

July 2012
Federal Mandate Report

January 1, 2012

To

June 30, 2012



Commonwealth of Virginia
Office of the Governor
Office of Intergovernmental Affairs

The Federal Mandate Report is published semiannually by the Office of Intergovernmental Affairs (OIA). This report provides reviews of federal legislation containing unfunded mandates that have become public law (Part I), or passed at least one chamber of Congress (Part II). The OIA relies on the Congressional Budget Office's (CBO) interpretations of the Federal Unfunded Mandate Reform Act (UMRA) to determine what legislation contains intergovernmental mandates. Descriptions of the mandates provided in this analysis are based upon or excerpted from these CBO documents and Congressional Research Service (CRS) reports.

The semiannual report also provides reviews of federal regulatory action completed that may impact the Commonwealth (Part III). The OIA relies on recommendations of the Regulatory Information Service Center (RISC) of the General Services Administration (GSA) to determine which federal regulatory actions may affect the states. Due to delays at the GSA, the required information cannot be provided in time for the completion of Part III of this report for July 2012. A subsequent amended report will be submitted once the information is received from GSA and Part III is completed.

This edition of the Federal Mandate Report is intended to provide an overview of the legislative and regulatory requirements imposed upon the Commonwealth for the period of January 1, 2012 to June 30, 2012. Of the bills reviewed by the CBO, four have become public law, while seven have passed at least one chamber of Congress.

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Part I – Mandates in Public Laws

Title I of the Unfunded Mandate Reform Act (UMRA) of 1995 requires the Congressional Budget Office (CBO) to prepare mandate statements for bills approved by authorizing committees. In those statements, CBO must address whether a bill contains federal mandates and, if so, whether the direct costs of those mandates would be greater than the thresholds established in the law. The thresholds for 2012, which are adjusted annually for inflation, are \$73 million for intergovernmental mandates (state, local, or tribal governments) and \$146 million or more per year for the private sector.

Bill Number	Bill Title	Unfunded Mandate on the State	Bill Status
H.R. 658	FAA Modernization and Reform Act of 2012	<p>Access to Criminal History Records. The bill would give the FAA the right to access criminal justice data maintained by the states. Although CBO cannot predict the extent to which the FAA would access state or local data systems, or make inquiries of state or local police officers, CBO estimates that the additional costs to state, local, and tribal governments of complying with the requests would be small.</p> <p>Requirements for Next Generation Air Transportation System (NextGen). Equipment. The bill would require owners of aircraft operating in congested airspace or at congested airports to install new communications equipment by 2020. According to industry sources, the equipment currently costs at least \$10,000 per aircraft; for jets and other large aircraft, the cost would amount to at least \$100,000 per aircraft. Depending on FAA regulations, up to 240,000 aircraft could be affected, and most of the compliance costs would be incurred in the year that the equipment is required to be installed. Therefore, CBO estimates that the cost to private entities to comply with the mandate could exceed the annual threshold. Because of the relatively small number of public aircraft affected, CBO estimates the cost to state and local governments would be minimal.</p> <p>Contingency plans. The bill would require air carriers, operators of</p>	<p>2/11/2011 Introduced in House</p> <p>4/1/2011 Passed/agreed to in House: 223 - 196 (Roll no. 220).</p> <p>AYES: Cantor, Forbes, Goodlatte, Griffith, Hurt, Rigell, Wittman, Wolf</p> <p>NAYS: Connolly, Moran, Scott</p> <p>4/7/2011 Passed/agreed to in Senate: By Unanimous Consent.</p> <p>2/1/2012 Conference report H. Rept. 112-381 filed.</p> <p>2/3/2012 Conference report agreed to in House: Yeas and Nays: 248 - 169 (Roll no. 33).</p> <p>AYES: Cantor, Forbes, Goodlatte, Griffith, Hurt, Rigell,</p>

