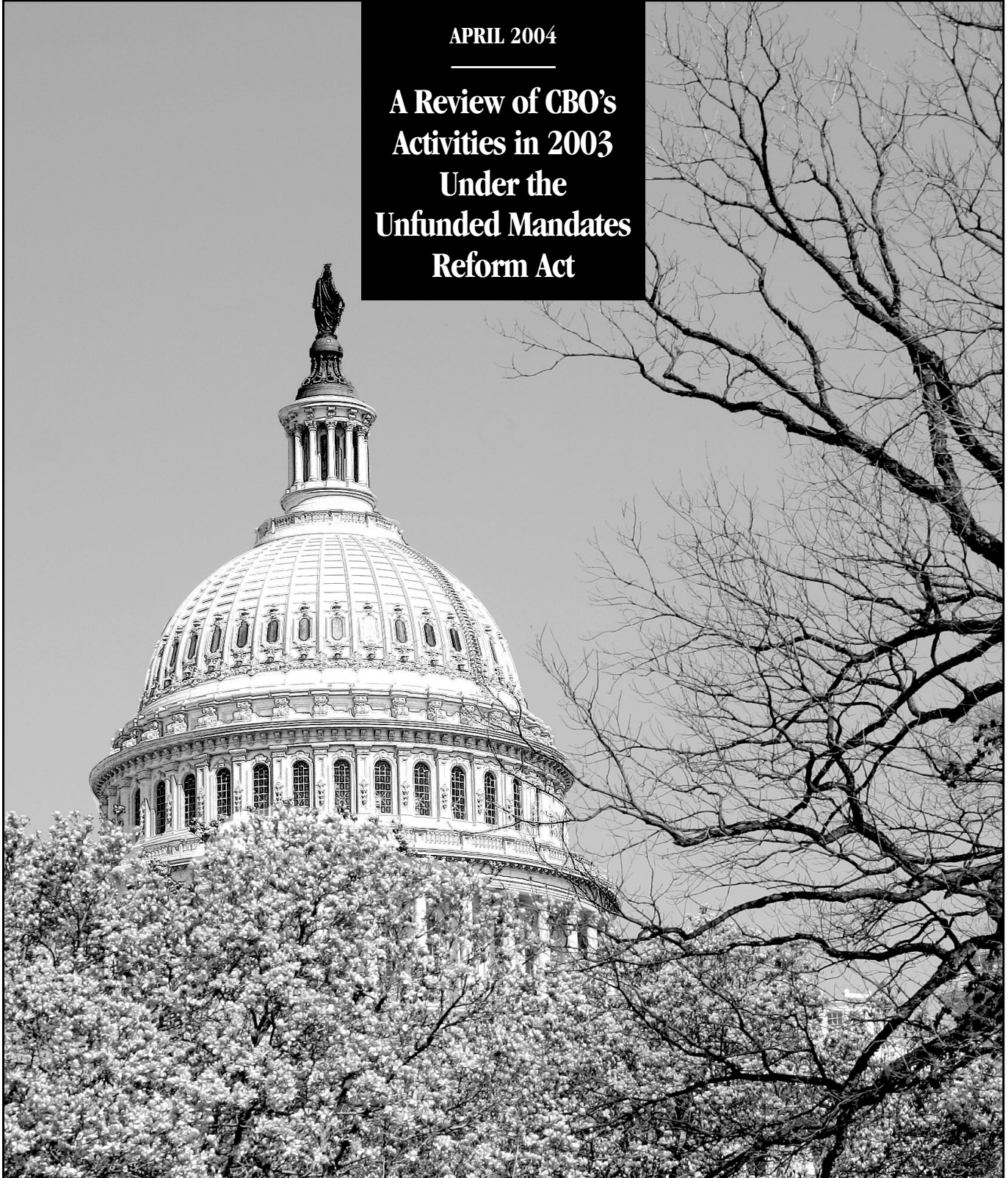


CONGRESS OF THE UNITED STATES  
CONGRESSIONAL BUDGET OFFICE

A  
**CBO**  
REPORT

APRIL 2004

**A Review of CBO's  
Activities in 2003  
Under the  
Unfunded Mandates  
Reform Act**





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The Congress of the United States  
Congressional Budget Office

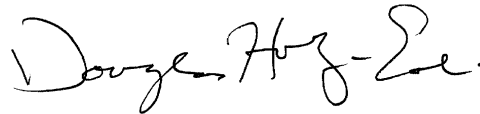


# Preface

This report is the Congressional Budget Office's (CBO's) annual review of its activities under the Unfunded Mandates Reform Act of 1995. The report covers legislation before the Congress in 2003 that would impose federal mandates on state, local, or tribal governments or the private sector.

The report was prepared by Theresa Gullo, Chief of the State and Local Government Cost Estimates Unit of CBO's Budget Analysis Division, under the supervision of Robert Sunshine, and by Patrice Gordon, Chief of the Private-Sector Mandates Unit of CBO's Microeconomic and Financial Studies Division, under the supervision of Roger Hitchner. Many CBO staff members contributed to the analyses underlying this report; they are listed in Appendix C.

Christine Bogusz edited the paper, and John Skeen proofread it. Maureen Costantino took the cover photograph and designed the cover, Ernestine McNeil and Christian Spoor prepared the report for publication, and Annette Kalicki produced the electronic versions for CBO's Web site ([www.cbo.gov](http://www.cbo.gov)).



Douglas Holtz-Eakin  
Director

April 2004



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# A Review of CBO's Activities in 2003 Under the Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (UMRA) was enacted with several goals:

- To identify and estimate the costs of federal mandates;
- To ensure that the Congress carefully weighs those costs before imposing them on state, local, and tribal governments or on the private sector; and
- To encourage the federal government to provide financial assistance for the costs of intergovernmental mandates.

To accomplish those goals, title I of UMRA established various procedures (such as points of order) to direct Congressional attention to the costs of federal mandates and to curb the practice of imposing mandates on other levels of government without paying for them.<sup>1</sup> UMRA defines a mandate as any provision in legislation, statute, or regulation that would impose an enforceable duty on state, local, or tribal governments or the private sector or that would reduce or eliminate the amount of funding authorized to cover the costs of existing mandates. Duties that arise as conditions of federal assistance or from participating in a voluntary federal program are not mandates. (The provisions of title I of UMRA are summarized in more detail in Appendix A.)

Title I requires that the Congressional Budget Office (CBO) provide mandate statements to the Congress for all public bills reported by authorizing committees and, on request, for other proposed bills and amendments. Mandate statements describe whether a bill contains federal mandates and, if so, whether the total cost of mandates in the bill amounts to more than the annual thresholds established by UMRA for intergovernmental and private-sector mandates. Those thresholds, which are adjusted annually for inflation, are \$50 million for intergovernmental mandates and \$100 million for private-sector mandates (in 1996 dollars). In 2003, the thresholds were \$59 million and \$117 million for intergovernmental and private-sector mandates, respectively.

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1. Costs imposed on state, local, and tribal governments and the private sector are generally not highlighted in other parts of the federal budget process.

This report is CBO's annual assessment of its activities under title I of UMRA during calendar year 2003—the eighth year since UMRA's enactment. The report catalogs the bills considered by the Congress last year that CBO determined contained federal mandates, lists those bills that contained mandates with costs above the statutory thresholds, and identifies mandates that were enacted into law. Finally, the report summarizes trends in federal mandates considered by the Congress over the past eight years.

## **Mandate Statements Prepared in 2003**

In 2003, CBO reviewed more than 600 bills, amendments, and other legislative proposals to determine whether they contained federal mandates (see Table 1).<sup>2</sup> As in previous years, most of that legislation did not contain federal mandates as defined by UMRA. Eighty-six bills or other legislative proposals (14 percent) contained intergovernmental mandates, and 100 bills (16 percent) contained private-sector mandates. (Those bills and descriptions of their mandates are listed in Appendix B. A summary of CBO's mandate reviews since UMRA was enacted is presented later in this report.)

## **Mandates in 2003 with Costs Above the Statutory Thresholds**

By CBO's estimate, most of the legislation in 2003 that contained mandates would not have imposed costs exceeding the thresholds set by UMRA. (That result is consistent with the pattern of previous years.) Only 8 percent of the bills or proposals (a total of seven) containing intergovernmental mandates would have cost state, local, and tribal governments, in aggregate, at least \$59 million in any one year. Twenty-four percent of the bills with private-sector mandates (a total of 24 bills) would have imposed costs of more than \$117 million in any one year. For 6 percent of the bills or proposals with intergovernmental mandates and 18 percent of the bills with private-sector mandates, CBO could not determine whether the thresholds were exceeded, either because the costs could not be estimated or because it was not clear what costs should count for that purpose (see the discussion in the next section).

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2. The Congressional Budget and Impoundment Control Act of 1974 requires that CBO use revenue estimates produced by the Joint Committee on Taxation (JCT) for all revenue legislation considered by the House or Senate. The JCT also examines legislative provisions that affect the tax code for federal mandates and estimates their costs. Such information is incorporated in CBO's mandate statements.

**Table 1.**


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## Number of CBO Mandate Statements for Bills, Proposed Amendments, and Conference Reports in 2003

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	Intergovernmental Mandates	Private-Sector Mandates
Total Number of Statements Transmitted	615	613
Number of Statements That Identified Mandates	86	100
Mandate costs would exceed thresholds <sup>a</sup>	7	24
Mandate costs could not be determined to exceed thresholds <sup>a</sup>	5	18

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Source: Congressional Budget Office.

Note: 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, a single mandate may be addressed in more than one CBO statement. CBO prepared more intergovernmental mandate statements than private-sector mandates because in some cases it was asked to review a specific proposal solely for intergovernmental impacts.

a. The thresholds, which are adjusted annually for inflation, were \$59 million for intergovernmental mandates and \$117 million for private-sector mandates in 2003.

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Through committee 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 identified by CBO in the mandate statements that it prepared.

### Intergovernmental Mandates

In the seven bills in 2003 with intergovernmental mandates whose costs were above the threshold, CBO identified three distinct mandates (see Table 2 on page 11):

- A preemption of state taxes on health plans offering prescription drug coverage through the Medicare program (H.R. 1, S. 1);
- A preemption of state authority to tax certain Internet services and transactions (H.R. 49, S. 150); and

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- A requirement that state and local governments increase the minimum wage paid to their employees (S. 224).

#### **Private-Sector Mandates**

In the 24 bills containing private-sector mandates with costs above the statutory threshold, CBO identified 16 separate mandates (see Table 2):

- Several tax provisions that would raise revenue by limiting the use of corporate tax shelters and making other changes to the taxation of business income (H.R. 2896, S. 1637, S. 476);
- New procedures and medical criteria to qualify for a cause of action in personal injury and wrongful death claims arising from asbestos exposure (S. 413, S. 1125);
- Limits on the size of fees that attorneys may receive in medical malpractice cases (H.R. 5);
- Changes in the procedures for administering bankruptcy claims (H.R. 975);
- New requirements for credit agencies, lenders, and merchants that print electronic credit card receipts regarding credit reports, disclosures to consumers, and protection against identity fraud (H.R. 2622, S. 1753);
- Stricter market limits on the ownership of television stations, radio stations, and newspapers (S. 1046);
- A prohibition on private health insurers that offer supplemental medigap policies preventing them from offering policies that include prescription drug coverage to any Medicare beneficiary who enrolls in the new Part D program (S. 1);
- An increase in the minimum wage (S. 224);
- New fuel-blend and emissions requirements for motor fuels sold in the United States (H.R. 6, H.R. 1644, S. 791);
- Requirements that lenders disclose to loan applicants if a residential property is close to an airport and that air carriers participate in code-sharing arrangements (S. 824);
- A net increase in patent and trademark fees (H.R. 1561);

- A requirement that drug manufacturers determine the safety and efficacy of drugs and biological products for use in children (S. 650);
- A requirement that drug manufacturers incorporate various counterfeit-resistant technologies in their packaging for all prescription drugs sold in the United States (H.R. 2427);
- Several tax provisions in the Jobs and Growth Tax Relief Reconciliation Act of 2003 that raise revenues (S. 2, S. 1054);<sup>3</sup>
- An increase in the ability of the Department of Veterans Affairs (VA) to collect reimbursement from third-party insurers for medical care provided at VA facilities (H.R. 1562); and
- New requirements on sponsors of certain defined-contribution pension plans regarding the vesting of employee pension benefits (H.R. 1776).

