



Mandate Monitor

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An Information Service of the NCSL Budgets and Revenue Committee

Budgets and Revenue Committee

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*The **Unfunded Mandates Reform Act (UMRA)** is now in its second decade. Although less than a dozen mandates have been enacted that exceed the threshold established in UMRA, Congress has shifted at least \$100 billion in costs to states over the past four years. States face at least an additional \$26 billion in cost shifts in FY 2008 through new conditions of grant aid and reductions in appropriations for existing state-federal partnerships. This does not include the \$11 billion states will need over the next five years to implement the Real ID Act.*

Introduction

This edition of the *Mandate Monitor* reports on the legislation in the 110th Congress which imposes an unfunded mandate upon the states and that has been reviewed by the Congressional Budget Office (CBO).

Since the last edition of the *Mandate Monitor*, the 110th Congress has increased the federal minimum wage, attempted to expand the “official purpose” of the Real ID and proposed additional conditions on state grant assistance for higher education; and the cost implications to the states are significant.

Of the bills reviewed by CBO, three exceed the threshold established under UMRA (\$66 million in 2007, adjusted annually for inflation)—the Surface Transportation and Rail Security Act of 2007 (H.R. 1401), Healthy Families Act (S. 910), the Social Security Number Privacy and Identify Theft Prevention Act of 2007 (H.R. 3046) and the Fair Minimum Wage Act of 2007 (H.R. 2), with the latter being enacted.

In addition, Congress and the administration continue to underfund state-federal partnerships, such as No Child Left Behind and the Individuals with Disabilities Education Act, the State Homeland Security Grant Program and impose additional unfunded mandates upon the states, such as the Real ID Act (see Table 1).

On the Horizon: States officials should be aware of the impending cost shifts and mandates that will likely be discussed in 110th Congress in the coming months, including: the reauthorization of No Child Left Behind, the extension of the Internet Tax Moratorium and imposition of new requirements under the Help America Vote Act.

Increase to the Federal Minimum Wage

In May, the President signed into law the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 (Act) (P.L. 110-28), which incrementally increases the federal minimum wage to \$7.25 per hour. The law mandates that states increase their wages to coincide with the federal standards. While the CBO did not review the Act, CBO did review a similar increase contained in the Fair Minimum Wage Act of 2007 (H.R. 2). CBO estimated an incremental increase to the federal minimum wage will cost states \$100 million in 2008, \$200 million in 2009, and \$300 million in 2010 and 2011.^a

Real ID Act

Under the Real ID Act (contained in *P.L. 109-13*), states are required to implement new federal standards for the issuance of driver's licenses (DL) and identification cards (ID) by May 11, 2008, or the federal government will not recognize the state's DL/ID for "official purposes." As the May 2008 deadline approaches, Congress has only provided \$40 million to assist states with the implementation of the Real ID.^b Of the \$40 million appropriated in 2006 for the implementation of the Real ID, approximately \$30 million will be made available to states through a competitive grant program to assist states with the implementation of the Real ID.^c

On June 15, the U.S. House adopted the Department of Homeland Security Appropriations Act for FY 2008 (H.R. 2638), which provides states only an additional \$50 million for implementation of the Real ID. On July 26, the Senate adopted the Department of Homeland Security Appropriations for FY 2008 (Sub. H.R. 2638), which fails to provide any funds for state implementation of the Real ID.

The \$50 million proposed in the House version of the Department of Homeland Security Appropriations Act for FY 2008 and the \$30 million made available under the DHS competitive grant program falls well short of the anticipated costs of the state implementation of the Real ID.

According to a study conducted by NCSL, the National Governors Association and the American Association of Motor Vehicle Administrators, the act will cost states more than \$11 billion over five years to implement. The Department of Homeland Security (DHS) estimates the cost of the implementation of the Real ID will exceed \$23 billion, with state costs between \$11 and \$14 billion over ten years.

^a Congressional Budget Office, H.R. 2, Fair Minimum Wage Act of 2007, (Washington, D.C.: CBO, January 11, 2007).

^b The funds are unobligated appropriations from the Department of Homeland Security Appropriations Act for FY 2006.

^c As for the remainder of those funds, \$3 million went to Kentucky for a pilot program, \$4 million is proposed to go to Kentucky, which will in turn provide grants up to \$75,000 to states assist them to connect to the Electronic Verification of Vital Events (EVVE) system, and over \$1 million is proposed to go to the Federal Emergency Management Agency (FEMA) for grant administration.

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Comprehensive Immigration Reform

In June, the Senate debated the Comprehensive Immigration Reform Act of 2007 (S. 1348), which contained several significant cost shifts for the states. Under a substitute amendment offered on the Senate floor (SA. 1150), employers, including state and local governments, would be required to verify legal status and employment authorization of their employees with a Real ID driver's license or identification card, or U.S. passport and, thereby, expand the "official purpose" of the Real ID.

Under current law, the Real ID Act defines "official purpose" as including, but not limited to, accessing federal facilities, boarding federally regulated commercial aircraft, entering nuclear power plants and any other purposes that the Secretary shall determine. The draft regulations issued by DHS proposed to limit the "official purpose" to the three purposes listed in the public law. While the measure was ultimately pulled from the floor, a similar expansion of the Real ID's "official purpose" will likely reappear.

While CBO did not consider the expansion of the use of the Real ID as an intergovernmental mandate, they did consider the new employment verification requirements as an intergovernmental mandate. CBO was not able to determine the cost, however, since the cost of employment verification would depend upon regulations to be developed by DHS. CBO did not expect the cost of the intergovernmental mandate to exceed the threshold established under UMRA (\$66 million in 2007).^d

The legislation would also shift additional costs to the states by expanding eligibility of several public services. In particular, state would face costs due to an expansion of the Medicaid program, which would increase state spending by \$3.0 billion between 2008 and 2017.^e Under UMRA, states are usually considered to have the flexibility to adapt their program—change eligibility, eliminate options services—to absorb the cost of any changes in the Medicaid program. As a result, CBO does not consider this an intergovernmental mandate.

