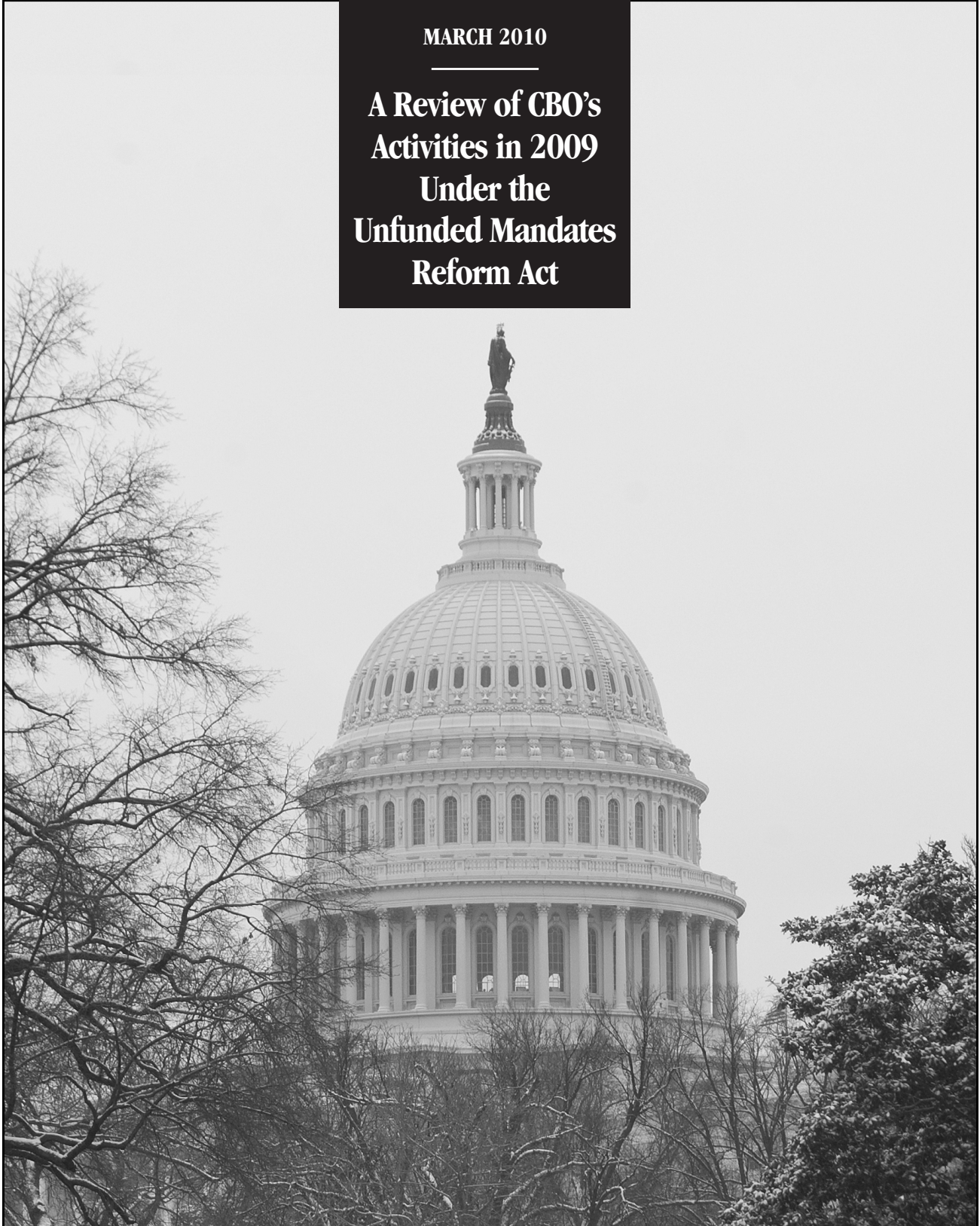


CONGRESS OF THE UNITED STATES
CONGRESSIONAL BUDGET OFFICE

A
CBO
REPORT

MARCH 2010

**A Review of CBO's
Activities in 2009
Under the
Unfunded Mandates
Reform Act**





A Review of CBO's Activities in 2009 Under the Unfunded Mandates Reform Act

March 2010

Note

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



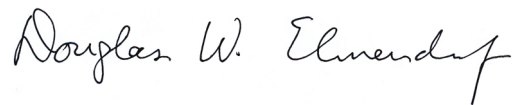
Preface

In this report, which is part of an annual series that began in 1997, the Congressional Budget Office (CBO) reviews its activities under the Unfunded Mandates Reform Act of 1995. The report covers public laws enacted and legislation considered by the Congress in calendar year 2009 that would impose federal mandates on state, local, or tribal governments or on the private sector.

The report was prepared by Leo Lex, chief of the State and Local Government Cost Estimates Unit of CBO's Budget Analysis Division, under the supervision of Theresa Gullo and Peter Fontaine; and by Amy Petz of CBO's Microeconomic Studies Division, under the supervision of Patrice Gordon and Joseph Kile.

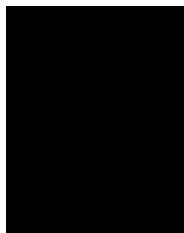
The CBO staff members who prepare the analyses of federal mandates in legislative proposals are listed in Appendix C. Those individuals also assisted in the preparation of this report.

Sherry Snyder edited the report, and Kate Kelly proofread it. Jeanine Rees prepared the report for publication with assistance from Maureen Costantino, who also took the cover photograph. Lenny Skutnik printed the initial copies, Linda Schimmel handled the print distribution, and Simone Thomas prepared the electronic version for CBO's Web site (www.cbo.gov).



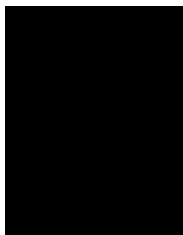
Douglas W. Elmendorf
Director

March 2010



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A Review of CBO's Activities in 2009 Under the Unfunded Mandates Reform Act

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

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

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

Duties imposed as conditions of federal assistance or requirements tied to participating in voluntary federal programs, such as programs that require entities to have licenses to graze on federal land, generally are not considered mandates as defined in UMRA.

UMRA established procedures for providing information to the Congress about proposed federal mandates. The law requires the Congressional Budget Office (CBO) to

1. UMRA does not define the term “enforceable duty,” but the Congressional Budget Office has interpreted it as encompassing actions by public and private entities that would be either required or prohibited.

prepare mandate statements for bills that are approved by authorizing committees.² In those statements, CBO must address whether the direct costs of a bill’s federal mandates would be greater than the thresholds established in UMRA and identify any funding that the bill would provide to cover those costs.³ If the total direct costs of all mandates in the bill exceed the statutory threshold in any of the first five fiscal years in which the mandate is in effect, CBO must provide an estimate of those costs (if feasible) and the basis of its estimate. In 2009, those thresholds, which are adjusted annually for inflation, were \$69 million for intergovernmental mandates and \$139 million for private-sector mandates.⁴ If CBO cannot estimate the cost of a mandate, its statement must indicate that such an estimate is not feasible and explain why.

Direct costs are defined in UMRA as amounts that the private sector or state, local, and tribal governments 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 those entities would spend to comply with applicable laws, regulations, or professional standards in effect when the federal mandate is adopted. In addition, such costs are limited to spending

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2. Authorizing committees have legislative jurisdiction over the establishment, continuation, operations, and authorization of appropriations for federal programs or agencies.
 3. The staff of the Joint Committee on Taxation examines legislative provisions that affect the tax code to identify federal mandates and estimates their costs. CBO’s mandate statements incorporate such information.
 4. The intergovernmental and private-sector thresholds established in UMRA were \$50 million and \$100 million, respectively, in 1996.

that would result directly from the enforceable duty imposed by the legislation rather than from the legislation's broad effects on the economy.

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

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

CBO prepares a mandate statement at some point during the legislative process for most of the legislation considered by the Congress. In most cases, that statement is prepared after a committee has approved legislation but before the legislation has been considered on the floor of the House or the Senate. In some instances, though, as noted in the tables in this report, CBO does not review a mandate before its enactment. That situation may occur when legislation is passed without being considered by a committee; when a bill is amended, after CBO's review, on the floor or in conference to include a provision that contains a mandate; or, in some cases, when a mandate is included in one of the appropriation bills, which CBO

does not routinely review for mandates under UMRA (because UMRA does not apply to such bills). Also, in some cases, CBO cannot estimate the cost of a mandate—particularly when much of its impact would depend on the nature of the implementing regulations that would be promulgated by federal agencies.

The number of bills or other legislative proposals that contain mandates and the number of individual mandates that appear in proposed legislation generally differ. Because the House and the Senate may consider the same or similar mandates in more than one piece of legislation, the number of bills that contain mandates can exceed the number of individual mandates considered by the Congress in any given year. Conversely, because one bill may contain several mandates, the number of mandates can exceed the number of bills. The tables in this report identify mandates in public laws enacted during calendar year 2009 and in other legislation considered by the Congress in 2009:

- Table 1 on page 4 is a tally of mandates in public laws enacted between 2005 and 2009.
- Table 2 on page 5 is a tally of the mandate statements CBO transmitted between 2005 and 2009.
- Tables 3 and 4 (on pages 6 and 10) list laws enacted in 2009 that contain intergovernmental and private-sector mandates, respectively.
- Tables 5 and 6 (on pages 16 and 18) list intergovernmental and private-sector mandates, respectively, that CBO reviewed in 2009 whose costs would exceed UMRA's thresholds or could not be determined.
- Tables 7 and 8 (on pages 23 and 39) list the bills and proposals CBO reviewed in 2009 that contain intergovernmental and private-sector mandates, respectively.

In all cases, the data presented here are for calendar years. (Although data for spending and receipts in the budget are presented in fiscal year terms—from October 1 through September 30—Congressional legislative sessions generally follow the calendar year; thus, data on CBO's cost estimates and mandate statements are presented as calendar year totals.)

Most of the legislation that the Congress considered in 2009 did not contain federal mandates as defined in UMRA. Historically, CBO has reviewed an average of about 580 pieces of legislation per year and identified intergovernmental and private-sector mandates in an average of 13 percent and 16 percent of them, respectively. In 2009, CBO reviewed fewer pieces of legislation (419) and identified about the same number of mandates as in previous years. Therefore, the percentages of bills containing intergovernmental or private-sector mandates in 2009 are slightly higher than the historical averages. Of the bills that CBO reviewed, 17 percent contained intergovernmental mandates and 25 percent contained private-sector mandates (see Tables 7 and 8).

As in previous years, few laws enacted in 2009 contained mandates whose costs, in CBO's estimation, would exceed UMRA's thresholds. Specifically, no laws contained intergovernmental mandates with costs estimated to exceed the threshold, and 14 laws (11 percent of the total enacted) contained private-sector mandates with such costs. Historically, CBO has identified intergovernmental mandates with costs estimated to exceed the threshold in less than 1 percent of public laws and private-sector mandates with such costs in less than 5 percent of public laws. (Appendix B describes those mandates.)

Table 3.

Laws Enacted in 2009 That Contain Intergovernmental Mandates

The Congressional Budget Office estimates that most intergovernmental mandates—those that impose duties on state, local, or tribal governments—enacted in 2009 will not impose significant costs on those governments. Only 11 intergovernmental mandates with costs estimated to exceed the annual threshold have been enacted since the Unfunded Mandates Reform Act became effective in 1996. Those mandates are listed in Appendix B.

Of the 125 laws enacted in 2009, 18 contained a total of 30 mandates. In CBO's estimation, none of them have costs that will exceed the threshold under UMRA (\$69 million in 2009). For 3 of those mandates, CBO could not determine whether their costs will exceed the threshold. Those mandates are shown in the table in italic type. Mandates with costs estimated to be below the intergovernmental threshold are shown in regular type.

CBO does not review every mandate before enactment. In some cases, legislation is passed without being considered by a committee. Some mandates are included in amendments made on the floor or in conference after CBO's review. In still other cases, mandates can be included in appropriation bills, which CBO generally does not examine for unfunded mandates.

Of the 30 intergovernmental mandates enacted in 2009, CBO reviewed 14 before enactment. The number of mandates CBO did not review is higher than in recent years—about half of those mandates were in appropriation bills in 2009. Of the mandates not reviewed, none are estimated to have a cost above the intergovernmental threshold.

Public Law Number	Title of Legislation	Description of Mandate	Was Mandate Reviewed by CBO Before Enactment?
Laws Containing Intergovernmental Mandates with Aggregate Costs Above the Statutory Threshold			
None			
Laws Containing Intergovernmental Mandates Whose Aggregate Costs Could Not Be Determined			
111-22	Helping Families Save Their Homes Act of 2009	<i>Requires entities that acquire foreclosed properties to honor tenants' leases</i>	Yes
		Prohibits investors in residential mortgages from suing servicers of those loans under some circumstances	Yes
		Preempts state laws that allow individuals to seek compensation from entities that issue the mortgage-backed securities whose modification is protected under the act	Yes
111-68	Continuing Appropriations Resolution, 2010	<i>Extends existing standards for the security of chemical facilities and requires vulnerability assessments and the development and implementation of site security plans</i>	Yes
		Extends some patent and trademark fees through October 31, 2009	No

Continued

Table 3.

Continued

Laws Enacted in 2009 That Contain Intergovernmental Mandates

Public Law Number	Title of Legislation	Description of Mandate	Was Mandate Reviewed by CBO Before Enactment?
Laws Containing Intergovernmental Mandates Whose Aggregate Costs Could Not Be Determined (Continued)			
111-83	Department of Homeland Security Appropriations Act, 2010	<i>Extends existing standards for the security of chemical facilities and requires vulnerability assessments and the development and implementation of site security plans</i>	Yes
		Preempts state laws that require governmental entities to pay interest rates of less than 17 percent on loans or other financing transactions	No
Laws Containing Intergovernmental Mandates with Aggregate Costs Below the Statutory Threshold			
111-5	American Recovery and Reinvestment Act of 2009	Requires public entities that handle health information to comply with new regulations related to the use, disclosure, and privacy of such information	Yes
		Preempts state standards governing health information	Yes
111-8	Omnibus Appropriations Act, 2009	Requires District of Columbia officials to submit reports to the Congress	No
		Prevents a District of Columbia law—the Legalization of Marijuana for Medical Treatment Initiative of 1998—from taking effect	No
		Increases reporting requirements on state and local governments following chemical releases	No
		Extends some patent and trademark fees through September 30, 2009	No
111-11	Omnibus Public Land Management Act of 2009	Requires a tribal government to enact a water code	No
		Imposes a mandate if the Secretary of the Interior condemns property to implement the water rights settlements	No
111-21	Fraud Enforcement and Recovery Act	Requires public entities, if subpoenaed, to provide evidence or testimony to a new commission	No
111-24	Credit Card Accountability Responsibility and Disclosure Act of 2009	Preempts state laws regarding fees and expiration dates for gift or prepaid cards that afford consumers less protection than does federal law	No

Continued

Table 3. **Continued**
Laws Enacted in 2009 That Contain Intergovernmental Mandates

Public Law Number	Title of Legislation	Description of Mandate	Was Mandate Reviewed by CBO Before Enactment?
Laws Containing Intergovernmental Mandates with Aggregate Costs Below the Statutory Threshold (Continued)			
111-30	Antitrust Criminal Penalty Enhancement and Reform Act of 2004 Extension Act	Preempts state and local laws relating to damages for violations of state or local antitrust laws	No
111-31	Family Smoking Prevention and Tobacco Control Act	Preempts state laws governing tobacco products that are different from or in addition to the federal regulations authorized by the act	Yes
		Requires tobacco manufacturers and distributors of tobacco products (including tribal governments) to comply with federal regulations relating to the content, labeling, and marketing of tobacco products and to pay fees	Yes
111-32	Supplemental Appropriations Act, 2009	Preempts state laws that require nondepository institutions to charge interest rates of less than 17 percent on loans or other financing transactions	No
111-45	An act to authorize the Director of the United States Patent and Trademark Office to use funds made available under the Trademark Act of 1946 for patent operations in order to avoid furloughs and reductions-in-force, and for other purposes	Imposes surcharges on patent holders and applicants	No
111-84	National Defense Authorization Act for Fiscal Year 2010	Increases the costs of complying with existing intergovernmental mandates by increasing the number of service members and reservists eligible for protection under the Servicemembers Civil Relief Act	Yes
		Requires public entities, if subpoenaed, to provide evidence or testimony	Yes
111-87	Ryan White HIV/AIDS Treatment Extension Act of 2009	Requires medical facilities to comply with new procedures for notifying emergency response employees of possible exposures to an infectious disease	Yes
111-88	Further Continuing Appropriations Resolution, 2010	Extends some patent and trademark fees through December 18, 2009	No

Continued

Table 3.

