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CBO: A Review of CBO's Activities in 2012 Under the Unfunded Mandates Reform Act.

The federal government, through laws and regulations, sometimes imposes requirements—known as federal mandates—on state, local, and tribal governments and entities in the private sector in order to achieve national goals. In 1995, lawmakers enacted the Unfunded Mandates Reform Act (UMRA) in part to ensure that, during the legislative process, the Congress receives information about the potential effects of mandates as it considers proposed legislation. To that end, UMRA requires CBO, at certain points in the legislative process, to assess the cost of mandates that would apply to state, local, and tribal governments or to the private sector. This report, which is part of an annual series that began in 1997, summarizes CBO's activities in 2012 under UMRA.

How Is a Mandate Defined in UMRA?

UMRA defines a mandate as any provision in legislation that, when enacted, would do one of the following:

- Impose an enforceable duty on state, local, or tribal governments or on private-sector entities;
- Reduce or eliminate funding authorized to cover the costs of complying with existing mandates;
- Increase the stringency of conditions that apply to the provision of funds to state, local, or tribal governments through certain large mandatory programs or make cuts in federal funding for those mandatory programs if the affected governments lack the flexibility to alter the programs.
- Duties that arise from conditions of federal assistance or that are tied to participating in voluntary federal programs generally are not considered mandates as defined in UMRA.

What Does UMRA Require of CBO?

The law requires CBO to prepare mandate statements for bills and joint resolutions that are approved by authorizing committees; when requested, the agency also reviews proposals at other stages in the legislative process for intergovernmental and private-sector mandates. As a part of its review of legislation, CBO must determine whether the aggregate direct costs of the mandates would be greater than the statutory thresholds established in UMRA and identify any funding that the bill would provide to cover those costs. In 2012, the thresholds, which are adjusted annually for inflation, were $73 million for intergovernmental mandates and $146 million for private-sector mandates.

How Many Bills Reviewed by CBO in 2012 Contained Mandates?

CBO found that most of the legislation the Congress considered in 2012 contained no mandates as defined in UMRA. Of the 428 bills CBO reviewed in 2012, 68 (16 percent) contained intergovernmental mandates and 80 (19 percent) contained private-sector mandates. Most of the mandates that CBO identified in 2012 would not have imposed costs that exceeded those thresholds. Only two bills (fewer than 1 percent) included intergovernmental mandates with costs above the threshold, and 14 bills (3 percent) contained private-sector mandates that would have imposed costs exceeding the annual threshold.

Occasionally, CBO cannot determine whether the cost of the mandates in a bill would exceed the annual cost thresholds. The reason in most cases is uncertainty about the scope of a mandate—the number of people or entities affected, the extent of the requirements they would face, or both. Such uncertainty generally arises because of insufficient information about the contents of regulations that a bill might require. Legislation might give a federal agency broad discretion in issuing regulations, and without information about the scope of the regulations to be issued, CBO cannot estimate with any confidence the cost of the bill's requirements at such an early stage. In 2012, CBO could not determine the annual costs of the intergovernmental mandates in six bills (about 1 percent) or the annual costs of the private-sector mandates in 18 bills (4 percent).

How Many Public Laws Enacted in 2012 Contain Mandates?

In addition to examining bills during the legislative process, CBO reviews public laws enacted each year for intergovernmental and private-sector mandates. This report assesses the 202 public laws that were passed by the 112th Congress (which ended on January 3, 2013) and were signed into law by the President in 2012 or early 2013. (For simplicity, the text of this report refers to those public laws as "enacted in 2012.") Of those 202 public laws, 16 (8 percent) contain intergovernmental mandates and 23 (11 percent) contain private-sector mandates.

Public laws generally contain fewer intergovernmental mandates than private-sector mandates. In the 17 years since the enactment of UMRA, CBO has identified 13 laws with intergovernmental mandates that have costs estimated to exceed the statutory threshold. The last such law was enacted in 2010; none of the public laws enacted in 2012 contain intergovernmental mandates with costs estimated to exceed the statutory threshold. (One law contains an intergovernmental mandate with costs that CBO cannot estimate.) Since 1996, CBO has identified private-sector mandates with costs estimated to exceed the threshold in 89 public laws, including 7 laws enacted in 2012. Those 7 laws contain 12 private-sector mandates that impose government fees or regulate pipeline safety, transportation, pharmaceuticals, or telecommunications.

As indicated in the tables, the number of bills and 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 be greater than 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 identified can be greater than the number bills reviewed.

http://www.cbo.gov/sites/default/files/cbofiles/attachments/44032_UMRA.pdf

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