		<p>large and medium airports, and airports that accept diversion flights from those airports, to submit contingency plans to the Department of Transportation for emergency circumstances that ground aircraft. The bill also would require air carriers and airports to update their plans every three or five years, respectively. All large and medium airports, and most of any other airports likely to be affected, are publicly owned and operated. All air carriers likely to be affected are privately owned and operated. CBO estimates that the costs to public entities would total between \$5 million and \$10 million in the first year of implementation, with smaller recurring costs for updates to the plans in later years. Based on information from industry sources, CBO estimates that the mandates would not impose significant additional costs on privately owned air carriers or airports.</p>	<p>Wittman, Wolf</p> <p>NAYS: Connolly, Moran, Scott</p> <p>2/6/2012 Conference report agreed to in Senate: Yea-Nay Vote. 75 - 20. Record Vote Number: 15.</p> <p>AYES: Warner, Webb</p> <p>NAYS: N/A</p> <p>2/14/2012 Became Public Law No: 112-095</p>
H.R. 3606	Jumpstart Our Business Startups	<p>H.R. 3606 would authorize the Securities and Exchange Commission (SEC) to exempt emerging growth companies from certain disclosure, auditing, and reporting requirements. The bill defines an emerging growth company (EGC) as an issuer of securities with less than \$1 billion in annual revenues, and following an initial offering of securities, less than \$700 million in publicly traded shares.</p> <p>According to a March 2, 2012 CBO report, H.R. 3606 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments. However, H.R. 3606 would impose private-sector mandates, as defined in UMRA, on national securities associations registered with the SEC. Based on information from the SEC, CBO estimates that the cost of the mandates would be small relative to the annual threshold established in UMRA for private-sector mandates (\$146 million in 2012, adjusted annually for inflation).</p>	<p>12/8/2011 Introduced in House</p> <p>3/1/2012 Reported (Amended) by the Committee on Financial Services. H. Rept. 112-406.</p> <p>3/8/2012 Agreed to in House: Passed by recorded vote: 390 - 23 (Roll no. 110).</p> <p>AYES: Cantor, Connolly, Forbes, Goodlatte, Griffith, Hurt, Moran, Rigell, Scott, Wittman, Wolf</p> <p>NAYS: N/A</p> <p>3/22/2012 Agreed to in Senate: Passed Senate with an amendment by</p>

			<p>Yea-Nay Vote. 73 - 26. Record Vote Number: 55.</p> <p>AYES: Warner</p> <p>NAYS: Webb</p> <p>3/27/2012 Resolving differences -- House actions: On motion that the House suspend the rules and agree to the Senate amendment Agreed to by the Yeas and Nays: (2/3 required): 380 - 41 (Roll no. 132).</p> <p>AYES: Cantor, Connolly, Forbes, Goodlatte, Griffith, Hurt, Moran, Rigell, Wittman, Wolf</p> <p>NAYS: Scott</p> <p>4/5/2012 Became Public Law No: 112-106</p>
S. 1813 (H.R. 4348)	MAP-21 (Federal Public Transportation Act of 2012)	S. 1813 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Any costs to state, local, or tribal governments would result from complying with conditions of federal assistance.	<p>4/16/2012 Introduced in House</p> <p>4/18/2012 Passed/agreed to in House by recorded vote: 293 - 127 (Roll no. 170).</p> <p>AYES: Cantor, Forbes, Goodlatte, Griffith, Hurt, Rigell,</p>

			<p>Wittman, Wolf</p> <p>NAYS: Connolly, Moran, Scott</p> <p>4/24/2012 Passed/agreed to in Senate: Passed Senate with an amendment by Unanimous Consent.</p> <p>6/28/2012 Conference report H. Rept. 112-557 filed.</p> <p>6/29/2012 Conference report agreed to in House by the Yeas and Nays: 373 - 52 (Roll no. 451).</p> <p>AYES: Cantor, Connolly, Forbes, Griffith, Moran, Rigell, Scott, Wittman, Wolf</p> <p>NAYS: Goodlatte, Hurt</p> <p>6/29/2012 Conference report agreed to in Senate by Yea-Nay Vote. 74 - 19. Record Vote Number: 172.</p> <p>AYES: Warner, Webb</p> <p>NAYES: N/A</p> <p>7/6/2012 Became Public Law No: 112-141</p>

