snake Control and Eradication Act of 2004	Requires federal agencies to implement a system of predeparture quarantine protocols for inspecting passengers, baggage, and cargo leaving from Guam and other areas infested with brown tree snakes, which imposes new requirements on travelers and shippers of goods departing from those locations	Yes	No
108-419	Copyright Royalty and Distribution Reform Act of 2004	Requires entities in the private sector, if subpoenaed by the copyright royalty judges, to appear or provide evidence	Yes	No
108-444	An act to amend the Livestock Mandatory Price Reporting Act of 1999 to modify the termination date for mandatory price reporting	Extends for one year a mandate requiring certain meatpackers to report market prices for livestock	No (Reviewed in 106th Congress)	No
108-447	Consolidated Appropriations Act, 2005	Increases fees and establishes new fees for certain patent and trademark services	Yes	Yes
		Increases the stringency of immigration requirements for certain U.S. employers who are petitioners for L-1 visas <sup>d</sup>	Yes	No
		Requires companies and other entities to pay certain fees when filing a petition for an H-1B visa, including a filing fee and a fraud prevention and detection fee <sup>e</sup>	No	Yes
		Prohibits certain air carriers from carrying packaged mail in Alaska	No	No

Continued

**Table 2.**

**Continued**

Public Law Number	Name	Mandate	Was Mandate Reviewed by CBO Before It Was Enacted?	Do Costs Exceed Threshold? <sup>a</sup>
108-447 (Continued)	Consolidated Appropriations Act, 2005	Requires satellite carriers to retransmit analog and digital television signals of all local broadcast stations in certain states	No	No
		Requires satellite companies to reallocate their retransmission of local analog television channels in such a way that satellite subscribers can receive all of the local analog channels with only one satellite antenna (or dish) and associated equipment; requires satellite companies to transmit all local digital channels to a single dish	Yes	No
		Requires satellite companies to notify subscribers of their privacy rights and to comply with requirements and prohibitions regarding those rights	Yes	No
		Requires satellite companies to submit to television network stations a list of their subscribers who are receiving signals of "significantly viewed" stations as determined by the Federal Communications Commission	Yes	No
		Requires satellite companies to replace "distant-into-local" signals with "local-into-local" signals for certain subscribers, to send notices to certain subscribers of their ineligibility for those signals, and to submit a list of those subscribers to television networks; requires satellite carriers to send additional notices to subscribers, networks, and stations concerning signal carriage	Yes	No
108-454	Veterans Benefits Improvement Act of 2004	Requires providers of entrepreneurship courses to maintain records of enrolled veterans, including information on when they complete, interrupt, or terminate their education	Yes	No
		Increases by six months the amount of time that employers are required to continue to provide health insurance coverage to reservists who are mobilized	Yes	No

Continued

**Table 2.**

**Continued**

Public Law Number	Name	Mandate	Was Mandate Reviewed by CBO Before It Was Enacted?	Do Costs Exceed Threshold? <sup>a</sup>
108-458	Intelligence Reform and Terrorism Prevention Act of 2004	Extends the requirement for air carriers to honor tickets for suspended air service	Yes	Uncertain
		Imposes new regulations to enhance and improve the security of air cargo	Yes	No
		Requires financial institutions to report to the Financial Crimes Enforcement Network certain cross-border electronic transmittals of funds	Yes	No
		Prohibits passengers and crew from carrying butane lighters on board passenger aircraft	Yes	No

Source: Congressional Budget Office.

- a. In 2004, the threshold for private-sector mandates, which is adjusted annually for inflation, was \$120 million.
- b. Seven tax provisions that were mandates were enacted in the American Jobs Creation Act of 2004 (Public Law 108-357). Those mandates:
  - Repeal the exclusion for extraterritorial income;
  - Alter tax law relating to reportable transactions and tax shelters;
  - Reform the tax treatment of leasing transactions with parties that are generally exempt from tax;
  - Tax aviation-grade kerosene;
  - Require registration of pipeline and vessel operators for exemption of bulk transfers and impose a penalty for failure to display such registration;
  - Modify the heavy vehicle use tax; and
  - Modify the charitable contribution rules for donations of patents and other intellectual property.
 Each of those mandates is estimated to impose costs that exceed the statutory threshold in at least one of the next five years.
- c. The Joint Committee on Taxation estimates the costs of federal mandates in legislative provisions that affect the tax code. Such information is incorporated in CBO's mandate statements.
- d. The L-1 intracompany visa allows executives, managers, and employees with specialized skills to transfer from a foreign company to a U.S. office, subsidiary, or affiliated company to perform temporary services.
- e. The H-1B visa allows a U.S. company to employ a foreign individual for up to six years in a specialty occupation.

**Table 3.**


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**Number of CBO's Mandate Statements for Bills, Proposed Amendments, and Conference Reports in 2004**


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	Intergovernmental Mandates	Private-Sector Mandates
Total Number of Statements Transmitted	557	555
Number of Statements That Identified Mandates	66	71
Mandates whose costs would exceed the threshold <sup>a</sup>	9	14
Mandate whose costs could not be determined to exceed the threshold	2	10

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Source: Congressional Budget Office.

Notes: The numbers in this table represent official mandate statements transmitted to the Congress by CBO. The Unfunded Mandates Reform Act (UMRA) requires CBO to complete mandate statements for every bill and joint resolution of a public character reported by an authorizing committee. UMRA also requires CBO to review amendments and other legislative proposals when requested. CBO prepared a number of preliminary reviews and informal estimates for other legislative proposals that are not included in this table.

Mandate statements may cover more than one mandate. Also, because the same mandate sometimes appears in multiple bills, CBO may address a single mandate in more than one statement.

- a. In 2004, the thresholds, which are adjusted annually for inflation, were \$60 million for intergovernmental mandates and \$120 million for private-sector mandates.
-



**Table 4.**

### Status of 2004 Mandates Estimated to Have Costs That Exceed the Statutory Thresholds or Whose Costs Could Not Be Determined to Exceed Them

Topic	Mandate	Was a Version Enacted into Law?	Did the Enacted Version Exceed the Threshold? <sup>a</sup>
<b>Intergovernmental Mandates with Costs Above the Statutory Threshold<sup>b</sup></b>			
Intelligence Reform	Requires state and local governments to comply with federal standards for issuing driver's licenses, identification cards, and vital-statistics documents	Yes (P.L. 108-458) <sup>c</sup>	Yes
Social Security Number Protection	Prohibits the display of Social Security numbers on certain public documents	No	n.a.
Minimum Wage	Requires state and local governments to pay overtime wages for certain workers	No	n.a.
Transportation Security	Requires certain public transportation agencies to train employees in security procedures	No	n.a.
Minimum Wage	Requires state and local governments as employers to pay a higher minimum wage	No	n.a.
<b>Intergovernmental Mandates Without a Threshold Determination</b>			
Security of Chemical Facilities	Requires facilities to conduct vulnerability assessments; preempts state and local laws that provide public access to information	No	n.a.
Indian Gaming	Imposes new conditions on state and tribal compacts and new administrative requirements for tribes	No	n.a.
<b>Private-Sector Mandates with Costs Above the Statutory Threshold</b>			
Asbestos Compensation	Prohibits individuals from bringing or maintaining a civil action that alleges injury due to asbestos exposure; requires defendant companies and their insurers to pay annual assessments to the Asbestos Fund; requires asbestos settlement trusts to transfer their assets to the Asbestos Fund	No	n.a.
Commercial Motor Vehicle Safety	Expands certain safety requirements to cover owners and operators of commercial motor vehicles that transport nine to 15 passengers	No	n.a.