Continued

Laws Enacted in 2009 That Contain Intergovernmental Mandates

Public Law Number	Title of Legislation	Description of Mandate	Was Mandate Reviewed by CBO Before Enactment?
Laws Containing Intergovernmental Mandates with Aggregate Costs Below the Statutory Threshold (Continued)			
111-97	Military Spouses Residency Relief Act	Prohibits state and local governments from collecting taxes on an individual's income or personal property, if that individual moved to the jurisdiction to accompany his or her spouse at a military duty station	Yes
111-117	Consolidated Appropriations Act, 2010	Extends some patent and trademark fees through September 30, 2010	No
		Requires District of Columbia officials to submit reports to the Congress	No
111-118	Department of Defense Appropriations Act, 2010	Requires copyright holders to participate in a process to set royalty rates for certain types of transmissions	Yes

Source: Congressional Budget Office.

Table 4.

Laws Enacted in 2009 That Contain Private-Sector Mandates

Of the 125 public laws enacted last year, 26 contain one or more private-sector mandates, for a total of 60 such mandates enacted in 2009. Fourteen of those 26 laws contained a total of 17 mandates that the Congressional Budget Office estimates will impose costs on the private sector that exceed the annual threshold established in the Unfunded Mandates Reform Act (\$139 million in 2009). (Those 17 mandates are shown in the table in bold type.) CBO has identified 84 private-sector mandates enacted since 1996 with costs estimated to exceed the annual threshold (see Appendix B).

The laws enacted in 2009 also contain 11 private-sector mandates whose costs may or may not be above the threshold; CBO could not make a clear determination in those cases. (Those mandates are shown in the table in italic type.) All of the other private-sector mandates enacted in 2009, CBO estimates, will impose costs below the annual threshold. (Those mandates are shown in regular type.)

CBO does not review every mandate before enactment. In some cases, legislation is passed without being considered by a committee. Some mandates are included in amendments made on the floor or in conference after CBO's review. In still other cases, mandates can be included in appropriation bills, which CBO generally does not review for unfunded mandates.

Of the 60 private-sector mandates enacted in 2009, CBO reviewed 28 before enactment. The number of mandates CBO did not review is higher than in recent years—about half were in appropriation bills. Of the mandates not reviewed, 11 are estimated to have a cost above the private-sector threshold.

Public Law Number	Title of Legislation	Description of Mandate	Was Mandate Reviewed by CBO Before Enactment?
Laws Containing Private-Sector Mandates with Aggregate Costs Above the Statutory Threshold			
111-3	Children's Health Insurance Program Reauthorization Act of 2009	Increases the rate of the excise tax on tobacco products	No
		Requires group health plans to permit employees to enroll in the plan if they lose eligibility for Medicaid or the Children's Health Insurance Program or become eligible through those programs for assistance in paying premiums	Yes
		Requires employers to inform employees of potential opportunities to receive assistance in paying premiums	Yes
111-4	DTV Delay Act	Prohibits the use of the 700 megahertz spectrum by certain owners of the spectrum by extending the deadline for the transition to digital television	No
111-5	American Recovery and Reinvestment Act of 2009	Modifies regulations related to limits on the use of certain business losses in unprofitable years following a change in ownership	Yes ^a

Continued

Table 4.

Continued

Laws Enacted in 2009 That Contain Private-Sector Mandates

Public Law Number	Title of Legislation	Description of Mandate	Was Mandate Reviewed by CBO Before Enactment?
Laws Containing Private-Sector Mandates with Aggregate Costs Above the Statutory Threshold (Continued)			
111-5 (Continued)	American Recovery and Reinvestment Act of 2009	Modifies requirements and conditions of continued health coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA) for certain employers who offer group health insurance	Yes
		<i>Authorizes the Secretary of the Treasury to set standards for executive compensation by recipients of funds from the Troubled Asset Relief Program</i>	No
		Requires entities to comply with new regulations related to the use, disclosure, and privacy of health information	Yes
111-8	Omnibus Appropriations Act, 2009	Extends some patent and trademark fees through September 30, 2009	No
		Makes permanent the authority of the Bureau of Land Management to collect administration fees under the mining law	No
		Increases reporting requirements for certain facilities following chemical releases	No
		Restricts the sales of cluster munitions	No
111-12	Federal Aviation Administration Extension Act of 2009	Extends excise taxes on aviation fuels and air transportation	No
111-22	Helping Families Save Their Homes Act of 2009	Requires depository institutions to pay higher premiums by making permanent the increase in deposit insurance coverage	Yes
		<i>Requires bank holding companies to pay special assessments</i>	Yes
		<i>Requires entities that acquire foreclosed properties to honor tenants' leases</i>	Yes
		Prohibits investors in residential mortgages from suing servicers of those loans under some circumstances	Yes
		Requires mortgage servicers that engage in certain qualified plans to comply with reporting requirements	Yes
		Requires creditors to provide additional information to borrowers when a mortgage loan is sold or transferred	No

Continued

Table 4.

Continued

Laws Enacted in 2009 That Contain Private-Sector Mandates

Public Law Number	Title of Legislation	Description of Mandate	Was Mandate Reviewed by CBO Before Enactment?
Laws Containing Private-Sector Mandates with Aggregate Costs Above the Statutory Threshold (Continued)			
111-24	Credit Card Accountability Responsibility and Disclosure Act of 2009	Prohibits issuers of gift cards from collecting certain fees and establishing expiration dates	Yes
		Places limits on certain fees and interest charges that creditors could collect	Yes
		<i>Restricts the ability of creditors to increase certain rates</i>	Yes
		<i>Prohibits creditors from issuing credit cards to individuals under the age of 21 unless certain requirements are met</i>	Yes
		Imposes several requirements on creditors regarding account payment methods, terms, and disclosures	Yes
111-31	Family Smoking Prevention and Tobacco Control Act	Imposes a fee on manufacturers and importers of tobacco products to cover the cost to the Food and Drug Administration of regulating those products	Yes
		<i>Imposes new requirements related to the labeling and advertising of tobacco products</i>	Yes
		Requires manufacturers and distributors of tobacco products to comply with regulations that establish product standards and regulate the sale, distribution, promotion, and use of tobacco products	Yes
	Federal Retirement Reform Act of 2009	Requires private entities, if subpoenaed, to provide evidence or testimony	No
111-45	An act to authorize the Director of the United States Patent and Trademark Office to use funds made available under the Trademark Act of 1946 for patent operations in order to avoid furloughs and reductions-in-force, and for other purposes	Imposes surcharges on patent holders and applicants	No
111-69	Fiscal Year 2010 Federal Aviation Administration Extension Act	Extends excise taxes on aviation fuels and air transportation	No
111-92	Worker, Homeownership, and Business Assistance Act of 2009	Extends the Federal Unemployment Tax Act surtax from December 31, 2009, through June 30, 2011	No

Continued

Table 4.

Continued

Laws Enacted in 2009 That Contain Private-Sector Mandates

Public Law Number	Title of Legislation	Description of Mandate	Was Mandate Reviewed by CBO Before Enactment?
Laws Containing Private-Sector Mandates with Aggregate Costs Above the Statutory Threshold (Continued)			
111-92 (Continued)	Worker, Homeownership, and Business Assistance Act of 2009	Delays implementation of rules for the worldwide allocation of interest	No
		Requires certain preparers of tax returns to file such returns electronically	No
111-116	Fiscal Year 2010 Federal Aviation Administration Extension Act, Part II	Extends excise taxes on aviation fuels and air transportation	No
111-117	Consolidated Appropriations Act, 2010	Extends some patent and trademark fees through September 30, 2010	No
		Requires Amtrak to allow passengers to put firearms in their checked luggage	No
		Requires certain car manufacturers to inform car dealerships about their rights	No
		Extends the restriction on sales of cluster munitions	No
111-124	An act to extend the Generalized System of Preferences and the Andean Trade Preference Act, and for other purposes	Extends customs user fees	No
Laws Containing Private-Sector Mandates Whose Aggregate Costs Could Not Be Determined			
111-68	Continuing Appropriations Resolution, 2010	<i>Extends existing standards for the security of chemical facilities and requires vulnerability assessments and the development and implementation of site security plans</i>	Yes
		Extends some patent and trademark fees through October 31, 2009	No
		Extends the restriction on sales of cluster munitions	No
111-73	Enhanced Partnership with Pakistan Act of 2009	<i>Prohibits the export of major defense equipment to Pakistan in the absence of certification and a waiver by the Secretary of State</i>	Yes
111-83	Department of Homeland Security Appropriations Act, 2010	<i>Extends existing standards for the security of chemical facilities and requires vulnerability assessments and the development and implementation of site security plans</i>	Yes
		<i>Authorizes fees for services in the temporary protected status program</i>	No

Continued

Table 4. **Continued**
Laws Enacted in 2009 That Contain Private-Sector Mandates

Public Law Number	Title of Legislation	Description of Mandate	Was Mandate Reviewed by CBO Before Enactment?
Laws Containing Private-Sector Mandates Whose Aggregate Costs Could Not Be Determined (Continued)			
111-83 (Continued)	Department of Homeland Security Appropriations Act, 2010	Requires any company that collects or retains personal information directly from individuals who participated in the Registered Traveler program to safeguard and dispose of such information in accordance with specified requirements	No
111-84	National Defense Authorization Act for Fiscal Year 2010	<i>Increases the costs of complying with existing private-sector mandates by increasing the number of service members and reservists eligible for protection under the Servicemembers Civil Relief Act</i>	Yes
		Requires private entities, if subpoenaed, to provide evidence or testimony	Yes
Laws Containing Private-Sector Mandates with Aggregate Costs Below the Statutory Threshold			
111-11	Omnibus Public Land Management Act of 2009	Imposes a mandate if the Secretary of the Interior condemns property to implement the settlement of water rights	No
111-21	Fraud Enforcement and Recovery Act of 2009	Requires private entities, if subpoenaed, to provide evidence or testimony to a new commission	No
111-30	Antitrust Criminal Penalty Enhancement and Reform Act of 2004 Extension Act	Limits damages that can be recovered by a plaintiff in an antitrust case if the defendant has applied and qualifies for leniency	No
111-42	A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes	Renews the ban on imports from Burma Extends customs user fees	Yes No
111-87	Ryan White HIV/AIDS Treatment Extension Act of 2009	Requires medical facilities to comply with new procedures for notifying emergency response employees of possible exposures to an infectious disease	Yes
111-88	Further Continuing Appropriations Resolution, 2010	Extends some patent and trademark fees through December 18, 2009 Extends the restriction on sales of cluster munitions	No No
111-118	Department of Defense Appropriations Act, 2010	Prohibits broadcasters from entering into certain exclusive contracts for the rights to retransmit their programs	Yes

Continued

Table 4.

Continued

Laws Enacted in 2009 That Contain Private-Sector Mandates

Public Law Number	Title of Legislation	Description of Mandate	Was Mandate Reviewed by CBO Before Enactment?
Laws Containing Private-Sector Mandates with Aggregate Costs Below the Statutory Threshold (Continued)			
111-118 (Continued)	Department of Defense Appropriation Act, 2010	Requires copyright holders and satellite providers to participate in a process to set royalty rates for certain types of transmissions	Yes
		Extends an authorization for satellite providers to retransmit distant signals to unserved households without obtaining consent or compensating broadcasters	Yes
111-119	Airline Flight Crew Technical Corrections Act	Expands an existing mandate on employers to allow some of their employees to take up to 12 work weeks of unpaid leave for some family and medical reasons	No

Source: Congressional Budget Office.

- a. The staff of the Joint Committee on Taxation examines legislative provisions that affect the tax code for federal mandates and estimates their costs. Such information is incorporated into CBO's mandate statements.

Table 5.

Intergovernmental Mandates Reviewed by CBO in 2009 Whose Costs Would Exceed the Statutory Threshold or Could Not Be Determined

In its review of legislation, the Congressional Budget Office identified 6 proposed intergovernmental mandates whose costs would exceed the statutory threshold and another 9 whose costs could not be determined. In some cases, intergovernmental mandates are identified in more than one bill or piece of legislation, as detailed in Table 7 on page 23. Those mandates or related groups of mandates are listed below with related bill numbers given in parentheses.

Topic	Description of Mandate	Was a Version Enacted into Law in 2009?
Proposed Intergovernmental Mandates with Costs Above the Statutory Threshold		
Climate Change: Carbon Capture and Sequestration Funding	Requires electric utilities to pay assessments, based on the amount of electricity delivered, in order to fund research and technology related to carbon capture and sequestration (H.R. 2454, H.R. 2998, S. 1733)	No
Climate Change: Compliance with Cap-and-Trade Program	Requires publicly owned utilities to participate in a cap-and-trade program to reduce greenhouse gas emissions (H.R. 2454, H.R. 2998, S. 1733)	No
Climate Change: Preemption	Preempts state authority to enforce a cap-and-trade program for greenhouse gases from 2012 through 2017 (H.R. 2454, H.R. 2998, S. 1733)	No
Firefighting Standards	Requires airports to meet new firefighting standards (H.R. 915)	No
Health Care Reform	Places new requirements on state and local governments as employers for offering health care coverage to their employees, establishes new standards for insurance and rating laws, and preempts a number of state laws governing health care coverage (H.R. 3590, with an amendment proposed on November 18, 2009; H.R. 3590, with an amendment incorporating the manager’s amendment released on December 19, 2009)	No
Sewage Overflows	Requires publicly owned treatment works to monitor, report, and notify the public, health agencies, and the Environmental Protection Agency about sewer overflows (H.R. 1262, S. 937)	No
Proposed Intergovernmental Mandates Whose Costs Could Not Be Determined		
Chemical Security	Expands and makes permanent existing security requirements on owners and operators of certain chemical facilities and requires high-risk facilities with chemicals to conduct assessments of plans and procedures to reduce the incidence of terrorism (H.R. 2868, Energy and Commerce; H.R. 2868, Homeland Security)	Yes (Public Law 111-68, PL. 111-83) ^{a,b}
Climate Change: Standards to Reduce Greenhouse Gas Emissions	Establishes performance standards for greenhouse gas emissions from new coal-fueled power plants and other facilities and authorizes standards for reducing black carbon emissions (H.R. 2454, H.R. 2998, S. 1733)	No

Continued

Table 5.

Continued

Intergovernmental Mandates Reviewed by CBO in 2009 Whose Costs Would Exceed the Statutory Threshold or Could Not Be Determined

Topic	Description of Mandate	Was a Version Enacted into Law in 2009?
Proposed Intergovernmental Mandates Whose Costs Could Not Be Determined (Continued)		
Commodity Investment Limits and Transaction Requirements	Imposes limits on investments in certain commodities and places requirements, such as clearing fees, on certain transactions (H.R. 977, H.R. 2454, H.R. 2998, H.R. 3795, Agriculture; H.R. 3795, Financial Services; H.R. 4173, Introduced; H.R. 4173, Rules)	No
Drinking Water Security	Imposes new security requirements on drinking water facilities (H.R. 3258)	No
Elimination of Existing Rights to Seek Compensation	Prevents investors from seeking damages for contract violations under some circumstances (H.R. 1106)	No
Limits on Swap Investments	Prohibits public entities that invest more than \$25 million but less than \$50 million from entering into swaps with entities that are not regulated (H.R. 3795, Agriculture; H.R. 3795, Financial Services)	No
Mortgage Finance Requirements	Establishes requirements for creditors, loan originators, mortgage servicers, real estate appraisers, and other entities that participate in the mortgage industry (H.R. 1728; H.R. 4173, Rules)	Yes (One provision in PL. 111-22) ^{a,c}
Mortgage Modification	Allows bankruptcy judges to modify the rights of claimholders, including state and local pension funds and housing agencies, by making changes to the terms of home mortgage agreements (H.R. 200, H.R. 1106)	No
Permits for Discharges into Waters of the United States	Requires public entities to obtain permits for activities that would affect certain bodies of water (S. 787)	No

Source: Congressional Budget Office.

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

- a. The full names of the public laws referred to in this table (ordered by law number) are as follows:
 - Public Law 111-22, Helping Families Save Their Homes Act of 2009
 - Public Law 111-68, Continuing Appropriations Resolution, 2010
 - Public Law 111-83, Department of Homeland Security Appropriations Act, 2010
- b. Public Laws 111-68 and 111-83 extended existing regulations related to the security of chemical facilities, although they did not include all of the requirements that CBO reviewed in versions of H.R. 2868.
- c. A provision requiring entities that acquire foreclosed properties to honor tenants' leases was enacted in PL. 111-22.

Table 6.

Private-Sector Mandates Reviewed by CBO in 2009 Whose Costs Would Exceed the Statutory Threshold or Could Not Be Determined

In its review of legislation, the Congressional Budget Office identified 17 proposed private-sector mandates whose costs would exceed the statutory threshold and another 20 whose costs could not be determined. In some cases, private-sector mandates are identified in more than one bill or piece of legislation, as detailed in Table 8 on page 39. Those mandates or related groups of mandates are listed below with related bill numbers given in parentheses.

