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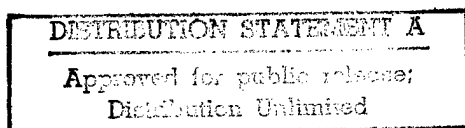
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CBO PAPER

AN ASSESSMENT
OF THE
UNFUNDED MANDATES REFORM ACT
IN 1997

February 1998

**CONGRESSIONAL BUDGET OFFICE
SECOND AND D STREETS, S.W.
WASHINGTON, D.C. 20515**



PREFACE

This paper reviews the activities of the Congressional Budget Office (CBO) during 1997 in carrying out the Unfunded Mandates Reform Act of 1995. It also examines how the law has worked and some proposals for reforming Congressional treatment of unfunded mandates.

The paper was prepared by Theresa Gullo, Chief of CBO's State and Local Government Cost Estimates Unit, under the supervision of Paul N. Van de Water and Robert Sunshine, and by Elliot Schwartz, Chief of CBO's Commerce Unit, under the supervision of Jan Paul Acton.

The paper was edited by Christian Spoor and proofread by Melissa Burman. Angela McCollough and Rae Wiseman prepared the final version; Rae Wiseman and Brenda Trezvant typed the early drafts. Laurie Brown prepared the electronic version for CBO's World Wide Web site (<http://www.cbo.gov/>).

June E. O'Neill
Director

February 1998

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SUMMARY

After two years, the procedures established by the Unfunded Mandates Reform Act of 1995 (UMRA) appear to be achieving their goals of focusing greater attention on the costs of federal mandates and ensuring that the Congress knows about those costs when it considers legislation. In addition, despite some analytical problems that have existed since the law took effect, the Congressional Budget Office (CBO) has been able to provide the Congress with substantially more information about federal mandates and their costs. At the same time, some Members of Congress and other observers question whether UMRA's definition of intergovernmental mandates is adequate and whether the legislative procedures that apply to private-sector mandates should be bolstered.

1997 in Review

UMRA requires CBO to review virtually all bills reported by authorizing committees for the presence of federal mandates and, if found, to estimate their costs. In addition, CBO reviews some proposed floor amendments and draft bills. Of the approximately 500 mandate statements that the agency transmitted to the Congress in 1997, 64 (12 percent) identified mandates on state, local, or tribal governments and 65 (13 percent) found mandates on the private sector. Eight of the statements identified intergovernmental mandates whose estimated annual costs would exceed the statutory threshold for such mandates (\$50 million in 1996 dollars, indexed annually for inflation). Because more than one CBO statement was issued for many of those mandates—since, for example, bills including the same mandate are often reported in both Houses of Congress—those eight statements identified a total of three Intergovernmental mandates over the threshold in 1997. Another 18 statements found a total of 11 private-sector mandates with costs exceeding their threshold (\$100 million in 1996 dollars, indexed annually for inflation).

Overall Costs to State and Local Governments from 1997 Legislation

Although some intergovernmental mandates became law last year, the overall effect of Congressional action in 1997 was to benefit state and local governments. Fourteen of the 153 public laws enacted in 1997 (or 9 percent) contained intergovernmental mandates, mostly in the form of preemptions of state and local laws. However, CBO estimates that none of them will raise costs significantly for state, local, or tribal governments. Over the course of the year, CBO identified more than 85 bills that included other provisions, such as conditions of a federal grant, that would result in additional costs to those governments. However, over 60 bills contained provisions that, if enacted, would result in significant benefits or savings to state and local governments.

Evaluating UMRA

The Unfunded Mandates Reform Act has increased both the demand for and the supply of information about federal mandates. In addition, the Congress appears to be paying greater attention to mandate issues when it considers legislation. Despite those successes, two criticisms of the law could lead to efforts to amend UMRA in 1998. Those criticisms focus on the law's definition of an intergovernmental mandate, especially for large entitlement programs, and its procedures for private-sector mandates, which some Members of Congress consider inadequate.

Groups representing state and local governments have asserted that UMRA's definition of an intergovernmental mandate is too restrictive because it does not include changes to long-standing grant programs. A particular point of controversy is the definition of a mandate for large entitlement programs, such as Medicaid, and how CBO interprets that definition. For a specific set of large entitlements, UMRA defines an increase in the stringency of grant conditions or a decrease in federal funding as a mandate only if the state or local governments that administer the program lack the flexibility to make changes to offset the new costs or loss of funding. In most cases, CBO has found that state and local governments have enough flexibility to offset higher program costs or lower funding. Some people argue, however, that the Congress intended that unless the same bill that makes the changes also provides new flexibility, increased program costs or reduced funding should be viewed as an intergovernmental mandate.

Some Members have proposed expanding UMRA's treatment of private-sector mandates. Legislation now before the Congress would make two changes. First, a provision would be added to the law that would create an additional procedural hurdle (a "point of order") against considering a bill with costs estimated to exceed the private-sector mandate threshold of \$100 million in a year; such a provision would be similar to the existing point of order for intergovernmental mandates. The second change would direct CBO to expand the cost information it gives the Congress about private-sector mandates to include secondary impacts on consumers, workers, and small businesses, including any disproportionate impact on particular regions and industries. CBO already provides some information of that nature when data and time permit.

Challenges in Carrying Out UMRA

In preparing more than 500 mandate statements in 1997, CBO continued to encounter a few procedural difficulties. They involved problems in identifying mandates,

estimating mandate costs, and applying UMRA to tribal governments for specific legislative proposals.

In most cases, determining whether a bill contains a mandate as defined by UMRA is relatively straightforward. However, in five cases last year, CBO was unable to make such a determination with regard to intergovernmental mandates, mostly because UMRA is unclear about how to view a bill that might raise the costs of an existing mandate without imposing a new one.

Other factors sometimes make it impossible to estimate the direct costs of mandates—including, for example, ambiguous language in a bill, uncertainty about whom the bill affects, ambiguous language in UMRA, lack of knowledge about future regulations, and lack of other essential information. Those problems prevented CBO from determining whether the relevant threshold had been exceeded for seven of the 64 intergovernmental mandates (11 percent of bills containing such mandates) and five of the 65 private-sector mandates (8 percent of such bills).

How to apply the definitions in UMRA to tribal governments is also unclear. For many programs, tribes lack control over the provision of services and the nature of the services provided; those controls may reside with federal agencies such as the Bureau of Indian Affairs. Thus, it is difficult to determine whether some federal programs that tribes participate in are voluntary or constitute intergovernmental mandates.

INTRODUCTION

Through legislation and subsequent regulation, the federal government frequently requires state, local, and tribal governments as well as private parties to expend resources to meet certain goals. Those resources are not counted in the federal budget, nor are they constrained by the federal government's ability to pay. The Unfunded Mandates Reform Act of 1995 (UMRA) was enacted to focus more attention on the costs of such federal mandates; to ensure that the Congress carefully weighs those costs before imposing mandates on other levels of government or the private sector; and to encourage the federal government to provide financial assistance for the costs of intergovernmental mandates. To accomplish those goals, the law established a variety of procedural requirements, which are summarized in Box 1. A major requirement was that the Congressional Budget Office (CBO) inform Congressional committees about the presence of federal mandates in legislation.