### **Mandates in 2003 Whose Costs Could Not Be Determined to Exceed the Statutory Thresholds**

For some intergovernmental and private-sector mandates, CBO could not determine whether the thresholds would be exceeded. In a number of cases, uncertainty about the scope of the mandate or whom the bill's provisions would affect made it impossible to estimate the costs. Other cases involved the costs of extending an existing mandate. UMRA does not specify whether CBO should measure the change in the costs of extending a mandate relative to the current level of mandate costs or whether it should assume that the mandate would expire and measure the costs of its extension as if it were a new mandate. 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 used. For that reason, CBO did not state whether the direct costs of extending the expiring mandate did or did not exceed the UMRA threshold. As it has done in similar cases, CBO reported the bill's costs using both comparisons in order to ensure that lawmakers received as much information as possible about potential mandates.

#### **Intergovernmental Mandates**

CBO identified five mandates in 2003 for which it could not determine whether the costs exceeded the threshold (see Table 2):

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3. The committee versions of S. 2 and S. 1054 contained mandates. The mandates were dropped when S. 1054 was incorporated into H.R. 2. H.R. 2, the House version of the Jobs and Growth Tax Relief Reconciliation Act of 2003, contained no private-sector mandates.

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- A preemption of state licensing requirements for prescription drug plans (H.R. 1, S.1);
- A requirement that public entities report certain health care information (H.R. 810);
- A requirement that public entities keep and report records during declared emergencies (S. 15);
- A preemption of states' ability to enter into labor contracts with public safety employees (S. 606); and
- A prohibition on civil actions against gun manufacturers for injury as a result of unlawful use of a firearm or ammunition (H.R. 1036).

### **Private-Sector Mandates**

In 18 bills, CBO identified 15 separate private-sector mandates for which the agency could not determine whether the costs exceeded the threshold (see Table 2):

- New security requirements at aircraft repair stations (H.R. 2144);
- Provisions for financial protection and temporary suspension of certain judicial proceedings for members of the armed services on active duty (H.R. 100, S. 1136);
- An extension of the requirement to pay fees for customs services (H.R. 3365, H.R. 2896, S. 2, S. 1054, S. 1637);
- Stricter energy-conservation standards for household appliances (H.R. 1644, S. 14, S. 1005);
- New reliability standards and regulatory fees for users of the bulk-power system (H.R. 1644, S. 14, S. 1005);
- An increase in the cost of an existing mandate on public and private health plans to collect and report data using a new coding system (H.R. 1, H.R. 810);
- A prohibition on group health plans and health insurance providers against denying benefits otherwise provided because of the source of injury (S. 423);

- A federal ban on the use of MTBE (methyl tertiary butyl ether) in gasoline, which states would be able to override (S. 791);
- New requirements for security upgrades and emergency response plans at nuclear facilities (S. 156, S. 14, S. 1005, H.R. 1644);
- A requirement that drug producers include a unique product identifier on their packaging of drugs and biological products (H.R. 663);
- A requirement that people who manufacture, distribute, prescribe, or administer medical products authorized for use in emergencies maintain records on their safety and effectiveness during such emergencies (S. 15);
- A prohibition on civil actions against manufacturers for injury as a result of the unlawful use of a firearm or ammunition (H.R. 1036);
- A ban on imports from Burma (H.R. 2330);
- Stricter constraints on media market limits for owners of UHF (ultrahigh frequency) television stations (S. 1264); and
- A limit on the number of hours individuals can work on certain towing vessels (H.R. 2443).

## **Public Laws Enacted in 2003 That Contained Mandates**

A total of 198 public laws were enacted in 2003. Of those, 16 contained one or more intergovernmental mandates as defined by UMRA, and 18 contained private-sector mandates.

### **Intergovernmental Mandates**

By CBO's estimate, only one of the 16 intergovernmental mandates—a preemption of state taxes on insurance plans covering prescription drugs—will impose costs on state, local, or tribal governments that exceed the \$59 million annual threshold (see Table 3 on page 17). That preemption will result in revenue losses to states of about \$70 million in 2006 (the first year in which the mandate is effective), CBO estimates, increasing to about \$95 million in 2010.

CBO could not estimate the costs of one other intergovernmental mandate in a law that was enacted in 2003—a waiver, under certain circumstances, of state licensing requirements for prescription drug plans. That preemption probably will result in a loss of fees associated with those licenses, but CBO cannot estimate the

magnitude of such losses because the agency has no basis for predicting how often waivers will be possible or granted.

Five of the laws enacted in 2003 (the Consolidated Appropriations Act for Fiscal Year 2003, the Legislative Branch Appropriations Act, the National Defense Authorization Act, the Vision 100-Century of Aviation Reauthorization Act, and the Preserving Independence of Financial Institution Examinations Act) contained intergovernmental mandates that were never reviewed by CBO. In two cases, the mandates were contained in appropriation bills, which are not subject to the review requirements of UMRA. In the other three cases, the mandates were added to the legislation after CBO's review (that is, after the bills were reported out of committee). None of those mandates, however, will impose significant costs on state, local, or tribal governments, by CBO's estimate.

### **Private-Sector Mandates**

Of the 18 laws enacted in 2003 with private-sector mandates, two will impose costs on the private sector above UMRA's annual threshold, CBO estimates (see Table 4 on page 22). The Pediatric Research Equity Act of 2003 authorizes the Food and Drug Administration to require drug manufacturers to assess the safety and efficacy of drugs and biological products for use in children and to establish dosing and administration protocols. Meeting such requirements could cost manufacturers about \$150 million annually, CBO estimates. The Fair and Accurate Credit Transactions Act of 2003 requires credit agencies to provide free credit reports to consumers and to incorporate fraud alert features in consumer credit files; requires merchants to truncate credit card account numbers on receipts printed electronically; and requires lenders to disclose credit scores to applicants when approving certain loans. Compliance costs for those three requirements are estimated to amount to more than the statutory threshold annually.

In addition, two of the laws enacted in 2003 will extend mandates that were set to expire, both with costs well above the threshold. The Military Family Tax Relief Act of 2003 extends customs user fees that will bring in collections of more than \$1 billion over a two-year period. The Mental Health Parity Reauthorization Act of 2003 extends the mandate requiring private group health plans and issuers of health insurance to cover certain aspects of mental health and medical benefits equally. CBO did not review the health-parity mandate before its passage because the legislation containing the mandate was not considered by an authorizing committee. CBO has reviewed a similar mandate in previous years, however, and found the costs to be in the hundreds of millions of dollars per year.

Most of the mandates in public laws enacted in 2003 have costs estimated to be below the threshold for private-sector mandates. CBO could not estimate compliance costs for three mandates—a ban on imports from Burma, security requirements at aircraft repair stations and requirements that air carriers participate in



code-sharing arrangements, and provisions that protect a service member's assets from debt collection while the service member is on active duty.

## **Mandate Statements Prepared Since UMRA Went into Effect**

In general, the patterns for intergovernmental and private-sector mandates have been consistent since UMRA went into effect. Most of the legislation that the Congress considered between 1996 and 2003 did not contain federal mandates as UMRA defines them. Of the more than 4,700 bills and other legislative proposals that CBO reviewed during that period, about 12 percent (551 bills) contained intergovernmental mandates and 14 percent (661 bills) contained private-sector mandates (see Table 5 on page 28).

Most mandates examined by CBO would not have imposed costs greater than the thresholds set by UMRA. Only 49 bills, or 1 percent of all bills reviewed, had intergovernmental mandates with annual costs (in 1996 dollars) of \$50 million or more, by CBO's estimate. About 160 bills, or 4 percent of the bills reviewed over the eight-year period, had private-sector mandates costing more than \$100 million a year. The proportion of bills with mandate costs that exceed the UMRA thresholds has varied over the past eight years. In the case of intergovernmental mandates, the share with costs above the statutory threshold has averaged about 9 percent, ranging from a high of 16 percent in 1996 to a low of about 4 percent in 2000. For private-sector mandates, the share with costs above the statutory threshold has averaged about 24 percent over the period, ranging from a high of 42 percent in 1996 to a low of about 7 percent in 2000.

## **The Limited Scope of UMRA**

The statistics presented in this report should be viewed in light of the fact that UMRA omits certain types of requirements from its provisions. For example, conditions for obtaining federal grants are generally not considered to be mandates, and certain types of provisions are specifically excluded from UMRA's requirements.

### **Grant Conditions**

According to UMRA, the conditions attached to most forms of federal assistance (including most grant programs) are not mandates. Yet complying with such conditions of aid can sometimes be costly. States often consider new conditions on existing grant programs to be duties not unlike mandates. The two most often cited examples of such conditions are the requirements for receiving federal funding under the No Child Left Behind Act and the Individuals with Disabilities Education Act. Those laws require school districts to undertake many activities in-

cluding, respectively, designing and implementing statewide achievement tests and preparing individualized education plans for disabled children. Such requirements, which are potentially costly for state and local governments, are clearly conditions for receiving federal assistance and thus are not considered mandates under UMRA. That federal assistance is substantial, however; the federal government appropriated about \$34 billion in 2004 for elementary and secondary education programs, most of which was authorized under those two laws.

Over the past eight years, CBO identified more than 600 bills that would impose those types of requirements on state, local, or tribal governments. In most cases, however, CBO estimated that such associated costs would not be significant or would be covered by the federal funding authorized in the bills.

### **Exclusions**

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 the past eight years contained provisions that fit within those exclusions. Many of the excluded provisions related to national security or Social Security and generally did not contain costly mandates. Yet some of the excluded provisions (for example, the election reform bills enacted in 2001, which concerned the constitutional right of citizens to vote) imposed costly requirements on state and local entities; because of the scope of UMRA's exclusions, CBO did not estimate those costs as part of its review, and the requirements were not subject to the point of order established by that law.