Continued

**Table 4.****Continued**

Topic	Mandate	Was a Version Enacted into Law?	Did the Enacted Version Exceed the Threshold? <sup>a</sup>
<b>Private-Sector Mandates with Costs Above the Statutory Threshold (Continued)</b>			
Federal Housing Enterprise Regulatory Reform	Requires Fannie Mae and Freddie Mac to contribute to a fund that supports underserved markets by providing grants to address housing needs and by supporting flexible mortgage loan products for those markets	No	n.a.
Highway Reauthorization Taxes	Amends several provisions of tax law related to alcohol fuels; replaces the reduced tax rate on alcohol fuels with an excise tax credit and makes several changes intended to reduce the evasion of fuel taxes	No	n.a.
Internal Revenue Code Reform	Includes revenue-raising provisions that amend the Internal Revenue Code regarding tax shelters and deductions for certain fines, penalties, and other amounts	No	n.a.
Minimum Requirements for Public Interest Programming	Requires television broadcasters to increase the amount of local and public affairs programming	No	n.a.
Minimum Wage	Requires employers covered by the Fair Labor Standards Act to increase the minimum wage paid to their employees	No	n.a.
Motor Vehicle Safety	Requires manufacturers of motor vehicles to comply with new safety standards for motor vehicles; requires manufacturers of tires to use additional test equipment to comply with new safety performance criteria	No	n.a.
Overtime Pay	Increases the number of workers covered by the overtime pay provisions of the Fair Labor Standards Act	No	n.a.
Patent and Trademark Fees	Increases existing fees and establishes new fees for certain patent and trademark services	Yes (PL. 108-447) <sup>c</sup>	Yes
Private Pension Plans	Amends ERISA to make several changes in the operations of private pension plans affecting plans' sponsors, administrators, and fiduciaries	Yes (One provision) <sup>d</sup>	No

Continued

**Table 4.****Continued**

Topic	Mandate	Was a Version Enacted into Law?	Did the Enacted Version Exceed the Threshold? <sup>a</sup>
<b>Private-Sector Mandates with Costs Above the Statutory Threshold (Continued)</b>			
Tobacco Product Fees	Imposes new fees on manufacturers and importers of tobacco products (one fee funds the administrative costs incurred by the FDA in regulating tobacco products, and the other is deposited in a trust fund to finance buyout payments to tobacco growers)	Yes (Trust fund fee) <sup>e</sup> (PL. 108-357) <sup>c</sup>	Yes
Wireless Telephone Number Privacy	Prohibits telecommunications carriers from disclosing on billing information the wireless numbers of individuals who request privacy; requires mobile-phone service providers to send notices to their subscribers and receive prior written authorization before publishing a subscriber's number in a wireless telephone directory	No	n.a.
<b>Private-Sector Mandates Without a Threshold Determination</b>			
Chemical Facilities Security	Requires owners and operators of certain chemical facilities to undertake specific measures to protect those facilities against terrorist attacks, criminal acts, or other categories of chemical releases	No	n.a.
Children's Protection from Violent Programming	Prohibits the distribution to the public of certain violent programs during specific hours unless those programs can be electronically blocked	No	n.a.
Customs User Fees	Extends through 2014 customs user fees that were scheduled to expire after March 1, 2005	Yes (PL. 108-357) <sup>c</sup>	Extends a mandate with costs above the threshold <sup>f</sup>
Misappropriation of Database Information	Prohibits a person's commercial use of information from a database generated by another person if proper authorization has not been granted	No	n.a.
Nuclear and Hazardous Materials Security	Requires nuclear facilities to comply with new regulations designed to address security threats; requires shippers of hazardous materials to comply with new security regulations	No	n.a.

Continued

**Table 4.****Continued**

Topic	Mandate	Was a Version Enacted into Law?	Did the Enacted Version Exceed the Threshold? <sup>a</sup>
<b>Private-Sector Mandates Without a Threshold Determination (Continued)</b>			
Marine Debris Reduction	Requires operators of marine terminals and certain vessels to maintain waste receptacles and keep records of waste disposal	No	n.a.
Sanctions Against Burma	Extends the ban on imports from Burma for one year	Yes (P.L. 108-272) <sup>c</sup>	Uncertain
Social Security Number Privacy and Identity Theft Prevention	Prohibits the purchase, sale, or display of a Social Security number to the general public, including the display of such a number on any card, tag, or employee identification issued to another person to provide access to any goods, services, or benefits	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.

PL. = public law; n.a. = not applicable; ERISA = Employee Retirement Income Security Act of 1974; FDA = Food and Drug Administration; Fannie Mae = Federal National Mortgage Association; Freddie Mac = Federal Home Loan Mortgage Corporation.

- a. In 2004, the thresholds, which are adjusted annually for inflation, were \$60 million for intergovernmental mandates and \$120 million for private-sector mandates.
- b. In addition to the statements noted here, CBO prepared a mandate statement for the Internet Tax Nondiscrimination Act (Public Law 108-435) in 2003. See Congressional Budget Office, *A Review of CBO's Activities in 2003 Under the Unfunded Mandates Reform Act* (April 2004).
- c. The full names and dates of enactment of the public laws referred to in this table are (in order of law number):
  - Public Law 108-218, the Pension Funding Equity Act of 2004, enacted April 10, 2004;
  - Public Law 108-272, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, enacted July 7, 2004;
  - Public Law 108-357, the American Jobs Creation Act of 2004, enacted October 22, 2004;
  - Public Law 108-447, the Consolidated Appropriations Act, 2005, enacted December 8, 2004; and
  - Public Law 108-458, the Intelligence Reform and Terrorism Prevention Act of 2004, enacted December 17, 2004.
- d. One provision requiring administrators of multiemployer defined-benefit plans to provide notices was enacted in Public Law 108-218.
- e. Only the fee for deposit in the tobacco trust fund was enacted in Public Law 108-357.
- f. The Unfunded Mandates Reform Act does not specify whether CBO should measure the cost of the extension relative to the mandate's current costs or assume that the mandate will expire and that it must measure the costs of the mandate's extension as if the requirement were new.