In this paper, CBO details its mandate-related activities during calendar year 1997, the second year in which the Congress has operated under the rules established by UMRA.¹ The paper also reviews how well the law has achieved its purposes and discusses some of the important issues that have arisen with respect to intergovernmental and private-sector mandates.

AN OVERVIEW OF UMRA'S SECOND YEAR

During 1997, CBO provided mandate cost statements for virtually all bills reported by authorizing committees and for many proposed bills and amendments. Before markups, committee staff and individual Members are increasingly requesting CBO's judgment on whether proposed legislation would create any new federal mandates, and if so, whether their costs would exceed the thresholds set by UMRA. In many instances, CBO can inform the sponsor about the existence of a mandate and provide informal guidance on how the proposal might be restructured to either eliminate the mandate or reduce its cost. For example, in the case of the Internet Tax Freedom Act (S. 442 and H.R. 1054), CBO worked with both supporters and opponents of the bills to identify mandates and their costs before the bills were marked up by full committee.

In all, CBO analyzed more than 500 bills and other legislative proposals in 1997 to determine whether they contained federal mandates (see Table 1). About 12

1. CBO's report on its activities during 1996 is contained in Congressional Budget Office *The Experience of the Congressional Budget Office During the First Year of the Unfunded Mandates Reform Act* CBO Paper (January 1997). A partial report on CBO's activities during 1997 is contained in the statement of James L. Blum, Deputy Director, Congressional Budget Office, before the Subcommittees on Rules and Organization of the House and on Legislative and Budget Process of the House Committee on Rules, October 30, 1997.

BOX 1.

KEY PROVISIONS IN TITLE I OF THE UNFUNDED MANDATES REFORM ACT

Title I of the Unfunded Mandates Reform Act of 1995 (UMRA) attempts to ensure that the Congress has more information about the potential direct costs of federal mandates before enacting legislation. It also establishes procedures designed to make it more difficult for the Congress to enact legislation containing unfunded mandates on other levels of government.

Defining Mandates and Their Costs

The act defines a mandate as any provision in legislation, statute, or regulation that would impose an *enforceable duty* on state, local, or tribal governments or the private sector, or that would reduce or eliminate the amount of funding authorized to cover the costs of existing mandates. Duties that arise as a condition of federal assistance or from participation in a voluntary federal program are not mandates. In the case of large entitlement grant programs, a new condition or a reduction in federal assistance is a mandate, but only if states lack the flexibility to offset the new costs or the loss of federal funding with reductions elsewhere in the program. Certain provisions—such as those enforcing constitutional rights or those necessary for national security—are excluded from UMRA's procedures.

Direct costs are defined as amounts that mandated entities would be required to spend to comply with the enforceable duty. They also include amounts that states, localities, and tribes "would be prohibited from raising in revenues." Direct costs exclude amounts that would be spent under current laws and programs. They are offset by any direct savings resulting from compliance with the mandate.

Mandate Cost Statements: CBO's Role

The law requires the Congressional Budget Office (CBO) to provide a statement to Congressional authorizing committees about whether reported bills contain federal mandates. If the total direct costs of all mandates in a bill are above a specified threshold in any of the first five fiscal years in which the mandate is effective, CBO must provide an estimate of those costs (if feasible) and the basis of its estimate. The statutory threshold is \$50 million for intergovernmental mandates and \$100 million for private-sector mandates, adjusted annually for inflation. Authorizing committees must publish CBO's mandate statements in their reports or in the *Congressional Record* before a bill is considered on the floor of the House or Senate.

The CBO statement must also include an assessment of whether the bill authorizes or otherwise provides funding to cover the costs of any new federal mandate. In the case of intergovernmental mandates, the cost statement must, under certain circumstances, estimate the appropriations needed to fund such authorizations for up to 10 years after the mandate takes effect.

BOX 1.
CONTINUED

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

The Congress may also call on CBO to prepare analyses at other stages of the legislative process. If asked by the Chairman or Ranking Minority Member of a committee, CBO will help committees analyze the impact of proposed legislation, conduct special studies of legislative proposals, or compare a federal agency's estimate of the costs of proposed regulations to implement a federal mandate with CBO's estimate made when the law was enacted.

Enforcement Mechanisms

Section 425 of UMRA sets out rules for both the House and Senate that prohibit them from considering legislation that contains mandates unless certain conditions are met. Consideration of a reported bill is not "in order" unless the committee has published a CBO statement about the costs of mandates. It is also not in order to consider any bill, amendment, motion, or conference report that would create an intergovernmental mandate, or would increase the direct costs of an existing intergovernmental mandate by more than \$50 million, unless the legislation provides direct spending authority or authorizes appropriations sufficient to cover the costs. Such authorizations would have to be specified for each year (up to 10 years) after the effective date; in the Senate, they would also have to be consistent with the estimated costs of the mandate in the legislation as determined by the Senate Budget Committee. In addition, any bill, amendment, motion, or conference report that authorizes the appropriation of funds to pay for an intergovernmental mandate contained in the bill whose costs exceed the threshold is not in order unless it provides a way to terminate or scale back the mandate if agencies determine 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 available.

Those rules are not self-enforcing, however; a Member must raise a point of order to enforce them. In the House, if a Member raises a point of order, the full House votes on whether to consider the bill regardless of whether there is a violation. In the Senate, if a point of order is raised and sustained, the bill is essentially defeated.

TABLE 1. NUMBER OF CBO MANDATE STATEMENTS FOR BILLS, PROPOSED AMENDMENTS, AND CONFERENCE REPORTS IN 1997

	Intergovernmental Mandates	Private-Sector Mandates
Total Number of Statements Transmitted	521	498
Number of Statements That Identified Mandates	64	65
Mandate costs exceeded threshold	8	18
Mandate costs could not be estimated	7	5

SOURCE: Congressional Budget Office.

NOTE: The numbers in this table represent official statements transmitted to the Congress by the Director of CBO. CBO prepared more intergovernmental statements than private-sector statements because in some cases it was asked to review a specific bill, amendment, or conference report solely for intergovernmental mandates. In those cases, no private-sector analysis was transmitted to the requesting Member or committee. CBO also completed a number of preliminary reviews and informal estimates for other legislative proposals that are not included in this table. Mandate statements may cover more than one mandate provision, and more than one formal CBO statement is usually issued for each mandate topic.

percent had intergovernmental mandates, and approximately 2 percent (eight bills in all) had mandate costs exceeding the \$50 million a year threshold. Those percentages are close to CBO's long-run experience in estimating the costs of federal legislation to state and local governments, which it has been doing since 1983 (as required by the State and Local Cost Estimate Act). CBO identified private-sector mandates in about 13 percent of the bills and amendments that it examined; nearly 4 percent (18 bills) had costs over the \$100 million a year threshold.

Different bills can contain similar mandates, however, especially if companion bills are introduced separately in the House and Senate. Thus, the eight bills with intergovernmental mandates over the threshold contained three mandates in all: a reduction in the federal contribution to administer the Food Stamp program; a moratorium on state and local taxation of the Internet; and a requirement that certain fees owed by nuclear utilities, including one that is publicly owned, be paid more quickly. (Appendix B lists all of the bills and proposals reviewed by CBO in 1997 that contained an intergovernmental mandate regardless of its size.) The 18 bills with private-sector mandates over the threshold contained 11 mandates in all.