In addition, CBO estimated increased costs associated with states providing healthcare and education to new citizens, which may be partially offset by various fees authorized under the legislation.

Healthy Families Act

Under the Healthy Families Act (S. 910), all employers, with 15 or more employees, are required to provide paid sick leave for their employees and provide additional information to employees regarding paid sick leave benefits. CBO estimates that the costs to state, local, and tribal governments would total about \$190 million in 2009 and \$1.4 billion over the 2009-2013 period.^f The legislation remains in committee.

^d Congressional Budget Office, S. 1348, Comprehensive Immigration Reform Act of 2007, (Washington, D.C.: CBO, June 22, 2007).

^e Congressional Budget Office, S. 1348, Comprehensive Immigration Reform Act of 2007, (Washington, D.C.: CBO, June 22, 2007).

^f Congressional Budget Office, S. 910, Healthy Families Act, (Washington, D.C.: CBO, May 21, 2007).

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Mental Health Parity Act

In April, the Senate Committee on Health, Labor, Education and Pensions reported the Mental Health Parity Act of 2007 (S. 558). S.558 would require equal treatment of mental health insurance benefits and surgical/medical benefits for entities that employ more than 50 people. According to CBO, the legislation would result in higher premiums for state employers, due to increased coverage requirements by private insurance companies, which are subsequently passed-on by the insurance company, though such a cost shift would not qualify as an intergovernmental mandate under UMRA.

Because approximately one-third of state employees are enrolled in fully insured health plans and are unable to opt-out of the requirements of the legislation, CBO estimates that the legislation would cost states \$100 million in 2009, with costs increasing to \$155 million in 2012.^g The legislation would also apply to Medicaid programs, and would increase state spending by \$210 million between 2008 and 2012.^h

College Cost Reduction Act of 2007

In June, the House Committee on Education and Labor approved the College Cost Reduction Act of 2007 (H.R. 2669). That version of the bill required states to maintain state funds for public institutions of higher education based upon the most recent five year average. Notwithstanding a waiver by the Secretary of Education, states that failed to maintain current funding levels for the schools would lose all funds provided under the Leveraging Educational Assistance Partnership (LEAP) Programⁱ. The provision, which was vehemently opposed by NCSL, was removed from the bill during consideration on the House floor. The Senate version of the bill does not include such a provision. The legislation will be forwarded to conference to resolve the differences between the House and Senate versions of the bill.

Data and Information Security

During the 110th Congress, a number of bills have been reported by House and Senate committees which mandate states to safeguard and, in some cases, notify persons of a security breach or disclosure of their personal information, such as a disclosure of Social Security numbers, including: the Personal Data Privacy and Security Act of 2007 (S. 495), Identity Theft Protection Act (S. 1178), Notification of Risk to Personal Data Act of 2007 (S. 239), and the Social Security Number Privacy and Identity Theft Prevention Act of 2007 (H.R. 3046).

Under the Social Security Number Privacy and Identity Theft Prevention Act of 2007 (H.R. 3046), states use of social security numbers would be restricted. While the legislation is not

^g The CBO estimate assumes that state employers would shift 25 percent of the cost increase onto their employees. Congressional Budget Office, S. 558, Mental Health Parity Act of 2007, (Washington, D.C.: CBO, March 20, 2007).

^h Congressional Budget Office, S. 558, Mental Health Parity Act of 2007, (Washington, D.C.: CBO, March 20, 2007).

ⁱ The LEAP Program provides grants to states to assist them in providing need-based grants and community service work-study assistance to eligible postsecondary students.

retroactive, most states still use social security numbers. In addition, the legislation would require states to implement security procedures to limit employee access to stored social security numbers in order to protect against unauthorized access. CBO estimates that the mandate would exceed the UMRA threshold (\$62 million for 2005 and \$64 million for 2006, adjusted annually for inflation) in one of the first five years after enactment.^j

Transportation Security

In March, the U.S. House passed the Surface Transportation and Rail Security Act of 2007 (H.R. 1401). Under the legislation, rail carriers are required to implement various security measures and vulnerability assessments, and institute training programs and background checks for certain employees. While CBO was unable to estimate the impact upon state and local agencies, CBO expects the costs associated with the legislation to exceed the UMRA threshold (\$62 million for 2005 and \$64 million for 2006, adjusted annually for inflation) in one of the first five years after enactment.^k

Table 1.

110th Congress: Laws Enacted Containing Cost Shifts to States

H. J. Res. 20— Continuing Appropriations Resolution FY 2007—provides level funds for the homeland security grant programs; underfunds federal commitments to No Child Left Behind and the Individuals with Disabilities Education Act.

Enacted: 2/15/2007 (P.L. 110-5)

H.R. 1— Implementing the 9/11 Commission Recommendations Act of 2007— reduces the state minimums provided under the State Homeland Security Grant Program; provides the privacy officer of the Department of Homeland Security with certain subpoena power, which may require state, local and tribal governments to provide testimony, documents or other evidence.

Enacted: 8/3/2007 (P.L. 110-53)

H.R. 2206— U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007— incrementally increases the federal minimum wage to \$7.25 per hour.

Enacted: 5/25/2007 (P.L. 110-28)

^j Congressional Budget Office, H.R. 3046, Social Security Number Privacy and Identity Theft Prevention Act of 2007, (Washington, D.C.: CBO, July 30, 2007).

^k Congressional Budget Office, H.R. 1401, Surface Transportation and Rail Security Act of 2007, (Washington, D.C.: CBO, March 21, 2007).