Topic	Description of Mandate	Was a Version Enacted into Law in 2009?
Proposed Private-Sector Mandates with Costs Above the Statutory Threshold		
Aircraft and Helicopter Standards	Prohibits the operation of certain aircraft that are not in compliance with low-noise standards, requires owners of aircraft to install certain equipment, requires some air carriers to reapply under new standards for antitrust immunity, and requires operators of helicopters and fixed-wing aircraft for emergency medical service to install equipment and adhere to safety procedures (H.R. 915, S. 1451)	No
Climate Change: Carbon Capture and Sequestration Funding	Requires electric utilities to pay assessments, based on the amount of electricity delivered, in order to fund research and technology related to carbon capture and sequestration (H.R. 2454, H.R. 2998, S. 1733)	No
Climate Change: Compliance with Cap-and-Trade Programs	Requires covered facilities to participate in cap-and-trade programs to reduce greenhouse gas emissions (H.R. 2454, H.R. 2998, S. 1733)	No
Consumer Financial Protection	Requires nondepository entities to pay fees to a new regulatory agency and requires financial companies to register with the agency, provide whistleblower protection for their employees, meet standards for sales practices and examinations, and comply with reporting requirements (H.R. 3126; H.R. 4173, Introduced; H.R. 4173, Rules)	No
Credit Card Regulation	Prevents creditors and issuers of gift cards from imposing certain fees and requires creditors to comply with transaction and reporting requirements (H.R. 627, H.R. 3639, S. 414)	Yes (Public Law 111-24) ^a
Data Security	Requires entities to establish security systems to monitor access to personal information and requires information brokers and other entities to comply with disclosure and reporting requirements (H.R. 2221, S. 1490)	No
Energy Conservation Standards	Establishes energy conservation standards for appliances and lighting products (H.R. 2454, H.R. 2998, S. 1462) ^b	No
Federal Deposit Insurance Fees	Requires depository institutions to pay higher premiums by making permanent the increase in deposit insurance coverage and requires bank holding companies to pay special assessments (H.R. 786, H.R. 1106)	Yes (P.L. 111-22) ^a
Financial Markets	Requires large financial institutions to pay fees to the regulatory agency; creates a fiduciary duty for certain broker dealers; and imposes requirements for prudential standards, reporting, and planning on entities that engage in financial activities (H.R. 4173, Introduced; H.R. 4173, Rules)	No

Continued

Table 6.

Continued

Private-Sector Mandates Reviewed by CBO in 2009 Whose Costs Would Exceed the Statutory Threshold or Could Not Be Determined

Topic	Description of Mandate	Was a Version Enacted into Law in 2009?
Proposed Private-Sector Mandates with Costs Above the Statutory Threshold (Continued)		
Food Safety	Requires entities that manufacture, process, pack, or hold food to register with the Department of Health and Human Services, pay an annual fee, and comply with safety standards and new procedures for recordkeeping and tracking of food (H.R. 2749)	No
Health Care Reform	Requires individuals to obtain health insurance coverage, places new requirements on employers for offering health care coverage to their employees, and imposes other requirements related to nutrition labeling and health information (H.R. 3590, with an amendment proposed on November 18, 2009; H.R. 3590, with an amendment incorporating the manager's amendment released on December 19, 2009; H.R. 3962, with an amendment from November 3, 2009; H.R. 3962, with an amendment from November 3, 2009, and updated to reflect enactment of H.R. 3548)	No
Insurance Coverage	Modifies the requirements and conditions of continued health insurance coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA) for certain employers who offer group health insurance (H.R. 1; H.R. 1, with an amendment; H.R. 3962, with an amendment from November 3, 2009; H.R. 3962, with an amendment from November 3, 2009, and updated to reflect enactment of H.R. 3548)	Yes (P.L. 111-5) ^a
Passport Fees	Makes permanent the authority of the Secretary of State to collect a surcharge on passport applications (H.R. 2410)	No
Patent Infringement Claims	Places limits on certain agreements between drug manufacturers for settling patent infringement claims (H.R. 3962, with an amendment from November 3, 2009; H.R. 3962, with an amendment from November 3, 2009, and updated to reflect enactment of H.R. 3548)	No
Revenue-Raising Provisions: Decrease in Offsets to Taxable Income	Modifies regulations related to limitations on the use of certain business losses in unprofitable years following a change in ownership (H.R. 1; H.R. 1, with an amendment) ^c	Yes (P.L. 111-5) ^a
Revenue-Raising Provisions: Surcharge on High-Income Individuals	Imposes an income tax surcharge on high-income individuals (H.R. 3962, with an amendment from November 3, 2009; H.R. 3962, with an amendment from November 3, 2009, and updated to reflect enactment of H.R. 3548) ^c	No
Tobacco Products Regulation	Imposes a fee on manufacturers and importers of tobacco products and imposes new requirements related to the labeling and advertising of tobacco products (H.R. 1256, Energy and Commerce; H.R. 1256, Oversight and Government Reform; H.R. 1256, as passed by the House; S. 982)	Yes (P.L. 111-31) ^a

Continued

Table 6.

Continued

Private-Sector Mandates Reviewed by CBO in 2009 Whose Costs Would Exceed the Statutory Threshold or Could Not Be Determined

Topic	Description of Mandate	Was a Version Enacted into Law in 2009?
Proposed Private-Sector Mandates Whose Costs Could Not Be Determined		
Airline Pilot Training	Requires air carriers to hire pilots who have a certain level of experience and to develop safety programs for pilots, including training and a mentoring program (H.R. 3371)	No
Ban on Defense Exports to Pakistan	Prohibits the export of defense equipment to Pakistan in the absence of certification and a waiver by the Secretary of State (S. 962)	Yes (P.L. 111-73) ^a
Building Code Updates	Requires private entities to comply with new energy-efficiency standards in state and local building codes (S. 1733)	No
Chemical Security	Expands and makes permanent existing security requirements on owners and operators of certain chemical facilities and requires high-risk facilities with chemicals to conduct assessments of plans and procedures to reduce the incidence of terrorism (H.R. 2868, Energy and Commerce; H.R. 2868, Homeland Security)	Yes (P.L. 111-68, P.L. 111-83) ^{a,d}
Climate Change: Standards to Reduce Greenhouse Gas Emissions	Establishes standards for greenhouse gas emissions from new coal-fueled power plants and other sources and authorizes standards for reducing black carbon emissions (H.R. 2454, H.R. 2998, S. 1733)	No
Commodity Investment Limits and Transaction Requirements	Imposes limits on investments in certain commodities and places requirements, such as clearing fees, on certain transactions (H.R. 977; H.R. 2454; H.R. 2998; H.R. 3795, Agriculture; H.R. 3795, Financial Services; H.R. 4173, Introduced; H.R. 4173, Rules)	No
Compensation Limits	Restricts compensation for individuals at financial institutions (H.R. 1575; H.R. 1664; H.R. 3269; H.R. 4173, Introduced; H.R. 4173, Rules)	No
Development of Electric Infrastructure	Requires owners and operators of electric infrastructure to comply with cybersecurity rules and gives the Federal Energy Regulatory Commission the authority to use eminent domain to acquire rights-of-way for new transmission projects (H.R. 2998, S. 1462)	No
Elimination of an Existing Right to Seek Compensation	Prevents investors from seeking damages for contract violations under some circumstances (H.R. 1106)	No
Maritime Safety Requirements	Establishes new safety requirements for commercial and recreational vessels (H.R. 2652, H.R. 3619, S. 1194)	No
Mortgage Finance Requirements	Establishes requirements for creditors, loan originators, mortgage servicers, real estate appraisers, and other entities that participate in the mortgage industry (H.R. 1728; H.R. 4173, Rules)	Yes (One provision in P.L. 111-22) ^{a,e}

Continued

Table 6.

Continued

Private-Sector Mandates Reviewed by CBO in 2009 Whose Costs Would Exceed the Statutory Threshold or Could Not Be Determined

Topic	Description of Mandate	Was a Version Enacted into Law in 2009?
Proposed Private-Sector Mandates Whose Costs Could Not Be Determined (Continued)		
Mortgage Modification	Allows bankruptcy judges to modify the rights of claimholders by making changes to the terms of home mortgage agreements (H.R. 200, H.R. 1106)	No
Oil Spill Prevention	Requires merchant mariners to comply with new medical standards established by the U.S. Coast Guard (S. 685)	No
Pension Plans	Requires service providers of defined-contribution retirement plans subject to the Employee Retirement Income Security Act of 1974 (ERISA) and certain plan administrators to provide information, prohibits providers of investment services to defined-contribution retirement plans subject to ERISA from supplying investment advice to those plans, and imposes requirements on other service providers that supply investment advice to plans (H.R. 2989)	No
Permits for Discharges into Waters of the United States	Requires private entities to obtain permits for activities that would affect certain bodies of water (S. 787)	No
Protection for Service Members	Increases the costs of complying with existing private-sector mandates by increasing the number of service members and reservists eligible for protection under the Servicemembers Civil Relief Act (H.R. 2647, S. 1390) ^f	Yes (PL. 111-84) ^a
Radioactive Waste	Prohibits the import of low-level radioactive waste (H.R. 515)	No
Railroad Antitrust Regulations	Subjects railroad carriers to certain antitrust statutes (H.R. 233, S. 146)	No
Royalties for Performances	Requires over-the-air broadcasters to pay new royalty fees to holders of copyrights on sound recordings (H.R. 848)	No
		Continued

Table 6.

Continued

Private-Sector Mandates Reviewed by CBO in 2009 Whose Costs Would Exceed the Statutory Threshold or Could Not Be Determined

Topic	Description of Mandate	Was a Version Enacted into Law in 2009?
Proposed Private-Sector Mandates Whose Costs Could Not Be Determined (Continued)		
Sanctions Against Iran	Bans all imports from and some exports to Iran, extends and expands sanctions under the Iran Sanctions Act, imposes new license requirements on exporters of certain products, and freezes the assets of family members and certain associates of Iranian government officials subject to sanctions (H.R. 2194, S. 2799)	No

Source: Congressional Budget Office.

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

- a. The full names of the public laws referred to in this table (ordered by law number) are as follows:
 - Public Law 111-5, American Recovery and Reinvestment Act of 2009
 - Public Law 111-22, Helping Families Save Their Homes Act of 2009
 - Public Law 111-24, Credit Card Accountability Responsibility and Disclosure Act of 2009
 - Public Law 111-31, Family Smoking Prevention and Tobacco Control Act
 - Public Law 111-68, Continuing Appropriations Resolution, 2010
 - Public Law 111-73, Enhanced Partnership with Pakistan Act of 2009
 - Public Law 111-83, Department of Homeland Security Appropriations Act, 2010
 - Public Law 111-84, National Defense Authorization Act for Fiscal Year 2010
- b. CBO determined that the aggregate cost of the energy conservation standards in H.R. 2454 and H.R. 2998 would exceed the annual threshold established in the Unfunded Mandates Reform Act (UMRA). S. 1462 contains many of the standards included in H.R. 2454 and H.R. 2998, but CBO could not determine whether the aggregate cost of the mandates in S. 1462 would exceed the annual threshold.
- c. The staff of the Joint Committee on Taxation examines legislative provisions affecting the tax code to identify federal mandates and estimate their costs. Such information is incorporated into CBO's mandate statements.
- d. Public Laws 111-68 and 111-83 extended existing regulations related to the security of chemical facilities, although they did not include all of the requirements that CBO reviewed in versions of H.R. 2868.
- e. A provision requiring entities that acquire foreclosed properties to honor tenants' leases was enacted in PL. 111-22.
- f. The Servicemembers Civil Relief Act provides benefits and protection to active-duty service members and reservists, including the right to maintain a single state of residence for purposes of state and local personal income taxes and the right to request a deferral in the payment of certain state and local taxes and fees. The act also requires creditors to reduce the interest rate on service members' loan obligations to 6 percent when the acquisition of such obligations predates active-duty service; allows courts to temporarily stay certain civil proceedings, such as evictions, foreclosures, and repossessions; and 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.

Table 7.**Bills Reviewed by CBO in 2009 That Contain Intergovernmental Mandates**

Of the 419 bills or legislative proposals that the Congressional Budget Office reviewed in 2009 for mandates as defined in the Unfunded Mandates Reform Act, 70 contained intergovernmental mandates. Of those 70 bills, 8 contained mandates with aggregate costs that CBO estimated would exceed the statutory threshold in UMRA (\$69 million in 2009). Some bills were considered by more than one committee; in those cases, the table lists the various versions of the bill.

Bills containing intergovernmental mandates whose aggregate costs are estimated to exceed the threshold are listed first in the table. Mandates with costs above the statutory threshold are shown in bold type, mandates with uncertain costs are in italic type, and mandates with costs below the threshold are in regular type.

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Intergovernmental Mandates with Aggregate Costs Above the Statutory Threshold^a		
H.R. 915	FAA Reauthorization Act of 2009	<p>Requires airports to meet new firefighting standards</p> <p>Requires airports to submit contingency plans for emergency circumstances</p> <p>Requires airports to use a qualifications-based system when awarding contracts financed with passenger facility charges</p> <p>Requires states to allow the Federal Aviation Administration access to criminal history records</p>
H.R. 1262	Water Quality Investment Act of 2009	<p>Requires publicly owned treatment works to monitor, report, and notify the public, health agencies, and the Environmental Protection Agency about sewer overflows</p>
H.R. 2454	American Clean Energy and Security Act of 2009	<p>Requires publicly owned utilities to participate in a cap-and-trade program to reduce greenhouse gas emissions</p> <p>Preempts state authority to enforce a cap-and-trade program to reduce greenhouse gas emissions from 2012 through 2017</p> <p>Requires electric utilities to pay assessments based on the amount of electricity delivered to retail customers</p> <p><i>Establishes performance standards for new coal-fueled power plants and facilities not covered by the cap-and-trade program and authorizes standards for reducing black carbon emissions</i></p> <p><i>Imposes position limits, transaction fees, and reporting requirements on participants in certain commodities markets</i></p> <p>Requires electric utilities to certify that a minimum percentage of their sales comes from renewable sources</p> <p>Creates reporting and planning requirements for entities that produce greenhouse gas emissions</p> <p>Requires state regulatory agencies to consider energy-related standards</p> <p>Requires the District of Columbia to purchase water-efficient products and services</p>

Continued

Table 7. **Continued**
Bills Reviewed by CBO in 2009 That Contain Intergovernmental Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Intergovernmental Mandates with Aggregate Costs Above the Statutory Threshold^a (Continued)		
H.R. 2454 (Continued)	American Clean Energy and Security Act of 2009	<p>Authorizes the Department of Energy to revise the list of vehicles that states can procure for their fleets</p> <p>Preempts state laws relating to energy efficiency</p> <p>Preempts state laws relating to the production and importation of hydrofluorocarbons</p>
H.R. 2998	American Clean Energy and Security Act	<p>Requires publicly owned utilities to participate in a cap-and-trade program to reduce greenhouse gas emissions</p> <p>Preempts state authority to enforce a cap-and-trade program to reduce greenhouse gas emissions from 2012 through 2017</p> <p>Requires electric utilities to pay assessments based on the amount of electricity delivered to retail customers</p> <p><i>Establishes performance standards for new coal-fueled power plants and facilities not covered by the cap-and-trade program and authorizes standards for reducing black carbon emissions</i></p> <p><i>Imposes position limits, transaction fees, and reporting requirements on participants in certain commodities markets</i></p> <p>Requires electric utilities to certify that a minimum percentage of their sales comes from renewable sources</p> <p>Creates reporting and planning requirements for entities that produce greenhouse gas emissions</p> <p>Requires state regulatory agencies to consider energy-related standards</p> <p>Requires the District of Columbia to purchase water-efficient products and services</p> <p>Authorizes the Department of Energy to revise the list of vehicles that states can procure for their fleets</p> <p>Requires public entities, if subpoenaed, to provide evidence or testimony</p> <p>Imposes a mandate if the Federal Energy Regulatory Commission (FERC) uses eminent domain to acquire rights-of-way for new transmission projects</p> <p>Preempts state law by authorizing FERC to issue construction permits for transmission projects when a state has rejected a request for a permit</p> <p>Preempts state laws relating to energy efficiency</p> <p>Preempts state laws relating to the production and importation of hydrofluorocarbons</p>

Continued

Table 7.

Continued

Bills Reviewed by CBO in 2009 That Contain Intergovernmental Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Intergovernmental Mandates with Aggregate Costs Above the Statutory Threshold^a (Continued)		
H.R. 3590	Patient Protection and Affordable Care Act (Amendment in the nature of a substitute proposed in the Senate on November 18, 2009)	<p>Requires state and local governments as employers to comply with new and existing standards regarding health insurance coverage</p> <p>Requires public and private entities that handle health information to comply with new regulations</p> <p>Requires states to reimburse the federal government for any net increase in federal costs resulting from mandatory health insurance benefits established or maintained by the state</p> <p>Requires states to assess a charge on or provide payments to health plans and issuers of health insurance if the actuarial risk of the enrollees of such plans does not meet standards established in the bill</p> <p>Requires public and private hospitals operating in the United States to establish, update, and make public a list of standard charges for items and services provided by the hospital</p> <p>Requires public and private owners and operators of vending machines to comply with standards for nutrition labeling</p> <p>Requires states to ensure that issuers of health insurance comply with new standards governing the percentage of total premium revenues that must be expended on health care coverage</p> <p>Requires states to adopt uniform rating standards for all health plans in each insurance market</p> <p>Requires states to enact laws if they wish to prohibit exchanges from offering a community health insurance option or if they choose to prohibit nationwide plans</p> <p>Preempts state laws governing health insurance, including laws that establish standards for benefits and coverage and laws that regulate risk pools</p> <p>Preempts state or local laws that require the disclosure of the nutritional content of food offered for sale by restaurants, retail food establishments, and operators of vending machines if the requirements in those laws are not similar to the ones in the bill</p> <p>Preempts state laws that provide greater protection for nursing mothers than does the bill</p> <p>Preempts state and local laws that require manufacturers of a drug, device, biological, or medical supply covered by the bill to disclose or report a payment or other transfer of value provided to a physician or teaching hospital</p>

Continued

Table 7.