No intergovernmental mandates with costs above the threshold were enacted in 1997. The three such mandates that CBO identified were still pending before the Congress at the end of 1997 (see Table 2). Since January 1996, when UMRA took

TABLE 2. STATUS OF MANDATES THAT EXCEEDED THE STATUTORY THRESHOLDS, 1997

Topic	Mandate	Has Version Been Enacted into Law?	Status
Intergovernmental Mandates^a			
Agricultural Research	Cap federal contribution for Food Stamp administration	No	In conference
Internet Tax Freedom	Prohibit certain Internet-related taxes	No	Ordered reported in a narrower form
Nuclear Waste Policy	Accelerate fees owed by state of New York	No	In conference
Private-Sector Mandates^a			
Airport and Airway Trust Fund	Reinstate ticket tax	Yes	Public Law 105-2
Biomedical Research	Prohibit manufacture of certain drugs	No	Draft bill
Budget Reconciliation: Medicare	Impose requirements on private health insurance providers	Yes	Public Law 105-33
Budget Reconciliation: Federal Employee Retirement	Increase required contributions for retirement	Yes	Public Law 105-33
Budget Reconciliation: Revenue	Several (tax related)	Yes	Public Law 105-34
Caribbean Trade	Change deduction for accrued severance pay	No	Failed passage
China MFN	Increase tariff rates	No	Failed passage
Education Savings Act and IRS Restructuring and Reform Act	Change deduction for accrued vacation pay	No	Passed House
Encryption	Allow decryption	No	Reported
Financial Services Reform	Restrict investment activity of Federal Home Loan Banks	No	Reported
Nuclear Waste Policy	Shift payment of fees	No	In conference

SOURCE: Congressional Budget Office.

NOTES: Mandates in this table are those identified by the Congressional Budget Office when a bill was reported by an authorizing or conference committee or when CBO was asked to do a formal review. In most cases, more than one formal CBO statement was issued for each mandate topic.

MFN = most favored nation; IRS = Internal Revenue Service.

a. The threshold for intergovernmental mandates is \$50 million a year (in 1996 dollars), and the threshold for private-sector mandates is \$100 million a year (in 1996 dollars). Those amounts are adjusted annually for inflation.

effect, Congressional committees have reported few bills with intergovernmental mandates whose costs exceeded the threshold.

Interestingly, over the past two years most of the proposed mandates on state and local governments resulted because those governments were part of a larger regulated community, such as employers or owners of nuclear utilities, not because they were governmental units. In those cases, state and local governments were facing costs similar to those faced by other members of the mandated group. (Last year, however, the two most expensive intergovernmental mandates—the Food Stamp and Internet tax provisions—were specifically aimed at state and local governments as governmental entities.)

The track record for private-sector mandates is different from that of intergovernmental mandates. In 1997, CBO identified more than twice as many private-sector mandates above the threshold as intergovernmental mandates. Four of those private-sector mandates were enacted (in the budget reconciliation bills and the bill reinstating the airline ticket tax).

In addition, CBO identified 12 bills in 1997 (about 2 percent of the total) that were wholly or partially excluded from the procedures of UMRA—generally because they would enforce the constitutional rights of individuals, would be necessary for national defense, or would be required for the ratification or implementation of treaty obligations. Such exclusions, spelled out in section 4 of UMRA, apply equally to intergovernmental and private-sector mandates.

Although not conclusive, last year's experience suggests that UMRA was helpful in limiting the imposition of unfunded mandates on state and local governments. Besides floor actions to reduce the costs of such mandates, a number of changes were made in committee or before markups to eliminate or minimize mandate costs after consultation with CBO. The three intergovernmental mandates whose costs did exceed the threshold are described below.

Agricultural Research, Extension, and Education Reform. A provision in S. 1150 (as reported by the Senate Committee on Agriculture, Nutrition, and Forestry on September 5, 1997, and passed by the Senate on October 29, 1997) would limit the federal government's responsibility to provide funding to states for administrative costs of the Food Stamp program. As described in Box 1, UMRA considers cuts in federal funding for certain entitlement programs (including Food Stamps) to be a mandate if the state, local, or tribal governments that participate in the program cannot change their financial or programmatic responsibilities to continue providing required services that are affected by the legislation. Because states have limited authority to amend their programmatic responsibilities under the Food Stamp program, CBO determined that the funding reductions imposed by S. 1150 would

constitute a mandate, with costs totaling between \$200 million and \$300 million a year. The companion bill (H.R. 2534), which did not contain the mandate, was passed by the House on November 8, 1997. A conference to reconcile the differences in those bills is pending.

Internet Tax Freedom. S. 442, as introduced in the Senate on March 13, 1997, would prohibit state and local governments from imposing direct or indirect taxes on the Internet or on interactive computer services. CBO determined that the prohibition would constitute a mandate under UMRA because it would prevent state and local governments from collecting tax revenue that they would otherwise collect. The costs of that proposed mandate vary depending on how one interprets direct or indirect taxes and the term "interactive computer services," as used in the bill. However, given the broad nature of those terms, CBO estimated that the mandate imposed by this version of S. 442 would prohibit state and local governments from collecting a variety of taxes and that those losses would far exceed the threshold established in UMRA. A substitute version of S. 442, which was much narrower in scope and whose costs may or may not exceed the threshold, was ordered reported by the Senate Committee on Commerce, Science, and Transportation on November 4, 1997.

Nuclear Waste Policy. Several versions of the Nuclear Waste Policy Act (S. 104 and H.R. 1270) contained a provision that would accelerate the payment of certain fees by nuclear utilities—including the New York Power Authority, a publicly owned utility. Under current law, those payments would be made in 2010 or later, when the Department of Energy is slated to open a permanent storage facility for nuclear waste. CBO identified the acceleration of those payments as a federal mandate imposed on both the New York state government and a number of private-sector utilities. By CBO's estimate, the direct cost of that mandate in 2002—\$180 million for the publicly owned utility and over \$2.3 billion for private utilities—would exceed the statutory thresholds for both intergovernmental and private-sector mandates. The net long-term cost to nuclear utilities would actually be much less than that, however, because they would no longer have to make the currently scheduled payments in 2010 or later. In addition, their costs would be partially offset by any savings in storage costs that would occur when an interim storage facility began accepting nuclear waste, as directed by the bill. S. 104 was passed by the Senate on April 15, 1997; H.R. 1270 was passed by the House on October 30, 1997. Both bills still contain the mandate. A conference to reconcile other differences in the bills is pending.

In addition, the Congress considered another 11 mandates in 1997 that would impose costs of \$100 million or more a year on the private sector. In six cases, those mandates involved taxes or nonvoluntary fees imposed by government programs, such as licensing or inspection fees. Of the 18 cost statements that CBO provided

in 1997 for private-sector mandates above the threshold, 11 involved the payment of taxes or fees (including the nuclear waste fee discussed above).

The budget reconciliation bill for revenue (H.R. 2014, the Taxpayer Relief Act of 1997) contained several provisions that CBO identified as private-sector mandates because they would require some form of payment to the federal government. CBO also identified a private-sector mandate in the reinstatement of the Airport and Airway Trust Fund ticket tax. In House Joint Resolution 79—disapproving the extension of nondiscriminatory (or most-favored-nation) treatment to the imports of the People's Republic of China—CBO found that the resolution would raise tariff rates on goods imported from China, thus imposing a cost on the private sector. For three bills—the United States-Caribbean Trade Partnership Act, the Education Savings Act, and the IRS Restructuring and Reform Act—revenue provisions were needed to maintain budget neutrality (in the last two cases, the provision, which would change the tax deduction for accrued vacation pay, was the same). The remaining five private-sector mandates over the cost threshold are described below.