Table 2. Federal Intergovernmental Mandates: Cost Shift to the States (Includes legislation reported as of the August recess. For more information on preemptions see NCSL's Preemption Monitor).

Bill Number	Status	Title/Mandate	Has CBO reviewed the bill?	At the time CBO reviewed the legislation were intergovernmental mandates identified?	According to the review, did the cost of the mandate exceed the annual threshold?¹	Notes
Agriculture						
S. 311	<i>Reported- 4/25/2007</i>	To amend the Horse Protection Act— prohibits the sale of horse or other equine for human consumption.	Yes²	Yes	No	CBO determined that state governments would be affected “to the extent that they would be responsible for unwanted horses that otherwise would have been sold contrary to this [law].”³
H.R. 2419	<i>Passed House- 7/27/2007</i>	Farm, Nutrition, and Bioenergy Act of 2007— restricts assistance under the Food Stamp Program; preempts state law by restricting interstate transport of meat and poultry.	Yes⁴	Yes	No	
H.R. 1680	<i>Reported- 4/26/2007</i>	Secure Handling of Ammonium Nitrate Act of 2007— preempts state law regulation of the sale of ammonium-nitrate that is less stringent than the federal standards.	Yes⁵	Yes	No	
Appropriations						
H.J. Res. 20	<i>P.L. 110-5</i>	Continuing Appropriations Resolution FY 2007— provides level funds for the homeland security grant programs; underfunds federal commitments to No Child Left Behind, Individuals with Disabilities Education Act.	No	N/A	N/A	

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H.R. 2638	<i>In Conference</i>	Department of Homeland Security Appropriations Act, 2008— provides only \$50 million for the implementation of the Real ID.	No	N/A	N/A	
S. 1644	<i>See H.R. 2638</i>	Department of Homeland Security Appropriations Act, 2008— does not provide funds for the implementation of the Real ID.	No	N/A	N/A	
H.R. 2206	<i>P.L. 110-28</i>	U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007— incrementally increases the federal minimum wage to \$7.25 per hour.	No ⁶	N/A	N/A	
Banking and Insurance						
H.R. 698	<i>Passed House- 5/21/2007</i>	Industrial Bank Holding Company Act of 2007— preempts state law that allows commercial entities from controlling industrial banks.	Yes ⁷	Yes	No	
H.R. 2389	<i>Reported- 5/23/2007</i>	Small Energy Efficient Businesses Act— prohibits states from “limiting Small Business Administration's (SBA) ability to exercise its ownership rights in certain debentures issued by a renewable fuel capital investment company.” ⁸	Yes ⁹	Yes	No	
S. 558	<i>Reported- 4/11/2007</i>	Mental Health Parity Act of 2007— requires equal treatment of mental health insurance benefits and surgical/medical benefits; preempts state law governing mental health insurance coverage; requirements of the legislation would result in higher premiums for states.	Yes ¹⁰	Yes	No	According to CBO, the legislation would result in an increase in the cost of employee insurance coverage. This cost

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						shift would result in a \$100 million n 2009, and increase to \$155 million in 2012 (with the assumption that the state would shift roughly 25 percent of the costs to its employees). In addition, CBO estimates that government spending on Medicaid would increase approximately \$210 million between 2008-2012. ¹¹
Education						
H.J. Res. 20	<i>P.L. 110-5</i>	Continuing Appropriations Resolution FY 2007— provides level funds for the homeland security grant programs; underfunds federal commitments to No Child Left Behind, Individuals with Disabilities Education Act.	No	N/A	N/A	
Environment, Energy and Natural Resources						
H.R. 518	<i>Passed House- 4/24/2007</i>	International Solid Waste Importation and Management Act of 2007— preempts state action to regulate the receipt and disposal of solid waste originating in a foreign country if a state fails to act within a definite	Yes ¹²	Yes	N/A	CBO is unable to determine the potential loss in revenues to municipal

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S. 1419	<i>Ordered Placed on Senate Legislative Calendar- 5/17/2007</i>	Renewable Fuels, Consumer Protection, and Energy Efficiency Act of 2007— preempts state energy efficiency standards; establishes additional requirements in the regulation of state electric and gas utilities rates.	Yes ¹⁴	Yes	No	waste facilities given such losses would depend upon the regulations developed by the EPA. ¹³
S. 1321	<i>Placed on Senate Legislative Calendar under General Orders- 5/7/2007</i>	Energy Savings Act of 2007— requires uniform labeling of biodeisel; requires uniform energy standards for incandescent light bulbs; requires states that regulate electric and gas utilities to encourage standards that support energy efficiency.	Yes ¹⁵	Yes	No	
S. 357	<i>Reported- 5/8/2007</i>	Ten-in-Ten Fuel Economy Act— preempts state law relating to consumer information on the fuel efficiency of tires.	Yes ¹⁶	Yes	No	
Health						
H.R. 3162	<i>Passed House- 8/1/2007</i>	Children's Health and Medicare Protection Act of 2007— requires state Children's Health Insurance programs (CHIP) to provide dental coverage; requires mental health parity in benchmark plans.	Yes ¹⁷	No	N/A	