Continued

Bills Reviewed by CBO in 2009 That Contain Intergovernmental Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Intergovernmental Mandates with Aggregate Costs Above the Statutory Threshold^a (Continued)		
H.R. 3590	Patient Protection and Affordable Care Act (Amendment in the nature of a substitute, incorporating the manager's amendment released on December 19, 2009)	<p>Requires state and local governments as employers to comply with new and existing standards regarding health insurance coverage</p> <p>Requires public and private entities that handle health information to comply with new regulations related to the financial and administrative transactions of such information</p> <p>Requires states to reimburse the federal government for any net increase in federal costs resulting from mandatory health insurance benefits established or maintained by the state</p> <p>Requires states to assess a charge on or provide payments to health plans and issuers of health insurance if the actuarial risk of the enrollees of such plans does not meet standards established in the bill</p> <p>Requires public and private hospitals operating in the United States to establish, update, and make public a list of standard charges for items and services provided by the hospital</p> <p>Requires public and private owners and operators of vending machines to comply with standards for nutrition labeling</p> <p>Requires states to ensure that health insurance issuers comply with new standards governing the percentage of total premium revenues that must be expended on health care coverage</p> <p>Requires states to adopt uniform rating standards for all health plans in each insurance market</p> <p>Preempts state laws governing health insurance, including laws that establish standards for benefits and coverage and laws that regulate risk pools</p> <p>Preempts state or local laws that require the disclosure of the nutritional content of food offered for sale by restaurants, retail food establishments, and operators of vending machines if those laws are not similar to those required under the bill</p> <p>Preempts state laws that provide greater protection for nursing mothers than does the bill</p> <p>Preempts state and local laws that require manufacturers of a drug, device, biological, or medical supply covered by the bill to disclose or report a payment or other transfer of value provided to a physician or teaching hospital</p> <p>Preempts state licensing laws in cases in which a health care professional is licensed in one state but provides services in another state under a contract or compact with a tribal health program</p>

Continued

Table 7. **Continued**
Bills Reviewed by CBO in 2009 That Contain Intergovernmental Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Intergovernmental Mandates with Aggregate Costs Above the Statutory Threshold^a (Continued)		
S. 937	Sewage Overflow Community Right-to-Know Act	Requires publicly owned treatment works to monitor, report, and notify the public, health agencies, and the Environmental Protection Agency about sewer overflows
S. 1733	Clean Energy Jobs and American Power Act	<p>Requires publicly owned utilities to participate in a cap-and-trade program to reduce greenhouse gas emissions</p> <p>Preempts state authority to enforce a cap-and-trade program to reduce greenhouse gas emissions from 2012 through 2017</p> <p>Requires electric utilities to pay assessments based on the amount of electricity delivered to retail customers</p> <p><i>Establishes performance standards for new coal-fueled power plants and geological storage of carbon dioxide and authorizes standards for black carbon emissions</i></p> <p>Creates reporting requirements for entities that produce greenhouse gas emissions</p> <p>Requires public entities to implement and enforce new energy-efficiency standards in building codes</p> <p>Requires the District of Columbia to purchase water-efficient products and services</p> <p>Preempts state laws relating to the production and importation of hydrofluorocarbons</p>
Bills Containing Intergovernmental Mandates Whose Aggregate Costs Could Not Be Determined		
H.R. 200	Helping Families Save Their Homes in Bankruptcy Act of 2009	<p><i>Allows bankruptcy judges to modify the rights of claimholders, including state and local pension funds and housing agencies, by making changes to the terms of home mortgage agreements</i></p> <p>Requires mortgage claimholders to file timely notice with the court before adding fees, costs, or charges while a bankruptcy case is pending</p>
H.R. 977	Derivatives Markets Transparency and Accountability Act of 2009	<i>Imposes position limits, transaction fees, and reporting requirements on pension funds and public utilities</i>
H.R. 1106	Helping Families Save Their Homes Act of 2009	<p><i>Allows bankruptcy judges to modify the rights of claimholders, including state and local pension funds and housing agencies, by making changes to the terms of home mortgage agreements</i></p> <p><i>Prevents investors from seeking damages for contract violations under some circumstances</i></p> <p><i>Prevents investors in residential mortgages from suing servicers of those loans under some circumstances</i></p>

Continued

Table 7.

Continued

Bills Reviewed by CBO in 2009 That Contain Intergovernmental Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Intergovernmental Mandates Whose Aggregate Costs Could Not Be Determined (Continued)		
H.R. 1106 (Continued)	Helping Families Save Their Homes Act of 2009	Requires mortgage servicers to provide reports about mortgages
H.R. 1728	Mortgage Reform and Anti-Predatory Lending Act	<i>Requires securitizers to ensure that mortgage debtors are able to make their mortgage payments</i> <i>Requires entities that acquire foreclosed properties to honor tenants' leases</i> Preempts state property and securities laws
H.R. 2868 (Energy and Commerce)	Chemical Facility Anti-Terrorism Act of 2009	<i>Expands and makes permanent existing security requirements on owners and operators of certain chemical facilities</i> Requires high-risk public facilities with chemicals to conduct assessments of plans and procedures to reduce the incidence of terrorism Provides whistle-blower protection to employees of chemical facilities Preempts state and local disclosure laws
H.R. 2868 (Homeland Security)	Chemical Facility Anti-Terrorism Act of 2009	<i>Expands and makes permanent existing security requirements on owners and operators of certain chemical facilities</i> Requires high-risk public facilities with chemicals to conduct assessments of plans and procedures to reduce the incidence of terrorism Provides whistle-blower protection to employees of chemical facilities Preempts state and local disclosure laws
H.R. 3258	Drinking Water System Security Act of 2009	<i>Imposes new security requirements on drinking water facilities</i> Preempts state and local laws governing public access to information and drinking water security
H.R. 3795 (Agriculture)	Derivative Markets Transparency and Accountability Act of 2009	<i>Imposes position limits, transaction fees, and reporting requirements on public entities that participate in swaps</i> <i>Prohibits public entities that invest more than \$25 million but less than \$50 million from entering into swaps with entities that are not regulated</i> Preempts state laws that affect swaps
H.R. 3795 (Financial Services)	Over-the-Counter Derivatives Markets Act of 2009	<i>Imposes position limits, transaction fees, and reporting requirements on public entities that participate in swaps</i>

Continued

Table 7.

Continued

Bills Reviewed by CBO in 2009 That Contain Intergovernmental Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Intergovernmental Mandates Whose Aggregate Costs Could Not Be Determined (Continued)		
H.R. 3795 (Financial Services) (Continued)	Over-the-Counter Derivatives Markets Act of 2009	<i>Prohibits public entities that invest more than \$25 million but less than \$50 million from entering into swaps with entities that are not regulated</i> Preempts state laws that affect swaps
H.R. 4173 (Introduced)	Wall Street Reform and Consumer Protection Act of 2009	<i>Imposes position limits, transaction fees, and reporting requirements on public entities that participate in swaps</i> Requires housing finance and student loan agencies to register with the Consumer Financial Protection Agency, provide whistleblower protection for their employees, meet standards for sales practices and examinations, comply with reporting requirements, and pay fees Imposes requirements for prudential standards, reporting, and planning on entities that engage in financial activities Prohibits states from increasing the fees they levy on depository institutions for purposes of ensuring consumer compliance Preempts state laws that affect swaps, insurance, and consumer protection
H.R. 4173 (Rules)	Wall Street Reform and Consumer Protection Act of 2009	<i>Imposes position limits, transaction fees, and reporting requirements on public entities that participate in swaps</i> <i>Requires securitizers to ensure that mortgage debtors are able to make their mortgage payments</i> <i>Prohibits creditors from charging some fees and from issuing some types of mortgages</i> <i>Requires creditors to provide additional disclosures to mortgage debtors, establish escrow accounts for some mortgages, and get an appraisal of a property that would secure a subprime loan</i> Requires housing finance and student loan agencies to register with the Consumer Financial Protection Agency, provide whistleblower protection for their employees, meet standards for sales practices and examinations, comply with reporting requirements, and pay fees Imposes requirements for prudential standards, reporting, and planning on entities that engage in financial activities Prohibits mortgage servicers, under some circumstances, from obtaining hazard insurance on behalf of debtors and charging them for the costs of the insurance and other fees Prohibits states from increasing the fees they levy on depository institutions for purposes of ensuring consumer compliance

Continued

Table 7.

Continued

Bills Reviewed by CBO in 2009 That Contain Intergovernmental Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Intergovernmental Mandates with Aggregate Costs Below the Statutory Threshold		
H.R. 4173 (Rules) (Continued)	Wall Street Reform and Consumer Protection Act of 2009	Preempts state laws that affect swaps, insurance, and consumers
S. 787	Clean Water Restoration Act	<i>Requires public entities to obtain permits for activities that would affect certain bodies of water</i>
H.R. 1	American Recovery and Reinvestment Act of 2009	Requires public entities to comply with new regulations related to the use, disclosure, and privacy of health information Preempts state standards governing health information
H.R. 1	American Recovery and Reinvestment Act of 2009 (Amendment in the nature of a substitute, as introduced by Senators Inouye and Baucus on January 31, 2009)	Requires public entities to comply with new regulations related to the use, disclosure, and privacy of health information Preempts state standards governing health information
H.R. 42	Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act	Requires public entities, if subpoenaed, to provide evidence or testimony
H.R. 157	District of Columbia House Voting Rights Act of 2009	Preempts state laws governing elections
H.R. 384	TARP Reform and Accountability Act	Preempts state antitrust laws Prohibits investors in residential mortgages from suing servicers of those loans under some circumstances
H.R. 466	Wounded Veteran Job Security Act	Requires state, local, and tribal governments as employers to retain certain employees and grant them seniority and other rights and benefits
H.R. 788	A bill to provide a safe harbor for mortgage servicers who engage in specified mortgage loan modifications, and for other purposes	Prohibits investors in residential mortgages from suing servicers of those loans under some circumstances Preempts state laws that protect investors Imposes reporting requirements on mortgage servicers
H.R. 848	Performance Rights Act	Requires publicly owned radio stations to pay new royalty fees to holders of copyrights on sound recordings
H.R. 860	Coral Reef Conservation Act Reauthorization and Enhancement Amendments of 2009	Requires public entities to obtain permits for activities that could affect coral reefs
H.R. 911	Stop Child Abuse in Residential Programs for Teens Act of 2009	Requires public entities to comply with new training and disclosure requirements Requires public entities to comply with minimum health and safety standards for operating residential programs

Continued

Table 7.

Continued

Bills Reviewed by CBO in 2009 That Contain Intergovernmental Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Intergovernmental Mandates with Aggregate Costs Below the Statutory Threshold (Continued)		
H.R. 1065	White Mountain Apache Tribe Water Rights Quantification Act of 2009	Requires the tribe to enact a water code Prohibits the tribe from objecting to the drilling or use of some wells
H.R. 1084	Commercial Advertisement Loudness Mitigation (CALM) Act	Imposes limits on sound volume for broadcasters and providers of video, satellite, and cable services
H.R. 1256 (As passed by the House)	Family Smoking Prevention and Tobacco Control Act	Preempts certain state laws governing tobacco products Imposes fees on tribal governments that manufacture or distribute tobacco products Imposes new requirements related to the labeling and advertising of tobacco products Requires manufacturers and distributors of tobacco products to comply with regulations that establish product standards and that regulate the sale, distribution, promotion, and use of tobacco products
H.R. 1256 (Energy and Commerce)	Family Smoking Prevention and Tobacco Control Act	Preempts certain state laws governing tobacco products Imposes fees on tribal governments that manufacture or distribute tobacco products Imposes new requirements related to the labeling and advertising of tobacco products Requires manufacturers and distributors of tobacco products to comply with regulations that establish product standards and that regulate the sale, distribution, promotion, and use of tobacco products
H.R. 1256 (Oversight and Government Reform)	Family Smoking Prevention and Tobacco Control Act	Preempts certain state laws governing tobacco products Imposes fees on tribal governments that manufacture or distribute tobacco products Imposes new requirements related to the labeling and advertising of tobacco products Requires manufacturers and distributors of tobacco products to comply with regulations that establish product standards and that regulate the sale, distribution, promotion, and use of tobacco products
H.R. 1676	Prevent All Cigarette Trafficking Act of 2009	Preempts state, local, and tribal laws that require common carriers to verify the age of individuals who accept a tobacco delivery

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Table 7. **Continued**
Bills Reviewed by CBO in 2009 That Contain Intergovernmental Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Intergovernmental Mandates with Aggregate Costs Below the Statutory Threshold (Continued)		
H.R. 1676 (Continued)	Prevent All Cigarette Trafficking Act of 2009	Requires certain sellers to comply with certain requirements regarding reporting, shipping, recordkeeping, and collecting taxes Prohibits the mailing of tobacco products through the U.S. Postal Service Prohibits importers and interstate sellers of tobacco from selling cigarettes produced by companies that are not in full compliance with the terms of the tobacco settlement agreement between states and tobacco manufacturers and sellers
H.R. 2200	Transportation Security Administration Authorization Act	Requires airports to update security plans Preempts state and local laws governing background checks on individuals seeking to transport hazardous materials
H.R. 2221	Data Accountability and Trust Act	Preempts state laws that impose notification requirements in the event of a security breach Preempts state and local laws that require entities to implement security practices for handling personal information
H.R. 2647	National Defense Authorization Act for Fiscal Year 2010	Preempts state laws relating to child custody proceedings Increases the costs of complying with existing intergovernmental mandates by increasing the number of service members and reservists eligible for protection under the Servicemembers Civil Relief Act Extends benefits for public employees under the Family and Medical Leave Act
H.R. 2652	Maritime Safety Act of 2009	Imposes safety and reporting requirements on public entities that operate vessels Preempts state and local laws that would be inconsistent with new standards
H.R. 2701	Intelligence Authorization Act for Fiscal Year 2010	Requires public entities, if subpoenaed, to provide evidence or testimony
H.R. 2749	Food Safety Enhancement Act of 2009	Requires facilities that manufacture, process, pack, or hold food to register with the Secretary of Health and Human Services and pay an annual fee Requires entities that produce, manufacture, process, pack, transport, distribute, receive, hold, import, or export articles of food to comply with new safety standards and new procedures for recordkeeping and tracking

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Table 7.

Continued

Bills Reviewed by CBO in 2009 That Contain Intergovernmental Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Intergovernmental Mandates with Aggregate Costs Below the Statutory Threshold (Continued)		
H.R. 2765	A bill to amend title 28, United States Code, to prohibit recognition and enforcement of foreign defamation judgments and certain foreign judgments against the providers of interactive computer services	Preempts state laws related to foreign judgments
H.R. 2811	A bill to amend title 18, United States Code, to include constrictor snakes of the species Python genera as an injurious animal	Prohibits the importation and interstate transport of some snakes without a permit
H.R. 3126	Consumer Financial Protection Agency Act of 2009	<p>Requires housing finance and student loan agencies to register with the Consumer Financial Protection Agency, provide whistleblower protection for their employees, meet standards for sales practices and examinations, comply with reporting requirements, and pay fees</p> <p>Requires public entities, if subpoenaed, to provide evidence or testimony</p> <p>Prohibits states from increasing the fees they levy on depository institutions for purposes of consumer compliance</p> <p>Requires state attorneys general to consult with the Office of the Comptroller of the Currency and the Consumer Financial Protection Agency before carrying out certain enforcement activities</p> <p>Preempts some state laws that protect consumers</p>
H.R. 3371	Airline Safety and Pilot Training Improvement Act of 2009	Requires public entities that employ pilots to report to the Federal Aviation Administration and limit the amount of time their pilots can be on duty
H.R. 3570	Satellite Home Viewer Update and Reauthorization Act of 2009	<p>Requires copyright holders to participate in a process to set royalty rates for certain types of transmissions</p> <p>Requires broadcasters and copyright holders to allow satellite providers to retransmit network signals of certain stations without paying royalties</p> <p>Increases the royalties that cable carriers pay for retransmitting the signals of distant network stations</p> <p>Requires cable carriers to pay filing fees to the Copyright Office for any royalty payments incurred from retransmitting distant network signals and allows copyright holders to audit their subscriber lists</p> <p>Limits the ability of copyright owners to collect compensation when secondary transmissions of copyrighted works are made for emergency purposes</p>

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Table 7. **Continued**
Bills Reviewed by CBO in 2009 That Contain Intergovernmental Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Intergovernmental Mandates with Aggregate Costs Below the Statutory Threshold (Continued)		
H.R. 3619	Coast Guard Authorization Act of 2010	Imposes safety and reporting requirements on public entities that operate vessels Increases the costs of complying with existing intergovernmental mandates by increasing the number of Coast Guard personnel eligible for protection under the Servicemembers Civil Relief Act
H.R. 3792	Ryan White HIV/AIDS Treatment Extension Act of 2009	Requires public medical facilities to comply with new procedures for notifying emergency response employees of possible exposures to an infectious disease
H.R. 3949	Veterans' Small Business Assistance and Servicemembers Protection Act of 2009	Prohibits residential utility providers, other service providers, and lessors of real property and motor vehicles from imposing early termination fees and other charges when service members cancel contracts
H.R. 3962	Affordable Health Care for America Act (Incorporating the manager's amendment from November 3, 2009)	Requires public and private entities that handle health information to comply with new regulations Requires states to reimburse the federal government for any net increase in federal costs resulting from mandatory health insurance benefits established or maintained by the state Requires public and private owners and operators of vending machines to comply with standards for nutrition labeling Preempts state and local laws that establish periods for coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA) through a state high-risk pool if those laws would limit or prevent access to COBRA coverage because of the extension provided by the bill Preempts state laws that prevent the application of requirements and standards established in the bill for health insurance coverage and employer-based health plans Preempts any state law preventing automatic payroll deductions of employee contributions to an employment-based health plan Preempts state and local laws that require the disclosure of the nutritional content of food offered for sale by restaurants, retail food establishments, and operators of vending machines if the laws' requirements are not similar to those specified in the bill Preempts state licensing laws in cases in which a health care professional is licensed in one state but provides services in another state under a contract or compact with a tribal health program

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Table 7.