Biomedical Research. CBO responded to a request to analyze a draft bill related to biomedical research by noting that one provision would impose a private-sector mandate over the statutory threshold. That provision would prohibit manufacturers of generic drugs from producing copies of certain brand-name drugs that contain an active ingredient initially approved by the Food and Drug Administration within the past five years. CBO estimated that the prohibition would cost generic-drug manufacturers more than \$500 million in lost profits (after taxes) between 1998 and 2002.

Budget Reconciliation: Medicare. The reconciliation recommendations of the Committees on Finance, Ways and Means, and Commerce (for H.R. 2015, the Balanced Budget Act of 1997) contained several largely similar private-sector mandates related to Medicare. Those provisions would make permanent an existing mandate on health insurance providers that requires them to treat Medicare as the second payer for enrollees with disabilities or end-stage renal disease who also have employment-based insurance. The provisions would also require private insurers who offer either employment-based or medigap supplemental insurance coverage to Medicare enrollees to notify enrollees of their rights under Medicare if their insurance policy is terminated.

In addition, medigap insurers would be prohibited from excluding coverage of preexisting conditions for aged Medicare enrollees who buy a medigap plan within six months of their enrollment in Part B. Such insurers would also be required to cover preexisting conditions for Medicare enrollees who change coverage from

another medigap plan, a health maintenance organization, or an employment-based plan within a specified time period.

CBO estimated that the combined costs to the private sector of those provisions would total between \$150 million and \$1.5 billion per year, depending on the interpretation of UMRA's provisions for extending a mandate that is scheduled to expire under current law. Those provisions were essentially unchanged when H.R. 2015 was signed into law on August 5, 1997.

Budget Reconciliation: Federal Employee Retirement. The reconciliation recommendations of the Senate Committee on Governmental Affairs and the House Committee on Government Reform and Oversight (for H.R. 2015) contained a private-sector mandate because they increased the contributions that federal employees are required to make to the civilian retirement systems. Such retirement contributions are compulsory withholdings made by the federal government and thus are an enforceable duty required of federal employees. CBO estimated the direct costs of that mandate at \$1.9 billion between 1999 and 2003. That provision was essentially unchanged in the enacted version of H.R. 2015.

Encryption. H.R. 695, the Security and Freedom through Encryption ('SAFE') Act of 1997 (as reported by the House Permanent Select Committee on Intelligence) would establish controls on domestic encryption technology. Specifically, the bill would require public network service providers that offer encryption services, as well as manufacturers, distributors, and importers of encryption products, to include features that allow duly authorized people to gain immediate access to encrypted material without the knowledge or cooperation of the user of that material. Thus, the bill would impose a federal mandate on a wide variety of entities—private and public—selling goods and services for electronic communication, including many producers and sellers of computer hardware and software.

CBO estimated that the total direct costs of complying with the encryption mandate could range from \$200 million to \$2 billion per year. Most of those costs would fall on private firms or individuals and thus would exceed the statutory threshold for private-sector mandates. It is less clear, however, whether the costs imposed on state and local governments would exceed the threshold established for intergovernmental mandates. Various versions of H.R. 695 have been reported by House committees.

Financial Services Reform. H.R. 10, the Financial Services Competition Act of 1997 (as reported by the House Committee on Banking and Financial Services) contained private-sector mandates that CBO estimated would exceed the statutory threshold. The bill would require the Federal Home Loan Banks (FHLBs) to replace a \$300 million fixed annual payment for interest on Resolution Funding Corporation

bonds with a 20.75 percent annual assessment on net earnings. It would also reduce the banks' level of investments to the amount necessary for liquidity, safety and soundness, and housing finance. CBO estimated that those requirements would cost the FHLBs \$158 million in net earnings in 2003, the fifth year after the mandates would take effect. The House Committee on Commerce also reported a version of H.R. 10, but it did not contain the FHLB provision. The bill has not yet been considered on the House floor.

COSTS TO STATE AND LOCAL GOVERNMENTS FROM 1997 LEGISLATION

Although several intergovernmental mandates were enacted into law in 1997, none will impose significant costs on state, local, or tribal governments, CBO estimates. Rather, the net result of Congressional action in 1997—particularly enactment of the Balanced Budget Act—will be significant gains for those governments, in terms of both greater program flexibility and additional funding from new grant programs.

Mandates Enacted into Law

Of the 153 public laws enacted in 1997, 14 (or 9 percent) contain intergovernmental mandates as defined by UMRA (see Table 3). Most of those mandates take the form of preemptions of state and local laws. As noted above, however, none of them will require significant spending by state, local, and tribal governments, CBO estimates.

Some lawmakers continue to worry that mandates are being enacted without adequate scrutiny under the procedural requirements established in UMRA. However, only three of the bills enacted in 1997 that contained intergovernmental mandates were not reviewed by CBO at some point during the legislative process. (Two of them were appropriation bills.) CBO estimates that none of those mandates will impose significant costs on state and local governments.

Other Legislation Affecting State and Local Governments

Not all of the costs imposed by federal legislation result from mandates as UMRA defines them. More than 85 bills that the Congress considered in 1997 contained provisions that would have increased costs for state, local, or tribal governments but that were not the result of mandates as defined by the law. Most of those provisions dealt with conditions for receiving federal aid. In such cases, states or localities are subject to the legislated requirements only if they *choose to accept* certain federal grants. For example, the Housing Opportunity and Responsibility Act of 1997 (H.R. 2) would require local public housing authorities to meet new conditions to continue

TABLE 3. LAWS ENACTED IN 1997 THAT CONTAIN INTERGOVERNMENTAL MANDATES

Public Law	Name or Topic	Mandate	Does It Contain a Mandate Not Identified at an Earlier Stage?
105-2	Airport and Airway Trust Fund Tax Reinstatement Act	State and local governments must pay tax on airline travel	No
105-12	Assisted suicide	Prohibits certain actions by District of Columbia employees	No
105-24	Bank branching	Preempts state bank laws relating to out-of-state branches	Yes
105-25	John F. Kennedy Assassination Records Collection Act	Extends subpoena power of Assassination Records Review Board	No
105-26	Charitable Donation Antitrust Immunity Act	Preempts state antitrust laws relating to certain charities	No
105-33	Balanced Budget Act	Multiple mandates: Medicare, tax preemptions, legal aliens and Supplemental Security Income, requirements on District of Columbia government	No
105-78	Labor and Health and Human Services Appropriations Bill for Fiscal Year 1997	States may not require standardized testing of private school students	Yes
105-85	National Defense Authorization Act for Fiscal Year 1998	Exempts Department of Defense workers from certain state medical licensing requirements	No
105-89	Adoption Promotion Act	Requires states to make changes to foster care programs	No
105-100	District of Columbia Appropriations Bill for Fiscal Year 1998	Requires District of Columbia government to carry out certain activities	Yes
105-114	Veterans benefits	Preempts state taxing authority for private facilities on Department of Veterans Affairs' property	No
105-115	Food and drug regulation	Preempts state cosmetic and drug laws	No
105-134	Amtrak reform and accountability	Preempts state and local taxes on Amtrak tickets	No
105-143	Allocation of trust funds among certain tribal governments	Requires certain tribes to use trust funds in specified ways	No

SOURCE: Congressional Budget Office.