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S. 1893	<i>Placed on Senate Legislative Calendar under General Orders-7/27/2007</i>	Children's Health Insurance Program Reauthorization Act of 2007— requires states that offer mental health services to provide coverage for those services on par with medical and surgical benefits covered under SCHIP.	No	N/A	N/A	
S. 1082	<i>Passed Senate-5/9/2007 (Held at desk)</i>	Prescription Drug User Fee Amendments of 2007— preempts state law that requires medical equipment or drug manufacturers to register information related to clinical trials; delays market entry of generic drugs, which would result in additional state Medicaid spending.	Yes ¹⁸	Yes	No	According to the CBO, the legislation would delay entrance of generic drugs into the market, resulting in an additional \$26 million in state Medicaid spending between 2009-2017. ¹⁹
S. 1693	<i>Reported-8/11/2007</i>	Wired for Health Care Quality Act— requires an operator of health information databases to be included within Health Insurance Portability and Accountability Act; preempts less stringent state law as it relates to operators of health information databases.	Yes ²⁰	Yes	No	
H.R. 1328	<i>In Committee</i>	Indian Health Care Improvement Act Amendments of 2007— preempts state health care professional licensing laws; prohibits states from imposing cost sharing or premiums on Medicaid or SCHIP recipients receiving benefits through a Indian health program.	Yes ²¹	Yes	No	CBO estimates that the prohibition of cost sharing by a state would result in additional state spending of \$85 million between 2008 and 2017. ²²

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S. 1200	Reported- 5/10/2007	Indian Health Care Improvement Act Amendments of 2007— preempts state health care professional licensing laws; prohibits states from imposing cost sharing or premiums on Medicaid or SCHIP recipients receiving benefits through a Indian health program.	Yes ²³	Yes	No	CBO estimates that the prohibition of cost sharing by a state would result in additional state spending of \$85 million between 2008 and 2017. ²⁴
Homeland Security and Defense						
H.R. 2082	Passed House- 5/22/2007	Intelligence Authorization Act for Fiscal year 2008— extends current law that allows an intelligence commission to subpoena persons or documentation as needed.	Yes ²⁵	Yes	No	
H.R. 1	P.L. 110-53	Implementing the 9/11 Commission Recommendations Act of 2007— reduces the state minimums provided under the State Homeland Security Grant Program; provides the privacy officer of the Department of Homeland Security with certain subpoena power, which may require state, local and tribal governments to provide testimony, documents or other evidence.	Yes ²⁶	Yes	No	

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S. 4	Passed Senate- 3/13/2007 (Held at Desk)	Improving America's Security Act of 2007—reduces the state minimum provided under the State Homeland Security Grant Program. Provides the privacy officer of the Department of Homeland Security with certain subpoena power, which may require state, local and tribal governments to provide testimony, documents or other evidence.	Yes ²⁷	Yes	No	Note, CBO only determined the privacy officer's subpoena authority a mandate.
H.R. 1684	Passed House – 5/9/2007	Department of Homeland Security Authorization Act for Fiscal Year 2008— prohibits the termination of voluntary emergency medical service personnel or firefighters because of absence due to service.	Yes ²⁸	Yes	No	
S. 1547	Placed on Senate Legislative Calendar under General Orders- 6/29/2007	National Defense Authorization Act for Fiscal Year 2008— increases the total of active-duty and reservists, which may reduce state revenue due to tax deferral.	Yes ²⁹	Yes	No	
S. 381	Reported- 6/13/2007	Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act— provides the commission the authority to subpoena persons or documentation as needed, which may include state employees.	Yes ³⁰	Yes	No	
H.R. 1585	Placed on Senate Legislative Calendar- 6/5/2007 Passed House- 5/17/2007	National Defense Authorization Act for Fiscal Year 2008— increases the total of active-duty and reservists, which may reduce state revenue due to tax deferral.	Yes ³¹	Yes	No	

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S. 1538	<i>Placed on Senate Legislative Calendar under General Orders-6/26/2007</i>	Intelligence Authorization Act for Fiscal Year 2008— provides the Inspector General the authority to subpoena persons or documentation as needed.	Yes ³²	Yes	No	
S. 372	<i>Placed on Senate Legislative Calendar-4/18/2007</i>	Intelligence Authorization Act for Fiscal Year 2007— provides the Inspector General of the Intelligence Community with certain subpoena power, which may require state, local and tribal governments to provide testimony, documents or other evidence.	Yes. ³³	Yes	No	
Human Services						
H.R. 2900	<i>Placed on Senate Legislative Calendar under General Orders-7/16/2007</i> <i>Passed House-7/11/2007</i>	Food and Drug Administration Amendments of 2007— preempts state law relating to the registration of clinical trials for medical equipment and drugs.	Yes ³⁴	Yes	No	CBO estimates that states may lose revenue associated with the registration requirements of clinical trials. However, the cost of the mandate would not exceed the UMRA threshold. ³⁵
S. 910	<i>In Committee</i>	Healthy Families Act— requires all employers, with 15 or more employees, to provide paid sick leave for their employees.	Yes ³⁶	Yes	Yes	CBO estimates that costs to states would total about \$190 million in 2009 and \$1.4 billion over the 2009-2013 period. ³⁷

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H.R. 337	<i>In Committee</i>	Military Families Financial Security Act of 2007— increases eligibility for social security and Medicaid benefits, which may result in an increase in state spending.	Yes ³⁸	No	No	CBO estimates that state Medicaid spending would increase by less than \$1 million annually between 2009 and 2012. ³⁹
Information Security and Privacy						
H.R. 948	<i>In Committee</i>	Social Security Number Protection Act of 2007— preempts state law regarding the use, sale and purchase of Social Security numbers; requires state attorneys general to notify the Federal Trade Commission (FTC) of action taken under the legislation, allows the FTC to intervene.	Yes ⁴⁰	Yes	No	
H.R. 3046	<i>Reported-7/18/2007</i>	Social Security Number Privacy and Identity Theft Prevention Act of 2007— restricts and prohibits the use of Social Security numbers by state and local government; requires states to limit access of employees to databases containing Social Security numbers.	Yes ⁴¹	Yes	Yes	CBO estimates that the cost of the mandate would likely exceed the UMRA threshold in one of the first five years. ⁴²
S. 1178	<i>Reported-4/25/2007</i>	Identity Theft Protection Act— requires public educational organizations to secure personal information and provide notice to persons affected by a security breach; preempts state law relating to data breach notification, display and use of Social Security numbers; requires states attorneys general to notify FTC of data breaches actions and allows the FTC to	Yes ⁴³	Yes	No	