S. 3187	Food and Drug Administration Safety and Innovation Act	<p>S. 3187 would authorize the collection and spending of fees by the Food and Drug Administration (FDA) for certain activities to expedite the marketing approval of prescription drugs and medical devices and to regulate drugs after they enter the market. According to a May 2012 CBO report on similar legislation (S. 2516), the legislation contains both intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). However, CBO estimates that the costs of complying with those mandates would be minimal and well below the threshold established in UMRA for intergovernmental mandates.</p> <p>By continuing FDA's fee program, the bill would extend a requirement to pay fees on state, local, or tribal governments that manufacture medical devices for commercial purposes. That requirement would be an intergovernmental mandate as defined in UMRA, but CBO is unaware of any case in which a state, local, or tribal entity manufactures such devices for commercial purposes. CBO is aware of public institutions of higher education that manufacture drugs and are subject to FDA's registration, recordkeeping, and inspection standards. Thus, the provisions in the bill that increase the stringency of those standards would impose an intergovernmental mandate. Because few public institutions of higher education would be required to comply with the new standards, CBO estimates that the costs of complying with the mandates would be minimal and well below the threshold established in UMRA (\$73 million in 2012, adjusted annually for inflation). Because the bill's requirements would result in lower costs for prescription drugs provided under the Medicaid program, CBO estimates that state spending for Medicaid would decrease by about \$6 million over the 2013-2017 period.</p>	<p>5/15/2012 Introduced in Senate</p> <p>5/24/2012 Agreed to in Senate: Passed Senate with amendments by Yea-Nay Vote. 96 - 1. Record Vote Number: 111.</p> <p>AYES: Warner, Webb</p> <p>NAYS: N/A</p> <p>6/20/2012 Agreed to in House by voice vote.</p> <p>6/26/2012 Resolving differences -- Senate actions: Senate agreed to House amendment to the bill (S. 3187) by Yea-Nay Vote. 92 - 4. Record Vote Number: 168.</p> <p>AYES: Warner, Webb</p> <p>NAYS: N/A</p> <p>7/9/2012 Signed by President. Public Law 112-144</p>
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Part II – Mandates in Pending Legislation

Title I of the Unfunded Mandate Reform Act (UMRA) of 1995 requires the Congressional Budget Office (CBO) to prepare mandate statements for bills approved by authorizing committees. In those statements, CBO must address whether a bill contains federal mandates and, if so, whether the direct costs of those mandates would be greater than the thresholds established in the law. The thresholds for 2012, which are adjusted annually for inflation, are \$73 million for intergovernmental mandates (state, local, or tribal governments) and \$146 million or more per year for the private sector.

Bill Number	Bill Title	Unfunded Mandate on the State	Bill Status
H.R. 5	Protecting Access to Healthcare Act (Help Efficient, Accessible, Low-cost, Timely Healthcare Act of 2011)	<p>H.R. 5 would impose limits on medical malpractice litigation in state and federal courts by capping awards and attorney fees, modifying the statute of limitations and the “collateral source” rule, and eliminating joint and several liability.</p> <p>In March 2012, CBO issued a letter to the Chairman of the House Committee on Rules with the cost estimate of H.R. 5. CBO estimates that enacting the bill would reduce direct spending and increase revenues; therefore, pay-as-you-go procedures apply. Together, the changes to direct spending and revenues would reduce future deficits by \$13.7 billion over the 2013-2017 period and by \$45.5 billion over the 2013-2022 period.</p> <p>H.R. 5 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) because it would preempt state laws that provide less protection for health care providers and organizations from liability, loss, or damages (other than caps on awards for damages). CBO estimates the cost of complying with the mandate would be small and would fall well below the threshold established in UMRA for intergovernmental mandates (\$73 million in 2012, adjusted annually for inflation).</p> <p>H.R. 5 contains several mandates on the private sector, including caps</p>	<p>1/24/2011 Introduced in House</p> <p>3/17/2011 Reported (Amended) by the Committee on Judiciary.</p> <p>5/23/2011 Reported (Amended) by the Committee on Energy and Commerce.</p> <p>3/22/2012 Agreed to in House: Passed by recorded vote: 223 - 181, 4 Present (Roll no. 126).</p> <p>AYES: Cantor, Forbes, Goodlatte, Griffith, Hurt, Rigell, Wittman, Wolf</p> <p>NAYS: Connolly, Moran, Scott</p> <p>4/16/2012 Placed on Senate</p>