**Table 2.**


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**Status of 2003 Mandates with Costs That Would Exceed  
the Statutory Thresholds or Whose Costs Could Not Be  
Determined to Exceed the Thresholds**

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Topic	Mandate	Status at End of February 2004
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**Intergovernmental Mandates with Costs That Would Exceed the Statutory Threshold<sup>a</sup>**

Medicare Prescription Drug Coverage	Preempts state taxes on prescription drug coverage	Enacted in Public Law 108-173 <sup>b</sup> (H.R. 1, S. 1)
Internet Tax	Preempts states' authority to tax certain Internet services and transactions	Passed by the House (H.R. 49); pending on the Senate calendar (S. 150)
Minimum Wage	Requires state and local governments to increase the minimum wage paid to their employees	Pending on the Senate calendar (S. 224)

**Intergovernmental Mandates Whose Costs Could Not Be Determined to Exceed  
the Statutory Threshold<sup>a</sup>**

Medicare Prescription Drug Coverage	Preempts state licensing authority	Enacted in Public Law 108-173 <sup>b</sup> (H.R. 1, S. 1)
Medicare Regulatory and Contract Reform	Requires public entities to report certain health care information	Placed on the House calendar (H.R. 810)
Project BioShield	Requires public entities to keep records and make reports during declared emergencies	Placed on the Senate calendar (S. 15)
Public Safety Employer-Employee Cooperation	Preempts states' ability to regulate labor and public safety employees	Placed on the Senate calendar (S. 606)
Commerce in Arms	Prohibits government entities from filing lawsuits against gun manufacturers	Passed by the House (H.R. 1036); referred to the Senate Judiciary Committee

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**Continued**

**Table 2.**


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**Status of 2003 Mandates with Costs That Would Exceed the Statutory Thresholds or Whose Costs Could Not Be Determined to Exceed the Thresholds (Continued)**


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Topic	Mandate	Status at End of February 2004
<b>Private-Sector Mandates with Costs That Would Exceed the Statutory Threshold<sup>a</sup></b>		
Anti-Tax-Shelter Provisions	Raises revenue through several tax provisions aimed at reducing tax shelters that are generally used by corporations	Placed on the House calendar and Senate calendar (H.R. 2896, S. 1637, S. 476)
Asbestos Compensation	Establishes new procedures for a cause of action in personal injury and wrongful death claims arising from asbestos exposure; requires individuals filing such claims to meet specified medical criteria	Placed on the Senate calendar (S. 1125); bill did not pass out of committee (S. 413)
Attorneys' Fees in Medical Malpractice Cases	Limits the size of fees that attorneys in medical malpractice cases may collect	Passed by the House (H.R. 5)
Bankruptcy Reform	Changes procedures for administering bankruptcy claims	Placed on the Senate calendar (H.R. 975)
Consumer Credit	Requires credit agencies to provide free credit reports and include certain features in consumer credit files; requires merchants to truncate account numbers on credit card receipts printed electronically; requires lenders to disclose credit scores when approving certain loan applications	Enacted in Public Law 108-159 <sup>b</sup> (H.R. 2622, S. 1753)
Media Ownership	Imposes stricter market limits on the ownership of television stations, radio stations, and newspapers	A provision increasing the market limit on television ownership was enacted in Public Law 108-199 <sup>c</sup> (S. 1046)
Medicare Prescription Drug Coverage	Prohibits private health insurers that offer supplemental medigap policies from offering policies that include prescription drug coverage to any Medicare beneficiary who enrolls in the new Part D program	Related provision enacted in Public Law 108-173 <sup>b</sup> (S. 1)
Minimum Wage	Requires employers covered by the Fair Labor Standards Act to pay a higher minimum wage	Placed on the Senate calendar (S. 224)

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**Continued**

**Table 2.**


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**Status of 2003 Mandates with Costs That Would Exceed the Statutory Thresholds or Whose Costs Could Not Be Determined to Exceed the Thresholds (Continued)**


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Topic	Mandate	Status at End of February 2004
<b>Private-Sector Mandates with Costs That Would Exceed the Statutory Threshold<sup>a</sup> (Continued)</b>		
Standards for Motor Fuels and Renewable Fuels and Emissions	Requires that gasoline sold in the United States contain a minimum volume of renewable fuels; imposes stricter limits on the emissions of VOCs in certain regions	Conference report agreed to in the House <sup>d</sup>
Noise Disclosure by Lenders and Code-Sharing Arrangements	Requires lending institutions to ensure that a loan applicant's purchase agreement includes a notice that an airport is nearby if the residential real estate or the mobile home is located in the vicinity of an airport; requires that air carriers participate in code-sharing arrangements	Provision amended to delete mandate before bill was enacted as Public Law 108-176 <sup>b</sup> (S. 824)
Patent and Trademark Fees	Establishes and increases fees for certain patent and trademark services	Placed on the House calendar (H.R. 1561)
Pediatric Drug Research	Requires drug manufacturers, at the request of the FDA, to conduct studies to determine the safety and efficacy of drugs and biological products for use in children and to develop appropriate formulations	Enacted in Public Law 108-155 <sup>b</sup> (S. 650)
Prescription Drug Packaging	Requires manufacturers of prescription drugs to incorporate various counterfeit-resistant technologies in their packaging for all prescription drugs sold in the United States	Passed by the House (H.R. 2427)
Jobs and Growth Tax Relief Act	Raises revenue through several provisions that offset losses caused by other provisions in the law	Provisions from S. 2 and S. 1054 were incorporated in H.R. 2; the revenue-raising provisions were dropped from the conference report for H.R. 2, which became Public Law 108-27 <sup>b</sup>

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Continued

**Table 2.**


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**Status of 2003 Mandates with Costs That Would Exceed the Statutory Thresholds or Whose Costs Could Not Be Determined to Exceed the Thresholds (Continued)**


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Topic	Mandate	Status at End of February 2004
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**Private-Sector Mandates with Costs That Would Exceed the Statutory Threshold<sup>a</sup> (Continued)**

VA Recovery of Health Care Costs	Increases the ability of the Department of Veterans Affairs to collect reimbursement from third-party insurers for medical care provided to insured veterans and non-veterans at VA facilities	Placed on the House calendar (H.R. 1562)
Vesting of Pension Benefits	Imposes requirements on sponsors of certain defined-contribution pension plans for the vesting of employee pension benefits	Ordered reported by the House Committee on Ways and Means (H.R. 1776)

**Private-Sector Mandates Whose Costs Could Not Be Determined to Exceed the Statutory Threshold<sup>a</sup>**

Aviation Security	Imposes security requirements at aircraft repair stations	Enacted in Public Law 108-176 <sup>b</sup> (H.R. 2144)
Civil Relief for Service Members	Provides for financial protection and temporary suspension of certain judicial proceedings for service members on active duty	Enacted in Public Law 108-189 <sup>b</sup> (H.R. 100, S. 1136)
Customs User Fees	Extends the requirement to pay fees for customs services through March 1, 2005	Enacted in Public Law 108-121 <sup>b</sup> (H.R. 3365, H.R. 2896, S. 2, S. 1054, S. 1637)
Energy Conservation	Imposes energy conservation standards restricting standby-mode energy consumption of household appliances	Similar provisions in a conference report agreed to in the House <sup>d</sup>
Electricity Regulation	Requires users of the bulk-power system to comply with new standards and pay regulatory fees to ensure the reliability of electricity	Similar provisions in a conference report agreed to in the House <sup>d</sup>
Health Care Coding System	May raise the cost of the existing mandate on public and private health plans and providers regarding the coding system they must use to collect and report health data	Passed by the House (H.R. 1); placed on the House calendar (H.R. 810)

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**Continued**

**Table 2.**


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**Status of 2003 Mandates with Costs That Would Exceed the Statutory Thresholds or Whose Costs Could Not Be Determined to Exceed the Thresholds (Continued)**


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Topic	Mandate	Status at End of February 2004
<b>Private-Sector Mandates Whose Costs Could Not Be Determined to Exceed the Statutory Threshold<sup>a</sup> (Continued)</b>		
Health Insurance Coverage of Injuries	Prohibits group health plans and health insurance providers from denying benefits otherwise provided because of the source of the injury	Ordered to be reported by the Senate HELP Committee (S. 423)
MTBE Ban	Bans the use of MTBE (a fuel derived from methanol) in gasoline within four years of the bill's enactment while allowing states to authorize the use of MTBE	Similar provisions in a conference report agreed to in the House <sup>d</sup>
Nuclear Security	Requires security upgrades and emergency response plans at nuclear facilities	Similar provisions in a conference report agreed to in the House <sup>d</sup>
Product Identifiers for Drug Packaging	Requires manufacturers, packagers, and labelers to include a unique product identifier (for example, a bar code) on the packaging of drugs and biological products	Passed by the House (H.R. 663)
Project BioShield	Requires people who manufacture, distribute, prescribe, or administer medical products authorized for use in emergencies to maintain records on their safety and effectiveness during such emergencies	Placed on the Senate calendar (S. 15)
Protection of Commerce in Arms	Prohibits entities (public or private) from bringing a civil liability action against manufacturers, sellers, and trade associations arising from harm caused by the criminal or other unlawful misuse of any firearm or ammunition product by a third person	Passed by the House (H.R. 1036)
Sanctions Against Burma	Bans all imports from Burma and requires U.S. financial institutions holding Burmese assets belonging to the regime to freeze those assets	Enacted as Public Law 108-61 <sup>b</sup> (H.R. 2330)

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**Continued**

**Table 2.**


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## Status of 2003 Mandates with Costs That Would Exceed the Statutory Thresholds or Whose Costs Could Not Be Determined to Exceed the Thresholds (Continued)

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Topic	Mandate	Status at End of February 2004
<b>Private-Sector Mandates Whose Costs Could Not Be Determined to Exceed the Statutory Threshold<sup>a</sup> (Continued)</b>		
UHF Discount for Television Markets	Eliminates the 50 percent discount for UHF stations when calculating market share to measure compliance with the FCC's national ownership rules	Placed on the Senate calendar (S. 1264)
Vessel Requirements	Limits the number of hours individuals can work on some towing vessels	Passed by the House (H.R. 2443)

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Source: Congressional Budget Office.

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

VOCs = volatile organic compounds; FDA = Food and Drug Administration; VA = Department of Veterans Affairs; HELP = Health, Education, Labor, and Pensions; MTBE = methyl tertiary butyl ether; UHF = ultrahigh frequency; FCC = Federal Communications Commission.

- a. In 2003, the thresholds were \$59 million for intergovernmental mandates and \$117 million for private-sector mandates. Those thresholds are adjusted annually for inflation.
  - b. The full names and dates of enactment of the public laws referred to in this table follow (in order of law number):
    - Public Law 108-27, the Jobs and Growth Tax Relief Reconciliation Act of 2003, enacted May 28, 2003;
    - Public Law 108-61, the Burmese Freedom and Democracy Act of 2003, enacted July 28, 2003;
    - Public Law 108-121, the Military Family Tax Relief Act of 2003, enacted November 11, 2003;
    - Public Law 108-155, the Pediatric Research Equity Act of 2003, enacted December 3, 2003;
    - Public Law 108-159, the Fair and Accurate Credit Transactions Act of 2003, enacted December 4, 2003;
    - Public Law 108-173, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, enacted December 8, 2003;
    - Public Law 108-176, the Vision 100-Century of Aviation Reauthorization Act, enacted December 12, 2003; and
    - Public Law 108-189, the Servicemembers Civil Relief Act, enacted December 19, 2003.
  - c. Section 629 of Public Law 108-199 (the Consolidated Appropriations Act, 2004) increased the ownership limit on television broadcast licenses to 39 percent nationwide.
  - d. Several versions of the mandates on energy sectors—motor fuels, electricity, energy conservation, and nuclear security—were considered by the Congress in legislation including H.R. 6, H.R. 1644, S. 14, S. 156, S. 791, and S. 1005. H.R. 6, the Energy Policy Act of 2003, was sent to the conference committee.
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**Table 3.****Laws Enacted in 2003 That Contained Intergovernmental Mandates**

<b>Public Law Number</b>	<b>Name</b>	<b>Mandate</b>	<b>Was the Mandate Reviewed by CBO?</b>	<b>Do Costs Exceed the Threshold?<sup>a</sup></b>
108-7	Consolidated Appropriations for Fiscal Year 2003:			
	District of Columbia	Restricts the use of local funds by the District of Columbia as well as preemptions of local authority	No	No
	Interior	Restricts the use of land held in trust for the Huron Indian tribe	No	No
	Transportation	Requires two airports to transfer equipment to the FAA for them to maintain and operate	No	No
	Homeland Security	Prohibits courts from acting on claims or causes arising from a provision in the Homeland Security Act	No	No
108-21	PROTECT Act	Expands the requirement for state and local law enforcement agencies to report missing children to a central data bank	Yes	No
108-79	Prison Rape Elimination Act of 2003	Requires state, local, or tribal governments and entities in the private sector, if subpoenaed, to attend and produce written or other matter at hearings conducted by the Review Panel on Prison Rape and the National Prison Rape Reduction Commission	Yes	No