**Table 5.****Number of CBO's Mandate Statements for Bills, Proposed Amendments, and Conference Reports, 1996 to 2004**

	1996 <sup>a</sup>	1997	1998	1999	2000	2001	2002	2003	2004	Total, 1996- 2004
<b>Intergovernmental Mandates</b>										
Total Number of Statements Transmitted	718	521	541	573	706	389	649	615	557	5,269
Number of Statements That Identified Mandates	69	64	64	81	77	50	60	86	66	617
Mandates whose costs would exceed the threshold <sup>b</sup>	11	8	6	4	3	4	6	7	9	58
Mandates whose costs could not be determined to exceed the threshold	6	7	7	0	1	3	5	5	2	36
<b>Private-Sector Mandates</b>										
Total Number of Statements Transmitted	673	498	525	556	697	389	645	613	555	5,151
Number of Statements That Identified Mandates	91	65	75	105	86	66	73	100	71	732
Mandates whose costs would exceed the threshold <sup>b</sup>	38	18	18	20	6	18	19	24	14	175
Mandates whose costs could not be determined to exceed the threshold	2	5	9	13	7	8	14	18	10	86

Source: Congressional Budget Office.

Notes: The numbers in this table represent official mandate statements transmitted to the Congress by CBO. CBO prepared more intergovernmental mandate statements than private-sector mandate statements because in some cases it was asked to review a specific bill, amendment, or conference report solely for intergovernmental mandates. (In those cases, no private-sector analysis was transmitted to the requesting Member or Committee.) CBO also completed a number of preliminary reviews and informal estimates for other legislative proposals, which are not included in this table.

Mandate statements may cover more than one mandate. Also, because the same mandate sometimes appears in multiple bills, CBO may address a single mandate in more than one statement.

- a. CBO began preparing mandate statements in January 1996 in the middle of the 104th Congress. The figures for 1996 reflect bills on the calendar in January of that year and bills reported by authorizing committees thereafter.
- b. In 1996, the thresholds, which are adjusted annually for inflation, were \$50 million for intergovernmental mandates and \$100 million for private-sector mandates. They rose to \$60 million and \$120 million, respectively, in 2004.



## A

## Key Provisions in Title I of the Unfunded Mandates Reform Act

**T**itle I of the Unfunded Mandates Reform Act of 1995 (UMRA) attempts to ensure that the Congress has information about the potential direct costs of federal mandates before it enacts legislation. UMRA thus requires the Congressional Budget Office (CBO) and the Congress's authorizing committees to develop and report information about the existence and costs of mandates in proposed legislation. The law 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 or in a 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 reduction in federal assistance would be a mandate only if states lacked the flexibility to offset the new costs or the loss of federal funding with reductions elsewhere in the program.

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

UMRA defines "direct costs" 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 spend to comply with applicable laws, regulations, or professional standards in effect when the federal mandate is adopted. Moreover, in calculating a mandate's direct costs, such costs must be offset by any direct savings that the mandated entities would receive from compliance with the mandate or from other provisions of the same legislation that govern the same activity as that affected by the mandate.

### Mandate Cost Statements: CBO's Role

The law requires CBO to provide a statement to Congressional authorizing committees about whether a reported bill contains one or more federal mandates. If the total direct costs of all mandates in a bill are above a specified threshold in any of the first five fiscal years in which the mandate is in effect, CBO must provide an estimate of those costs (if feasible) as well as the basis for its estimate. The statutory thresholds, expressed in 1996 dollars, are \$50 million for intergovernmental mandates and \$100 million for private-sector mandates, adjusted annually for inflation.

CBO's mandate statement 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 Senate. Conference committees must, "to the greatest extent practicable," ensure that CBO prepares statements for conference agreements or amended bills if they contain mandates that have not previously been considered by either House or if they impose greater direct costs than the version considered earlier. At the request of a Senator, CBO must estimate the costs of any intergovernmental mandates contained in an amendment that the Senator might wish to offer.

The Congress may also call on CBO to prepare analyses at other stages of the legislative process. At the request of the Chairman or Ranking Minority Member of a committee, CBO is required to help the committee 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 the estimate that CBO made when the law was enacted.

### **Enforcement Mechanisms**

Section 425 of UMRA sets out rules for both the House and 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 Congress from considering

a reported bill if the committee has not published such a statement about the costs of any mandates.

For reported legislation containing intergovernmental mandates whose direct costs are estimated to exceed the threshold, UMRA's rules preclude consideration unless the legislation provides direct spending authority or authorizes appropriations sufficient to cover those costs. An authorization of appropriation will not be sufficient unless the authorized amounts are specified for each year (up to 10 years) after the mandate's effective date and the legislation provides 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-prepared statement is available.

Those rules are not self-enforcing, 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. If a point of order is raised in the Senate, the bill may not be considered unless either the Senate waives the point of order or the Chair of the Senate overrules it.



# B

## **Bills Reviewed by CBO in 2004 That Contain Mandates**

This appendix lists legislation reviewed by the Congressional Budget Office (CBO) in 2004 that would impose federal mandates, regardless of whether the estimated costs of those mandates would be higher or lower than the thresholds in the Unfunded Mandates Reform Act and regardless of whether the legislation was enacted.

Table B-1 lists in numerical order bills that CBO identified as having intergovernmental mandates; it includes various versions of the same bill if that bill was considered by more than one committee. Table B-2 provides the same information for bills with private-sector mandates.

**Table B-1.**

**Bills Reviewed by CBO in 2004 That Contain Intergovernmental Mandates**

Bill Number (Committee)	Name	Mandate
<b>Intergovernmental Mandates with Costs Above the Statutory Threshold<sup>a</sup></b>		
H.R. 10 (Armed Services)	9/11 Recommendations Implementation Act	Requires document verification, national databases, and numerous security measures for driver's licenses and birth and death certificates; preempts state and local authority to allow public access to birth and death certificates and prohibits states from displaying Social Security numbers; preempts state authority to accept consular identifications and to not enforce immigration laws
H.R. 10 (Permanent Select Committee on Intelligence)	9/11 Recommendations Implementation Act	Requires document verification, national databases, and numerous security measures for driver's licenses and birth and death certificates; preempts state and local authority to allow public access to birth and death certificates and prohibits states from displaying Social Security numbers; preempts state authority to accept consular identifications and to not enforce immigration laws
H.R. 10 (Financial Services)	9/11 Recommendations Implementation Act	Requires document verification, national databases, and numerous security measures for driver's licenses and birth and death certificates; preempts state and local authority to allow public access to birth and death certificates and prohibits states from displaying Social Security numbers; preempts state authority to accept consular identifications and to not enforce immigration laws; preempts state laws related to bankruptcy and other financial transactions
H.R. 10 (Government Reform)	9/11 Recommendations Implementation Act	Requires document verification, national databases, and numerous security measures for driver's licenses and birth and death certificates; preempts state and local authority to allow public access to birth and death certificates and prohibits states from displaying Social Security numbers; preempts state authority to accept consular identifications; requires states to verify immigration status