		on damages and on attorney fees, the statute of limitations, and the fair share rule. The cost of those mandates would exceed the threshold established in UMRA for private-sector mandates (\$146 million in 2012, adjusted annually for inflation) in four of the first five years in which the mandates were effective.	Legislative Calendar.
H.R. 1864	Mobile Workforce State Income Tax Simplification Act of 2012	H.R. 1864 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) by prohibiting states from taxing the income of employees who work in the state for fewer than 31 days. The prohibition would not apply to the income of professional athletes, entertainers, or public figures. UMRA includes in its definition of mandate costs any amounts that state governments would be prohibited from raising in revenues as a result of the mandate. The mandate costs of H.R. 1864 would include any taxes that state governments would be precluded from collecting under the bill.	<p>5/12/2011 Introduced in House</p> <p>2/3/2012 Reported (Amended) by the Committee on Judiciary. H. Rept. 112-386.</p> <p>5/15/2012 Passed/agreed to in House: On motion to suspend the rules and pass the bill, as amended Agreed to by voice vote.</p> <p>5/16/2012 Referred to Senate committee: Received in the Senate and Read twice and referred to the Committee on Finance.</p>
H.R. 7	American Energy and Infrastructure Jobs Act of 2012	CBO could not determine whether the aggregate cost of the mandates in the bill would exceed the annual thresholds established in UMRA for intergovernmental or private-sector mandates (\$73 million and \$146 million in 2012, respectively, adjusted annually for inflation). The Joint Committee on Taxation determined that the tax provisions of H.R. 7 contain no intergovernmental or private-sector mandates as defined in UMRA.	<p>11/14/2011 Introduced in House</p> <p>2/9/2012 Reported (Amended) by the Committee on Natural Resources. H. Rept. 112-392.</p> <p>2/16/2012 Passed/agreed to in House by recorded vote: 237 - 187 (Roll no. 71).</p>

			<p>AYES: Cantor, Forbes, Goodlatte, Griffith, Hurt, Rigell, Wittman, Wolf</p> <p>NAYS: Connolly, Moran, Scott</p>
H.R. 4201	Servicemember Family Protection Act	<p>H.R. 4201 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) because it would preempt state laws, applicable to child custody protection, that provide less protection to servicemembers than the federal standard. While the preemption would limit the application of state law, CBO estimates that it would impose no duty on state, local, or tribal governments that would result in additional spending.</p> <p>H.R. 4201 contains no private-sector mandates as defined in UMRA.</p>	<p>3/16/2012 Introduced in House</p> <p>5/18/2012 Reported by the Committee on Veterans' Affairs. H. Rept. 112-488.</p> <p>5/30/2012 Passed/agreed to in House by the Yeas and Nays: 390 - 2 (Roll no. 295).</p> <p>AYES: Cantor, Connolly, Forbes, Goodlatte, Griffith, Hurt, Moran, Rigell, Scott, Wittman, Wolf</p> <p>NAYS: N/A</p> <p>6/4/2012 Received in the Senate and Read twice and referred to the Committee on Veterans' Affairs.</p>
H.R. 4310	National Defense Authorization Act for Fiscal Year	Section 564 would preempt state laws governing child custody if those laws are inconsistent with or provide less protection to the rights of a parent who is a servicemember than those provided under the bill.	<p>3/29/2012 Introduced in House</p> <p>5/11/2012 Reported (Amended) by</p>