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**Continued**

**Table 3.**

### **Laws Enacted in 2003 That Contained Intergovernmental Mandates (Continued)**

<b>Public Law Number</b>	<b>Name</b>	<b>Mandate</b>	<b>Was the Mandate Reviewed by CBO?</b>	<b>Do Costs Exceed the Threshold?<sup>a</sup></b>
108-79	Prison Rape Elimination Act of 2003 (Continued)	Directs the Attorney General to adopt national standards for the prevention of prison rape	Yes	No
108-83	Legislative Branch Appropriations for Fiscal Year 2004	Requires all states to allow members of the Capitol Police Board to practice in their courts	No	No
108-100	Check Clearing for the 21st Century Act	Preempts state laws with respect to the Uniform Commercial Code	Yes	No
108-133	District of Columbia Military Retirement Equity Act of 2003	Requires the District of Columbia to increase retirement payments for some enrollees	Yes	No
108-136	National Defense Authorization Act for Fiscal Year 2004	Section 1707 prohibits state and local governments from charging fees to process naturalization applications for certain members of the armed services	No	No
108-159	Fair and Accurate Credit Transactions Act of 2003	Title I prohibits states from enacting laws that differ from federal laws in several areas of credit regulation	Yes	No
108-164	Fairness to Contact Lens Consumers Act	Preempts state laws in five states and requires prescribers (some of which may be public entities) to provide prescriptions	Yes	No

Continued

**Table 3.****Laws Enacted in 2003 That Contained Intergovernmental Mandates (Continued)**

<b>Public Law Number</b>	<b>Name</b>	<b>Mandate</b>	<b>Was the Mandate Reviewed by CBO?</b>	<b>Do Costs Exceed the Threshold?<sup>a</sup></b>
108-173	Medicare Prescription Drug, Improvement, and Modernization Act of 2003	Prohibits states from imposing taxes on premiums or similar payments made in association with prescription drug coverage	Yes	Yes
		Requires state health plans that provide prescription drug coverage to disclose whether their coverage is equivalent to the benefits outlined in the public law	Yes	No
		Waives state licensing requirements	Yes	Cannot be estimated
		Preempts state laws and regulations with respect to Medicare Advantage plans	Yes	No
108-176	Vision 100-Century of Aviation Reauthorization Act	Requires airport operators to notify the FAA before closing an airport	Yes	No
		Preempts state firearms laws with a provision to arm cargo pilots	No	No
108-177	Intelligence Authorization Act for Fiscal Year 2004	Section 332 preempts states' power to regulate and restrict the possession and transportation of explosives	Yes	No

Continued

**Table 3.****Laws Enacted in 2003 That Contained Intergovernmental Mandates (Continued)**

<b>Public Law Number</b>	<b>Name</b>	<b>Mandate</b>	<b>Was the Mandate Reviewed by CBO?</b>	<b>Do Costs Exceed the Threshold?<sup>a</sup></b>
108-177	Intelligence Authorization Act for Fiscal Year 2004 (Continued)	Section 341 extends for one year the National Commission for the Review of the Research and Development Programs of the U.S. Intelligence Community (that commission has the power to subpoena testimony and evidence, which is an enforceable duty)	Yes	No
		Preempts state laws related to tort liability and would limit the ability of state and local governments to seek damages against intelligence personnel who are authorized to carry firearms	Yes	No
108-187	Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003	Requires states to inform the Federal Trade Commission of any action falling under the purview of this bill; preempts state laws that regulate electronic commerce	Yes	No
108-188	Compact of Free Association Amendments Act of 2003	Prohibits states from taxing revenue generated by newly created trust funds	Yes	No
108-189	Servicemembers Civil Relief Act	Prohibits states from considering military pay when calculating tax liability for service members stationed in states other than their state of residence	Yes	No

Continued

**Table 3.**

**Laws Enacted in 2003 That Contained Intergovernmental Mandates (Continued)**

<b>Public Law Number</b>	<b>Name</b>	<b>Mandate</b>	<b>Was the Mandate Reviewed by CBO?</b>	<b>Do Costs Exceed the Threshold?<sup>a</sup></b>
108-198	Preserving Independence of Financial Institution Examinations Act of 2003	Requires examiners, who may be appointed or elected at the state level, to follow certain rules or face criminal penalties	No	No

Source: Congressional Budget Office.

Note: FAA = Federal Aviation Administration.

- a. The threshold for intergovernmental mandates, which is adjusted annually for inflation, was \$59 million in 2003.

**Table 4.**


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## Laws Enacted in 2003 That Contained Private-Sector Mandates

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Public Law Number	Name	Mandate	Was the Mandate Reviewed by CBO?	Do Costs Exceed the Threshold? <sup>a</sup>
108-10	Do-Not-Call Implementation Act	Authorizes the Federal Trade Commission to collect fees from telemarketing firms	Yes	No
108-19	Clean Diamond Trade Act	Prohibits the importation to and exportation from the United States of rough diamonds that have not been controlled through the Kimberley Process Certification Scheme	Yes	No
108-21	PROTECT Act	Expands recordkeeping requirements for producers involved in commerce of certain sexually explicit material	Yes	No
108-61	Burmese Freedom and Democracy Act of 2003	Bans all imports from Burma	Yes	Uncertain
		Requires U.S. financial institutions holding Burmese assets belonging to the regime to freeze those assets	Yes	No
108-79	Prison Rape Elimination Act of 2003	Requires an entity, if subpoenaed, to attend and produce written or other matter at hearings coordinated by the Review Panel on Prison Rape and the National Prison Rape Reduction Commission	Yes	No
108-105	Partial-Birth Abortion Ban Act of 2003	Prohibits physicians from performing "partial-birth abortions," except when necessary to save the life of a mother	Yes	No

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**Continued**

**Table 4.**

**Laws Enacted in 2003 That Contained Private-Sector Mandates (Continued)**

<b>Public Law Number</b>	<b>Name</b>	<b>Mandate</b>	<b>Was the Mandate Reviewed by CBO?</b>	<b>Do Costs Exceed the Threshold?<sup>a</sup></b>
108-121	Military Family Tax Relief Act of 2003	Extends customs user fees	Yes	Extends a mandate with costs above the threshold <sup>b</sup>
108-130	Animal Drug User Fee Act of 2003	Requires manufacturers of new drugs for animals to pay certain fees to the Food and Drug Administration	Yes	No
108-155	Pediatric Research Equity Act of 2003	Requires drug manufacturers to conduct studies to determine the safety and efficacy of new drugs and biological products for use in children	Yes	Yes
		Requires drug manufacturers to develop appropriate formulations of those drugs for each pediatric age group	Yes	No
108-159	Fair and Accurate Credit Transactions Act of 2003	Requires credit agencies to provide free credit reports at the request of an individual and requires credit agencies to incorporate certain fraud alerts and blocks in consumer credit files	Yes	No <sup>c</sup>
		Requires merchants to truncate credit card account numbers on receipts printed electronically	Yes	No <sup>c</sup>
		Requires lenders to disclose credit scores when approving certain loans	Yes	No <sup>c</sup>

**Continued**

**Table 4.**


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**Laws Enacted in 2003 That Contained Private-Sector Mandates (Continued)**


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<b>Public Law Number</b>	<b>Name</b>	<b>Mandate</b>	<b>Was the Mandate Reviewed by CBO?</b>	<b>Do Costs Exceed the Threshold?<sup>a</sup></b>
108-164	Fairness to Contact Lens Consumers Act	Requires prescribers of contact lenses to provide patients with a free copy of their prescription and to comply with verification procedures	Yes	No
		Requires sellers of contact lenses to verify certain prescriptions and keep records of the verification	Yes	No
108-173	Medicare Prescription Drug, Improvement, and Modernization Act of 2003	Prohibits insurers from offering existing types of coverage that include prescription drugs to any Medicare beneficiary who is not already enrolled in one of those plans by 2006	Yes	No
		Requires insurers who sell medigap policies that do not contain prescription drug coverage to make those policies available to certain beneficiaries who enroll in the new Part D program	Yes	No
		Requires generic and brand-name drug manufacturers that enter into certain agreements related to generic drugs for which a paragraph IV certification under the Food, Drug, and Cosmetic Act has been filed to submit those agreements to the Federal Trade Commission	Yes	No

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**Continued**



**Table 4.**


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**Laws Enacted in 2003 That Contained Private-Sector Mandates (Continued)**


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<b>Public Law Number</b>	<b>Name</b>	<b>Mandate</b>	<b>Was the Mandate Reviewed by CBO?</b>	<b>Do Costs Exceed the Threshold?<sup>a</sup></b>
108-175	Syria Accountability and Lebanese Sovereignty Restoration Act of 2003	Bans the exportation of certain dual-use (commercial and military) items to Syria	Yes	No
108-176	Vision 100-Century of Aviation Reauthorization Act	Requires essential air service providers to trace changes in their service	Yes	No
		Authorizes the Secretary of Transportation to require air carriers to participate in multiple code-sharing arrangements under a pilot program	Yes	Uncertain
		Requires certain domestic and foreign air carriers to update their current plans that address the needs of the families of passengers involved in an aircraft accident resulting in a major loss	Yes	No
		Requires owners of foreign and domestic aircraft repair stations to comply with new security measures	Yes	Uncertain
		Requires air carriers that collect a passenger facility fee for airports to segregate that money	Yes	No
		Requires air carriers that provide scheduled passenger air transportation to display a placard that informs each passenger of the country in which the aircraft was finally assembled	Yes	No

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**Continued**

**Table 4.**


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**Laws Enacted in 2003 That Contained Private-Sector Mandates (Continued)**


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<b>Public Law Number</b>	<b>Name</b>	<b>Mandate</b>	<b>Was the Mandate Reviewed by CBO?</b>	<b>Do Costs Exceed the Threshold?<sup>a</sup></b>
108-176	Vision 100-Century of Aviation Reauthorization Act (Continued)	Extends the current requirement that air carriers honor other air carriers' tickets as a result of an air carrier's bankruptcy or insolvency	Yes	No
108-187	Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003	Requires senders of commercial electronic mail (e-mail) to include certain information within their messages, including a valid return e-mail address, an accurate subject heading, and a valid physical postal address and to identify their messages as unsolicited commercial e-mail (UCE)	Yes	No
		Requires senders of UCE to provide the recipients of their messages with an option to discontinue receiving UCE and to notify recipients of that option	Yes	No
		Requires that senders of UCE keep their e-mail address functioning for at least 30 days after the transmission of UCE	Yes	No
108-189	Servicemembers Civil Relief Act	Increases the number of cases in which a landlord who wishes to evict a tenant who is an active-duty service member for nonpayment of rent is required to obtain a court order authorizing the eviction	Yes	No

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**Continued**

**Table 4.**


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## Laws Enacted in 2003 That Contained Private-Sector Mandates (Continued)

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Public Law Number	Name	Mandate	Was the Mandate Reviewed by CBO?	Do Costs Exceed the Threshold? <sup>a</sup>
108-189	Servicemembers Civil Relief Act (Continued)	Provides that certain service members on active duty can terminate an existing lease for a motor vehicle upon written notice to the lessor	Yes	Uncertain
		Precludes the use of a service member's personal assets to satisfy the member's trade or business liability while he or she is on active duty	Yes	Uncertain
108-191	Captive Wildlife Safety Act	Prohibits the import, export, transport, selling, receiving, acquiring, or purchase of any species of lion, tiger, leopard, cheetah, jaguar, cougar, and certain hybrids	Yes	No
108-197	Mental Health Parity Reauthorization Act of 2003	Extends the mandate requiring private group health plans and health insurance issuers to cover mental health and medical benefits equally	No <sup>d</sup>	Extends a mandate with costs that are above the threshold <sup>b</sup>

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Source: Congressional Budget Office.