NOTE: CBO estimates that none of these mandates will impose significant costs on state, local, or tribal governments.

receiving federal assistance. Those conditions include establishing and enforcing work requirements and self-sufficiency agreements with residents, preparing more detailed management plans, and submitting new performance and evaluation reports. Although those requirements are not considered mandates under UMRA because they are conditions for the receipt of federal aid, their enactment would have a significant budgetary impact on public housing authorities. CBO is not required to estimate such impacts, but it does so whenever possible.

A review of the impact of federal legislation on state and local governments would not be complete without considering how often bills and legislative proposals would produce benefits or savings to those governments. By CBO's count, the Congress considered more than 60 such bills in 1997. The most important was the Balanced Budget Act. Among other things, the act repeals the Boren Amendment, which placed minimum requirements on the amount that states reimburse hospitals and nursing homes for medical care. That change is expected to save states a total of \$900 million over five years. In addition, new grant programs for children's health care (\$20 billion) and welfare-to-work programs (\$3 billion) will give states substantial additional funding. Although the Balanced Budget Act also contains several intergovernmental mandates and imposes some conditions of aid that are likely to increase costs for state and local governments, those costs will not approach the estimated savings and extra financial assistance that state, local, and tribal governments stand to gain from the act.

PROPOSALS TO CHANGE UMRA

The Unfunded Mandates Reform Act has clearly increased both the demand for and the supply of information on the costs of federal mandates. Moreover, that information played a role in Congressional debate about several issues in 1997, particularly in the area of intergovernmental mandates. From that perspective, the law has accomplished what it set out to do. Some questions remain, however, about whether the law's definition of an intergovernmental mandate is sufficiently broad and whether curbs against considering private-sector mandates are sufficiently strong.

Defining Intergovernmental Mandates

For large entitlement programs such as Medicaid, UMRA defines an increase in the stringency of grant conditions or a decrease in federal funding as a mandate only if the state or local governments that administer the program lack the flexibility to make changes to offset the new costs or loss of funding. In the case of Medicaid, CBO determined that imposing a cap on per capita spending did not constitute a

mandate as defined in UMRA because, under current law, states have the flexibility to offset any loss of federal funds by reducing the amount of money they spend or the services they provide. Some people have argued that the Congress intended for UMRA's flexibility provision to apply only to new flexibility provided by the same legislation that imposes the added costs or lower funding. They assert that section 421(5)(B)(ii) of the act should be amended to make it clear that any new federal requirement or reduction in funding for those programs would constitute a mandate *unless the legislation that creates the mandate also provides new flexibility* for state and local governments to amend their programmatic or financial responsibilities under the program in order to offset the additional costs.

Some critics also argue that UMRA's definition of a mandate is too restrictive. In general, the law defines a mandate as an *enforceable duty* unless that duty is a condition of federal assistance or a duty arising out of participation in a voluntary federal program. Yet, as the review of 1997 legislation showed, the costs that federal laws impose on state and local governments often result from other types of impacts, particularly grant conditions. Thus, legislation can impose costs on states and localities without being considered a mandate.

Groups representing state and local governments have suggested that grant conditions can pose a problem for those governments when the conditions are attached to a federal program years after it was established. It is unrealistic, they argue, to view participation in a large and long-standing grant program, such as federal highway aid, as voluntary. They assert that new conditions on such assistance, particularly when those conditions are unrelated to the original purpose of the program, should be considered new mandates.

Proposed New Procedures for Private-Sector Mandates

UMRA's perceived success in raising the consciousness of the Congress about unfunded federal mandates for state and local governments has prompted some Members to propose expanding the law's provisions for private-sector mandates. The most prominent proposal is the Mandates Information Act of 1997 (MIA), sponsored by Senator Spencer Abraham (as S. 389) and Congressman Gary Condit (as H.R. 1010). That bill would set new procedural constraints on the legislative process for private-sector mandates and direct CBO to provide additional types of cost information about those mandates.²

Specifically, the MIA would establish a point of order against considering bills that contain private-sector mandates whose costs exceed \$100 million,

2. This section is based on the statement of James L. Blum, October 30, 1997.

regardless of whether federal funding is provided. As with the existing point of order against considering unfunded intergovernmental mandates, only a simple majority vote of Members would be necessary to overcome the objection. Thus, the new point of order would not stop the Congress from passing bills that a majority of Members want to pass. But it would impose a hurdle for the Congress to clear during deliberations on bills that contain private-sector mandates and would increase the demand for additional cost information.

The Mandates Information Act also directs CBO to provide expanded cost information about private-sector mandates that exceed the threshold. CBO would be required to analyze the impact of the proposed mandates on consumers, workers, and small businesses, including any disproportionate impact on particular regions or industries. That analysis would also include the effect on consumer prices, workers' wages and benefits, employment opportunities, and the profitability of small businesses. Economists call those indirect effects, such as when the mandated costs are passed along to other parties in the form of higher prices for finished goods or lower prices for intermediate inputs (including lower wages for workers). Such effects go beyond the direct costs of complying with a federal mandate, which CBO is now required to estimate.

CBO included information about significant indirect effects in some of its cost statements for private-sector mandates last year (see Table 4). For example, analyses of the biomedical research, encryption, and financial services reform bills noted that the costs of the mandates would be passed on to other parties. When sufficient time and data are available, CBO has also estimated the size of indirect effects.

Typically, however, time constraints and data limitations mean that CBO can include such extensive analyses only for topics that have already been widely researched. Subjects for which an extensive body of scholarly work does not exist are considerably more difficult to evaluate. They are also more typical of the private-sector mandates that CBO has reviewed so far. For example, CBO knows of no economics literature on the indirect costs of encryption, the air passenger ticket tax, or similar, more narrowly focused, mandates. In such cases, the agency would be limited to commenting on the general tendency of mandated entities to attempt to push the costs of the mandate onto other parties—either suppliers, workers, or consumers.