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S. 239	<i>Placed on Senate Legislative Calendar under General Orders-5/31/2007</i>	intervene. Notification of Risk to Personal Data Act of 2007— requires public and private organizations to secure personal information, which includes Social Security numbers, driver's license numbers, financial account information, or biometric data; requires an entity to provide notice to persons affected by a security breach; preempts state law relating to data breach notification; requires states attorneys general to notify FTC of data breaches actions and allows the FTC to intervene; places certain limitations on state insurance agencies.	Yes ⁴⁴	Yes	No	
S. 495	<i>Placed on Senate Legislative Calendar under General Orders-5/23/2007</i>	Personal Data Privacy and Security Act of 2007— preempts state treatment of personal information; requires most government entities to provide notice of security breach and the data disclosed along with additional measures that may be taken to protect the disclosed information; restricts action of state attorneys general and state insurance authority.	Yes ⁴⁵	Yes	No	
H.R. 964	<i>Passed House-6/7/2007</i>	Securely Protect Yourself Against Cyber Trespass Act— preempts state law regulating spyware.	Yes ⁴⁶	Yes	No	
H.R. 1525		Internet Spyware (I-SPY) Prevention Act of 2007— prohibits state enforcement of the law through the imposition of civil penalties; the legislation does not prohibit state law regulating spyware.	Yes ⁴⁷	Yes	No	

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Law and Justice						
H.R. 811 S. 559	<i>Placed on the Union Calendar-5/16/2007</i> <i>In Committee</i>	Voter Confidence and Increased Accessibility Act of 2007— amends the Help America Vote Act (HAVA); requires states to preserve paper ballots for federal elections; requires specific ballot audit procedures in federal elections; requires states to purchase voting machines to meet certain criteria.	Yes ⁴⁸	No	N/A	
S. 1348	<i>Cloture on the bill not invoked in Senate by Yeas-Nays Vote. 34 – 61 6/7/2007</i>	Comprehensive Immigration Reform Act of 2007— requires states to verify the legal status of employees or potential employees; expands the use of the Real ID for employment verification; preempts state law relating to the use of the Electronic Employment Verification System; increase number of citizens eligible for Medicaid assistance.	Yes ⁴⁹	Yes	N/A	CBO is unable to estimate the cost to state relating to employer employment verification due because such estimates are dependent upon future regulations to be developed by DHS; CBO estimates the expansion of persons eligible for Medicaid assistance would increase state spending by \$3.0 billion between 2008 and 2017. CBO also estimates additional cost associated with states providing healthcare and

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H.R. 660 S. 378	Passed House- 7/10/2007 Passed Senate 4/19/2007 (Held at Desk)	Court Security Act Improvement of 2007—reduces funds to programs that offer alternatives to traditional incarceration in order to fund state court security improvement grants.	Yes ⁵¹	No	N/A	education to new citizens, which may be partially offset by various fees authorized under the legislation. ⁵⁰
S. 613	Placed on Senate Legislative Calendar under General Orders- 4/10/2007	Reconstruction and Stabilization Civilian Management Act of 2007—preempts state law regulating the liability of volunteers.	Yes ⁵²	Yes	No	
H.R. 493 S. 358	Passed House- 4/25/2007; Placed on Senate Legislative Calendar under General Orders- 4/30/2007 Reported- 4/10/2007	Genetic Information Nondiscrimination Act of 2007—amends the Employee Retirement Income Security Act (ERISA), to prohibit the use of genetic information by state government in making employment decisions and in determining health insurance coverage.	Yes ⁵³	Yes	No	

Table 2. Federal Intergovernmental Mandates: Cost Shift to the States (Includes legislation reported as of the August recess. For more information on preemptions see NCSL's Preemption Monitor).

Bill Number	Status	Title/Mandate	Has CBO reviewed the bill?	At the time CBO reviewed the legislation were intergovernmental mandates identified?	According to the review, did the cost of the mandate exceed the annual threshold?¹	Notes
S. 398	Passed Senate- 5/25/2007	Indian Child Protection and Family Violence Prevention Act Amendments of 2007— preempts state disclosure of abused children in certain circumstances; preempts state requirements related to background checks conducted by Indian tribes.	Yes ⁵⁴	Yes	No	
S. 1027	Reported- 5/17/2007	Prevent All Cigarette Trafficking Act of 2007— preempts state law relating to delivery and verification requirements of tobacco products.	Yes ⁵⁵	Yes	No	
S. 376	Reported- 5/17/2007	Law Enforcement Officers Safety Act of 2007— preempts state law relating to state and local prohibitions on carrying concealed weapons.	Yes ⁵⁶	Yes	No	
S. 1300	Placed on Senate Legislative Calendar under General Orders- 8/3/2007	Aviation Investment and Modernization Act of 2007— requires state and local law enforcement to comply with information requests made by the Federal Aviation Administration.	Yes ⁵⁷	Yes	No	
Labor						
H.R. 2693	Placed on the Union Calendar- 7/18/2007	A bill to direct the Occupational Safety and Health Administration to issue a standard regulating worker exposure to diacetyl— preempts state standards that are less stringent than federal standards to be promulgated under the legislation; requires states to administer and enforce federal requirements.	Yes ⁵⁸	No	N/A	

Table 2. Federal Intergovernmental Mandates: Cost Shift to the States (Includes legislation reported as of the August recess. For more information on preemptions see NCSL's Preemption Monitor).