Continued

Bills Reviewed by CBO in 2009 That Contain Intergovernmental Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Intergovernmental Mandates with Aggregate Costs Below the Statutory Threshold (Continued)		
H.R. 3962 (Continued)	Affordable Health Care for America Act (Incorporating the manager's amendment from November 3, 2009)	Preempts state and local laws that require manufacturers of a drug, device, biological, or medical supply covered by the bill to disclose or report a payment or other transfer of value provided to a physician or teaching hospital
H.R. 3962	Affordable Health Care for America Act (Incorporating the manager's amendment from November 3, 2009, updated to reflect enactment of H.R. 3548)	<p>Requires public and private entities that handle health information to comply with new regulations</p> <p>Requires states to reimburse the federal government for any net increase in federal costs resulting from mandatory health insurance benefits established or maintained by the state</p> <p>Requires public and private owners and operators of vending machines to comply with standards for nutrition labeling</p> <p>Preempts state and local laws that establish periods for coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA) through a state high-risk pool if those laws would limit or prevent access to COBRA coverage because of the extension provided by the bill</p> <p>Preempts state laws that prevent the application of requirements and standards established in the bill for health insurance coverage and employer-based health plans</p> <p>Preempts any state law preventing automatic payroll deductions of employee contributions to an employment-based health plan</p> <p>Preempts state and local laws that require the disclosure of the nutritional content of food offered for sale by restaurants, retail food establishments, and operators of vending machines if the laws' requirements are not similar to those specified in the bill</p> <p>Preempts state licensing laws in cases in which a health care professional is licensed in one state but provides services in another state under a contract or compact with a tribal health program</p> <p>Preempts state and local laws that require manufacturers of a drug, device, biological, or medical supply covered by the bill to disclose or report a payment or other transfer of value provided to a physician or teaching hospital</p>
S. 38	Professional Boxing Amendments Act of 2009	<p>Requires state and tribal boxing commissions to meet health and safety standards and to report information about boxing matches</p> <p>Requires public entities, if subpoenaed, to provide evidence or testimony</p>

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Table 7. **Continued**
Bills Reviewed by CBO in 2009 That Contain Intergovernmental Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Intergovernmental Mandates with Aggregate Costs Below the Statutory Threshold (Continued)		
S. 69	Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act	Requires public entities, if subpoenaed, to provide evidence or testimony
S. 139	Data Breach Notification Act	Preempts state laws regarding notification in the event of a security breach Imposes notification requirements on state insurance authorities and attorneys general
S. 313	White Mountain Apache Tribe Water Rights Quantification Act of 2009	Requires the tribe to enact a water code Prohibits the tribe from objecting to the drilling or use of some wells
S. 375	Crow Tribe Water Rights Settlement Act of 2009	Requires the tribe to enact a water code
S. 475	Military Spouses Residency Relief Act	Prohibits states from collecting taxes on nonresident military spouses
S. 515	Patent Reform Act of 2009	Requires patent holders and applicants to pay fees
S. 599	Federal Firefighters Fairness Act of 2009	Requires public medical facilities to comply with new procedures for notifying emergency response employees of possible exposures to an infectious disease
S. 728	Veterans' Benefits Enhancement Act of 2009	Requires state and local governments to grant wage and salary protection to service members
S. 982	Family Smoking Prevention and Tobacco Control Act	Preempts state laws governing tobacco products Requires tribal governments that manufacture or distribute tobacco products to comply with new federal regulations and pay fees
S. 1194	Coast Guard Authorization Act for Fiscal Years 2010 and 2011	Increases the costs of complying with existing intergovernmental mandates by increasing the number of Coast Guard personnel eligible for protection under the Servicemembers Civil Relief Act Preempts state and local laws governing access to the Atlantic Intercoastal Waterway Preempts state and local laws governing vessels that transfer oil
S. 1261	Providing for Additional Security in States' Identification Act of 2009	Requires states to have security and privacy policies for personally identifiable information and to have a process for individuals to amend their data

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Table 7.

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Bills Reviewed by CBO in 2009 That Contain Intergovernmental Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Intergovernmental Mandates with Aggregate Costs Below the Statutory Threshold (Continued)		
S. 1390	National Defense Authorization Act for Fiscal Year 2010	Increases the costs of complying with existing intergovernmental mandates by increasing the number of service members and reservists eligible for protection under the Servicemembers Civil Relief Act
S. 1451	FAA Air Transportation Modernization and Safety Improvement Act	Requires public entities that own aircraft or helicopters to install equipment and adhere to safety procedures Requires airports to submit contingency plans for emergency circumstances Requires states to allow the Federal Aviation Administration access to criminal history records
S. 1462	American Clean Energy Leadership Act of 2009	Requires electric utilities to certify that a minimum percentage of their sales came from renewable sources Requires electric utilities to connect small generation facilities to their power system and to develop plans for regional transmission projects Imposes a mandate if the Federal Energy Regulatory Commission (FERC) uses eminent domain to acquire rights-of-way for new transmission projects Requires owners and operators of electric infrastructure to comply with cybersecurity rules Requires states to certify to the Department of Energy that they have (or have not) updated their residential and commercial building codes to meet new standards Requires public entities to report to the Energy Information Administration Preempts state law by authorizing FERC to issue construction permits for transmission projects when a state has rejected a request for a permit Preempts state laws relating to the energy efficiency of various products
S. 1490	Personal Data Privacy and Security Act of 2009	Preempts state laws regarding the treatment of personal information Imposes notification requirements on state attorneys general and insurance authorities
S. 1494	Intelligence Authorization Act for Fiscal Year 2010	Requires public entities, if subpoenaed, to provide evidence or testimony

Continued

Table 7. **Continued**
Bills Reviewed by CBO in 2009 That Contain Intergovernmental Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Intergovernmental Mandates with Aggregate Costs Below the Statutory Threshold (Continued)		
S. 1670	Satellite Television Modernization Act of 2009	<p>Requires copyright holders to participate in a process to set royalty rates for certain types of transmissions</p> <p>Requires broadcasters and copyright holders to allow satellite providers to retransmit network signals of certain stations without paying royalties</p> <p>Requires low-power stations to allow satellite carriers to provide secondary transmissions to subscribers within a local market without paying royalties</p> <p>Increases the royalties that cable carriers pay for retransmitting the signals of distant network stations</p>

Source: Congressional Budget Office.

- a. In certain cases, proposed legislation reviewed by CBO contained multiple mandates, some of which did not have costs exceeding the statutory threshold.

Table 8.**Bills Reviewed by CBO in 2009 That Contain Private-Sector Mandates**

Of the 419 bills or legislative proposals that the Congressional Budget Office reviewed in 2009 for mandates as defined in the Unfunded Mandates Reform Act, 105 contained private-sector mandates. Of those 105 bills, 27 contained mandates with aggregate costs that CBO estimated would exceed the statutory threshold in UMRA (\$139 million in 2009). Some bills were considered by more than one committee; in those cases, the table lists the various versions of that bill.

Bills containing private-sector mandates whose aggregate costs are estimated to exceed the threshold are listed first in the table. Mandates with costs above the statutory threshold are shown in bold type, mandates with uncertain costs are in italic type, and mandates with costs below the threshold are in regular type.

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Aggregate Costs Above the Statutory Threshold^a		
H.R. 1	American Recovery and Reinvestment Act of 2009	Modifies the requirements and conditions of continued coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA) for certain employers who offer group health insurance Modifies regulations related to limitations on the use of certain business losses in unprofitable years following a change in ownership^b Requires entities to comply with new regulations related to the use, disclosure, and privacy of health information
H.R. 1	American Recovery and Reinvestment Act of 2009 (Amendment in the nature of a substitute, as introduced by Senators Inouye and Baucus on January 31, 2009)	Modifies the requirements and conditions of continued coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA) for certain employers who offer group health insurance Modifies regulations related to limitations on the use of certain business losses in unprofitable years following a change in ownership^b Requires private entities to comply with new regulations related to the use, disclosure, and privacy of health information
H.R. 627	Credit Cardholders' Bill of Rights Act of 2009	Prevents creditors from completing any transaction in excess of a credit limit and charging over-the-limit fees <i>Requires creditors to report additional data about credit card transactions, fees, and rates</i> <i>Prohibits individuals from paying fees with credit made available by a credit card with certain fees in the first year</i> Prohibits creditors from issuing credit cards to individuals under the age of 18, charging fees for certain payments, and using the term "prime rate" in some instances Requires creditors to provide information to consumers on activations, interest rates, and payoff balances

Continued

Table 8.

Continued

Bills Reviewed by CBO in 2009 That Contain Private-Sector Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Aggregate Costs Above the Statutory Threshold^a (Continued)		
H.R. 786	A bill to make permanent the temporary increase in deposit insurance coverage, and for other purposes	Requires depository institutions to pay higher premiums by making permanent the increase in deposit insurance coverage <i>Requires bank holding companies to pay special assessments</i>
H.R. 915	FAA Reauthorization Act of 2009	Prohibits the operation of certain aircraft that are not in compliance with low-noise standards <i>Ends antitrust immunity for international air carrier alliances, requiring affected air carriers to reapply under new standards</i> Requires airports to meet new firefighting standards Requires entities registered with the Federal Aviation Administration to comply with a new schedule of fees for certain services and activities Imposes several new requirements on air carriers related to airline employees and passenger service
H.R. 1106	Helping Families Save Their Homes Act	Requires depository institutions to pay higher premiums by making permanent the increase in deposit insurance coverage <i>Allows bankruptcy judges to modify the rights of claimholders by making changes to the terms of home mortgage agreements</i> <i>Prevents investors from seeking damages for contract violations under some circumstances</i> <i>Requires bank holding companies to pay special assessments</i> Prevents investors in residential mortgages from suing servicers of those loans under some circumstances Requires mortgage claimholders to file timely notice with the court before adding fees, costs, or charges while a bankruptcy case is pending
H.R. 1256 (Energy and Commerce)	Family Smoking Prevention and Tobacco Control Act	Imposes a fee on manufacturers and importers of tobacco products to cover the cost to the Food and Drug Administration of regulating those products <i>Imposes new requirements related to the labeling and advertising of tobacco products</i> Requires manufacturers and distributors of tobacco products to comply with regulations that establish product standards and regulate the sale, distribution, promotion, and use of tobacco products

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Table 8.

Continued

Bills Reviewed by CBO in 2009 That Contain Private-Sector Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Aggregate Costs Above the Statutory Threshold^a (Continued)		
H.R. 1256 (Oversight and Government Reform)	Family Smoking Prevention and Tobacco Control Act	<p>Imposes a fee on manufacturers and importers of tobacco products to cover the cost to the Food and Drug Administration of regulating those products</p> <p><i>Imposes new requirements related to the labeling and advertising of tobacco products</i></p> <p>Requires manufacturers and distributors of tobacco products to comply with regulations that establish product standards and regulate the sale, distribution, promotion, and use of tobacco products</p>
H.R. 1256 (As passed by the House)	Family Smoking Prevention and Tobacco Control Act	<p>Imposes a fee on manufacturers and importers of tobacco products to cover the cost to the Food and Drug Administration of regulating those products</p> <p><i>Imposes new requirements related to the labeling and advertising of tobacco products</i></p> <p>Requires manufacturers and distributors of tobacco products to comply with regulations that establish product standards and regulate the sale, distribution, promotion, and use of tobacco products</p>
H.R. 2221	Data Accountability and Trust Act	<p>Requires information brokers to establish accuracy standards for personal information and to maintain an audit log of access to or transmission of any data containing personal information</p> <p><i>Requires certain entities that own or possess personal information, are engaged in interstate commerce, or have a contract with a third party to maintain such data, to establish and implement information security policies and procedures</i></p> <p><i>Requires entities that own or possess data in electronic form containing personal information, and other third parties, to provide notification following a security breach</i></p> <p><i>Requires information brokers to submit their policies for information security to the Federal Trade Commission for review</i></p>
H.R. 2410	Foreign Relations Authorization Act, Fiscal Years 2010 and 2011	<p>Makes permanent the authority of the Secretary of State to collect a surcharge on passport applications</p>
H.R. 2454	American Clean Energy and Security Act of 2009	<p>Requires covered facilities to participate in a cap-and-trade program to reduce greenhouse gas emissions</p> <p>Requires producers and importers of hydrofluorocarbons (HFCs) to participate in a cap-and-trade program and imposes other restrictions on the use of HFCs</p>

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Table 8.

Continued

Bills Reviewed by CBO in 2009 That Contain Private-Sector Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Aggregate Costs Above the Statutory Threshold^a (Continued)		
H.R. 2454 (Continued)	American Clean Energy and Security Act of 2009	<p>Requires electric utilities to pay assessments based on the amount of electricity delivered to retail customers</p> <p>Establishes efficiency standards for lighting and appliances</p> <p><i>Establishes performance standards for new coal-fueled power plants and facilities not covered by the cap-and-trade program and authorizes standards for reducing black carbon emissions</i></p> <p><i>Imposes position limits, transaction fees, and reporting requirements on participants in certain commodities markets</i></p> <p><i>Establishes emission standards for vehicles and vehicle engines and authorizes a standard for the manufacture of certain vehicles</i></p> <p><i>Authorizes an international reserve allowance program for importers of carbon-intensive goods</i></p> <p>Requires electric utilities to certify that a minimum percentage of their sales comes from renewable sources</p> <p>Creates and expands reporting and planning requirements for entities that produce greenhouse gas emissions</p>
H.R. 2749	Food Safety Enhancement Act of 2009	<p>Requires facilities that manufacture, process, pack, or hold food to register with the Secretary of Health and Human Services and pay an annual fee</p> <p><i>Requires entities that produce, manufacture, process, pack, transport, distribute, receive, hold, import, or export articles of food to comply with safety standards and new procedures for recordkeeping and tracking</i></p>
H.R. 2998	American Clean Energy and Security Act	<p>Requires covered facilities to participate in a cap-and-trade program to reduce greenhouse gas emissions</p> <p>Requires producers and importers of hydrofluorocarbons (HFCs) to participate in a cap-and-trade program and imposes other restrictions on the use of HFCs</p> <p>Requires electric utilities to pay assessments based on the amount of electricity delivered to retail customers</p> <p>Establishes efficiency standards for lighting and appliances</p> <p><i>Establishes performance standards for new coal-fueled power plants and facilities not covered by the cap-and-trade program and authorizes standards for reducing black carbon emissions</i></p> <p><i>Imposes position limits, transaction fees, and reporting requirements on participants in certain commodities markets</i></p>

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Table 8.