When time and the availability of data permit, CBO could provide quantitative estimates of private-sector mandates, as it did for the biomedical research bill. Of course, UMRA currently allows a committee Chairman or Ranking Minority Member to request that CBO analyze the mandates in a bill well before the legislation is considered. If they had enough lead time, CBO analysts might be better

TABLE 4. PRIVATE-SECTOR MANDATES THAT EXCEED THE STATUTORY THRESHOLD, 1997

Topic	Mandate	Bill Number(s)	Estimated Annual Costs (Billions of dollars)	Were Indirect Effects Considered?
Airport and Airway Trust Fund	Reinstate ticket tax	H.R. 668 S. 279	2.7	No
Biomedical Research	Prohibit manufacture of certain drugs	Draft bill	0.1 to 0.3	Yes
Budget Reconciliation: Medicare	Impose requirements on private health insurance providers	H.R. 2015 S. 947	0.15 to 1.5	No
Budget Reconciliation: Federal Employee Retirement	Increase required contributions for retirement	H.R. 2015 S. 947	0.2 to 0.6	No
Budget Reconciliation: Revenue	Several (tax related)	H.R. 2014 S. 949	9.0 to 16.0	No
Caribbean Trade	Change deduction for accrued severance pay	H.R. 2644	0.1	No
China MFN	Increase tariff rates	H.J. Res. 79	Greater than 0.1	No
Education Savings Act and IRS Restructuring and Reform Act	Change deduction for accrued vacation pay	H.R. 2646 H.R. 2676	0.1 to 1.1	No
Encryption	Allow decryption	H.R. 695	0.2 to 2.0	Yes
Financial Services Reform	Restrict investment activity of Federal Home Loan Banks	H.R. 10	Greater than 0.1	Yes
Nuclear Waste Policy	Shift payment of fees	H.R. 1270 S. 104	Greater than 2.3	No
Memorandum: Mandates with Uncertain Threshold Determination				
21st Century Patent System Improvement	Extend surcharge, authorize fee increase	H.R. 400	0.02 to 0.14	No
Terrorism	Prohibit financial transactions	H.R. 748	n.a.	No
Nuclear Regulatory Commission	Extend authority to collect fees	H.R. 2015	0 to 0.3	No
Worker Paycheck Fairness	Require authorizations and reports	H.R. 1625	n.a.	No
Children's Protection from Violent Programming	Blockable programming, Federal Communications Commission regulations	S. 363	n.a.	No

SOURCE: Congressional Budget Office.

NOTES: The mandates in this table are those identified by CBO when a bill was reported by an authorizing or conference committee or when CBO was asked to do a formal review. In many cases, more than one formal CBO statement was issued for each mandate topic.

MFN = most favored nation; IRS = Internal Revenue Service; n.a. = not applicable.

able to gather the data and perform the analyses required to provide more information about the indirect effects of mandates.

CHALLENGES IN CARRYING OUT UMRA

For the most part, UMRA's provisions have been straightforward to carry out. In some cases, however, it has not been possible to determine clearly whether a bill would impose a mandate as defined in the law or whether the cost would exceed the legislated thresholds.

Determining Whether a Bill Contains a Mandate

In most cases when CBO reviews legislation, determining whether it contains a mandate is relatively easy. Sometimes, however, such a determination is impossible to make because of uncertainty about how to interpret some provisions of UMRA. Of the 521 bills that CBO reviewed in 1997 for possible intergovernmental mandates, it was unable to make any determination for five of them, or 1 percent. (CBO did make determinations for all of the bills reviewed for private-sector mandates.)

In four of those cases—S. 104 and H.R. 1270, the Nuclear Waste Policy Act; H.R. 1109, a bill to amend the Immigration and Nationality Technical Corrections Act of 1994; and H.R. 1486, the Foreign Policy Reform Act—the bills contained provisions that by themselves would not establish any new enforceable duties and would not directly amend existing mandates. However, those provisions would have indirect effects on existing mandates, making them more expensive to carry out. The law is unclear about whether a bill's effect on the costs of existing mandates should be counted as a new mandate cost when the bill itself contains no new duty.

In the one remaining case—H.R. 2487, the Child Support Incentive Act—the bill reduced federal funding for the Child Support Enforcement program, an entitlement program that provides over \$500 million annually to states. CBO was unsure whether the states had enough flexibility in that program to offset the lost funding (in which case, the change would not be considered a mandate).

Nevertheless, CBO estimated that the additional costs associated with all five of those bills would be relatively small, and in no instance would they impose costs greater than the threshold for intergovernmental mandates.

Determining Whether the Mandate's Direct Costs Exceed the Threshold

Out of 64 intergovernmental mandates identified last year, CBO could not determine whether seven of them (12 percent) had costs exceeding the threshold. The percentage was only slightly smaller for private-sector mandates; five of the 65 (about 8 percent) had uncertain costs. Those uncertainties arose for at least one of five reasons: ambiguous language in the bill, uncertainty about who is affected by the bill's provisions, ambiguous language in UMRA as it relates to extensions of existing mandates, the costs' dependence on future regulations, or lack of essential information.

Ambiguous Language in Bills. In a number of cases, the uncertainty about the costs of intergovernmental mandates stemmed from how broadly to interpret provisions that would preempt state and local taxes. For example, the introduced version of the Internet Tax Freedom Act (S. 442) would prohibit state and local governments from imposing direct or indirect taxes on the Internet or on interactive computer services, thus preventing those governments from raising tax revenues. CBO estimated that revenue losses from that prohibition would surpass the threshold for intergovernmental mandates. However, the revenue impact of two other versions of the bill that attempted to narrow the scope of the tax moratorium was much less clear. Those versions specifically protected a number of state and local taxes (income taxes, property taxes, telecommunications taxes, and certain sales and use taxes) but would still preempt other taxes. Because it was unclear whether the specific language of the bill would preempt taxes on certain on-line information services, CBO could not determine whether the total loss of tax revenues for all state and local governments would exceed the threshold. Ultimately, if the Congress did not clarify the legislation, such issues would probably be resolved in court. The cost of the mandate would not become clear until such decisions were made.

Who Is Affected. Occasionally, it is impossible to determine accurately how many of the more than 90,000 state and local governments in the United States would be affected by a proposed mandate. For example, when analyzing H.R. 695 (the SAFE Act), CBO determined that state and local governments offering Internet access and other computer services to the public met the bill's definition of "network service providers" and would be required to comply with the provisions governing encryption products and services. However, no information was available about how many state and local governments provide such services or about the possible alternatives they would have if the legislation was enacted. As a result, CBO could not estimate whether total compliance costs would exceed the intergovernmental threshold.

Ambiguous Language in UMRA. Some of the mandates that CBO found occurred in bills that would extend, and sometimes expand, an expiring mandate. In such

cases, an ambiguity in UMRA's definition of direct costs makes it unclear whether to measure the change in the cost of the mandate from the current level or from the level that would exist if the mandate was allowed to expire (usually zero cost).³ If the former is correct, a mandate extended with no changes would result in no additional costs. If the latter holds true, the extended mandate would be treated as a new mandate, and all costs above those that would be incurred anyway would be attributed to the legislation.

The Balanced Budget Act (H.R. 2015) contained certain provisions that would both extend and expand primary-payer provisions in the Medicare program. In addition to their effects on private insurers, those provisions cause states to remain the primary payer for certain health benefits for their employees longer than they would otherwise under current law. Extending those requirements beyond 1998 effectively shifts \$240 million to \$280 million in annual spending from Medicare to state and local health plans. CBO estimated that as a result, state and local governments would face \$24 million in direct costs in 1999 until they could shift those costs to their employees. UMRA leaves it unclear whether those costs should be regarded as new mandate costs.

Similarly, for two bills that extended or expanded current private-sector mandates (H.R. 400, on improving the patent system, and the subtitle of H.R. 2015 dealing with the Nuclear Regulatory Commission), CBO was unable to say whether the mandates would exceed the cost threshold because they extended existing mandates. For some other bills (notably, the private health insurance mandates relating to Medicare that were contained in the budget reconciliation bills), that uncertainty did not affect the threshold determination but did cause the estimate of costs to vary—by as much as \$1.4 billion in the case of the budget reconciliation bills.