Continued

**Table B-1.****Continued**

Bill Number (Committee)	Name	Mandate
<b>Intergovernmental Mandates with Costs Above the Statutory Threshold (Continued)<sup>a</sup></b>		
H.R. 10 (Judiciary)	9/11 Recommendations Implementation Act	Requires document verification, national databases, and numerous security measures for driver's licenses and birth and death certificates; preempts state and local authority to allow public access to birth and death certificates and prohibits states from displaying Social Security numbers; preempts state authority to accept consular identifications and to not enforce immigration laws; requires states to coordinate background checks for certain private security guards; requires states to coordinate an assistance program for certain nonprofit organizations; requires nuclear facilities to meet standards as developed by the Secretary of Homeland Security
H.R. 2971	Social Security Number Privacy and Identity Theft Prevention Act of 2004	Restricts the use and display of Social Security numbers by state and local agencies
H.R. 4520	Jumpstart Our Business Strength (JOBS) Act	Requires overtime pay for certain workers; prohibits the use of off-shore contracts by states; preempts state laws governing tobacco; imposes fees on manufacturers and distributors of tobacco products, including Indian tribes
H.R. 5082	Public Transportation Terrorism Prevention and Response Act of 2004	Requires public transportation agencies to participate in an information clearinghouse; requires certain public transportation agencies to train employees in security procedures
S.A. 2945	The Fair Minimum Wage Act of 2004 (proposed as an amendment to H.R. 4, the Personal Responsibility, Work, and Family Promotion Act of 2003)	Requires employers, including state and local governments, to increase the minimum wage paid to their employees
<b>Intergovernmental Mandates with Costs Below the Statutory Threshold<sup>a</sup></b>		
H.R. 218	Law Enforcement Officers Safety Act of 2003	Preempts state and local laws regulating concealed weapons
H.R. 339	Personal Responsibility in Food Consumption Act	Prohibits states from entering into or continuing certain civil suits for obesity and health-related conditions; preempts state authority to hear such cases
H.R. 982	An act to clarify the tax treatment of bonds and other obligations issued by the government of American Samoa	Exempts interest on American Samoa bonds from state and local taxes

**Continued**

**Table B-1.****Continued**

Bill Number (Committee)	Name	Mandate
<b>Intergovernmental Mandates with Costs Below the Statutory Threshold (Continued)<sup>a</sup></b>		
H.R. 1084	Volunteer Pilot Organization Protection Act of 2004	Preempts state tort laws to exempt volunteer pilots and organizations from liability for injuries that may occur during the course of volunteer activities
H.R. 1417 (Passed by the Senate)	Copyright Royalty and Distribution Reform Act of 2004	Subjects state, local, and tribal governments to subpoena powers of copyright royalty judges
H.R. 1787	Good Samaritan Volunteer Firefighter Assistance Act of 2004	Preempts state tort laws to exempt certain individuals who donate fire control and rescue equipment from liability for injuries and damages that such equipment may cause
H.R. 2179	Securities Fraud Deterrence and Investor Restitution Act of 2004	Preempts state laws regarding homestead exemptions to allow certain properties to be seized by federal authorities
H.R. 2400	A bill to amend the Organic Act of Guam for the purposes of clarifying the local judicial structure	Imposes a specific structure on the judiciary of Guam
H.R. 2440	Indian Healthcare Improvement Act Amendments of 2004	Preempts state licensing laws in cases in which a health care professional is licensed in one state but is performing services in another state under a funding agreement in a tribal health program
H.R. 2671	Clear Law Enforcement for Criminal Alien Removal Act of 2003	Preempts state liability laws to ensure immunity for law enforcement officers against lawsuits related to the enforcement of immigration laws; preempts state authority to determine whether state and local law enforcement officers may enforce immigration laws
H.R. 2699	National Uniformity for Food Act of 2004	Preempts state laws governing the contents of food labels
H.R. 2824	Internet Tobacco Sales Enforcement Act	Requires tribal governments that sell tobacco to keep records and report information
H.R. 2844	Continuity in Representation Act of 2004	Requires states to change election laws
H.R. 2929	Securely Protect Yourself Against Cyber Trespass Act	Preempts state laws prohibiting the use of certain types of software
H.R. 3143	International Consumer Protection Act of 2004	Preempts state laws that require third-party notification when information is disclosed

**Continued**

**Table B-1.****Continued**

Bill Number (Committee)	Name	Mandate
<b>Intergovernmental Mandates with Costs Below the Statutory Threshold (Continued)<sup>a</sup></b>		
H.R. 3261 (Judiciary)	Database and Collections of Information Misappropriation Act	Preempts state laws that protect the collection of information
H.R. 3261 (Energy and Commerce)	Database and Collections of Information Misappropriation Act	Preempts state laws that protect the collection of information
H.R. 3369	Nonprofit Athletic Organization Protection Act of 2003	Preempts state tort laws to protect nonprofit athlete organizations from liability for certain injuries that may occur during practice or competition
H.R. 3550 (Transportation and Infrastructure)	Transportation Equity Act: A Legacy for Users	Preempts state laws that restrict the operating hours of utility service vehicles
H.R. 3550 (Passed by the House)	Transportation Equity Act: A Legacy for Users	Preempts state laws that restrict the operating hours of utility service vehicles
H.R. 3589	A bill to create the office of Chief Financial Officer of the Government of the Virgin Islands	Requires the appointment of a chief financial officer for the government of the Virgin Islands
H.R. 3779	Safeguarding Schoolchildren of Deployed Soldiers Act of 2004	Preempts local residency requirements for schools
H.R. 3797 (Government Reform)	2004 District of Columbia Omnibus Authorization Act	Creates a new reporting requirement for the District of Columbia's school board
H.R. 3797 (Senate Governmental Affairs)	2004 District of Columbia Omnibus Authorization Act	Creates a new reporting requirement for the District of Columbia's school board
H.R. 4200	National Defense Authorization Act for Fiscal Year 2005	Increases the cost of existing mandates included in the Soldiers and Sailors Civil Relief Act by increasing the number of active-duty service members; preempts state authority to tax certain benefits of defense employees and the application of state licensing requirements for certain lawyers
H.R. 4501	Satellite Home Viewer Extension and Reauthorization Act of 2004	Establishes procedures for appeals that preempt state law
H.R. 4571	Lawsuit Abuse Reduction Act of 2004	Preempts state laws governing court procedures