Continued

Bills Reviewed by CBO in 2009 That Contain Private-Sector Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Aggregate Costs Above the Statutory Threshold^a (Continued)		
H.R. 2998 (Continued)	American Clean Energy and Security Act	<p><i>Establishes emission standards for vehicles and vehicle engines and authorizes a standard for the manufacture of certain vehicles</i></p> <p><i>Authorizes an international reserve allowance program for importers of carbon-intensive goods</i></p> <p><i>Imposes a mandate if the Federal Energy Regulatory Commission uses eminent domain to acquire rights-of-way for new transmission projects</i></p> <p>Requires electric utilities to certify that a minimum percentage of their sales comes from renewable sources</p> <p>Creates and expands reporting and planning requirements for entities that produce greenhouse gas emissions</p> <p>Requires private entities, if subpoenaed, to provide evidence or testimony</p>
H.R. 3126	Consumer Financial Protection Agency Act of 2009	<p>Requires nondepository entities to pay fees to the Consumer Finance Protection Agency (CFPA)</p> <p><i>Requires financial companies to register with the CFPA, provide whistle-blower protection for their employees, meet standards for sales practices and examinations, and comply with reporting requirements</i></p> <p>Requires private entities, if subpoenaed, to provide evidence or testimony</p>
H.R. 3590	Patient Protection and Affordable Care Act (Amendment in the nature of a substitute proposed in the Senate on November 18, 2009)	<p>Requires individuals to obtain acceptable coverage</p> <p>Assesses a fee on medium-sized and large employers that did not offer health insurance to their employees if any of their workers obtained subsidized coverage through the insurance exchanges</p> <p>Prohibits health insurers from establishing lifetime limits and unreasonable annual limits; from rescinding coverage except in certain cases such as fraud; from imposing any exclusions of coverage for preexisting conditions; from varying premium rates on the basis of factors other than those specified in the bill; and, with regard to coverage, from discriminating against individuals on the basis of health status or salary</p> <p>Requires health insurers to accept every employer or individual in the state for coverage, guarantee renewability of coverage, offer coverage of certain preventive health services without cost sharing, and extend dependent coverage until the age of 26</p>

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Table 8.

Continued

Bills Reviewed by CBO in 2009 That Contain Private-Sector Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Aggregate Costs Above the Statutory Threshold^a (Continued)		
H.R. 3590 (Continued)	Patient Protection and Affordable Care Act (Amendment in the nature of a substitute proposed in the Senate on November 18, 2009)	<p>Requires health insurers to accept every employer or individual in the state for coverage, guarantee renewability of coverage, offer coverage of certain preventive health services without cost sharing, and extend dependent coverage until the age of 26</p> <p>Requires public and private hospitals operating in the United States to establish, update, and make public a list of standard charges for the items and services they provide</p> <p>Requires restaurants and retail food establishments that are part of a chain with 20 or more locations and owners or operators of vending machines to comply with standards for nutrition labeling</p> <p>Assesses an excise tax on policyholders whose premiums exceed a specified amount^b</p> <p><i>Requires public and private entities that handle health information to comply with new regulations</i></p>
H.R. 3590	Patient Protection and Affordable Care Act (Amendment in the nature of a substitute, incorporating the manager's amendment released on December 19, 2009)	<p>Requires individuals to obtain acceptable coverage</p> <p>Assesses a fee on medium-sized and large employers that did not offer health insurance to their employees if any of their workers obtained subsidized coverage through the insurance exchanges</p> <p>Prohibits health insurers from establishing lifetime limits and unreasonable annual limits; from rescinding coverage except in certain cases such as fraud; from imposing any exclusions of coverage for preexisting conditions; from varying premium rates on the basis of factors other than those specified in the bill; and, with regard to coverage, from discriminating against individuals on the basis of health status or salary</p> <p>Requires health insurers to accept every employer or individual in the state for coverage, guarantee renewability of coverage, offer coverage of certain preventive health services without cost sharing, and extend dependent coverage until the age of 26</p> <p>Requires public and private hospitals operating in the United States to establish, update, and make public a list of standard charges for the items and services they provide</p> <p>Requires restaurants and retail food establishments that are part of a chain with 20 or more locations and owners or operators of vending machines to comply with standards for nutrition labeling</p>

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Table 8.

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Bills Reviewed by CBO in 2009 That Contain Private-Sector Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Aggregate Costs Above the Statutory Threshold^a (Continued)		
H.R. 3590 (Continued)	Patient Protection and Affordable Care Act (Amendment in the nature of a substitute, incorporating the manager's amendment released on December 19, 2009)	Assesses an excise tax on policyholders whose premiums exceed a specified amount^b <i>Requires public and private entities that handle health information to comply with new regulations</i>
H.R. 3639	Expedited CARD Reform for Consumers Act of 2009	Accelerates the implementation of several requirements on creditors
H.R. 3962	Affordable Health Care for America Act (Incorporating the manager's amendment from November 3, 2009)	Requires individuals to obtain acceptable health insurance coverage Requires employers to either offer health insurance to their employees or pay an excise tax to the federal government Prohibits health insurers from establishing lifetime limits, rescinding coverage except in cases of fraud, treating acts of domestic violence as preexisting conditions, and reducing retiree health benefits after a participant retires Requires health insurers to extend coverage of dependents until the age of 26, reduce the period that enrollees can be excluded from coverage because of preexisting conditions, submit justification for increases in premiums, provide coverage for treatment of a child's congenital or developmental deformities, and provide rebates to enrollees if medical loss ratios (the fraction of health insurance premiums spent on health care services) fall below a level specified by the Secretary of Health and Human Services Places limits on certain agreements between drug manufacturers for settling patent infringement claims Requires restaurants and retail food establishments that are part of a chain with 20 or more locations and owners or operators of vending machines to comply with standards for nutrition labeling Imposes an income tax surcharge on high-income individuals^b Requires employers to extend the period of eligibility for health insurance coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA) <i>Permits the Secretary of Health and Human Services to impose sanctions on health insurers who encourage enrollees who may qualify for participation in the national high-risk pool program to cancel their coverage</i> <i>Requires public and private entities that handle health information to comply with new regulations</i>

Continued

Table 8. **Continued**
Bills Reviewed by CBO in 2009 That Contain Private-Sector Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Aggregate Costs Above the Statutory Threshold^a (Continued)		
H.R. 3962	Affordable Health Care for America Act (Incorporating the manager's amendment from November 3, 2009, updated to reflect enactment of H.R. 3548)	<p>Requires individuals to obtain acceptable health insurance coverage</p> <p>Requires employers to either offer health insurance to their employees or pay an excise tax to the federal government</p> <p>Prohibits health insurers from establishing lifetime limits, rescinding coverage except in cases of fraud, treating acts of domestic violence as preexisting conditions, and reducing retiree health benefits after a participant retires</p> <p>Requires health insurers to extend coverage of dependents until the age of 26, reduce the period that enrollees can be excluded from coverage because of preexisting conditions, submit justification for increases in premiums, provide coverage for treatment of a child's congenital or enrollees if medical loss ratios (the fraction of health insurance premiums spent on health care services) fall below a level specified by the Secretary of Health and Human Services</p> <p>Places limits on certain agreements between drug manufacturers for settling patent infringement claims</p> <p>Requires restaurants and retail food establishments that are part of a chain with 20 or more locations and owners or operators of vending machines to comply with standards for nutrition labeling</p> <p>Imposes an income tax surcharge on high-income individuals^b</p> <p>Requires employers to extend the period of eligibility for health insurance coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA)</p> <p><i>Permits the Secretary of Health and Human Services to impose sanctions on health insurers who encourage enrollees who may qualify for participation in the national high-risk pool program to cancel their coverage</i></p> <p><i>Requires public and private entities that handle health information to comply with new regulations</i></p>
H.R. 4173 (Introduced)	Wall Street Reform and Consumer Protection Act of 2009	<p>Requires large financial institutions to pay fees</p> <p>Requires nondepository entities to pay fees</p> <p><i>Creates a fiduciary duty for broker dealers that provide investment advice</i></p> <p><i>Imposes requirements for prudential standards, reporting, and planning on entities that engage in financial activities</i></p> <p><i>Imposes position limits, transaction fees, and reporting requirements on participants in swaps</i></p>

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Table 8.

Continued

Bills Reviewed by CBO in 2009 That Contain Private-Sector Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Aggregate Costs Above the Statutory Threshold^a (Continued)		
H.R. 4173 (Introduced) (Continued)	Wall Street Reform and Consumer Protection Act of 2009	<p><i>Requires financial companies to register with the Consumer Financial Protection Agency, provide whistle-blower protection for their employees, meet standards for sales practices and examinations, and comply with reporting requirements</i></p> <p><i>Establishes new requirements for compensation at publicly traded companies</i></p> <p><i>Prohibits certain compensation agreements by financial institutions with assets of at least \$1 billion and requires such institutions to disclose information about compensation</i></p> <p>Requires national securities exchanges and associations to prohibit the listing of any security by a company in violation of certain compensation standards</p> <p>Requires institutional investment managers to disclose the results of shareholders' votes on compensation</p> <p>Requires organizations that provide clearing services for derivatives to designate a compliance officer, monitor trading to prevent price manipulation, and comply with standards for collecting and maintaining data</p> <p>Requires hedge funds and private equity firms to register with the Securities and Exchange Commission (SEC) and requires private fund advisers to submit information to the SEC upon request</p> <p>Requires nationally recognized statistical rating organizations to comply with several requirements with respect to disclosures, reports, certain policies, employees, and services provided that are unrelated to credit-rating services</p>
H.R. 4173 (Rules)	Wall Street Reform and Consumer Protection Act of 2009	<p>Requires large financial institutions to pay fees</p> <p>Requires nondepository entities to pay fees</p> <p><i>Creates a fiduciary duty for broker dealers that provide investment advice</i></p> <p><i>Imposes requirements for prudential standards, reporting, and planning on entities that engage in financial activities</i></p> <p><i>Imposes position limits, transaction fees, and reporting requirements on participants in swaps</i></p> <p><i>Requires financial companies to register with the Consumer Financial Protection Agency, provide whistle-blower protection for their employees, meet standards for sales practices and examinations, and comply with reporting requirements</i></p>

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Table 8. **Continued**
Bills Reviewed by CBO in 2009 That Contain Private-Sector Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Aggregate Costs Above the Statutory Threshold^a (Continued)		
H.R. 4173 (Rules) (Continued)	Wall Street Reform and Consumer Protection Act of 2009	<p><i>Establishes new requirements for compensation at publicly traded companies</i></p> <p><i>Prohibits certain compensation agreements by financial institutions with assets of at least \$1 billion and requires such institutions to disclose information about compensation</i></p> <p><i>Requires securitizers to ensure that mortgage debtors are able to make their mortgage payments</i></p> <p><i>Prohibits creditors from charging some fees and from issuing some types of mortgages</i></p> <p>Prohibits mortgage servicers, under some circumstances, from obtaining hazard insurance on behalf of debtors and charging them for the costs of the insurance and other fees</p> <p>Requires national securities exchanges and associations to prohibit the listing of any security by a company in violation of certain compensation standards</p> <p>Requires institutional investment managers to disclose the results of shareholders' votes on compensation</p> <p>Requires organizations that provide clearing services for derivatives to designate a compliance officer, monitor trading to prevent price manipulation, and comply with standards for collecting and maintaining data</p> <p>Requires hedge funds and private equity firms to register with the Securities and Exchange Commission (SEC) and requires private fund advisers to submit information to the SEC upon request</p> <p>Requires nationally recognized statistical rating organizations to comply with several requirements with respect to disclosures, reports, certain policies, employees, and services provided that are unrelated to credit-rating services</p>
S. 414	Credit Card Accountability Responsibility and Disclosure Act of 2009	<p>Places limits on fees and interest charges that creditors could collect</p> <p>Prohibits issuers of gift cards from collecting certain fees and establishing expiration dates</p> <p><i>Requires creditors to report additional data about credit card operations, fees, and other information</i></p> <p><i>Prohibits the issuance of credit cards to people under the age of 21 unless certain requirements are met</i></p>

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Table 8.

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Bills Reviewed by CBO in 2009 That Contain Private-Sector Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Aggregate Costs Above the Statutory Threshold^a (Continued)		
S. 414 (Continued)	Credit Card Accountability Responsibility and Disclosure Act of 2009	Imposes several requirements on creditors regarding account payment methods, terms, and disclosures
S. 982	Family Smoking Prevention and Tobacco Control Act	Imposes a fee on manufacturers and importers of tobacco products to cover the cost to the Food and Drug Administration of regulating those products <i>Imposes new requirements related to the labeling and advertising of tobacco products</i> Requires manufacturers and distributors of tobacco products to comply with regulations that establish product standards and regulate the sale, distribution, promotion, and use of tobacco products
S. 1451	FAA Air Transportation Modernization and Safety Improvement Act	Prohibits the operation of certain aircraft that are not in compliance with low-noise standards Requires owners of aircraft to install two different types of next-generation equipment on their aircraft <i>Requires operators of helicopters and fixed-wing aircraft for emergency medical service to install equipment and adhere to safety procedures</i> Requires airports to submit reports and contingency plans for emergency circumstances Imposes several new requirements on air carriers related to airline employees and passenger service
S. 1490	Personal Data Privacy and Security Act of 2009	Requires businesses to enhance their security standards to include the ability to trace access to and transmission of all records containing personally identifiable information and to establish other programs for data privacy and security <i>Requires data brokers to comply with new requirements for disclosure and data collection</i> <i>Requires any entity taking an adverse action with respect to an individual on the basis of information contained in a personal electronic record to notify the individual</i> Requires entities that own or possess data in electronic form containing personal information, and other third parties, to provide notification following a security breach
S. 1733	Clean Energy Jobs and American Power Act	Requires covered facilities to participate in a cap-and-trade program to reduce greenhouse gas emissions

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Table 8.

Continued

Bills Reviewed by CBO in 2009 That Contain Private-Sector Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Aggregate Costs Above the Statutory Threshold^a (Continued)		
S. 1733 (Continued)	Clean Energy Jobs and American Power Act	<p>Requires producers and importers of hydrofluorocarbons (HFCs) to participate in a cap-and-trade program and imposes other restrictions on the use of HFCs</p> <p>Requires electric utilities to pay assessments based on the amount of electricity delivered to retail customers</p> <p><i>Establishes standards for new coal-fueled power plants and geological storage of carbon dioxide and authorizes standards for reducing black carbon emissions</i></p> <p><i>Establishes standards for greenhouse gas emissions from certain vehicles and engines</i></p> <p><i>Requires private entities to comply with new energy-efficiency standards in state and local building codes</i></p> <p>Creates and expands reporting requirements for entities that produce greenhouse gas emissions</p>
Bills Containing Private-Sector Mandates Whose Aggregate Costs Could Not Be Determined		
H.R. 200	Helping Families Save Their Homes in Bankruptcy Act of 2009	<p><i>Allows bankruptcy judges to modify the rights of claimholders by making changes to the terms of home mortgage agreements</i></p> <p>Requires mortgage claimholders to file timely notice with the court before adding fees, costs, or charges while a bankruptcy case is pending</p>
H.R. 233	Railroad Antitrust Enforcement Act of 2009	<i>Subjects railroad carriers to certain antitrust statutes</i>
H.R. 515	Radioactive Import Deterrence Act	<i>Prohibits the importation of low-level radioactive waste</i>
H.R. 848	Performance Rights Act	<i>Requires over-the-air radio broadcasters to pay new royalty fees to holders of copyrights on sound recordings</i>
H.R. 977	Derivatives Markets Transparency and Accountability Act of 2009	<p><i>Imposes position limits, transaction fees, and reporting requirements on participants in certain commodities markets</i></p> <p>Authorizes the Commodity Futures Trading Commission to suspend trading in credit default swaps under some circumstances</p> <p>Imposes new requirements on exchanges and organizations that provide clearing services for derivatives</p>
H.R. 1575	End Government Reimbursement of Excessive Executive Disbursements (End GREED) Act	<i>Imposes a mandate if individuals are required to pay back certain compensation received from companies</i>

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Table 8.

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Bills Reviewed by CBO in 2009 That Contain Private-Sector Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates Whose Aggregate Costs Could Not Be Determined (Continued)		
H.R. 1664	A bill to amend the executive compensation provisions of the Emergency Economic Stabilization Act of 2008 to prohibit unreasonable and excessive compensation and compensation not based on performance standards	<i>Imposes a mandate if existing compensation arrangements between some financial institutions that have received federal funds and executives or employees of those institutions are invalidated</i>
H.R. 1728	Mortgage Reform and Anti-Predatory Lending Act	<i>Establishes requirements for creditors, loan originators, mortgage servicers, real estate appraisers, and other entities that participate in the mortgage industry</i> <i>Requires entities that acquire foreclosed properties to honor tenants' leases</i> <i>Requires securitizers to ensure that mortgage debtors are able to make their mortgage payments</i>
H.R. 2194	Iran Refined Petroleum Sanctions Act of 2009	<i>Extends and expands sanctions under the Iran Sanctions Act, which could impose requirements on entities engaged in transactions with businesses or countries subject to sanctions under the act</i>
H.R. 2647	National Defense Authorization Act for Fiscal Year 2010	<i>Increases the costs of complying with existing private-sector mandates by increasing the number of service members and reservists eligible for protection under the Servicemembers Civil Relief Act</i> Extends the employment benefits of the Family and Medical Leave Act to certain service members and veterans
H.R. 2652	Maritime Safety Act of 2009	<i>Establishes new safety requirements for commercial and recreational vessels</i> Requires businesses in the maritime industry to comply with recordkeeping requirements and provide protection for whistle-blowers
H.R. 2868 (Energy and Commerce)	Chemical Facility Anti-Terrorism Act of 2009	<i>Expands and makes permanent existing security requirements on owners and operators of certain chemical facilities</i> <i>Requires high-risk facilities with chemicals to conduct assessments of plans and procedures to reduce the incidence of terrorism</i> Provides whistle-blower protection to employees of chemical facilities

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Table 8.