Unknowable Future Regulations. On occasion, especially for private-sector mandates, an estimate could not be made, or could only be made based on crude assumptions, because the costs would depend on specific regulations that would be developed and issued some time in the future. In one case (S. 363, on violent video programming), that limitation prevented any estimate of costs. In other cases (such as the SAFE Act, as reported by the House Permanent Select Committee on Intelligence), CBO's estimate of the cost of mandates required a wide range—from \$0.2 billion to \$2.0 billion for the SAFE Act—because CBO could not predict the technical and functional criteria for the mandate, which would be established in regulations after the bill's passage.

3. See Congressional Budget Office, *The Experience of the Congressional Budget Office During the First Year of the Unfunded Mandates Reform Act* pp. 11-12, for a more complete discussion of this issue.

Other Missing Information. Reliable information is necessary for any estimate, but sometimes it is impossible to obtain. With H.R. 748 (the Prohibition on Financial Transactions With Countries Supporting Terrorism Act of 1997), no estimate of the private-sector mandate was possible because no reliable data exist on the volume of nonexempt financial transactions between U.S. entities and Syria and Sudan, countries that would be subject to the mandate. Further, CBO could not predict whether transactions with other countries might become subject to the restrictions during the first five years that the mandate was in effect.

A similar estimation problem occurred in CBO's analysis of private-sector mandates in H.R. 1625 (the Worker Paycheck Fairness Act). That bill would require labor organizations that have union security agreements—which require union and nonunion members to pay dues or fees to the union as a condition of employment—to obtain written authorization from workers before using any portion of those payments for activities other than representing employees. The cost of that mandate would depend on the number of workers from whom authorization was requested and the average cost to the union of requesting an authorization. Little information exists about either of those quantities. Moreover, the prevalence and magnitude of unions' spending on nonrepresentation activities, which could be used as a basis for estimating both of those unknowns, is also not known.

Applying UMRA to Tribal Governments

The definitions in UMRA are particularly hard to apply to tribal governments. For many programs, such as those in the areas of housing and law enforcement, control over the provision of services and the nature of the service provided is primarily in the hands of federal agencies, such as the Bureau of Indian Affairs (BIA). Tribes are allowed varying levels of input, but unlike state governments, they do not always control the essential elements of those programs.

The nature of the relationship between tribes and the federal government makes it difficult to determine whether the tribes are participating in a voluntary federal program. For example, when a tribe asks the federal government (through the BIA) to take land into trust for the tribe, it must follow certain procedures established by the bureau. Should those procedures be considered mandates, or is the whole process a voluntary federal program? The question would become particularly relevant if the Congress imposed any additional requirements on tribes as part of that process. CBO's preliminary conclusion is that such requirements, because they involve the federal government's sovereign powers, would constitute mandates. However, little in the language or the legislative history of UMRA sheds light on how to apply the law in such instances.

Furthermore, federal agencies can have different opinions about how and even whether federal laws apply to tribal governments. Thus, determining whether a bill would directly affect tribes is not always straightforward. For example, federal agencies and the courts appear to disagree about whether laws such as the Occupational Safety and Health Act apply to tribal governments as employers. In reviewing legislation that would amend that act, CBO received conflicting opinions from agencies about whether tribal governments would be affected by it. Court precedents—which frequently help determine the meaning and application of federal laws—were also in disagreement about that issue.

APPENDIX A: CONTRIBUTORS TO CBO'S ANALYSES OF MANDATES

Primary Contributors

Intergovernmental Mandates

Budget Analysis Division

Theresa Gullo	Chief, state and local government cost estimates
Brenda Trezvant	Secretarial support
Kristen Layman	Transportation
Leo Lex	Justice, immigration, state tax issues, health
Karen McVey	Transportation
Marjorie Miller	Natural resources, agriculture
Marc Nicole	Education, banking, social services
John Patterson	Health, social services
Pepper Santalucia	Environment, state tax issues, commerce

Private-Sector Mandates

Natural Resources and Commerce Division

Elliot Schwartz	Coordinator, natural resources and commerce
Rae Wiseman	Secretarial support
Lesley Frymier	Energy, natural resources, international affairs
Patrice Gordon	Environment, banking, small business
Jean Wooster	Agriculture, commerce, transportation

Health and Human Resources Division

Bruce Vavrichek	Coordinator, health and human resources
Nabeel Alsalam	Education, labor
James Baumgardner	Health
Linda Bilheimer	Health
Sandra Christensen	Health
Julia Matson	Public health, social services
Kathryn Rarick	Labor, education
Ralph Smith	Labor, income security

Special Studies Division

Matt Eyles	Coordinator, special studies
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National Security Division

Neil Singer	Coordinator, national security
Bill Thomas	National security

Tax Analysis Division

Richard Kasten	Coordinator, tax analysis
Alyssa Trzeszkowski	Revenues

Office of the General Counsel

Jennifer Smith	Legal counsel
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Other Contributors*Natural Resources and Commerce Division*

Angela McCollough	Secretarial support
Perry Beider	Superfund
Gail Cohen	Energy
Anna Cook	Pharmaceuticals
Roger Hitchner	Agriculture
Judy Ruud	Financial services
Tim VandenBerg	Insurance
Philip Webre	Internet

Health and Human Resources Division

Sharon Corbin-Jallow	Secretarial support
Ron Moore	Secretarial support
Terri Devine	Labor
Portia Defilippes	Labor
Carol Frost	Health
Susan Labovich	Labor

National Security Division

Rachel Schmidt	Military and veterans' health care
Eric Labs	Intelligence

**APPENDIX B: BILLS AND PROPOSALS IN 1997 THAT CONTAIN
INTERGOVERNMENTAL MANDATES**

<u>Bill Number</u>	<u>Name</u>	<u>Mandate</u>
Bills Containing Mandates with Costs Above the \$50 Million Threshold		
H.R. 1270 (Resources Committee)	Nuclear Waste Policy Act of 1997	Accelerates payment of fees owed by state of New York
H.R. 1270 (Commerce Committee)	Nuclear Waste Policy Act of 1997	Accelerates payment of fees owed by state of New York
S. 442 (as introduced) (2 estimates)	Internet Tax Freedom Act	Preempts state authority to tax certain on- line and Internet services and transactions
S. 1150 (Agriculture Committee)	Agricultural Research, Extension, and Education Reform Act of 1997	Restricts federal payment for Food Stamp administration
S. 1150 (Enacted by Senate) (2 estimates)	Agricultural Research, Extension, and Education Reform Act of 1997	Restricts federal payment for Food Stamp administration
S. 1195 (as introduced)	Adoption Promotion Act	Restricts federal payment for Food Stamp administration
Bills Containing Mandates with Costs Below the \$50 Million Threshold		
H.R. 2	Housing Opportunity and Responsibility Act of 1997	Requires police departments to provide information to public housing authorities
H.R. 10 (Banking Committee)	Financial Services Competition Act of 1997	Preempts state banking, insurance, and securities laws
H.R. 10 (Commerce Committee)	Financial Services Competition Act of 1997	Preempts state banking, insurance, and securities laws
H.R. 167	Veterans' Training and Employment Bill of Rights Act	Requires reporting of affirmative action plans
H.R. 230 (as introduced) (3 estimates)	Natural Disaster Protection and Insurance Act of 1997	Requires state insurance regulators to use certain data when evaluating rate filings of private insurers