- a. The threshold for private-sector mandates, which is adjusted annually for inflation, was \$117 million in 2003.
  - b. The Unfunded Mandates Reform Act is unclear about how to count the costs against the threshold of a mandate that has not yet expired when the legislation is being considered.
  - c. CBO estimates that the aggregate costs of all of the mandates in the act would be above the threshold in at least one of the next five years.
  - d. CBO reviewed the mandate to provide equal coverage for mental health benefits in previous sessions of Congress.
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**Table 5.**


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## Number of CBO Mandate Statements for Bills, Proposed Amendments, and Conference Reports, 1996 to 2003

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	1996 <sup>a</sup>	1997	1998	1999	2000	2001	2002	2003	Total, 1996- 2003
<b>Intergovernmental Mandates</b>									
Total Number of Statements Transmitted	718	521	541	573	706	389	649	615	4,712
Number of Statements That Identified Mandates	69	64	64	81	77	50	60	86	551
Mandate costs would exceed threshold <sup>b</sup>	11	8	6	4	3	4	6	7	49
Mandate costs could not be determined to exceed threshold <sup>b</sup>	6	7	7	0	1	3	5	5	34
<b>Private-Sector Mandates</b>									
Total Number of Statements Transmitted	673	498	525	556	697	389	645	613	4,596
Number of Statements That Identified Mandates	91	65	75	105	86	66	73	100	661
Mandate costs would exceed threshold <sup>b</sup>	38	18	18	20	6	18	19	24	161
Mandate costs could not be determined to exceed threshold <sup>b</sup>	2	5	9	13	7	8	14	18	76

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Source: Congressional Budget Office.

Note: 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, a single mandate may be addressed in more than one CBO 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 1996 and bills reported by authorizing committees thereafter.
- b. The thresholds, which are adjusted annually for inflation, were \$50 million for intergovernmental mandates and \$100 million for private-sector mandates in 1996. They rose to \$59 million and \$117 million, respectively, in 2003.
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# Appendix A:

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

Title I of the Unfunded Mandates Reform Act of 1995 (UMRA) attempts to ensure that the Congress has more information about the potential direct costs of federal mandates before enacting legislation. UMRA requires the Congressional Budget Office (CBO) and authorizing committees in the Congress to develop and report information about the existence and costs of mandates in proposed legislation. The act also establishes mechanisms to bring that information to the attention of the Congress before legislation is considered on the floor of the House or Senate.

### Defining Mandates and Their Costs

Under UMRA, a mandate is any provision in legislation, statute, or regulation that would impose an *enforceable duty* on state, local, or tribal governments or the private sector, or that would reduce or eliminate the amount of funding authorized to cover the costs of existing mandates. Duties that are imposed as a condition of federal assistance or that arise from participation in a voluntary federal program are not mandates. In the case of some large entitlement programs under which \$500 million or more is provided annually to state, local, or tribal governments, a new condition on, or a reduction in, federal assistance would be a mandate only if states lacked the flexibility to offset the new costs or the loss of federal funding with reductions elsewhere in the program.

Also excluded from UMRA's procedures are legislative provisions that concern 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).

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

## Mandate Cost Statements: CBO's Role

UMRA requires the Congressional Budget Office to provide statements to Congressional authorizing committees about whether reported bills contain 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 effective, CBO must provide an estimate of those costs (if feasible) and the basis of its estimate. The statutory thresholds are \$50 million for intergovernmental mandates and \$100 million for private-sector mandates (in 1996 dollars), adjusted annually for inflation.

CBO's 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 not previously 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 intergovernmental mandates contained in an amendment the Senator may wish to offer.

The Congress may also call on CBO to prepare analyses at other stages of the legislative process. If asked by the Chairman or Ranking Member of a committee, CBO will help that 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 CBO's estimate 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 CBO mandate statement. That is, UMRA prohibits the consideration of a reported bill unless the committee has published a CBO statement about the costs of any mandates.

For reported legislation that contains intergovernmental mandates with direct costs above the threshold, the rules preclude consideration unless the legislation provides direct spending authority or authorizes appropriations sufficient to cover those costs. An authorization of appropriations will not be sufficient unless the

authorized amounts are specified for each year (up to 10 years) after the 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, considering legislative provisions in such bills—or amendments to them—that increase the direct costs of intergovernmental mandates is not in order unless an appropriate CBO mandate 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. In the Senate, if a point of order is raised, the bill may not be considered unless either the Senate waives the point of order or the chair of the Senate overrules it.





# **Appendix B: Bills in 2003 That Contained Mandates**

This appendix lists legislation reviewed by the Congressional Budget Office (CBO) in 2003 that would impose federal mandates, regardless of whether the estimated costs of those mandates would be more or less than the thresholds and regardless of whether the legislation was enacted. Table B-1 lists bills (in numerical order) that CBO identified as having intergovernmental mandates; the list 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.**


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## Bills Reviewed by CBO in 2003 That Contained Intergovernmental Mandates

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Bill Number (Committee)	Name	Mandate
<b>Intergovernmental Mandates with Costs Above the Statutory Threshold<sup>a</sup></b>		
H.R. 1 (As passed)	Medicare Prescription Drug and Modernization Act of 2003	Preempts state taxes on premiums for prescription drug coverage; preempts state licensing authority <sup>b</sup>
H.R. 49	Internet Tax Nondiscrimination Act	Preempts state taxing authority and extends a current mandate
S. 1 (Senate Finance)	Prescription Drug and Medicare Improvement Act of 2003	Preempts premium taxes and other lower-cost mandates
S. 1 (As passed)	Prescription Drug and Medicare Improvement Act of 2003	Preempts state taxes on premiums for prescription drug coverage; requires states to facilitate background checks for employees at nursing facilities; extends responsibility for paying health expenses of people with end-stage renal disease
S. 150	Internet Tax Nondiscrimination Act	Preempts state taxing authority and extends a current mandate
S. 150 (Follow-up letter)	Internet Tax Nondiscrimination Act	Preempts state taxing authority and extends a current mandate
S. 224	Fair Minimum Wage Act of 2003	Requires 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. 4	Personal Responsibility and Individual Development for Everyone Act	Reduces the amount states may retain from child support collections; preempts privacy laws and liability laws
H.R. 5 (Commerce)	Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2003	Preempts some state liability laws as they apply to health care providers and organizations
H.R. 5 (Judiciary)	Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2003	Preempts some state liability laws as they apply to health care providers and organizations
H.R. 6	A bill to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, and for other purposes	Requires electric utilities to follow reliability standards; requires security upgrades at nuclear plants; limits state authority over electric utilities and motor fuel manufacturers

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Continued

**Table B-1.**


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## Bills Reviewed by CBO in 2003 That Contained Intergovernmental Mandates (Continued)

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Bill Number (Committee)	Name	Mandate
<b>Intergovernmental Mandates with Costs Below the Statutory Threshold<sup>a</sup> (Continued)</b>		
H.R. 100	Servicemembers Civil Relief Act	Preempts states from considering nonresident military pay when calculating state income tax liability
H.R. 238	Energy Research, Demonstration, and Commercial Application Act of 2003	Increases NRC fees on licenses to offset new regulatory responsibilities
H.R. 522	Federal Deposit Insurance Reform Act of 2003	Preempts New York state law from limiting thrifts from accepting municipal deposits
H.R. 534	Human Cloning Prohibition Act of 2003	Prohibits public and private entities from engaging in or aiding human cloning, including the shipment and receipt of embryos for cloning
H.R. 660	Small Business Health Fairness Act of 2003	Preempts premium taxes on certain health plans but allows taxes on new plans authorized by the bill
H.R. 663	Patient Safety and Quality Improvement Act	Preempts state freedom of information laws (or similar statutes); prohibits health care providers from taking certain actions against their employees
H.R. 743	Social Security Protection Act of 2003	Preempts state privacy laws and taxes on the Railroad Retirement Trust
H.R. 874	Rail Passenger Disaster Family Assistance Act of 2003	Prohibits states from blocking assistance from the NTSB to families involved in rail accidents; provides certain liability protection to rail carriers
H.R. 877	Patient Safety Improvement Act of 2003	Preempts state freedom of information laws (or similar statutes)
H.R. 975	Bankruptcy Abuse Prevention and Consumer Protection Act of 2003	Preempts state laws governing contacts between a debt-relief agency and a debtor
H.R. 982 (House Judiciary)	A bill to clarify the tax treatment of bonds and other obligations issued by the government of American Samoa	Exempts interest on bonds issued by American Samoa from state, local, or territorial taxes

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**Continued**

**Table B-1.**


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## Bills Reviewed by CBO in 2003 That Contained Intergovernmental Mandates (Continued)

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Bill Number (Committee)	Name	Mandate
<b>Intergovernmental Mandates with Costs Below the Statutory Threshold<sup>a</sup> (Continued)</b>		
H.R. 982 (House Resources)	A bill to clarify the tax treatment of bonds and other obligations issued by the government of American Samoa	Exempts interest on bonds issued by American Samoa from state, local, or territorial taxes
H.R. 1086 (House Judiciary)	Standards Development Organization Advancement Act of 2003	Expands the scope of an existing mandate; limits recovery of damages by states
H.R. 1086 (Senate Judiciary)	Standards Development Organization Advancement Act of 2003	Expands the scope of an existing mandate; limits recovery of damages by states
H.R. 1104	Child Abduction Prevention Act	Expands an existing mandate for law-enforcement agencies to report cases of missing children up to the age of 21 (the current law specifies 18)
H.R. 1375 (House Judiciary)	Financial Services Regulatory Relief Act of 2003	Preempts state regulation of certain financial institutions
H.R. 1375 (House Financial Services)	Financial Services Regulatory Relief Act of 2003	Preempts state regulation of certain financial institutions
H.R. 1417	Copyright Royalty and Distribution Reform Act of 2003	Establishes new subpoena provisions that states must follow
H.R. 1474	Check Clearing for the 21st Century Act	Preempts state laws that require original checks
H.R. 1562	Veterans Health Care Cost Recovery Act of 2003	Gives the VA authority to recover expenses from third parties, including public entities, for the care of nonveterans and to recover full amounts for the care of insured veterans
H.R. 1588	National Defense Authorization Act for Fiscal Year 2004	Prohibits states from reducing certain pension benefits for certain older Americans hired by the Secretary of Defense
H.R. 1644	Energy Policy Act of 2003	Requires electric utilities to follow reliability standards; requires security upgrades at nuclear plants; limits state authority over electric utilities and motor fuel manufacturers

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**Continued**

**Table B-1.**


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## Bills Reviewed by CBO in 2003 That Contained Intergovernmental Mandates (Continued)