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Bills Reviewed by CBO in 2009 That Contain Private-Sector Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates Whose Aggregate Costs Could Not Be Determined (Continued)		
H.R. 2868 (Homeland Security)	Chemical Facility Anti-Terrorism Act of 2009	<p><i>Expands and makes permanent existing security requirements on owners and operators of certain chemical facilities</i></p> <p><i>Requires high-risk facilities with chemicals to conduct assessments of plans and procedures to reduce the incidence of terrorism</i></p> <p>Provides whistle-blower protection to employees of chemical facilities</p>
H.R. 2989	401(k) Fair Disclosure and Pension Security Act of 2009	<p><i>Requires service providers of defined-contribution retirement plans subject to the Employee Retirement Income Security Act of 1974 (ERISA) to supply a written statement to the administrator of the plan</i></p> <p><i>Requires certain plan administrators to provide participants with additional information about their investment options</i></p> <p><i>Prohibits providers of investment services to defined-contribution plans subject to ERISA from supplying investment advice to those plans and imposes requirements on other service providers that supply investment advice to plans</i></p> <p>Requires contributing plan sponsors of defined-benefit retirement plans subject to ERISA to comply with recordkeeping requirements</p> <p>Extends the time period for single-employer defined-benefit plans to amortize adjusted funding shortfalls measured in 2009 and 2010^{b,c}</p>
H.R. 3269	Corporate and Financial Institution Compensation Fairness Act of 2009	<p><i>Establishes new requirements for compensation at publicly traded companies</i></p> <p><i>Prohibits certain compensation agreements by financial institutions with assets of at least \$1 billion and requires such institutions to disclose information about compensation</i></p> <p>Requires national securities exchanges and associations to prohibit the listing of any security by a company in violation of certain compensation standards</p> <p>Requires institutional investment managers to disclose the results of shareholders' votes on compensation</p>
H.R. 3371	Airline Safety and Pilot Training Improvement Act of 2009	<p><i>Requires air carriers to hire pilots who have a certain level of experience and to develop safety programs for pilots, including training and a mentoring program</i></p>

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Table 8.

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Bills Reviewed by CBO in 2009 That Contain Private-Sector Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates Whose Aggregate Costs Could Not Be Determined (Continued)		
H.R. 3371 (Continued)	Airline Safety and Pilot Training Improvement Act of 2009	Requires air carriers to evaluate information about pilots, submit flight histories for pilots, and possibly limit the number of hours the pilots it employs can be on duty Requires sellers of tickets for air carriers to provide information for each leg of the flight before the sale
H.R. 3619	Coast Guard Authorization Act of 2010	<i>Establishes new safety requirements for commercial and recreational vessels</i> Requires businesses in the maritime industry to comply with requirements for security and recordkeeping and to provide protection for whistle-blowers Increases the costs of complying with existing private-sector mandates by raising the number of Coast Guard personnel eligible for protection under the Servicemembers Civil Relief Act Requires owners and operators of cruise lines to meet certain safety standards
H.R. 3795 (Agriculture)	Derivative Markets Transparency and Accountability Act of 2009	<i>Imposes position limits, transaction fees, and reporting requirements on participants in swaps</i> Requires organizations that provide clearing services for derivatives to designate a compliance officer, monitor trading to prevent price manipulation, and comply with standards for collecting and maintaining data
H.R. 3795 (Financial Services)	Over-the-Counter Derivatives Markets Act of 2009	<i>Imposes position limits, transaction fees, and reporting requirements on participants in swaps</i> Requires organizations that provide clearing services for derivatives to designate a compliance officer, monitor trading to prevent price manipulation, and comply with standards for collecting and maintaining data
S. 146	Railroad Antitrust Enforcement Act of 2009	<i>Subjects railroad carriers to certain antitrust statutes</i>
S. 685	Oil Spill Prevention Act of 2009	<i>Requires merchant mariners to comply with new medical standards established by the U.S. Coast Guard</i> Requires shipowners to pay certain expenses of seamen who are abandoned under certain conditions
S. 787	Clean Water Restoration Act	<i>Requires private entities to obtain permits for activities that would affect certain bodies of water</i>
S. 962	Enhanced Partnership with Pakistan Act of 2009	<i>Prohibits the export of defense equipment to Pakistan in the absence of certification and a waiver by the Secretary of State</i>

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Table 8.

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Bills Reviewed by CBO in 2009 That Contain Private-Sector Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates Whose Aggregate Costs Could Not Be Determined (Continued)		
S. 1194	Coast Guard Authorization Act for Fiscal Years 2010 and 2011	<p><i>Requires certain facilities and vessels to meet new safety standards when transferring oil</i></p> <p>Requires certain vessels to establish and maintain evidence of financial responsibility sufficient to meet their liability in the event of an oil spill</p> <p>Imposes a mandate on towing vessels if safety requirements are accelerated</p> <p>Increases the costs of complying with existing private-sector mandates by increasing the number of Coast Guard personnel eligible for protection under the Servicemembers Civil Relief Act</p>
S. 1390	National Defense Authorization Act for Fiscal Year 2010	<p><i>Increases the costs of complying with existing private-sector mandates by increasing the number of service members and reservists eligible for protection under the Servicemembers Civil Relief Act</i></p>
S. 1462	American Clean Energy Leadership Act of 2009	<p><i>Requires owners and operators of electric infrastructure to comply with cybersecurity rules</i></p> <p><i>Imposes a mandate if the Federal Energy Regulatory Commission uses eminent domain to acquire rights-of-way for new transmission projects</i></p> <p><i>Establishes new energy conservation standards for commercial furnaces and lighting products</i></p> <p>Requires electric utilities to certify that a minimum percentage of their sales came from renewable sources</p> <p>Requires electric utilities to connect small generation facilities to their power system and develop plans for regional transmission projects</p> <p>Requires private entities to report to the Energy Information Administration</p>
S. 2799	Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2009	<p><i>Bans all imports from and some exports to Iran</i></p> <p><i>Extends and expands sanctions under the Iran Sanctions Act, which could impose mandates on entities engaged in transactions with businesses or countries subject to sanctions under the act</i></p> <p><i>Freezes the assets of family members and certain associates of Iranian government officials subject to sanctions</i></p> <p><i>Imposes new license requirements on exporters of certain products</i></p>

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Table 8.

Continued

Bills Reviewed by CBO in 2009 That Contain Private-Sector Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Aggregate Costs Below the Statutory Threshold		
H.R. 2	Children's Health Insurance Program Reauthorization Act of 2009	Requires group health plans to permit employees to enroll in the group health plan if they lose eligibility for Medicaid or the Children's Health Insurance Program or become eligible through those programs for assistance in paying premiums Requires employers to inform employees of potential opportunities for assistance in paying premiums
H.R. 42	Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act	Requires private entities, if subpoenaed, to provide evidence or testimony
H.R. 80	Captive Primate Safety Act	Prohibits the sale or transport of nonhuman primates in interstate and foreign commerce without a license or permit
H.R. 384	TARP [Troubled Assets Relief Program] Reform and Accountability Act	Prohibits investors in residential mortgages from suing servicers of those loans under some circumstances Imposes a mandate if entities are prohibited from seeking damages under certain antitrust laws for negotiations authorized under the bill
H.R. 466	Wounded Veteran Job Security Act	Requires employers to retain veterans who miss work because of medical treatment for a service-connected injury and to grant seniority and other benefits to those veterans as if they had not been absent
H.R. 512	Federal Election Integrity Act of 2009	Prohibits the chief election administration official of a state from taking an active part in political management or in a political campaign with respect to any federal election over which the official has supervisory authority
H.R. 788	A bill to provide a safe harbor for mortgage servicers who engage in specified mortgage loan modification, and for other purposes	Prohibits investors in residential mortgages from suing servicers of those loans under some circumstances Imposes reporting requirements on mortgage servicers
H.R. 860	Coral Reef Conservation Act Reauthorization and Enhancement Amendments of 2009	Makes private entities liable for damages to coral reefs within the jurisdiction of the United States Requires private entities to obtain permits for activities that could affect coral reefs
H.R. 911	Stop Child Abuse in Residential Programs for Teens Act of 2009	Imposes training and disclosure requirements and establishes minimum health and safety requirements on operators of residential programs that treat youth who have emotional, behavioral, mental health, or substance abuse problems

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Table 8. **Continued**
Bills Reviewed by CBO in 2009 That Contain Private-Sector Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Aggregate Costs Below the Statutory Threshold (Continued)		
H.R. 1084	Commercial Advertisement Loudness Mitigation (CALM) Act	Imposes limits on sound volume for broadcasters and video, satellite, and cable providers
H.R. 1147	Local Community Radio Act of 2009	Imposes a mandate if licenses authorizing low-power FM stations to broadcast on second-adjacent channels were to be invalidated
H.R. 1253	Health Insurance Restrictions and Limitations Clarification Act of 2009	Requires group health plans to disclose the limitations and restrictions on health insurance coverage in a timely manner to the plans' sponsors and participants
H.R. 1259	Dextromethorphan Distribution Act of 2009	Restricts the distribution, possession, and receipt of unfinished dextromethorphan to entities authorized under federal or state laws Requires a seller of unfinished dextromethorphan to confirm that the buyer is legally allowed to make the purchase
H.R. 1262	Water Quality Investment Act of 2009	Increases tonnage duties on certain vessels entering ports in the United States
H.R. 1319	Informed P2P [Peer-to-Peer] User Act	Requires companies that develop or distribute software that allows files to be shared between computers to provide certain features that give the user control over various functions of the software
H.R. 1676	Prevent All Cigarette Trafficking Act of 2009	Requires certain sellers to comply with certain requirements regarding reporting, shipping, recordkeeping, and collecting taxes Requires common carriers to comply with recordkeeping requirements Prohibits the mailing of tobacco products through the U.S. Postal Service Prohibits importers and interstate sellers of tobacco from selling cigarettes produced by companies that are not in full compliance with the terms of the tobacco settlement agreement between states and tobacco manufacturers and sellers
H.R. 1916	Migratory Bird Habitat Investment and Enhancement Act	Increases the annual fee for the Duck Stamp that serves as a federal license required for hunting migratory waterfowl
H.R. 2190	Mercury Pollution Reduction Act	Prohibits the export and use of mercury by facilities that manufacture chlorine or caustic soda

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Table 8.

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Bills Reviewed by CBO in 2009 That Contain Private-Sector Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Aggregate Costs Below the Statutory Threshold (Continued)		
H.R. 2200	Transportation Security Administration Authorization Act	Requires airports to update security plans Requires all members of the cabin crew of U.S. air carriers to take five hours of training in advanced self-defense methods biannually Requires operators of motor vehicles to obtain a valid biometric transportation security card in order to transport security-sensitive materials
H.R. 2701	Intelligence Authorization Act for Fiscal Year 2010	Extends the requirement for private entities, if subpoenaed, to provide evidence or testimony
H.R. 2765	A bill to amend title 28, United States Code, to prohibit recognition and enforcement of foreign defamation judgments and certain foreign judgments against the providers of interactive computer services	Prohibits a U.S. court from enforcing a foreign defamation judgment in certain cases, limiting an existing right to recover damages
H.R. 2811	A bill to amend title 18, United States Code, to include constrictor snakes of the species Python genera as an injurious animal	Prohibits the importation and interstate transport of certain snakes without a permit
H.R. 2994	Satellite Home Viewer Reauthorization Act of 2009	Extends an authorization for satellite providers to retransmit distant signals to unserved households without obtaining consent or providing compensation to broadcasters Extends an existing mandate that prohibits broadcasters from entering into certain exclusive contracts for the rights to retransmit their programs Requires satellite carriers that provide local high-definition (HD) channels to also provide HD signals for local noncommercial, educational stations
H.R. 3258	Drinking Water System Security Act of 2009	Imposes new security requirements on drinking water facilities
H.R. 3342	Aamodt Litigation Settlement Act	Imposes a mandate if the Secretary of the Interior condemns property to implement the settlement
H.R. 3360	Cruise Vessel Security and Safety Act of 2009	Requires certain cruise vessels to meet safety standards, comply with disclosure and recordkeeping requirements, limit the access of crew members to passengers' cabins, adhere to procedures for assisting victims of assault, carry medical supplies, and have at least one crew member trained in crime scene investigation

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Table 8.

Continued

Bills Reviewed by CBO in 2009 That Contain Private-Sector Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Aggregate Costs Below the Statutory Threshold (Continued)		
H.R. 3570	Satellite Home Viewer Update and Reauthorization Act of 2009	<p>Requires satellite carriers and copyright holders to participate in a process to set royalty rates for certain types of transmissions</p> <p>Requires broadcasters and copyright holders to allow satellite providers to retransmit network signals of certain stations without paying royalties</p> <p>Increases the royalties that cable carriers pay for retransmitting the signals of distant network stations</p> <p>Requires satellite and cable carriers to pay filing fees to the Copyright Office for any royalty payments incurred from retransmitting distant network signals and to allow copyright holders to audit their lists of subscribers</p> <p>Limits the ability of copyright owners to collect compensation when secondary transmissions of copyrighted works are made for emergency purposes</p> <p>Requires satellite carriers to submit additional information about subscribers</p>
H.R. 3596	Health Insurance Industry Antitrust Enforcement Act of 2009	Imposes a mandate on issuers of health insurance and medical malpractice insurance by partially repealing their exemptions from federal antitrust laws
H.R. 3792	Ryan White HIV/AIDS Treatment Extension Act of 2009	Requires medical facilities to comply with new procedures for notifying emergency response employees of possible exposures to an infectious disease
H.R. 3818	Private Fund Investment Advisers Registration Act of 2009	<p>Requires investment advisers of hedge funds and private equity firms to register with the Securities and Exchange Commission (SEC)</p> <p>Requires investment advisers of private funds to maintain records and provide information to the SEC upon request</p>
H.R. 3890	Accountability and Transparency in Rating Agencies Act	<p>Requires nationally recognized statistical rating organizations to comply with several requirements with respect to disclosures, reports, certain policies, employees, and services provided that are unrelated to credit-rating services</p> <p>Imposes disclosure requirements on issuers of certain financial products and corporate debt</p>
H.R. 3949	Veterans' Small Business Assistance and Servicemembers Protection Act of 2009	Prohibits telephone, cable, Internet, and residential utility services, as well as lessors of real property and motor vehicles, from imposing early termination fees when service members cancel contracts

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Table 8.

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Bills Reviewed by CBO in 2009 That Contain Private-Sector Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Aggregate Costs Below the Statutory Threshold (Continued)		
S. 38	Professional Boxing Amendments Act of 2009	Requires individuals and organizations in the boxing industry to be licensed by the United States Boxing Commission and to comply with standards for safety, contracts, and reports Requires private entities, if subpoenaed, to provide evidence or testimony
S. 69	Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act	Requires private entities, if subpoenaed, to provide evidence or testimony
S. 139	Data Breach Notification Act	Requires certain businesses to provide notifications in the case of a security breach
S. 212	Gulf of the Farallones and Cordell Bank National Marine Sanctuaries Boundary Modification and Protection Act	Expands the boundaries of the sanctuaries and extends to the expanded area regulations that prohibit certain activities
S. 256	Combat Methamphetamine Enhancement Act of 2009	Requires distributors and retailers of certain mail-order products to submit self-certification documents Prohibits anyone from supplying certain mail-order products to a retailer unless the retailer has completed the self-certification or has registered with the Drug Enforcement Agency
S. 275	Children's Health Insurance Program Reauthorization Act of 2009	Requires group health plans to permit employees to enroll in the plan if they lose eligibility for Medicaid or the Children's Health Insurance Program or become eligible through those programs for assistance in paying premiums Requires employers to inform employees of potential opportunities for assistance in paying premiums
S. 515	Patent Reform Act of 2009	Requires patent holders and applicants to pay fees
S. 588	Cruise Vessel Security and Safety Act of 2009	Requires certain cruise vessels to meet safety standards, comply with disclosure and recordkeeping requirements, limit the access of crew members to passengers' cabins, adhere to procedures for assisting victims of assault, carry medical supplies, and have at least one crew member trained in crime scene investigation
S. 599	Federal Firefighters Fairness Act of 2009	Requires medical facilities to comply with new procedures for notifying emergency response employees of possible exposures to an infectious disease
S. 728	Veterans' Benefits Enhancement Act of 2009	Requires employers to grant protection of the wages and salaries of service members

Continued

Table 8.