**Continued**

**Table B-1.**

**Continued**

Bill Number (Committee)	Name	Mandate
<b>Intergovernmental Mandates with Costs Below the Statutory Threshold (Continued)<sup>a</sup></b>		
H.R. 4634	Terrorism Insurance Backstop Extension Act of 2004	Extends requirements on states to repay the federal government for the cost of assistance received; preempts state laws regulating insurance
H.R. 4658	Servicemembers and Veterans Legal Protections Act of 2004	Preempts state taxing authority
H.R. 4661	Internet Spyware (I-SPY) Prevention Act of 2004	Preempts state lawmaking ability
H.R. 4768	Veterans Health Programs and Facilities Enhancement Act of 2004	Preempts state and local authority to regulate land use of property leased by the Department of Veterans Affairs
H.R. 5107	Justice for All Act of 2004	Codifies into federal law certain rights for victims of crimes in the District of Columbia
H.R. 5121	A bill to further protect the United States' aviation system from terrorist attacks	Requires state and local law enforcement officers who are armed to identify themselves with a special credential when traveling on aircraft
S. 556	Indian Healthcare Improvements Act Amendments of 2004	Preempts state licensing laws in cases in which a health care professional is licensed in one state but is performing services in another state under a funding agreement in a tribal health program
S. 1508	Federal Housing Enterprise Regulatory Reform Act of 2004	Preempts state statute-of-limitations laws and state contract law
S. 1545	Development, Relief, and Education for Alien Minors Act	Increases the number of students that public and private universities must track in the Student Exchange Visitor Information System
S. 1932	Artists' Rights and Theft Prevention Act of 2004	Preempts state and local civil and criminal tort laws
S. 1963	Wireless 411 Privacy Act	Preempts state laws with respect to wireless telephone directories
S. 1978	Surface Transportation Safety Reauthorization Act of 2003	Creates a unified registration system for states to register motor carriers; requires states to issue learner's permits in their programs for commercial driver's licenses
S. 2035	Guard and Reserve Readiness and Retention Act of 2004	Requires employers to extend health insurance for certain workers
S. 2056	Broadcast Decency Enforcement Act of 2004	Prohibits transmission of certain violent programming

**Continued**

**Table B-1.****Continued**

Bill Number (Committee)	Name	Mandate
<b>Intergovernmental Mandates with Costs Below the Statutory Threshold (Continued)<sup>a</sup></b>		
S. 2145	SPY BLOCK Act	Requires states' attorneys general to notify the Federal Trade Commission when they file suits regarding certain types of computer activity; preempts state laws regarding spyware; prohibits states from creating certain civil penalties
S. 2165	A bill to specify the end strength for active-duty personnel of the Army as of September 30, 2005	Increases the costs of existing mandates included in the Soldiers and Sailors Civil Relief Act by increasing the number of active-duty service members
S. 2273	Rail Security Act of 2004	Preempts state hiring authority and liability laws
S. 2275	High Risk Nonprofit Security Enhancement Act of 2004	Requires state agencies to receive and evaluate certain applications for federal assistance to increase security
S. 2281	VOIP [Voice-over-Internet-protocol] Regulatory Freedom Act of 2004	Prohibits states from regulating certain telephone services for two years
S. 2290	Fairness in Asbestos Injury Resolution Act of 2004	Preempts state authority to hear asbestos cases and gives subpoena power to asbestos fund administrators; requires government entities to comply with those subpoenas
S. 2386 (Select on Intelligence)	Intelligence Authorization Act for Fiscal Year 2005	Preempts state laws related to income tax
S. 2386 (Armed Services)	Intelligence Authorization Act for Fiscal Year 2005	Preempts state laws related to income tax
S. 2400	National Defense Authorization Act for Fiscal Year 2005	Increases the costs of existing mandates included in the Soldiers and Sailors Civil Relief Act by increasing the number of active-duty service members
S. 2453	Public Transportation Terrorism Prevention Act of 2004	Requires certain transit agencies to participate in an information clearinghouse
S. 2488	Marine Debris Research and Reduction Act	Requires all ports (terminals) to maintain trash receptacles for plastic debris
S. 2657	Federal Employee Dental and Vision Benefits Enhancement Act of 2004	Preempts state and local laws governing coverage levels and benefit requirements

**Continued**

**Table B-1.**

**Continued**

Bill Number (Committee)	Name	Mandate
<b>Intergovernmental Mandates with Costs Below the Statutory Threshold (Continued)<sup>a</sup></b>		
S. 2820	SAVE LIVES Act	Requires seven public broadcasting stations to vacate their current television channels more quickly than under current law
S. 2840	National Intelligence Reform Act of 2004	Requires entities in the public sector, if subpoenaed by either of the federal authorities created by the legislation—the Inspector General of the National Intelligence Authority or the Privacy and Civil Liberties Oversight Board—to provide testimony, documents, or other evidence
<b>Intergovernmental Mandates Whose Costs Could Not Be Determined to Exceed the Statutory Threshold<sup>a</sup></b>		
S. 994	Chemical Facilities Security Act of 2003	Requires facilities to conduct vulnerability assessments; preempts state and local laws that provide public access to certain information
S. 1529	Indian Gaming Regulatory Act Amendments of 2004	Imposes new conditions on state and tribal compacts and new administrative requirements for tribes

Source: Congressional Budget Office.

a. In 2004, the threshold for intergovernmental mandates, which is adjusted annually for inflation, was \$60 million.



**Table B-2.****Bills Reviewed by CBO in 2004 That Contain Private-Sector Mandates**

Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates with Costs Above the Statutory Threshold<sup>a</sup></b>		
H.R. 1561 (Senate Judiciary)	United States Patent and Trademark Fee Modernization Act of 2004	Increases existing fees and establishes new fees for certain patent and trademark services
H.R. 3550 (Transportation and Infrastructure)	Transportation Equity Act: A Legacy for Users	Expands certain safety requirements to cover owners and operators of commercial motor vehicles that transport nine to 15 passengers
H.R. 3550 (Passed by the House)	Transportation Equity Act: A Legacy for Users	Expands certain safety requirements to cover owners and operators of commercial motor vehicles that transport nine to 15 passengers
H.R. 3971	Highway Reauthorization Tax Act of 2004	Levies a tax on aviation-grade kerosene; requires registration of pipeline and vessel operators; modifies the heavy vehicle use tax
H.R. 4520 (Ways and Means)	American Jobs Creation Act of 2004	Extends through 2014 customs user fees that are scheduled to expire; extends the provisions of the Mental Health Parity Act of 1996 through the end of calendar year 2005 (that act prohibits group health plans that provide both medical and surgical benefits and mental health benefits from imposing aggregate lifetime limits or annual limits on coverage of mental health benefits that are different from those used for medical and surgical benefits); imposes several revenue-raising taxes
H.R. 4520 (Passed by the Senate)	Jumpstart Our Business Strength (JOBS) Act	Extends through 2013 customs user fees; extends the provisions of the Mental Health Parity Act of 1996 through the end of calendar year 2005; increases the number of workers covered by the overtime regulations under the Fair Labor Standards Act that are scheduled to take effect; requires chief executive officers or other corporate officers to include a declaration of compliance with the corporation's annual federal income tax returns; authorizes the Food and Drug Administration to regulate the sale, marketing, and advertisement of tobacco products; imposes two fees on manufacturers and importers of tobacco products
S. 882	Tax Administration Good Government Act of 2004	Amends the Internal Revenue Code to revise procedures for safeguarding taxpayers