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Bill Number (Committee)	Name	Mandate
<b>Intergovernmental Mandates with Costs Below the Statutory Threshold<sup>a</sup> (Continued)</b>		
H.R. 1707	Prison Rape Reduction Act of 2003	Would require state, local, and tribal entities to comply with the requirements of subpoenas for information related to prison rape
H.R. 1829	Federal Prison Industries Competition in Contracting Act of 2003	Requires certification for work programs on state and local prisons that provide services in interstate commerce
H.R. 1836	Civil Service and National Security Personnel Improvement Act	Prohibits states from reducing retirement benefits in certain cases
H.R. 1954 (House Judiciary)	Armed Forces Naturalization Act of 2003	Prohibits courts from charging fees for the naturalization process for certain alien personnel in the armed services
H.R. 1954 (Senate Judiciary)	Armed Forces Naturalization Act of 2003	Prohibits courts from charging fees for the naturalization process for certain alien personnel in the armed services
H.R. 2115	Flight 100-Century of Aviation Reauthorization Act	Requires public agencies to notify the FAA within 30 days if they intend to close an airport
H.R. 2120	Financial Contracts Bankruptcy Reform Act of 2003	Preempts state laws regarding banking (see also H.R. 975, title IX)
H.R. 2144	Aviation Security Technical Corrections and Improvements Act of 2003	Requires airports to provide space to the TSA, without cost, for explosive-detection equipment; preempts state firearms laws
H.R. 2417	Intelligence Authorization Act for Fiscal Year 2004	Preempts state and local laws regarding the dissemination and transmission of explosives; extends a national commission and its subpoena power
H.R. 2443	Coast Guard Authorization Act of 2003	Requires certain public and private vessels to install electronic charting equipment
H.R. 2622	Fair and Accurate Credit Transactions Act of 2003	Prohibits and preempts some states from regulating credit reporting
H.R. 2844	Continuity in Representation Act of 2003	Requires states to change laws dealing with special elections

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**Continued**

**Table B-1.**


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## Bills Reviewed by CBO in 2003 That Contained Intergovernmental Mandates (Continued)

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Bill Number (Committee)	Name	Mandate
<b>Intergovernmental Mandates with Costs Below the Statutory Threshold<sup>a</sup> (Continued)</b>		
H.R. 3054	District of Columbia Military Retirement Equity Act of 2003	Requires the District of Columbia to increase retirement payments for some former employees
H.R. 3140	Fairness to Contact Lens Consumers Act	Preempts state laws regulating prescriptions
H.R. 3143	International Consumer Protection Act of 2003	Preempts various state liability and disclosure laws
H.J. Res. 63 (House Judiciary)	Compact of Free Association Amendments Act of 2003	Requires states to treat trust funds as a nonprofit entity
H.J. Res. 63 (House Resources)	Compact of Free Association Amendments Act of 2003	Requires states to treat trust funds as a nonprofit entity
S. ____	Draft language to increase the active-duty end strength of the Army by 10,000 military personnel	Increases costs of existing mandates, including deferrals in state and local taxes
S. 14	Energy Policy Act of 2003	Requires electric utilities to follow reliability standards; requires security upgrades at nuclear plants; limits state authority over electric utilities and motor fuel manufacturers
S. 156	Price-Anderson Amendments Act of 2003	Increases the fees that nuclear plants pay for government insurance and background checks; requires an official to get prior approval to make an arrest; requires plants to upgrade security
S. 165	Air Cargo Security Improvement Act	Preempts state firearms laws by deputizing cargo pilots
S. 195	Underground Storage Tank Compliance Act of 2003	Requires states to report their own tanks that are out of compliance and to implement a training strategy for operators
S. 253	Law Enforcement Officers Safety Act of 2003	Preempts state and local concealed-weapon laws

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**Continued**

**Table B-1.**


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## Bills Reviewed by CBO in 2003 That Contained Intergovernmental Mandates (Continued)

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Bill Number (Committee)	Name	Mandate
<b>Intergovernmental Mandates with Costs Below the Statutory Threshold<sup>a</sup> (Continued)</b>		
S. 275	Professional Boxing Amendments Act of 2003	Places health, safety, and reporting requirements on Boxing Commissions
S. 413	Asbestos Claims Criteria and Compensation Act of 2003	Preempts states' statutes of limitations and civil procedures as they relate to asbestos liability
S. 616	Mercury Reduction Act of 2003	Prohibits sale of mercury thermometers over the counter; affects public hospitals
S. 627	Unlawful Internet Gambling Funding Prohibition Act	Preempts states' ability to regulate Internet gambling
S. 702	Native Hawaiian Health Care Improvement Reauthorization Act of 2003	Requires the state to consult with health organizations before making policy changes
S. 720	Patient Safety and Quality Improvement Act of 2003	Preempts state freedom of information laws
S. 733	Coast Guard Authorization Act of 2003	Extends preemption of state tax laws to activities not related to the Coast Guard
S. 791	Reliable Fuels Act	Preempts state liability laws regarding gasoline with renewable content
S. 877	Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003	Preempts state and local laws that regulate electronic mail to send commercial messages
S. 1005	Energy Policy Act of 2003	Requires electric utilities to follow reliability standards; requires security upgrades at nuclear plants; limits state authority over electric utilities and motor fuel manufacturers
S. 1025 (Senate Intelligence)	Intelligence Authorization Act for Fiscal Year 2004	Extends subpoena power
S. 1025 (Senate Armed Services)	Intelligence Authorization Act for Fiscal Year 2004	Extends subpoena power

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**Continued**

**Table B-1.**

## Bills Reviewed by CBO in 2003 That Contained Intergovernmental Mandates (Continued)

Bill Number (Committee)	Name	Mandate
<b>Intergovernmental Mandates with Costs Below the Statutory Threshold<sup>a</sup> (Continued)</b>		
S. 1043	Nuclear Infrastructure Security Act of 2003	Increases the fees that nuclear plants pay for security inspections and background checks; requires upgraded security at certain plants
S. 1053	Genetic Information Nondiscrimination Act of 2003	Preempts some state laws governing confidentiality and restricts the use of genetic information
S. 1125	Fairness in Asbestos Injury Resolution Act of 2003 (FAIR Act of 2003)	Preempts state laws pertaining to asbestos; prevents state courts from ruling on asbestos cases
S. 1136	Servicemembers Civil Relief Act	Prohibits states from considering nonresident military pay when calculating state income tax liability
S. 1177	Prevent All Cigarette Trafficking Act (PACT Act)	Increases reporting and recordkeeping requirements for tobacco sellers (tribes)
S. 1234	Federal Trade Commission Reauthorization Act of 2003	Preempts laws related to third-party notification and liability
S. 1264	FCC Reauthorization Act	Preempts state laws related to bankruptcies by holders of spectrum licenses
S. 1334	Check Truncation Act of 2003	Preempts state law, including Uniform Commercial Code, to the extent such laws require depository institutions to present original checks during the check-clearing process
S. 1402	Federal Railroad Safety Improvement Act	Requires states to report highway-rail crossing data to a national inventory
S. 1601	Indian Child Protection and Family Violence Prevention Reauthorization Act of 2003	Requires additional reporting of child abuse on Indian lands
S. 1743	Private Security Officer Employment Authorization Act of 2003	Requires states to coordinate background checks

Continued



**Table B-1.**


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## Bills Reviewed by CBO in 2003 That Contained Intergovernmental Mandates (Continued)

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Bill Number (Committee)	Name	Mandate
<b>Intergovernmental Mandates with Costs Below the Statutory Threshold<sup>a</sup> (Continued)</b>		
S. 1753	National Consumer Credit Reporting System Improvement Act of 2003	Preempts state laws that regulate credit reporting
S.J. Res. 16	Compact of Free Association Amendments Act of 2003	Preempts state taxing authority
<b>Intergovernmental Mandates Whose Costs Could Not Be Determined to Exceed the Statutory Threshold<sup>a</sup></b>		
H.R. 810 (House Energy and Commerce)	Medicare Regulatory and Contracting Reform Act of 2003	Requires public entities to report certain health care information
H.R. 810 (House Ways and Means)	Medicare Regulatory and Contracting Reform Act of 2003	Requires public entities to report certain health care information
H.R. 1036	Protection of Lawful Commerce in Arms Act	Prohibits government entities from filing lawsuits against gun manufacturers
S. 15	Biodefense Improvement and Treatment for America Act	Requires public entities to keep and report records during declared emergencies
S. 606	Public Safety Employer-Employee Cooperation Act of 2003	Preempts states' ability to regulate labor and public safety employees

Source: Congressional Budget Office.

Note: NRC = Nuclear Regulatory Commission; NTSB = National Transportation Safety Board; VA = Department of Veterans Affairs; FAA = Federal Aviation Administration; TSA = Transportation Security Administration; FCC = Federal Communications Commission.

- a. The threshold for intergovernmental mandates, which is adjusted annually for inflation, was \$59 million in 2003.
- b. CBO estimated that the mandate preempting state taxes on premiums for prescription drug coverage was over the threshold; CBO could not estimate the cost of preempting state licensing authority.
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**Table B-2.**


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## Bills Reviewed by CBO in 2003 That Contained Private-Sector Mandates

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Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates with Costs Above the Statutory Threshold<sup>a</sup></b>		
H.R. 5 (House Judiciary)	Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2003	Limits the size of fees that attorneys in malpractice cases may collect
H.R. 5 (House Energy and Commerce)	Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2003	Limits the size of fees that attorneys in malpractice cases may collect
H.R. 6	A bill to enhance energy conservation and research and development, to pro- vide for security and diversity in the en- ergy supply for the American people, and for other purposes	Imposes several requirements on the en- ergy sector—the most costly mandate re- quires a minimum volume of renewable fuels in motor gasoline sold in the United States
H.R. 975	Bankruptcy Abuse Prevention and Consumer Protection Act of 2003	Requires bankruptcy attorneys to ensure that the information in documents they submit to the court or to the bankruptcy trustee is factual; requires that certain no- tices be provided to debtors and that credit-card companies provide certain dis- closures to customers and to potential cus- tomers in Internet-based solicitations
H.R. 1561	United States Patent and Trademark Fee Modernization Act of 2003	Establishes and increases certain fees for patent and trademark applicants
H.R. 1562	Veterans Health Care Cost Recovery Act of 2003	Increases the authority of the VA to collect reimbursement from third-party insurers for medical care provided at VA facilities
H.R. 1644	Energy Policy Act of 2003	Imposes several new requirements on the energy sector—requires a minimum vol- ume of renewable fuels in motor gasoline; applies stricter limits on the emissions of VOCs in certain regions; requires security upgrades at nuclear facilities; imposes reli- ability standards on users of the power grid; requires new energy conservation standards for the standby mode of appli- ances
H.R. 1776	Pension Preservation and Savings Ex- pansion Act of 2003	Imposes requirements on sponsors of cer- tain defined-contribution pension plans regarding the vesting of pension benefits for employees

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Continued

**Table B-2.**

## Bills Reviewed by CBO in 2003 That Contained Private-Sector Mandates (Continued)

Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates with Costs Above the Statutory Threshold<sup>a</sup> (Continued)</b>		
H.R. 2427	Pharmaceutical Market Access Act of 2003	Requires manufacturers of prescription drugs to incorporate counterfeit-resistant technologies in the packaging of both imported and nonimported drugs
H.R. 2622	Fair and Accurate Credit Transactions Act of 2003	Requires credit agencies to provide free credit reports at the request of an individual; requires merchants to truncate credit card account numbers on receipts printed electronically; requires lenders to disclose credit scores when approving certain loans; requires credit agencies to incorporate certain fraud alerts and blocks in consumer credit files
H.R. 2896	American Jobs Creation Act of 2003	Imposes various revenue-raising tax provisions; extends customs user fees
S. 1 (As passed)	Prescription Drug and Medicare Improvement Act of 2003	Imposes several mandates, including new requirements on private-sector health insurers that offer medigap policies to Medicare beneficiaries; prohibits insurers from offering policies that include prescription drug coverage to any Medicare beneficiary who enrolls in the new Part D program
S. 2	Jobs and Growth Tax Act of 2003	Imposes various revenue-raising tax provisions; extends customs user fees
S. 224	Fair Minimum Wage Act of 2003	Requires employers to increase the minimum wage paid to their employees
S. 413	Asbestos Claims Criteria and Compensation Act of 2003	Establishes medical criteria for a civil cause of action in personal injury and wrongful death claims arising from asbestos exposure
S. 476	CARE Act of 2003	Imposes various revenue-raising tax provisions
S. 650	Pediatric Research Equity Act of 2003	Authorizes the FDA to require drug manufacturers to assess the safety and effectiveness of drugs and biological products for use in children and to establish dosing and administration protocols