Bill Number	Status	Title/Mandate	Has CBO reviewed the bill?	At the time CBO reviewed the legislation were intergovernmental mandates identified?	According to the review, did the cost of the mandate exceed the annual threshold? ¹	Notes
H.R. 2	<i>Passed House-1/10/2007</i> <i>Passed Senate-2/1/2007</i>	Fair Minimum Wage Act of 2007— incrementally increases the federal minimum wage to \$7.25 per hour.	Yes ⁵⁹	Yes	Yes	CBO estimate an incremental increase to the federal minimum wage will cost states \$100 million in 2008, \$200 million in 2009, and \$300 million in 2010 and 2011. ⁶⁰
H.R. 2206	<i>P.L. 100-28</i>	U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007— incrementally increases the federal minimum wage to \$7.25 per hour.	No	N/A	N/A	
H.R. 980	<i>Passed House-7/17/2007</i> <i>Placed on Senate Legislative Calendar under General Orders-7/20/2007</i>	Public Safety Employer-Employee Cooperation Act of 2007— requires states to engage in collective bargaining negotiations with employees; limits state authority over collective bargaining issues; requires states to provide information and testimony under a federal subpoena.	Yes ⁶¹	Yes	N/A	CBO is unable to estimate the costs to state and local government because the use of the collective bargaining authority by public employees and the results of such negotiations is unknown. ⁶²

Table 2. Federal Intergovernmental Mandates: Cost Shift to the States (Includes legislation reported as of the August recess. For more information on preemptions see NCSL's Preemption Monitor).

Bill Number	Status	Title/Mandate	Has CBO reviewed the bill?	At the time CBO reviewed the legislation were intergovernmental mandates identified?	According to the review, did the cost of the mandate exceed the annual threshold?¹	Notes
Tax and Revenue						
S. 1547	<i>Placed on Senate Legislative Calendar under General Orders-6/29/2007</i>	National Defense Authorization Act for Fiscal Year 2008— increases the total of active-duty and reservists, which may reduce state revenue due to tax deferral.	Yes ⁶³	Yes	No	
H.R. 1585	<i>Passed House-5/17/2007 Returned to Senate Calendar-7/31/2007</i>	National Defense Authorization Act for Fiscal Year 2008— increases the total of active-duty and reservists, which may reduce state revenue due to tax deferral.	Yes ⁶⁴	Yes	No	
Technology and Communication Services						
S. 428	<i>Placed on Senate Legislative Calendar under General Orders-8/3/2007</i>	IP-Enabled Voice Communications and Public Safety Act of 2007— caps fees that state and local government may apply to VoIP providers; limits the use of 911 fees to emergency services; provides liability relief to for certain VoIP entities.	Yes ⁶⁵	Yes	No	CBO estimates that costs would not exceed the threshold within any of the first 5 years after enactment, though costs would gradually increase over time.
S. 704	<i>Reported-6/27/2007</i>	Truth in Caller ID Act of 2007— prohibits manipulation of caller identification information; requires states to notify the FCC of enforcement actions brought under the legislation; allows the FCC to intervene.	Yes ⁶⁶	No	N/A	

Table 2. Federal Intergovernmental Mandates: Cost Shift to the States (Includes legislation reported as of the August recess. For more information on preemptions see NCSL's Preemption Monitor).

Bill Number	Status	Title/Mandate	Has CBO reviewed the bill?	At the time CBO reviewed the legislation were intergovernmental mandates identified?	According to the review, did the cost of the mandate exceed the annual threshold?¹	Notes
Transportation						
S. 184	<i>Reported-3/1/2007</i>	Surface Transportation and Rail Security Act of 2007— requires rail carriers to implement training programs for certain employees; creates whistleblower protections for rail carrier employees that report security threats.	Yes ⁶⁷	Yes	N/A	CBO is unable to estimate the cost of the mandates as the costs will depend upon the regulations developed by the DHS, though CBO does not anticipate that costs would exceed the established threshold under UMR A. ⁶⁸
S. 294	<i>Placed on Senate Legislative Calendar under General Orders-05/22/2007</i>	Passenger Rail Investment and Improvement Act of 2007— requires rail carriers to implement training programs for certain employees; creates whistleblower protections for rail carrier employees that report security threats.	Yes ⁶⁹	Yes	No	CBO is unable to estimate the cost of the mandates as the costs will depend upon the regulations developed by the DHS, though CBO does not anticipate that costs would exceed the established threshold under UMR A. ⁷⁰
H.R. 2095	<i>Reported-6/14/2007</i>	Federal Railroad Safety Improvement Act of 2007— requires rail providers to meet certain safety and reporting requirements.	Yes ⁷¹	Yes	N/A	CBO is unable to estimate the cost of the mandates because

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Bill Number	Status	Title/Mandate	Has CBO reviewed the bill?	At the time CBO reviewed the legislation were intergovernmental mandates identified?	According to the review, did the cost of the mandate exceed the annual threshold? ¹	Notes
H.R. 1401	Passed House- 3/27/2007	Surface Transportation and Rail Security Act of 2007— requires rail carriers to implement various security measures and vulnerability assessments; requires carriers to institute training programs for certain employees; creates whistleblower protections for rail carrier employees who report security threats; requires background checks of covered employees; requires enhanced security measures for the shipment of certain material.	Yes ⁷³	Yes	Yes	regulations must be developed by the Secretary of Transportation and impact of adjustments that may be made by rail entities. ⁷² CBO is unable to estimate the cost of the mandates included in the legislation, but anticipates such costs would exceed the UMRA threshold.
S. 763	Placed on Senate Legislative Calendar under General Orders- 3/5/2007	Public Transportation Terrorism Prevention Act of 2007—requires certain public transportation agencies to participate in the Information Sharing and Analysis Center (ISAC).	Yes ⁷⁴	Yes	No	
Other						
S. 84	Placed on Senate Legislative Calendar under General Orders- 3/1/2007	Professional Boxing Amendments Act of 2007— creates minimum health and safety standards for state boxing commissions; requires state boxing commissions to meet reporting requirements; grants the U.S. Boxing Commission the authority to subpoena witnesses, which could include state officials.	Yes ⁷⁵	Yes	No	

Table 2. Federal Intergovernmental Mandates: Cost Shift to the States (Includes legislation reported as of the August recess. For more information on preemptions see NCSL's Preemption Monitor).