Continued

Bills Reviewed by CBO in 2009 That Contain Private-Sector Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Aggregate Costs Below the Statutory Threshold (Continued)		
S. 850	Shark Conservation Act of 2009	Prohibits the possession, transfer, or landing of shark fins without the carcass naturally attached
S. 1023	Travel Promotion Act of 2009	Requires members of the travel and tourist industry to pay an annual assessment if the Corporation for Travel Promotion is created
S. 1105	Aamodt Litigation Settlement Act	Imposes a mandate if the Secretary of the Interior condemns property to implement the settlement
S. 1261	Providing for Additional Security in States' Identification Act of 2009	Prohibits storing, reselling, sharing, or trading information obtained by scanning an identification card or tracking the use of such a card
S. 1494	Intelligence Authorization Act for Fiscal Year 2010	Requires private entities, if subpoenaed, to provide evidence or testimony
S. 1670	Satellite Television Modernization Act of 2009	<p>Requires satellite carriers and copyright holders to participate in a process to set royalty rates for certain types of transmissions</p> <p>Requires broadcasters and copyright holders to allow satellite providers to retransmit network signals of certain stations without paying royalties</p> <p>Requires low-power stations to allow satellite carriers to provide secondary transmissions to subscribers within a local market without paying royalties</p> <p>Increases the royalties that cable carriers pay for retransmitting the signals of distant network stations</p>
S. 2764	Satellite Television Extension and Localism Act of 2009	<p>Extends an authorization for satellite providers to retransmit distant signals to unserved households without obtaining consent or providing compensation to broadcasters</p> <p>Prohibits broadcasters from entering certain exclusive contracts for the rights to retransmit their programs</p> <p>Requires satellite carriers that provide local high-definition (HD) channels to also provide HD signals for local noncommercial, educational stations</p>

Continued

Table 8.

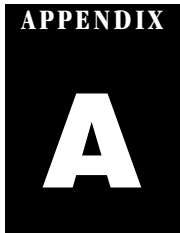
Continued

Bills Reviewed by CBO in 2009 That Contain Private-Sector Mandates

Bill Number (Committee or status)	Title of Legislation	Description of Mandate
Bills Containing Private-Sector Mandates with Aggregate Costs Below the Statutory Threshold (Continued)		
S. 2768	National Transportation Safety Board Reauthorization Act of 2009	Requires air carriers to make a reasonable attempt to notify the family of each passenger within 60 days before any planned destruction of unclaimed possessions after an accident
S.J. Res. 17	A joint resolution approving renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and other purposes	Renews the ban on imports from Burma

Source: Congressional Budget Office.

- a. In certain cases, proposed legislation reviewed by CBO contained multiple mandates, some of which did not have costs exceeding the statutory threshold.
 - b. The staff of the Joint Committee on Taxation (JCT) examines legislative provisions that affect the tax code for federal mandates and estimates their costs. Such information is incorporated into CBO's mandate statements.
 - c. JCT did not determine whether the costs of that mandate would exceed the private-sector threshold established in the Unfunded Mandates Reform Act.
-



An Overview of Key Provisions in the Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (UMRA) comprises four titles that address how various parts of the federal government should handle proposed and existing mandates imposed on state, local, and tribal governments and on the private sector.

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

that required state, local, or tribal governments to undertake additional responsibilities and activities.¹

- Title IV, Judicial Review, allows for limited judicial review of certain actions by agencies and of rules developed under title II of UMRA.

This appendix focuses on title 1, which prescribes CBO's responsibilities under the act.

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 direct costs of existing mandates. Duties that are imposed as a condition of federal assistance or that arise from participation in a voluntary federal program, such as programs that require entities to have licenses to graze on federal land, are not mandates. Under some large entitlement programs—those that provide \$500 million or more annually to state, local, or tribal governments—a new condition on, or a reduction in, federal assistance would be a mandate, but only if those governments lack the flexibility to offset the new costs or the loss of federal funding with reductions elsewhere in the program.

Direct costs are defined in the law as amounts that the private sector or state, local, or tribal governments would be required to spend to comply with the enforceable duty, including amounts that states, localities, or tribes “would

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

be prohibited from raising in revenues.” Direct costs exclude amounts that those entities would spend to comply with applicable laws, regulations, or professional standards in effect when the federal mandate is adopted. In addition, direct costs are offset by direct savings that would result from complying with the mandate or by savings from other provisions of the same legislation that govern the same activity as that affected by the mandate.

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

The scope of UMRA is further narrowed by the fact that it excludes certain legislative provisions from its procedures. Such provisions include those that deal with constitutional rights, discrimination, emergency aid, accounting and auditing procedures of grants, national security, treaty ratification, and title II of the Social Security Act (Old-Age, Survivors, and Disability Insurance benefits).

Determining what constitutes a mandate under UMRA is not straightforward. Although an activity (such as sponsoring an immigrant’s entry into the United States) may be voluntary, the federal program that governs such activity (immigration law) is not. In that instance, a bill imposing new requirements on sponsors of immigrants would constitute a mandate under UMRA. In contrast, other federal programs in which participation is voluntary may impose requirements on their participants that, by UMRA’s definition, are not mandates. For example, the National Salvage Motor Vehicle Consumer Protection Act of 1999 (S. 655 in the 105th Congress) contained no intergovernmental mandates, according to CBO. The bill would have imposed additional requirements on states that chose to participate in the National Motor Vehicle Title Information System; it also would have imposed additional costs, including higher annual operating expenses and one-time charges to modify the titles of vehicles and print new forms—which together might have exceeded several million dollars for participating

states. Distinctions between what is voluntary in a piece of legislation and what is mandatory are not always clear. However, state, local, and tribal governments may incur significant costs under a proposed law when they participate voluntarily. CBO identifies those costs whenever possible.

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

CBO’s Role in Preparing Mandate Cost Statements

The law requires CBO to give any Congressional authorizing committee that reports a bill a statement about the direct costs of any mandates that CBO identifies in the bill. If the total direct costs of all mandates in the bill are above a specified threshold in any of the first five fiscal years in which the mandate is effective, CBO must provide an estimate of those costs (if feasible) and explain the basis of its estimate. The statutory thresholds are \$50 million for intergovernmental mandates and \$100 million for private-sector mandates in 1996 dollars, adjusted annually for inflation. (The thresholds in 2009 were \$69 million for intergovernmental mandates and \$139 million for private-sector mandates.)

The mandate statement that CBO prepares also must 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.

UMRA also requires committees in the Congress to account for information about the existence and costs of mandates in proposed legislation. Authorizing committees must publish CBO's mandate statements in their reports or in the *Congressional Record* before a bill is considered on the floor of the House or the Senate. Conference committees must, "to the greatest extent practicable," ensure that CBO prepares statements for conference agreements or amended bills if they contain mandates not previously considered by either the House or the Senate or if they impose direct costs that are greater than those in a version considered earlier.

The Congress may also call on CBO to prepare analyses of federal mandates at other stages of the legislative process. At the request of a Senator, CBO must estimate the costs of intergovernmental mandates contained in an amendment the Senator may wish to offer. At the request of the chairman or ranking member of a committee, CBO will help analyze the impact of proposed legislation, conduct special studies of legislative proposals, or compare a federal agency's estimate of the costs of proposed regulations to implement a federal mandate with CBO's estimate.

Enforcement Mechanisms

Section 425 of UMRA sets out rules for both the House and the Senate that prohibit either chamber from considering legislation unless certain conditions are met. Specifically, UMRA prohibits the consideration of a reported bill unless the committee has published a statement from CBO about the costs of any mandates.

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

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

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

Those rules are not automatically enforced, however; a Member must raise a point of order to enforce them. If a point of order is raised in the House, the full House votes on whether to consider the bill regardless of whether there is a violation. If a point of order is raised in the Senate, the bill may not be considered unless the Senate waives the point of order or it is overturned by the chair or the full Senate.²

Appropriation Bills

UMRA does not expressly require CBO to prepare mandate statements for appropriation bills, and CBO has never done so. In general, UMRA's points of order do not apply to the provisions of bills or resolutions reported by the appropriations committees (except legislative provisions), even if those provisions would increase the direct costs of an intergovernmental mandate without providing funding and do not have a mandate statement.³

2. For more information about points of order, see House Committee on Rules, "The Unfunded Mandate Point of Order," *Parliamentary Outreach Program Newsletter*, vol. 106, no. 11 (June 18, 1999), www.rules.house.gov/Archives/pop106_11.htm.
3. In many cases, it is not clear what constitutes a legislative provision in an appropriation bill. Therefore, CBO prepares mandate statements for those bills only when requested. On an informal basis, however, CBO reviews all appropriation bills as they move through the legislative process and alerts the appropriation clerks if it identifies any intergovernmental mandates.

APPENDIX
B

Public Laws That Contain Federal Mandates as Defined in the Unfunded Mandates Reform Act, 1996 to 2009

Over the 1996–2009 period, the Congressional Budget Office has identified intergovernmental mandates with costs estimated to exceed the threshold in less than 1 percent of public laws and private-sector mandates with such costs in less than 5 percent of public laws. This

appendix lists the intergovernmental (Table B-1) and private-sector (Table B-2 on page 70) mandates enacted since 1996 with estimated costs that exceed the annual thresholds established in the Unfunded Mandates Reform Act.

Table B-1.

Intergovernmental Mandates Enacted Whose Estimated Costs Exceed the Statutory Threshold, 1996 to 2009

In the 14 years since the Unfunded Mandates Reform Act (UMRA) became law, only 11 laws have been enacted that contained intergovernmental mandates with costs above the threshold. In 1996, the threshold for intergovernmental mandates was \$50 million. That amount has been adjusted annually for inflation, and in 2009 the threshold was \$69 million.

Topic	Description of Mandate	Public Law Number
Child Support	Eliminates matching federal payments for some child support spending. States would be required to use more of their own resources to administer the program, and the Congressional Budget Office (CBO) estimated that additional state spending would total more than \$100 million annually, beginning in 2008.	109-171
Driver's Licenses, Identification Cards, and Vital Statistics Documents	Requires state and local governments to meet certain standards for issuing driver's licenses, identification cards, and vital statistics documents. CBO estimated that those governments would spend more than \$100 million over the 2005–2009 period to comply and that the costs in at least one of those years would exceed UMRA's threshold. The law authorized the appropriation of funds to provide grants to state and local governments to pay those costs. In fiscal year 2006, \$40 million was appropriated for that purpose.	108-458
Food Stamp Administration	Reduces federal funding for administering the Food Stamp program (now the Supplemental Nutrition Assistance Program). CBO estimated the mandate would cost states between \$200 million and \$300 million a year.	105-185
Internet Taxation	Preempts (temporarily) states' authority to tax certain Internet services and transactions. CBO estimated that the preemption would result in a reduction of at least \$300 million in state and local government revenues	108-435
	Extends the preemption contained in Public Law (P.L.) 108-435 of states' authority to tax certain Internet services and transactions through most of 2011. CBO estimated that the extension of the preemption would result in a reduction of about \$80 million annually in state and local government revenues	110-108

Continued

Table B-1.**Continued**

Intergovernmental Mandates Enacted Whose Estimated Costs Exceed the Statutory Threshold, 1996 to 2009

Topic	Description of Mandate	Public Law Number
Minimum Wage	Increases the minimum wage paid by state and local governments to their employees. CBO estimated the mandate would cost those governments more than \$1 billion during the first five years that P.L. 104-188 was in effect and slightly less than \$1 billion during the first five years that P.L. 110-28 was in effect.	104-188, 110-28
Premium Taxes on Prescription Drug Plans	Preempts state taxes on premiums for certain prescription drug plans. CBO estimated that under the preemption states would lose about \$70 million in revenues in 2006 (the first year in which the mandate was in effect). That drop in revenues was estimated to grow to about \$95 million in 2010.	108-173
Rail and Transit	Requires all public transit and rail carriers to train workers and submit reports to the Department of Homeland Security. CBO estimated that the cost of the requirements would exceed the threshold in at least one of the first five years following enactment.	110-53
	Requires commuter railroads to install train control technology. CBO estimated that the cost of the requirement would exceed the threshold in at least one of the first five years following enactment.	110-432
Tax Withholding	Requires state and local governments to withhold taxes on certain payments for property and services. The staff of the Joint Committee on Taxation estimated that, beginning in 2011, the cost of the requirement would exceed the intergovernmental threshold established in UMRA.	109-222

Source: Congressional Budget Office.

Table B-2.

Private-Sector Mandates Enacted Whose Estimated Costs Exceed the Statutory Threshold, 1996 to 2009

Less than 5 percent of the public laws enacted since the Unfunded Mandates Reform Act became effective in 1996 have contained private-sector mandates with costs estimated to exceed the threshold. The threshold established in UMRA for private-sector mandates was \$100 million. That amount has been adjusted annually for inflation, and in 2009 the threshold was \$139 million. Since 1996, 84 private-sector mandates whose costs the Congressional Budget Office determined were higher than the statutory threshold have been enacted. More than 50 percent (46 mandates) involve taxes or fees.

Topic	Description of Mandate	Public Law Number ^a
Agriculture	Changes the method by which minimum prices are established for fluid milk in different regions of the country	106-113
	Requires country-of-origin labels for various foods	107-171, 110-246
Aviation Security	Imposes security procedures and a user fee to fund aviation security programs	107-71
Bankruptcy	Changes procedures for administering bankruptcy claims	109-8
Campaign Finance Reform	Changes procedures for the collection and use of campaign contributions	107-155
Coal Mines	Imposes mining reclamation fees on operators of coal mines	109-54, 109-234, 109-432
	Requires operators of underground coal mines to install equipment to improve accident preparedness	109-236
Consumer Product Safety	Requires manufacturers, distributors, retailers, and importers of consumer products to abide by new standards and labeling requirements	110-314
Elimination of Right to Seek Compensation	Limits possible recoveries on terrorism-related lawsuits against Libya	110-301
Energy	Requires motor vehicle fuel to contain a certain volume of fuel from a renewable source	109-58, 110-140
	Establishes new energy-efficiency standards for appliances and lighting products	110-140
Finance	Imposes new requirements on credit agencies, lenders, and merchants that handle credit transactions	108-159
	Requires certain depository institutions to pay higher premiums for deposit insurance	109-171, 111-22
	Imposes new requirements on issuers of credit card and gift cards	111-24
Government Fees	Requires companies and other entities to pay certain fees when filing a petition for an H-1B visa	108-447
	Imposes fees on holders and applicants of patents and trademarks	108-447, 110-161, 111-8, 111-117, 111-145

Continued

Table B-2.**Continued**

Private-Sector Mandates Enacted Whose Estimated Costs Exceed the Statutory Threshold, 1996 to 2009

Topic	Description of Mandate	Public Law Number ^a
Government Fees (Continued)	Imposes a surcharge on the filing fee for passport applications	109-167
	Extends customs user fees	110-138, 110-246, 110-436, 111-124
Health Insurance	Requires health insurers to improve portability and continuity of health insurance coverage	104-191
	Requires certain health plans to provide for minimum-length maternity stays	104-204
	Imposes requirements on private health insurance providers under the Medicare program	105-33
	Requires parity in insurance coverage for mental health and other medical benefits	107-147, 110-343
	Prohibits providers of group health coverage from offering incentives to military retirees to decline enrollment in a group health plan in favor of relying on the military's health care program	109-364
	Modifies requirements and conditions of continued coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA) for certain employers who offer group health insurance	111-5
Housing	Requires Fannie Mae and Freddie Mac to contribute to a fund for affordable housing programs	110-289
Immigration	Imposes requirements on sponsors of immigrants	104-208
Minimum Wage	Increases the minimum wage paid by employers	104-188, 110-28
Motor Vehicles	Imposes new safety requirements on manufacturers of automobiles	107-318, 110-189
	Expands safety requirements for commercial motor carriers	109-59
	Establishes new standards for corporate average fuel economy (CAFE) standards for motor vehicles	110-140
Pharmaceuticals and Medical Devices	Requires drug manufacturers, at the request of the Food and Drug Administration, to conduct studies to determine the safety and efficacy of drugs and biological products for use in children and to develop appropriate formulations	108-155
	Extends user fees for manufacturers of prescription drugs and medical devices	110-85
Rail Transportation	Requires rail carriers and bus services to implement security plans and conduct security training	110-53
	Requires railroad carriers to develop and install train control technology	110-432

Continued

Table B-2.

Continued

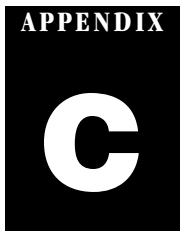
Private-Sector Mandates Enacted Whose Estimated Costs Exceed the Statutory Threshold, 1996 to 2009

Topic	Description of Mandate	Public Law Number ^a
Retirement	Increases required contributions for retirement	105-33
	Increases certain premiums to be paid to the Pension Benefit Guaranty Corporation by sponsors of single employer and multiemployer defined-benefit pension plans	109-171
	Shortens the schedule for vesting in private retirement funds	109-280
Revenue-Raising Provisions	Requires individuals or businesses to pay more in taxes	104-188, 104-193, 105-2, 105-34, 105-178, 105-206, 105-277, 106-170, 107-147, 108-357, 109-222 (3 mandates), 110-28, 110-140, 110-343 (6 mandates), 111-3, 111-5, 111-12; 111-69, 111-92 (2 mandates), 111-116
Telecommunications	Requires carriers to provide interconnection and universal service and to block certain programs	104-104
	Prohibits the use of a spectrum by extending the deadline for the transition to digital television	111-4
Tobacco Products	Imposes fees on manufacturers and importers of tobacco products	108-357, 111-31

Source: Congressional Budget Office.

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

a. Each public law contains one mandate unless noted otherwise.



Primary Contributors to CBO's Analyses of Mandates

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

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Private-Sector Mandates

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1. Jacob Kuipers, a former CBO staff member, also contributed to CBO's mandate analyses in 2009.

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