Continued

**Table B-2.**


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## Bills Reviewed by CBO in 2003 That Contained Private-Sector Mandates (Continued)

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Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates with Costs Above the Statutory Threshold<sup>a</sup> (Continued)</b>		
S. 791	Reliable Fuels Act	Imposes several requirements on the motor fuels sector—a renewable fuels standard, an MTBE ban, stricter VOC standards for some regions; shields motor fuel manufacturers and other people from liability for a defect in design or manufacture of a motor vehicle fuel containing renewable fuels
S. 824	Aviation Investment and Revitalization Vision Act	Requires certain lending institutions to ensure that a loan applicant's purchase agreement includes a notice indicating if the residential real estate or the mobile home is located in the vicinity of an airport; imposes new requirements on air carriers for the purpose of improving service
S. 1046	Preservation of Localism, Program Diversity, and Competition in Television Broadcast Service Act of 2003	Repeals certain media ownership regulations, resulting in stricter ownership limits in markets for owners of radio stations, television stations, and newspapers
S. 1054	Jobs and Growth Tax Relief Reconciliation Act of 2003	Imposes various revenue-raising tax provisions; extends customs user fees
S. 1125	Fairness in Asbestos Injury Resolution Act of 2003	Prohibits an individual from bringing or maintaining a civil action alleging injury from asbestos exposure; requires defendant companies and their insurers to pay an annual assessment to the Asbestos Fund; requires asbestos trusts to turn over assets to the government
S. 1637	Jumpstart Our Business Strength (JOBS) Act	Imposes various revenue-raising tax provisions; extends customs user fees
S. 1753	National Consumer Credit Reporting System Improvement Act of 2003	Requires credit agencies to provide free credit reports at the request of an individual; requires merchants to truncate credit card account numbers on receipts printed electronically; requires lenders to disclose credit scores when approving certain loans; requires credit agencies to incorporate certain fraud alerts and blocks in consumer credit files; requires additional notifications and disclosures to consumers

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Continued

**Table B-2.**

## Bills Reviewed by CBO in 2003 That Contained Private-Sector Mandates (Continued)

Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates with Costs Below the Statutory Threshold<sup>a</sup></b>		
H.R. 4 (Senate Finance)	Personal Responsibility and Individual Development for Everyone Act	Requires gambling establishments to withhold certain gambling winnings from individuals who owe past-due child support, to notify those individuals, and to transfer the amount withheld to a federal agency
H.R. 21 (House Financial Services)	Unlawful Internet Gambling Funding Prohibition Act	Prohibits any person engaged in the business of betting or wagering to knowingly accept certain financial instruments in connection with unlawful Internet gambling (pertains only to illegal Internet gambling)
H.R. 21 (House Judiciary)	Unlawful Internet Gambling Funding Prohibition Act	Prohibits any person engaged in the business of betting or wagering to knowingly accept certain financial instruments in connection with unlawful Internet gambling (pertains only to illegal Internet gambling)
H.R. 100	Servicemembers Civil Relief Act	Increases the number of cases in which a landlord who wishes to evict an active-duty tenant or his or her dependents for nonpayment of rent is required to obtain a court order authorizing the eviction
H.R. 238	Energy Research, Development, Demonstration, and Commercial Application Act of 2003	Effectively increases fees for NRC licensees to cover the cost of additional regulation
H.R. 361 (House Energy and Commerce)	Sports Agent Responsibility and Trust Act	Imposes new restrictions and notification requirements on sports agents and student athletes when negotiating or entering into an agency contract
H.R. 361 (Judiciary)	Sports Agent Responsibility and Trust Act	Imposes new restrictions and notification requirements on sports agents and student athletes when negotiating or entering into an agency contract
H.R. 395	Do-Not-Call Implementation Act	Grants the FTC the authority to impose fees on telemarketers to establish a national "do-not-call" registry

Continued

**Table B-2.**


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## Bills Reviewed by CBO in 2003 That Contained Private-Sector Mandates (Continued)

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Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates with Costs Below the Statutory Threshold<sup>a</sup> (Continued)</b>		
H.R. 522	Federal Deposit Insurance Reform Act of 2003	Increases deposit insurance premiums for depository institutions; prohibits banks, savings associations, and credit unions that are not well capitalized from accepting employee benefit plan deposits
H.R. 534	Human Cloning Prohibition Act of 2003	Prohibits any person or entity from performing or attempting to perform human cloning, participating in the human cloning process, or shipping or importing an embryo produced by human cloning
H.R. 743 (House Ways and Means)	Social Security Protection Act of 2003	Prohibits entities from charging a fee for certain products and services that are available for free from SSA; imposes a processing charge on private attorneys to whom SSA would disburse fees related to their representation of successful SSI claimants
H.R. 743 (Senate Finance)	Social Security Protection Act of 2003	Prohibits entities from charging a fee for certain products and services that are available for free from SSA
H.R. 760	Partial-Birth Abortion Ban Act of 2003	Bans most instances of a late-term abortion procedure known as partial-birth abortion
H.R. 874	Rail Passenger Disaster Family Assistance Act of 2003	Expands the NTSB's family assistance program to cover catastrophic rail accidents; requires rail carriers to submit a plan addressing the needs of families of passengers; prohibits "unsolicited communication" between lawyers and the victims or their families soon after the accident
H.R. 878	Armed Forces Tax Fairness Act of 2003	Imposes a marked-to-market tax on individuals who expatriate
H.R. 1000	Pension Security Act of 2003	Imposes requirements on sponsors, administrators, and fiduciaries of private pension plans

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**Continued**

**Table B-2.**


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## Bills Reviewed by CBO in 2003 That Contained Private-Sector Mandates (Continued)

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Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates with Costs Below the Statutory Threshold<sup>a</sup> (Continued)</b>		
H.R. 1006	Captive Wildlife Safety Act	Prohibits, with certain exemptions, the import, export, transport, sale, receipt, acquisition, or purchase in interstate or foreign commerce of any live lion, tiger, leopard, cheetah, jaguar, or cougar or any hybrid of a lion and tiger species
H.R. 1260	Animal Drug User Fee Act of 2003	Requires manufacturers of new drugs for animals to pay application fees, product fees, establishment fees, and drug-sponsor fees to the FDA
H.R. 1375 (House Financial Services)	Financial Services Regulatory Relief Act of 2003	Expands the authority of the FDIC over certain insured depositories and companies that control insured depositories; prohibits the participation in the affairs of financial institutions of people convicted of certain crimes; imposes additional reporting requirements on FHLBs
H.R. 1375 (House Judiciary)	Financial Services Regulatory Relief Act of 2003	Expands the authority of the FDIC over certain insured depositories and companies that control insured depositories; prohibits the participation in the affairs of financial institutions of people convicted of certain crimes; imposes additional reporting requirements on FHLBs
H.R. 1417	Copyright Royalty and Distribution Reform Act of 2003	Requires entities in the private sector, if subpoenaed by the Copyright Royalty Judges, to appear or provide evidence
H.R. 1529	Involuntary Bankruptcy Improvement Act of 2003	Gives federal bankruptcy judges the authority to prohibit consumer reporting agencies from issuing a report containing any information relating to certain involuntary bankruptcy petitions the court has dismissed
H.R. 1531	Energy Tax Policy Act of 2003	Modifies the tax treatment of inversion transactions for expatriating entities; denies tax benefits of corporate inversion transactions, effectively imposing a moratorium on such transactions

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**Continued**

**Table B-2.**


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## Bills Reviewed by CBO in 2003 That Contained Private-Sector Mandates (Continued)

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Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates with Costs Below the Statutory Threshold<sup>a</sup> (Continued)</b>		
H.R. 1707	Prison Rape Reduction Act of 2003	Requires entities in the private sector, if subpoenaed, to attend and produce written or other matter at hearings conducted by the Review Panel on Prison Rape and the National Prison Rape Reduction Commission
H.R. 1828	Syria Accountability and Lebanese Sovereignty Restoration Act of 2003	Prohibits the export to Syria of items on either the U.S. munitions control list or the commercial control list (the export of items on the munitions list to Syria is already banned, but dual-use items are currently exported to Syria)
H.R. 2115	Flight 100-Century of Aviation Reauthorization Act	Requires that certain domestic and foreign air carriers update their current plans that address the needs of the families of passengers involved in an accident resulting in a major loss; extends the current requirement that air carriers honor other air carriers' tickets under certain circumstances as a result of an air carrier's bankruptcy or insolvency
H.R. 2143	Unlawful Internet Gambling Funding Prohibition Act	Requires creditors, credit card issuers, and financial institutions to establish policies and procedures to identify, block, and prevent transactions in connection with unlawful gambling
H.R. 2417	Intelligence Authorization Act for Fiscal Year 2004	Extends a national commission and its subpoena power; expands the definition of "financial institution" in the Right to Financial Privacy Act to make new institutions subject to reporting; protects certain personnel in the CIA and the NSA from tort liability
H.R. 2420	Mutual Funds Integrity and Fee Transparency Act of 2003	Imposes new reporting, disclosure, and recordkeeping requirements on mutual fund companies
H.R. 2572	Amtrak Reauthorization Act of 2003	Requires Amtrak to submit an annual business plan and bimonthly supplemental reports

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Continued



**Table B-2.**

## Bills Reviewed by CBO in 2003 That Contained Private-Sector Mandates (Continued)

Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates with Costs Below the Statutory Threshold<sup>a</sup> (Continued)</b>		
H.R. 2620 (House International Relations)	Trafficking Victims Protection Reauthorization Act of 2003	Requires airlines to develop and disseminate materials alerting travelers that sex tourism is illegal
H.R. 2620 (House Judiciary)	Trafficking Victims Protection Reauthorization Act of 2003	Requires airlines to develop and disseminate materials alerting travelers that sex tourism is illegal
H.R. 3108	Pension Funding Equity Act of 2003	Makes changes to ERISA to temporarily alter existing private-sector mandates related to the funding of private defined-benefit pension plans
H.R. 3140	Fairness to Contact Lens Consumers Act	Requires prescribers of contact lenses to provide patients with a copy of their prescription and to comply with verification procedures; requires sellers of contact lenses to verify certain prescriptions and keep records of the verification
H.R. 3143	International Consumer Protection Act of 2003	Exempts entities from liability for providing information to the FTC about possibly unfair or deceptive acts or practices of third parties
S. _____	Draft language to increase the active-duty end strength of the Army by 10,000 military personnel	Increases the cost of existing mandates that require creditors to reduce the interest rate on service members' obligations; allows the courts to temporarily stay certain civil proceedings, such as evictions, foreclosures, and repossessions
S. 151	PROTECT Act	Expands the recordkeeping requirements of producers involved in the commerce of certain sexually explicit material to include collecting information about performers portrayed in a computer-generated image, digital image, or picture
S. 165	Air Cargo Security Improvement Act	Requires air carriers that operate all-cargo aircraft to establish and implement a security plan; requires flight-training facilities to submit information on foreign candidates requesting initial training on any aircraft

Continued

**Table B-2.**


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## Bills Reviewed by CBO in 2003 That Contained Private-Sector Mandates (Continued)