Continued

**Table B-2.**

**Continued**

Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates with Costs Above the Statutory Threshold (Continued)<sup>a</sup></b>		
S. 1508	Federal Housing Enterprise Regulatory Reform Act of 2004	Requires the government-sponsored enterprises for Housing—Fannie Mae, Freddie Mac, and the Federal Home Loan Banks—to pay higher assessment fees for the operation of a new federal regulator; requires Fannie Mae and Freddie Mac to contribute 5.0 percent of their annual net earnings to a fund that provides grants to address the needs of underserved markets and supports new mortgage loan products or increased underwriting flexibility for existing loan products that support underserved markets; requires them to register at least one class of their capital stock with the Securities and Exchange Commission under the Securities Act of 1934; requires Fannie Mae and Freddie Mac to disclose to shareholders each quarter the fair value of the shareholders' equity interest in the enterprise; prohibits Fannie Mae and Freddie Mac from purchasing, servicing, selling, or dealing in any mortgages that require arbitration
S. 1963	Wireless 411 Privacy Act	Prohibits telecommunications carriers from disclosing on billing information the wireless numbers of individuals who request privacy; requires providers of commercial mobile-phone services to send notices to their subscribers and receive written authorization before publishing a subscriber's number in a wireless telephone directory
S. 1978	Surface Transportation Safety Reauthorization Act of 2003	Imposes new safety requirements on manufacturers of motor vehicles and manufacturers of tires; requires certain motor carriers to pay a new registration fee; increases registration fees for persons transporting certain hazardous materials

**Continued**

**Table B-2.****Continued**

Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates with Costs Above the Statutory Threshold (Continued)<sup>a</sup></b>		
S. 2290	Fairness in Asbestos Injury Resolution Act of 2004	Prohibits individuals from bringing or maintaining a civil action that alleges injury due to asbestos exposure; requires defendant companies and their insurers to pay annual assessments to the Asbestos Fund; requires asbestos settlement trusts to transfer their assets to the Asbestos Fund; provides the fund's administrator with the power to subpoena testimony and evidence; prohibits persons from manufacturing, processing, or distributing in commerce certain products containing asbestos; prohibits health insurers from denying, terminating, or altering any terms of a claimant's or beneficiary's coverage on account of participating in the bill's medical monitoring program or as a result of information discovered through such medical monitoring
S. 2424	National Employee Savings and Trust Equity Guarantee Act of 2004	Amends the Employee Retirement Income Security Act to require certain notifications and changes in the administrative procedures of private pension plans
S. 2820	SAVE LIVES Act	Requires television broadcasters to increase the amount of local and public affairs programming and to vacate certain channels to make those frequencies available for communication by public safety agencies
S.A. 2945	The Fair Minimum Wage Act of 2004 (proposed as an amendment to H.R. 4, the Personal Responsibility, Work, and Family Promotion Act of 2003)	Requires employers to increase the minimum wage paid to their employees
<b>Private-Sector Mandates with Costs Below the Statutory Threshold<sup>a</sup></b>		
H.R. 10 (Financial Services)	9/11 Recommendations Implementation Act	Requires financial institutions to report to the Financial Crimes Enforcement Network certain cross-border electronic transmittals of funds; requires operators of certain payment systems to establish policies and procedures designed to identify and prevent transactions in connection with unlawful Internet gambling
H.R. 339	Personal Responsibility in Food Consumption Act	Prohibits the private sector from pursuing certain civil lawsuits concerning obesity or related health conditions
H.R. 1417 (Senate Judiciary)	Copyright Royalty and Distribution Reform Act of 2004	Requires entities in the private sector, if subpoenaed by the copyright royalty judges, to appear or provide evidence

Continued

**Table B-2.**

**Continued**

Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates with Costs Below the Statutory Threshold (Continued)<sup>a</sup></b>		
H.R. 1716 (Veterans' Affairs)	Veterans Earn and Learn Act of 2004	Requires providers of entrepreneurship courses to maintain records of enrolled veterans, including information on when they complete, interrupt, or terminate their education
H.R. 2179	Securities Fraud Deterrence and Investor Restitution Act of 2004	Prohibits mutual fund companies from charging any fees under rule 12b-1 on mutual funds that are closed to new investors except fees for shareholder-servicing activities; <sup>c</sup> imposes requirements on persons involved in the securities industry regarding additional disclosures, consumer information, and corporate governance
H.R. 2391 (Senate Judiciary)	Intellectual Property Protection Act of 2004	Limits the right of copyright owners to collect compensation from persons who use or manufacture a technology for making limited changes to a motion picture for a private home viewing; requires manufacturers, licensees, and licensors of such technology to provide a clear and conspicuous notice that the performance of the motion picture is altered from the original
H.R. 2824	Internet Tobacco Sales Enforcement Act	Imposes new requirements on certain tobacco distributors and sellers regarding reporting, shipping, recordkeeping, and tax collection
H.R. 2929	Securely Protect Yourself Against Cyber Trespass Act	Requires persons who transmit information-collection programs to or execute them on another person's computer to receive consent from the owner or authorized user of that computer before installing hidden software that is capable of collecting personal information
H.R. 3143 (Judiciary)	International Consumer Protection Act of 2004	Exempts entities from liability for providing information to the Federal Trade Commission about possible unfair or deceptive practices of third parties, limiting the ability of the third party to sue
H.R. 3479	Brown Tree Snake Control and Eradication Act of 2004	Imposes new requirements on travelers and shippers of goods departing from Guam and other areas infested with brown tree snakes by requiring federal agencies to implement a system of predeparture quarantine protocols for inspecting passengers, baggage, and cargo leaving from those areas

**Continued**

**Table B-2.****Continued**

Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates with Costs Below the Statutory Threshold (Continued)<sup>a</sup></b>		
H.R. 3574	Stock Option Accounting Reform Act	Requires companies that grant some compensation through stock options to recognize as an expense in their annual report to the Securities and Exchange Commission the fair value of certain options to purchase stock granted to the chief executive officer and the four most highly compensated executives of the company
H.R. 3706 (Resources)	John Muir National Historic Site Boundary Adjustment Act	Should no owner be found, imposes a mandate on the private sector if the National Park Service condemns a parcel of land to establish ownership and annexes that land to include it in the John Muir Historic Site
H.R. 3706 (Senate Energy and Natural Resources)	John Muir National Historic Site Boundary Adjustment Act	Should no owner be found, imposes a mandate on the private sector if the National Park Service condemns a parcel of land to establish ownership and annexes that land to include it in the John Muir Historic Site
H.R. 3752	Commercial Space Launch Amendments Act of 2004	Imposes additional requirements on commercial space flight licensees and participants engaging in manned space flights, including medical standards, training requirements, and disclosure of passenger risk
H.R. 3866 (Judiciary)	Anabolic Steroid Control Act of 2004	Adds about two dozen new substances to the list of anabolic steroid controlled substances, regulated by the Controlled Substances Act
H.R. 3866 (Energy and Commerce)	Anabolic Steroid Control Act of 2004	Adds about two dozen new substances to the list of anabolic steroid controlled substances, regulated by the Controlled Substances Act
H.R. 4077	Piracy Deterrence and Education Act of 2004	Limits the right of copyright owners to collect compensation under copyright law from persons who use or manufacture a technology for making limited changes to a motion picture for a private home viewing; requires manufacturers, licensees, and licensors of such technology to provide a clear and conspicuous notice that the performance of the motion picture is altered from the original