Bill Number	Status	Title/Mandate	Has CBO reviewed the bill?	At the time CBO reviewed the legislation were intergovernmental mandates identified?	According to the review, did the cost of the mandate exceed the annual threshold?¹	Notes
H.R. 1227	Passed House- 3/21/2007	Gulf Coast Hurricane Housing Recovery Act of 2007—preempts the housing authority from excluding households from requesting replacement housing.	Yes ⁷⁶	Yes	No	

The National Conference of State Legislatures has defined an unfunded mandate as legislation that establishes conditions of grant aid; reduces current funds available for existing programs without a similar reduction in requirements; extends or expands existing or expiring mandates; creates a loss in state or local funds; compels coverage of a certain population under a current program without providing full or adequate funds for this coverage; and, creates underfunded national expectations.

¹ \$62 million for 2005 and \$64 million for 2006, adjusted annually for inflation.

² Congressional Budget Office, S. 311, A bill to amend the Horse Protection Act, (Washington, D.C.: CBO, May 29, 2007).

³ Ibid.

⁴ Congressional Budget Office, H.R. 2419, Farm, Nutrition, and Bioenergy Act of 2007, (Washington, D.C.: CBO, July 24, 2007).

⁵ Congressional Budget Office, H.R. 1680, Secure Handling of Ammonium Nitrate Act of 2007, (Washington, D.C.: CBO, May 21, 2007).

⁶ See Congressional Budget Office, H.R. 2, Fair Minimum Wage Act of 2007, (Washington, D.C.: CBO, January 11, 2007).

⁷ Congressional Budget Office, H.R. 698, Industrial Bank Holding Company Act of 2007, (Washington, D.C.: CBO, May 15, 2007).

⁸ Congressional Budget Office, H.R. 2389, Small Energy Efficient Businesses Act, (Washington, D.C.: CBO, July 20, 2007).

⁹ Ibid.

¹⁰ Congressional Budget Office, S. 558, Mental Health Parity Act of 2007, (Washington, D.C.: CBO, March 20, 2007).

¹¹ Ibid.

¹² Congressional Budget Office, H.R. 518, International Solid Waste Importation and Management Act of 2007, (Washington, D.C.: CBO, March 28, 2007).

¹³ Ibid.

¹⁴ Congressional Budget Office S. 1419, Renewable Fuels, Consumer Protection, and Energy Efficiency Act of 2007, (Washington, D.C.: CBO, June 11, 2007).

¹⁵ Congressional Budget Office, S. 1321, Energy Savings Act of 2007, (Washington, D.C.: CBO, June 11, 2007).

¹⁶ Congressional Budget Office, S. 357, Ten-in-Ten Fuel Economy Act, (Washington, D.C.: CBO, June 4, 2007).

¹⁷ Congressional Budget Office, H.R. 3162, Children's Health and Medicare Protection Act of 2007, (Washington, D.C.: CBO, August 1, 2007); Congressional Budget Office, H.R. 3162, Children's Health and Medicare Protection Act of 2007, (Washington, D.C.: CBO, July 30, 2007).

¹⁸ Congressional Budget Office, S. 1082, Prescription Drug User Fee Amendments of 2007, (Washington, D.C.: CBO, April 27, 2007).

¹⁹ Ibid.

²⁰ Congressional Budget Office, S. 1693, Social Security Number Privacy and Identity Theft Prevention Act of 2007, (Washington, D.C.: CBO, July 25, 2007).

²¹ Congressional Budget Office, H.R. 1328, Indian Health Care Improvement Act Amendments of 2007, (Washington, D.C.: CBO, June 8, 2007).

²² Ibid.

²³ Congressional Budget Office, S. 1200, Indian Health Care Improvement Act Amendments of 2007, (Washington, D.C.: CBO, June 8, 2007).

²⁴ Ibid.

²⁵ Congressional Budget Office, H.R. 2082, Intelligence Authorization Act for Fiscal year 2008, (Washington, D.C.: CBO, May 7, 2007).

²⁶ Congressional Budget Office, H.R. 1, Implementing the 9/11 Commission Recommendations Act of 2007, (Washington, D.C.: CBO, March 22, 2007).

²⁷ Congressional Budget Office, S. 4: Improving America's Security Act of 2007, (Washington, D.C.: CBO, February 22, 2007).

²⁸ Congressional Budget Office, H.R. 1684, Department of Homeland Security Authorization Act for Fiscal Year 2008, (Washington, D.C.: CBO, June 25, 2007).

²⁹ Congressional Budget Office, S. 1547, National Defense Authorization Act for Fiscal Year 2008, (Washington, D.C.: CBO, June 21, 2007).

³⁰ Congressional Budget Office, S. 381, Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act, (Washington, D.C.: CBO, June 18, 2007).

³¹ Congressional Budget Office, H.R. 1585, National Defense Authorization Act for Fiscal Year 2008, (Washington, D.C.: CBO, June 12, 2007).

³² Congressional Budget Office, S. 1538, Intelligence Authorization Act for Fiscal Year 2008, (Washington, D.C.: CBO, June 12, 2007).

³³ Congressional Budget Office, S. 372: Intelligence Authorization Act for Fiscal Year 2007, (Washington, D.C.: CBO, February 16, 2007).

³⁴ Congressional Budget Office, H.R. 2900, Food and Drug Administration Amendments of 2007, (Washington, D.C.: CBO, July 2, 2007).

³⁵ Ibid.

³⁶ Congressional Budget Office, S. 910, Healthy Families Act, (Washington, D.C.: CBO, May 21, 2007).