<u>Bill Number</u>	<u>Name</u>	<u>Mandate</u>
Bills Containing Mandates with Costs Below the \$50 Million Threshold (Continued)		
H.R. 607	Homeowners Insurance Protection Act	Requires automatic cancellation of mortgage insurance and new disclosure statements
H.R. 624	Armored Car Reciprocity Amendments of 1997	Requires reciprocity among states for armored car licensing
H.R. 668	Airport and Airways Trust Fund Reinstatement Act	Requires payment of taxes on airline tickets
H.R. 695 (Judiciary Committee)	Security and Freedom Through Encryption Act	Prohibits states from requiring the availability of electronic encryption keys
H.R. 695 (International Relations Committee)	Security and Freedom Through Encryption Act	Prohibits states from requiring the availability of electronic encryption keys
H.R. 695 (National Security Committee)	Security and Freedom Through Encryption Act	Prohibits states from requiring the availability of electronic encryption keys
H.R. 695 (Commerce Committee)	Security and Freedom Through Encryption Act	Prohibits states from requiring the availability of electronic encryption keys
H.R. 867	Adoption Promotion Act of 1997	Requires state agencies to comply with new administrative requirements in the federal foster care program
H.R. 911	Volunteer Protection Act of 1997	Preempts state laws governing liability in some civil cases
H.R. 976	Mississippi Sioux Tribes Judgment Fund Distribution Act of 1997	Mandates specific uses for judgment funds distributed to tribes
H.R. 1000	Bill to require states to establish a system to prevent prisoners from being considered part of any household for Food Stamps	Requires states to comply with new Food Stamp administrative requirements
H.R. 1003	Assisted Suicide Funding Restriction Act of 1997	Prohibits using funds in the District of Columbia for purposes related to assisted suicide

<u>Bill Number</u>	<u>Title</u>	<u>Mandate</u>
Bills Containing Mandates with Costs Below the \$50 Million Threshold (Continued)		
H.R. 1048	Bill to make amendments relating to the Personal Responsibility and Work Opportunity Act of 1996	Prohibits states from collecting certain child support fees; requires distribution of some collections for foster care; other administrative requirements
H.R. 1092	Amend Title 28, United States Code, to extend the authority of the Secretary of Veterans Affairs to enter into enhanced-use leases	Preempts state tax laws on properties of the Department of Veterans Affairs that are leased to private concerns
H.R. 1119	National Defense Authorization Act for Fiscal Year 1998	Exempts some health care providers from state licensure requirements
H.R. 1411	Prescription Drug User Fee Reauthorization and Drug Regulatory Modernization Act of 1997	Preempts some cosmetic and nonprescription drug regulations by states
H.R. 1553	John F. Kennedy Assassination Records Collection Act	Extends subpoena power of Assassination Records Review Board
H.R. 1604	Provide for the Division, Use, and Distribution of Judgment Funds of the Ottawa and Chippewa Indians of Michigan	Mandates specific uses for judgment funds distributed to tribes
H.R. 1625	Worker Paycheck Fairness Act of 1997	Requires governments to post notices regarding worker rights; requires state courts to impose certain remedies
H.R. 1778	Defense Reform Act of 1997	Exempts some Department of Defense facilities from state remediation regulations
H.R. 1805	Auburn Indian Restoration Amendment Act	Restricts gaming activities by the tribe
H.R. 1836	Federal Employees Health Care Protection Act of 1997	Prohibits states from regulating the provision of coverage or benefits in the Federal Employees Health Benefits program
H.R. 1902	Charitable Donation Antitrust Immunity Act of 1997	Exempts charitable trusts and annuities from state antitrust laws
H.R. 1953 (Judiciary Committee)	Clarify state authority to tax compensation	Prohibits certain states from taxing income of certain federal employees
H.R. 1953 (Senate Governmental Affairs)	Clarify state authority to tax compensation	Prohibits certain states from taxing income of certain federal employees

<u>Bill Number</u>	<u>Name</u>	<u>Mandate</u>
Bills Containing Mandates with Costs Below the \$50 Million Threshold (Continued)		
H.R. 2000	Amend the Alaska Native Claims Settlement Act	Exempts additional land from certain local property taxes
H.R. 2015 (Commerce Committee)	Balanced Budget Act	Extends fees paid by public utilities to the Nuclear Regulatory Commission
H.R. 2610	National Narcotics Leadership Act Amendments of 1997	Preempts state laws prohibiting certain surveys of drug use
S. 279	Airport and Airway Trust Fund Reinstatement Act	Requires payment of taxes on airline tickets
S. 318	Homeowners Protection Act	Requires automatic cancellation of mortgage insurance and new disclosure statements
S. 363	Children's Protection from Violent Programming Act	Prohibits public TV stations from showing violent programming that is not blockable during certain time periods
S. 442 (Dorgan Amendment)	Internet Tax Freedom Act	Preempts state authority to tax certain on-line and Internet services and transactions
S. 462	Public Housing Reform and Responsibility Act of 1997	Requires police departments to provide information to public housing authorities
S. 537	Draft substitute for Mammography Quality Standards Reauthorization	Requires mammography facilities to provide written statement of test results
S. 569	Indian Child Welfare Act Amendments of 1997	Requires public adoption agencies to give notice to tribes in proceedings involving Indian children; preempts authority of tribal and state governments in those proceedings
S. 648	Product Liability Reform Act of 1997	Preempts state product liability laws
S. 714	Native American Veteran Housing Loan Pilot Program of the Department of Veterans Affairs	Preempts state tax laws on department properties leased to private concerns
S. 738	Amtrak Reform and Accountability Act of 1997	Preempts state authority to tax Amtrak ticket sales
S. 830	Food and Drug Administration Modernization and Accountability Act of 1997	Preempts state laws dealing with nonprescription drugs
S. 947 (Agriculture Committee)	Balanced Budget Act	Requires states to comply with certain expenditure requirements related to Food Stamp program

<u>Bill Number</u>	<u>Name</u>	<u>Mandate</u>
Bills Containing Mandates with Costs Below the \$50 Million Threshold (Continued)		
S. 967	Amend the Alaska Native Claims Settlement Act	Exempts additional land from certain local property taxes
S. 1149	Investment in Education Act of 1997	Preempts state laws governing homestead protections in bankruptcy cases

Bills Containing Mandates with Costs That Could Not Be Estimated

H.R. 695 (Intelligence Committee)	Security and Freedom Through Encryption Act	Requires governments that offer Internet access to provide for decryption of certain products and services
H.R. 2015 (Education & Workforce Committee)	Balanced Budget Act	Preempts state authority to tax certain types of health plans
H.R. 2015 (Ways & Means Committee)	Balanced Budget Act	Preempts various state laws relating to Medicare
H.R. 2247	Amtrak Reform and Privatization Act of 1997	Preempts state authority to tax Amtrak
H.R. 2247 (Revised)	Amtrak Reform and Privatization Act of 1997	Preempts state authority to tax Amtrak
S. 442 (Wyden Amendment)	Internet Tax Freedom Act	Preempts state authority to tax certain on-line and Internet services and transactions

Bills Containing Mandates with Costs That Could Not Be Estimated

S. 947 (Finance Committee)	Balanced Budget Act	Preempts various state laws relating to Medicare
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