Continued

**Table B-2.****Continued**

Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates with Costs Below the Statutory Threshold (Continued)<sup>a</sup></b>		
H.R. 4200	National Defense Authorization Act for Fiscal Year 2005	Increases the number of service members eligible for certain relief under the Soldiers and Sailors Civil Relief Act (creditors must reduce the interest rate on service members' obligations to 6 percent when such obligations predate active-duty service, and courts may temporarily stay certain civil proceedings, such as evictions, foreclosures, and repossessions); imposes new conditions on certain export licenses
H.R. 4251	Maritime Transportation Amendments of 2004	Subjects towing vessels to inspection by the Coast Guard; requires them to comply with new safety standards and to have an adequate supply of potable water
H.R. 4501	Satellite Home Viewer Extension and Reauthorization Act of 2004	Requires satellite companies to carry transmission of local television channels to a single dish, replace the transmission of distant network signals with programming using local signals for certain subscribers, notify television broadcast stations of plans to begin satellite service using the retransmission of local signals in their broadcast markets, and give the stations the right to elect transmission of their signals
H.R. 4518	Satellite Home Viewer Extension and Reauthorization Act of 2004	Requires satellite companies to submit to television network stations a list of their subscribers who receive signals of "significantly viewed" stations and to submit an updated list of those subscribers monthly to the Federal Communications Commission
H.R. 4586	Family Movie Act of 2004	Limits the right of copyright owners to collect compensation under copyright law from persons who use or manufacture a technology for making limited changes to a motion picture for a private home viewing; requires manufacturers, licensees, and licensors of such technology to provide a clear and conspicuous notice that the performance of the motion picture is altered from the original
H.R. 4600	Junk Fax Prevention Act of 2004	Requires senders of unsolicited fax advertisements to include an opt-out notice that contains a cost-free method of opting out (for example, a local telephone number or a toll-free number)

**Continued**

**Table B-2.****Continued**

Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates with Costs Below the Statutory Threshold (Continued)<sup>a</sup></b>		
H.R. 4634	Terrorism Insurance Backstop Extension Act of 2004	Extends requirements that certain insurers offer terrorism insurance and that certain insurers and their policyholders repay the federal government for the cost of assistance (in the form of assessments and surcharges); expands two of those requirements to apply to group life insurers
H.R. 4658	Servicemembers and Veterans Legal Protections Act of 2004	Increases from 18 months to 24 months the amount of time mobilized reservists are eligible to continue their health insurance; requires that termination of a lease by a service member also terminates the obligation of a dependent under that lease
H.R. 5011	Military Personnel Financial Services Protection Act	Bans the future sale of periodic payment plans for mutual funds; requires insurers and purveyors of life insurance products to make certain disclosures when selling or soliciting life insurance products on military installations
S. 741 (Passed by the Senate)	An act to amend the Federal Food, Drug, and Cosmetic Act with regards to new animal drugs, and for other purposes	Requires manufacturers, packagers, and labelers of processed foods regulated by the Food and Drug Administration to modify labels of processed foods that contain major food allergens to display the names of those allergens from which ingredients are derived; may delay entry of products from some manufacturers of generic animal drugs for minor uses or for use in minor species by providing additional market exclusivity to drug innovators
S. 741 (House Energy and Commerce)	An act to amend the Federal Food, Drug, and Cosmetic Act with regards to new animal drugs, and for other purposes	Requires manufacturers, packagers and labelers of processed foods regulated by the Food and Drug Administration to modify labels of processed foods containing major food allergens to display the names of those allergens from which ingredients are derived; may delay entry of products from some manufacturers of generic animal drugs for minor uses or use in minor species by providing additional market exclusivity to drug innovators
S. 1529	Indian Gaming Regulatory Act Amendments of 2004	Requires sellers, dealers, buyers, and lessors (including individuals who sell or lease class II gambling devices, such as electronic bingo machines, and private-sector entities contracted to operate tribal casinos) to register class II devices with the National Indian Gaming Commission

Continued

**Table B-2.****Continued**

Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates with Costs Below the Statutory Threshold (Continued)<sup>a</sup></b>		
S. 1545	Development, Relief, and Education for Alien Minors Act of 2003, or the DREAM Act	Increases the number of students that colleges and universities must track in the Student and Exchange Visitor Information System (which was created to collect timely information on foreign students who come to the United States for educational or student-exchange purposes)
S. 1582	Valles Caldera Preservation Act of 2004	Allows the Secretary of Agriculture to use a declaration of taking to acquire certain privately held mineral interests of the Baca Ranch, should negotiations for a sale fail
S. 1635	L-1 Visa (Intracompany Transferee) Reform Act of 2004 <sup>b</sup>	Imposes new conditions on employers of L-1 visa holders; generally increases the stringency of employment and immigration requirements for L-1 visas
S. 1721 (Indian Affairs)	American Indian Probate Reform Act of 2004	Amends federal probate law governing the inheritance of Indian lands, imposing a mandate on certain individuals who would otherwise inherit interest in Indian lands under current law; allows the Secretary of the Interior to partition certain fractionated parcels of Indian lands for sale without the express permission of all interest owners
S. 1721 (House Resources)	American Indian Probate Reform Act of 2004	Amends federal probate law governing the inheritance of Indian lands, imposing a mandate on certain individuals who would otherwise inherit interest in Indian lands under current law; allows the Secretary of the Interior to partition certain fractionated parcels of Indian lands for sale without the express permission of all interest owners
S. 1784	Methamphetamine Blister Pack Loophole Elimination Act of 2003	Requires retailers of over-the-counter pseudoephedrine and phenolpropanolamine products to record and report transactions of those products sold in blister packages in quantities that exceed 9 grams
S. 2013	Satellite Home Viewer Extension Act of 2004	Requires satellite companies to submit to television network stations a list of their subscribers who are receiving signals of "significantly viewed" stations and to submit an updated list of those subscribers monthly to the Federal Communications Commission