³⁷ Ibid.

³⁸ Congressional Budget Office, H.R. 337, Military Families Financial Security Act of 2007, (Washington, D.C.: CBO, April 13, 2007).

³⁹ Ibid.

⁴⁰ Congressional Budget Office, H.R. 948, Social Security Number Protection Act of 2007, (Washington, D.C.: CBO, May 25, 2007).

⁴¹ Congressional Budget Office, H.R. 3046, Social Security Number Privacy and Identity Theft Prevention Act of 2007, (Washington, D.C.: CBO, July 30, 2007).

⁴² Ibid.

⁴³ Congressional Budget Office, S. 1178, Identity Theft Protection Act, (Washington, D.C.: CBO, May 29, 2007).

⁴⁴ Congressional Budget Office, S. 239, Notification of Risk to Personal Data Act of 2007, (Washington, D.C.: CBO, May 25, 2007).

⁴⁵ Congressional Budget Office, S. 495, Personal Data Privacy and Security Act of 2007, (Washington, D.C.: CBO, May 17, 2007).

⁴⁶ Congressional Budget Office, H.R. 964, Securely Protect Yourself Against Cyber Trespass Act, (Washington, D.C.: CBO, May 24, 2007).

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- ⁴⁷ Congressional Budget Office, H.R. 1525, Internet Spyware (I-SPY) Prevention Act of 2007, (Washington, D.C.: CBO, May 7, 2007).
- ⁴⁸ Congressional Budget Office, H.R. 811, Voter Confidence and Increased Accessibility Act of 2007, (Washington, D.C.: CBO, May 15, 2007).
- ⁴⁹ Congressional Budget Office, S. 1348, Comprehensive Immigration Reform Act of 2007, (Washington, D.C.: CBO, June 22, 2007).
- ⁵⁰ Ibid.
- ⁵¹ Congressional Budget Office, H.R. 660, Court Security Act Improvement of 2007, (Washington, D.C.: CBO, June 22, 2007); Congressional Budget Office, S. 378, Court Security Improvement Act of 2007, (Washington, D.C.: CBO, March 23, 2007).
- ⁵² Congressional Budget Office, S. 613, Reconstruction and Stabilization Civilian Management Act of 2007, (Washington, D.C.: CBO, April 2, 2007).
- ⁵³ Congressional Budget Office, H.R. 493, Genetic Information Nondiscrimination Act of 2007, (Washington, D.C.: CBO, April 12, 2007); Congressional Budget Office, S. 358: Genetic Nondiscrimination Act of 1007, (Washington, D.C.: CBO, March 2, 2007).
- ⁵⁴ Congressional Budget Office, S. 398, Indian Child Protection and Family Violence Prevention Act Amendments of 2007, (Washington, D.C.: CBO, March 5, 2007).
- ⁵⁵ Congressional Budget Office, S. 1027, Prevent All Cigarette Trafficking Act of 2007, (Washington, D.C.: CBO, July 20, 2007).
- ⁵⁶ Congressional Budget Office, S. 376, Law Enforcement Officers Safety Act of 2007, (Washington, D.C.: CBO, May 29, 2007).
- ⁵⁷ Congressional Budget Office, S. 1300, Aviation Investment and Modernization Act of 2007, (Washington, D.C.: CBO, July 17, 2007).
- ⁵⁸ Congressional Budget Office, H.R. 2693, (Washington, D.C.: CBO, July 18, 2007).
- ⁵⁹ Congressional Budget Office, H.R. 2, Fair Minimum Wage Act of 2007, (Washington, D.C.: CBO, January 11, 2007).
- ⁶⁰ Ibid.
- ⁶¹ Congressional Budget Office, H.R. 980, Public Safety Employer-Employee Cooperation Act of 2007, (Washington, D.C.: CBO, June 27, 2007).
- ⁶² Ibid.
- ⁶³ Congressional Budget Office, S. 1547, National Defense Authorization Act for Fiscal Year 2008, (Washington, D.C.: CBO, June 21, 2007).
- ⁶⁴ Congressional Budget Office, H.R. 1585, National Defense Authorization Act for Fiscal Year 2008, (Washington, D.C.: CBO, June 12, 2007).
- ⁶⁵ Congressional Budget Office, S. 428, IP-Enabled Voice Communications and Public Safety Act of 2007, (Washington, D.C.: CBO, May 25, 2007).
- ⁶⁶ Congressional Budget Office, S. 704, Truth in Caller ID Act of 2007, (Washington, D.C.: CBO, July 20, 2007).
- ⁶⁷ Congressional Budget Office, S. 184, Surface Transportation and Rail Security Act of 2007, (Washington, D.C.: CBO, February 28, 2007).
- ⁶⁸ Ibid.

⁶⁹ Congressional Budget Office, S. 294, Passenger Rail Investment and Improvement Act of 2007, (Washington, D.C.: CBO, May 17, 2007).

⁷⁰ Ibid.

⁷¹ Congressional Budget Office, H.R. 2095, Federal Railroad Safety Improvement Act of 2007, (Washington, D.C.: CBO, July 3, 2007).

⁷² Ibid.

⁷³ Congressional Budget Office, H.R. 1401, Surface Transportation and Rail Security Act of 2007, (Washington, D.C.: CBO, March 21, 2007).

⁷⁴ Congressional Budget Office, Public Transportation Terrorism Prevention Act of 2007, (Washington, D.C.: CBO, February 22, 2007).

⁷⁵ Congressional Budget Office, S. 84, Professional Boxing Amendments Act of 2007, (Washington, D.C.: CBO, February 26, 2007).

⁷⁶ Congressional Budget Office, H.R. 1227, Gulf Coast Hurricane Housing Recovery Act of 2007, (Washington, D.C.: CBO, April 30, 2007).