	2013	<p>That preemption would be an intergovernmental mandate as defined in UMRA. While the mandate would limit the application of state laws, it would impose no duty on states that would result in additional spending.</p> <p>The bill would impose intergovernmental and private-sector mandates as defined in UMRA on mortgage lending institutions. The bill would require mortgage lenders to consider active duty servicemembers who have been relocated to be occupying the residence that secures a mortgage for the purpose of inquiries or applications for refinancing. Because of the small number of public lending institutions that would be affected, CBO estimates that the costs of complying with the mandate would be small and well below the annual threshold established in UMRA for intergovernmental mandates (\$73 million in 2012, adjusted annually for inflation). Based on information about current industry practices, CBO estimates that the costs to private lending institutions of complying with the mandate would probably fall below the annual threshold established in UMRA for private-sector mandates (\$146 million in 2012, adjusted annually for inflation).</p>	<p>the Committee on Armed Services. H. Rept. 112-479.</p> <p>5/18/2012 Passed/agreed to in House by recorded vote: 299 - 120 (Roll no. 291).</p> <p>AYES: Cantor, Connolly, Forbes, Goodlatte, Hurt, Rigell, Wittman, Wolf</p> <p>NAYS: Griffith, Moran, Scott</p> <p>6/19/2012 Received in the Senate and Read twice and referred to the Committee on Armed Services.</p>
H.R. 5651	Food and Drug Administration Reform Act of 2012	<p>HR 5651 is the House version of the Food and Drug Reform Act of 2012.</p> <p>The Senate bill (S. 3187) was approved and became law (see above)</p>	<p>5/9/2012 Introduced in House</p> <p>5/25/2012 Reported by the Committee on Energy and Commerce.</p> <p>5/30/2012 Agreed to in House: On motion to suspend the rules and pass the bill, as amended Agreed to by the Yeas and Nays: (2/3 required): 387 - 5 (Roll no. 294).</p>

			<p>AYES: Cantor, Connolly, Forbes, Goodlatte, Griffith, Hurt, Moran, Rigell, Scott, Wittman, Wolf</p> <p>NAYS: N/A</p> <p>6/4/2012 Placed on Senate Legislative Calendar under General Orders. Calendar No. 420.</p>
S. 1925	Violence Against Women Reauthorization Act of 2011	<p>S. 1925 would impose no intergovernmental mandates as defined in UMRA. CBO estimates that state spending for Medicaid would increase by about \$13 million over the 2013-2022 period, but those costs would not result from intergovernmental mandates. The bill would benefit state, local, and tribal governments by authorizing a variety of new and existing programs to assist law enforcement, institutions of higher education, and housing agencies. Any increased costs to state, local, or tribal governments as a result of complying with grant requirements would be incurred voluntarily as conditions of receiving federal assistance.</p> <p>The bill would impose private-sector mandates as defined in UMRA by increasing reporting requirements for international marriage brokers and prohibiting certain activities for individuals that hold a supervisory role over persons under official control of the United States. Because the requirements would be small changes from existing requirements, CBO estimates that the incremental costs of these mandates on the private sector would fall well below the annual threshold established in UMRA (\$146 million in 2012, adjusted annually for inflation).</p>	<p>11/30/2011 Introduced in Senate</p> <p>2/7/2012 Committee on the Judiciary. Reported by Senator Leahy with an amendment in the nature of a substitute. Without written report.</p> <p>3/12/2012 Committee on the Judiciary filed a Report No. 112-153. Minority views filed.</p> <p>4/26/2012 Passed/agreed to in Senate by Yea-Nay Vote. 68 - 31. Record Vote Number: 87.</p> <p>AYES: Warner, Webb</p>

			NAYS: N/A
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Part III - Federal Regulatory Mandates

NOTE: The Regulatory Information Service Center of the General Services Administration (GSA) is experiencing delays in providing information needed to determine which federal regulatory actions may impact the states. A subsequent amended report will be submitted once the information is received from GSA.