**Continued**



**Table B-2.****Continued**

Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates with Costs Below the Statutory Threshold (Continued)<sup>a</sup></b>		
S. 2035	Guard and Reserve Readiness and Retention Act of 2004	Requires both private- and public-sector employers to extend the amount of time that certain reservists may elect to continue their health insurance after separating from that employment
S. 2145	Software Principles Yielding Better Levels of Consumer Knowledge (SPY BLOCK) Act	Regulates computer software used to collect personal information, monitor the behavior of computer users, or produce pop-up advertisements on personal computers
S. 2165	A bill to specify the end strength for active-duty personnel of the Army as of September 30, 2005	Increases the number of service members eligible for certain relief under the Soldiers and Sailors Civil Relief Act (creditors must reduce the interest rate on service members' obligations to 6 percent when such obligations predate active-duty service, and courts may temporarily stay certain civil proceedings, such as evictions, foreclosures, and repossessions)
S. 2273	Rail Security Act of 2004	Requires Amtrak to submit a plan that addresses the needs of families of passengers involved in a fatal accident; in the event of a fatal accident, requires Amtrak to provide a passenger list to federal authorities and a toll-free number for use by families of passengers
S. 2279	Maritime Transportation Security Act of 2004	Requires vessel owners to make seamen who transport nuclear materials in the navigable waters of the United States undergo criminal-background checks
S. 2281	VOIP Regulatory Freedom Act of 2004	Requires providers of voice-over-Internet-protocol telephone services to provide 911 and enhanced 911 services for their subscribers
S. 2393	Aviation Security Advancement Act	Requires all air carriers to offer bereavement fares at the lowest fare offered by the air carrier for the flight for which the bereavement fare is requested; requires air carriers to at least double the volume of cargo that is screened or inspected; prohibits passengers from carrying butane lighters on board passenger aircraft; requires operators of all-cargo aircraft to maintain a barrier between the flight deck and the cargo compartment, screen persons and bags to be transported on an aircraft, search aircraft prior to the first flight of the day, and secure any aircraft that is unattended overnight; prohibits flight crew members who are not assigned to the flight deck of all-cargo aircraft from possessing a key to a flight-deck door

Continued

**Table B-2.**

**Continued**

Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates with Costs Below the Statutory Threshold (Continued)<sup>a</sup></b>		
S. 2400	National Defense Authorization Act for Fiscal Year 2005	Increases the number of service members eligible for certain relief under the Soldiers and Sailors Civil Relief Act (creditors must reduce the interest rate on service members' obligations to 6 percent when such obligations predate active-duty service, and courts may temporarily stay certain civil proceedings, such as evictions, foreclosures, and repossessions)
S. 2603	Junk Fax Prevention Act of 2004	Requires senders of unsolicited fax advertisements to include an opt-out notice that contains a cost-free method of opting out (for example, a local telephone number or a toll-free number)
S. 2644	Satellite Home Viewer Extension and Rural Consumer Access to Digital Television Act of 2004	Requires satellite companies to reallocate their transmission of local television channels through a single dish, retransmit a distant digital signal only if they retransmit a local analog signal in that same market and notify those customers that are receiving a distant digital signal when they are no longer eligible to receive it, notify subscribers of their privacy rights, provide broadcast television network stations with a list of subscribers who are no longer eligible to receive a distant digital signal, and announce the sponsor of commercial or political advertising that originates with the satellite company; requires television network stations to notify a satellite company when a household is no longer eligible to receive a distant digital signal
S. 2840	National Intelligence Reform Act of 2004	Requires entities in the private sector, if subpoenaed by either of the federal authorities created by the legislation—the Inspector General of the National Intelligence Authority or the Privacy and Civil Liberties Oversight Board—to provide testimony, documents, or other evidence
<b>Private-Sector Mandates Whose Costs Could Not Be Determined to Exceed the Statutory Threshold<sup>a</sup></b>		
H.J. Res. 97	Approving renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003	Extends the ban on imports from Burma for one year

Continued

**Table B-2.****Continued**

Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates Whose Costs Could Not Be Determined to Exceed the Statutory Threshold (Continued)<sup>a</sup></b>		
H.R. 10 (Judiciary)	9/11 Recommendations Implementation Act	Requires shippers of hazardous materials to comply with new security regulations and prohibits them from discharging or discriminating against employees who provide information or assist in an investigation regarding a violation related to the security of shipments of extremely hazardous materials; requires nuclear facilities to comply with new regulations designed to address security threats
H.R. 2971	Social Security Privacy and Identity Theft Prevention Act of 2004	Prohibits the purchase, sale, or display of a Social Security number to the general public, including the display of a Social Security number on any card or tag; prohibits certain private entities from refusing to do business with an individual because the individual will not provide his or her Social Security number; prohibits consumer-reporting agencies from providing Social Security numbers, or any derivative of such numbers, except in a full consumer report furnished in accordance with the Fair Credit Reporting Act
H.R. 3261 (Judiciary)	Database and Collections of Information Misappropriation Act	Prohibits any person from making a substantial part of information in certain databases available to the public in commercial affairs without proper authorization
H.R. 3261 (Energy and Commerce)	Database and Collections of Information Misappropriation Act	Prohibits any person from making a substantial part of information in certain databases available to the public in commercial affairs without proper authorization
H.R. 3872	Consumer Access to Information Act of 2004	Prohibits a person's use of information from a database generated by another person without proper authorization when the database was generated at some cost or expense, the value of the information on the database is highly time sensitive, the use constitutes "free-riding" on the originator's costly efforts to generate or collect the data, the use is in direct competition with a product or service offered by the originator, and such use might eliminate the incentive to produce the product or service
S. 994	Chemical Facilities Security Act of 2003	Requires owners and operators of certain chemical facilities to assess a facility's vulnerabilities, develop and implement a site security plan, certify completion of the assessment plan, and be subject to periodic review

**Continued**

**Table B-2.**

**Continued**

Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates Whose Costs Could Not Be Determined to Exceed the Statutory Threshold (Continued)<sup>a</sup></b>		
S. 2056	Broadcast Decency Enforcement Act of 2004	Requires owners of commercial television broadcast stations whose national audience exceeds 35 percent of households to divest themselves of such licenses as may be necessary to come into compliance with that limitation; prohibits the distribution to the public of certain violent programs unless they can be electronically blocked during certain hours; prohibits the airing of such programming during certain hours if the Federal Communications Commission determines that electronic blocking is not effective
S. 2488	Marine Debris Research and Reduction Act	Requires terminal operators to provide receptacles for the disposal of plastics and to log the waste received; requires vessels under 40 feet to maintain waste receptacles and waste management plans; requires vessels that weigh less than 400 gross tons to maintain records of waste disposal
S.J. Res. 39	Approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003	Extends the ban on imports from Burma for one year

Source: Congressional Budget Office.

- a. In 2004, the threshold for private-sector mandates, which is adjusted annually for inflation, was \$120 million.
- b. The L-1 intracompany visa allows executives, managers, and employees with specialized skills to transfer from a foreign company to a U.S. office, subsidiary, or affiliated company to perform temporary services.
- c. Rule 12b-1 fees are charged by some mutual funds to pay for advertising, marketing, services performed by an administrator, or commissions to a broker or other salesperson.

## C

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**T**he following Congressional Budget Office (CBO) staff participated in the preparation of the mandate statements that CBO produced for bills and other legislative proposals in 2004:

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