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Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates with Costs Below the Statutory Threshold<sup>a</sup> (Continued)</b>		
S. 269	Captive Wildlife Safety Act	Prohibits, with certain exemptions, the import, export, transport, sale, receipt, acquisition, or purchase in interstate or foreign commerce of any live lion, tiger, leopard, cheetah, jaguar, or cougar or any hybrid of a lion and tiger species
S. 274	Class Action Fairness Act of 2003	Requires any notice concerning a proposed settlement of a class action provided to the class members contain specific information; requires defendants participating in a proposed class action settlement to make certain notifications and disclosures to the appropriate state official of each state in which a class member resides and the appropriate federal official within 10 days after a proposed settlement is filed in court
S. 275	Professional Boxing Amendments Act of 2003	Requires boxers, managers, promoters, and sanctioning organizations to be licensed by the U.S. Boxing Association established in the bill and to meet certain uniform standards addressing the health and safety of boxers; requires standard clauses for contracts
S. 313	Animal Drug User Fee Act of 2003	Requires manufacturers of new drugs for animals to pay application fees, product fees, establishment fees, and drug-sponsor fees to the FDA
S. 606	Public Safety Employer-Employee Cooperation Act of 2003	Prohibits public safety officers and labor organizations from engaging in sick-outs, work slowdowns, strikes, or any other action designed to compel an employer to agree with terms of a proposed contract
S. 616	Mercury Reduction Act of 2003	Prohibits the sale or supply of mercury fever thermometers, except by prescription, in which case the manufacturer of the thermometer would be required to provide clear instructions on handling and cleanup in case of breakage

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**Continued**

**Table B-2.**


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## Bills Reviewed by CBO in 2003 That Contained Private-Sector Mandates (Continued)

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Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates with Costs Below the Statutory Threshold<sup>a</sup> (Continued)</b>		
S. 627	Internet Gambling Funding Prohibition Act	Prohibits any person engaged in the business of betting or wagering to knowingly accept certain financial tools in connection with Internet gambling (the prohibition would exempt Indian gaming and live dog and horse betting)
S. 720	Patient Safety and Quality Improvement Act of 2003	Prohibits health care providers from using the fact that an employee reported patient safety data in an adverse employment action against the employee
S. 733	Coast Guard Authorization Act of 2003	Prohibits the use of electronic or other devices on the bridge of a vessel that interfere with communications and navigation equipment; requires entities that charter vessels engaged in commercial trade and fishing along the coast to submit evidence of their qualifications; requires owners and operators of nontank and tank vessels to submit a plan to respond to a worst-case discharge or threat of such discharge
S. 760	Clean Diamond Trade Act	Prohibits the importation to and exportation from the United States of any rough diamonds that have not been controlled through the Kimberley Process Certification Scheme
S. 877	Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003	Regulates interstate commerce by imposing limitations on the transmission of unsolicited commercial electronic mail via the Internet
S. 1025 (Senate Committee on Intelligence)	Intelligence Authorization Act for Fiscal Year 2004	Amends the Right to Financial Privacy Act to make new institutions subject to reporting; protects certain personnel in the CIA and the NSA from tort liability
S. 1025 (Senate Armed Services)	Intelligence Authorization Act for Fiscal Year 2004	Extends a national commission and its subpoena power; amends the Right to Financial Privacy Act to make new institutions subject to reporting; protects certain personnel in the CIA and the NSA from tort liability

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 Continued

**Table B-2.**


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## Bills Reviewed by CBO in 2003 That Contained Private-Sector Mandates (Continued)

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Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates with Costs Below the Statutory Threshold<sup>a</sup> (Continued)</b>		
S. 1053	Genetic Information Nondiscrimination Act of 2003	Prohibits the use of genetic information by employers in employment decisions and by health insurers and health plans in making enrollment determinations and setting insurance premiums
S. 1149	Energy Tax Incentives Act of 2003	Imposes provisions that change the alternative tax for individuals who expatriate; imposes an excise tax on stock compensation of insiders of inverted corporations; imposes an excise tax on vaccines against hepatitis A
S. 1177	Prevent All Cigarette Trafficking Act (PACT Act)	Imposes requirements regarding reporting, shipping, recordkeeping, and tax collection on sellers of tobacco products; prohibits businesses from selling certain cigarettes in interstate commerce that are not in full compliance with the terms of the tobacco settlement agreement between states and tobacco manufacturers and sellers; prohibits the mailing of tobacco products through the U.S. Postal Service
S. 1234	Federal Trade Commission Reauthorization Act of 2003	Exempts from liability those entities that provide certain information on third parties to the FTC; limits the ability of a third party to sue under current law
S. 1402	Federal Railroad Safety Improvement Act	Requires railroad carriers to provide information on highway-railroad crossings to the federal government and to notify communities of runaway trains in their paths
S. 1404	United States Olympic Committee Reform Act	Requires the USOC to restructure its board of directors, add several advisory committees, and provide whistleblower procedures and protections; requires the USOC to provide a detailed report of its operations every two years to the President and the Congress; requires the USOC to establish an ethics policy that includes publishing in advance transparent and objective criteria to be used in selecting a U.S. city to bid for Olympic games

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Continued

**Table B-2.**


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## Bills Reviewed by CBO in 2003 That Contained Private-Sector Mandates (Continued)

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Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates with Costs Below the Statutory Threshold<sup>a</sup> (Continued)</b>		
S. 2005	Pension Stability Act	Makes changes to ERISA that would temporarily alter existing private-sector mandates related to the funding of private defined-benefit pension plans
<b>Private-Sector Mandates Whose Costs Could Not Be Determined to Exceed the Statutory Threshold<sup>a</sup></b>		
H.R. 1	Medicare Prescription Drug and Modernization Act of 2003	Imposes new requirements on private-sector health insurers that offer medigap policies to Medicare beneficiaries; may increase the cost of an existing mandate on health plans and providers regarding the collection and reporting of health care data
H.R. 663	Patient Safety and Quality Improvement Act	Requires manufacturers, packagers, and labelers to include a computer-scannable unique product identifier on the packaging of drugs and biological products; prohibits health care providers from using the fact that an employee reported patient safety data in an adverse employment action against the employee
H.R. 810 (House Energy and Commerce)	Medicare Regulatory and Contracting Reform Act of 2003	May increase the cost of the existing mandate on public and private health plans and providers regarding the coding system they must use to collect and report health data
H.R. 810 (House Ways and Means)	Medicare Regulatory and Contracting Reform Act of 2003	May increase the cost of the existing mandate on public and private health plans and providers regarding the coding system they must use to collect and report health data
H.R. 1036	Protection of Lawful Commerce in Arms Act	Prohibits the bringing of a civil liability action against manufacturers, sellers, and trade associations from harm caused by the criminal or other unlawful misuse of any firearm or ammunition product by a third person
H.R. 2144	Aviation Security Technical Corrections and Improvements Act of 2003	Imposes security requirements at aircraft repair stations

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**Continued**

**Table B-2.**


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## Bills Reviewed by CBO in 2003 That Contained Private-Sector Mandates (Continued)

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Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates Whose Costs Could Not Be Determined to Exceed the Statutory Threshold<sup>a</sup> (Continued)</b>		
H.R. 2330 (House International Relations)	Burmese Freedom and Democracy Act of 2003	Bans all imports from Burma; requires U.S. financial institutions holding Burmese assets belonging to the regime to report to OFAC and freeze those assets
H.R. 2330 (House Judiciary)	Burmese Freedom and Democracy Act of 2003	Bans all imports from Burma; requires U.S. financial institutions holding Burmese assets belonging to the regime to report to OFAC and freeze those assets
H.R. 2443	Coast Guard and Maritime Transportation Act of 2003	Requires charterers to submit reports, nontank vessels to submit oil spill response plans, and vessels to include electronic charts in their identification systems; limits the hours individuals can work on some towing vessels
S. 1 (Finance)	Prescription Drug and Medicare Improvement Act of 2003	Imposes several mandates, including requirements on health insurers regarding supplemental insurance policies, on health plans and health care providers regarding the electronic transmission of prescription information, and on payers of customs user fees
S. 14	Energy Policy Act of 2003	Imposes several new requirements on the energy sector—requires mandatory reliability standards for users of the bulk-power system; imposes mandatory assessments and regulatory fees; increases the retrospective premium for nuclear facilities; imposes energy conservation standards restricting standby-mode energy consumption of household appliances
S. 15	Project BioShield Act of 2003	Requires people who manufacture, distribute, prescribe, or administer medical products authorized for use in emergencies to maintain records on their safety and effectiveness during such emergencies

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**Continued**

**Table B-2.**


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## Bills Reviewed by CBO in 2003 That Contained Private-Sector Mandates (Continued)

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Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates Whose Costs Could Not Be Determined to Exceed the Statutory Threshold<sup>a</sup> (Continued)</b>		
S. 156	Price-Anderson Amendments Act of 2003	Requires designated nuclear facilities to revise their security plans and emergency response plans; raises facilities' annual and retrospective premiums in the event of a nuclear incident; requires fingerprinting as part of background checks of individuals connected with nuclear facilities
S. 423	HIPAA Recreational Injury Technical Correction Act	Requires that group health plans and health insurance providers not deny benefits otherwise provided because of the source of injury
S. 1005	Energy Policy Act of 2003	Imposes several new requirements on the energy sector—requires mandatory reliability standards for users of the bulk-power system; imposes mandatory assessments and regulatory fees; increases the retrospective premium for nuclear facilities; imposes energy conservation standards restricting standby-mode energy consumption of household appliances
S. 1043	Nuclear Infrastructure Security Act of 2003	Establishes several new security programs designed to protect the nation's nuclear infrastructure; increases NRC fees and requires new security procedures at certain nuclear facilities
S. 1136	Servicemembers Civil Relief Act	Increases the number of cases in which a landlord who wishes to evict a tenant who is an active-duty service member or his or her dependents for nonpayment of rent is required to obtain a court order authorizing the eviction; allows a service member with six months of service to terminate an existing lease for a motor vehicle on written notice to the lessor; precludes the use of a service member's personal assets to satisfy the member's trade or business liability while he or she is in military service

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**Continued**

**Table B-2.**


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## Bills Reviewed by CBO in 2003 That Contained Private-Sector Mandates (Continued)

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Bill Number (Committee)	Name	Mandate
<b>Private-Sector Mandates Whose Costs Could Not Be Determined to Exceed the Statutory Threshold<sup>a</sup> (Continued)</b>		
S. 1264	FCC Reauthorization Act of 2003	Reinstates video description rules for some broadcast stations; eliminates the 50 percent discount for UHF stations when calculating market share to measure compliance with the FCC's national ownership rules

Source: Congressional Budget Office.

Note: VA = Department of Veterans Affairs; VOCs = volatile organic compounds; FDA = Food and Drug Administration; MTBE = methyl tertiary butyl ether; NRC = Nuclear Regulatory Commission; FTC = Federal Trade Commission; SSA = Social Security Administration; SSI = Supplemental Security Income; NTSB = National Transportation Safety Board; FDIC = Federal Deposit Insurance Corporation; FHLBs = Federal Home Loan Banks; CIA = Central Intelligence Agency; NSA = National Security Agency; ERISA = Employee Retirement Income Security Act of 1974; USOC = United States Olympic Committee; OFAC = Treasury Department's Office of Foreign Assets Control; HIPAA = Health Insurance Portability and Accountability Act; FCC = Federal Communications Commission; UHF = ultrahigh frequency.

- a. The threshold for private-sector mandates, which is adjusted annually for inflation, was \$117 million in 2003.
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# Appendix C:

## Contributors to CBO's Analyses of Mandates

The following Congressional Budget Office (CBO) analysts prepare the mandate statements that CBO produces for bills and other legislative proposals:

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