Introduction

The Preemption Monitor reviews recently enacted federal legislation that preempts state authority, describes pending legislation that would preempt state authority if enacted, and examines U.S. Supreme Court cases that have implications for state authority. It also tracks the status of federal preemption activities in Congress, the executive branch, the Supreme Court and the international arena.

The volume of federal legislation that preempts state authority has increased. Pressure continues to mount for Congress and the White House to support federal usurpation of state authority in a variety of areas such as criminal law, tort reform, driver’s license security and the environment. Federal preemptions adopted through regulation such as the recent FDA prescription drug labeling rule and the NHTSA roof crush rule, legislative enactments, or adverse judicial determinations have far-reaching consequences. They impose liabilities on the states, curtailing state creativity and state authority. Often, federal preemptions seek uniformity when uniformity is not necessarily the most effective means for resolving issues. This Monitor provides an update and analysis of pending and recently-finalized federal preemption proposals, as well as discussions on how these proposals might affect the states. NCSL’s policy states that federal legislation should be based on broad principles, not upon specific mandates that commonly lead to a one-size-fits-all approach. Such a policy intends to preserve state flexibility, because it recognizes that what works in one state is not necessarily practical or effective in others. This federalism policy promotes good governance at both the state and federal levels.

In recent years, NCSL worked relentlessly to defeat federal bills that: (1) sought to require state legislators to file duplicative and onerous campaign finance reports with the IRS; (2) would have circumvented state administrative and court processes in 5th Amendment Takings cases; and (3) would have forced state and local police to enforce federal civil immigration laws. However, these issues continue to resurface in Congress. States have also recently witnessed the passage of several major pieces of federal preemptive legislation that erode traditional state authority, including the No Child Left Behind Act, the Help America Vote Act, the Class Action Fairness Act, and the REAL ID Act.
The following Legislation is limited to recently introduced and pending legislation. We anticipate that many of the issues will arise in the form of new legislation and we thus expect our list to grow exponentially in the coming months.

---

Recently Introduced and Pending Legislation

**EDUCATION**

**HR 4137, “College Opportunity and Affordability Act of 2008.”** This bill would amend and extend the Higher Education Act of 1965. It contains many provisions to make college more affordable and accessible. Buried in the this bill is a provision (Sec. 132) that would punish states for not maintaining or increasing higher education funding legislative appropriations. Failure to meet the MOE would result in the loss of some federal education funds. This maintenance of effort (MOE) provision would have negligible impact on its intended target, postsecondary tuitions. However, a MOE would set a dangerous precedent for federal intrusion into state policy and appropriations authority.

**Sponsor:** Rep. George Miller (D-Calif.)

**Status:** 02/19/2008   Received in the Senate, after passage in the House; referred to Senate Committee on Health, Education, Labor, and Pensions

**ELECTIONS**

**HR 281, “Universal Right to Vote by Mail Act of 2008.”** This is a bill to amend the Help America Vote Act of 2002 to allow eligible voters to vote by mail in Federal elections beginning with the November 2008 elections. In short, this language mandates that every state allow no-excuse vote by mail options for every eligible voter. Currently, 28 states allow no-excuse absentee voting by mail. The remainder of states have different processes that have been passed through the appropriate state legislative process. H.R. 281 would preempt state absentee voting laws in at least 22 states and the District of Columbia and force states to unravel one component of their election process that is not necessarily broken, dysfunctional, or an impediment to absentee voting. These states will be forced to overhaul their standards, protocols and policies in a very short period of time and with no appropriated federal dollars in place.

**Sponsor:** Rep. Susan Davis (D-Calif.)

**Status:** 04/14/2008   Report filed from House Committee on House Administration (H.Rept. 110-581)

**IMMIGRATION**

**HR 4088, “The Secure America Through Verification and Enforcement Act of 2007.”** This bill would accomplish immigration reform by securing America’s borders, clarifying and enforcing existing laws, and enabling an employer verification program. This bill would have a profound effect on the states, requiring that all states participate in the current pilot program called “E-Verify.” This language prohibits States from making laws restricting or preventing the use of “E-Verify,” despite some States which have already passed such laws. Furthermore, the act seeks to develop
a national strategy for border security, applying a one size fits all approach to localized issues. Lastly, the act mandates that States establish a common data set and common data exchange protocol for electronic birth and death registration systems. Three years after enactment, the Act mandates the sharing of data with the Social Security Administration and the State Department. No funds are provided for State assistance in developing these systems of information collection from which the Federal government benefits.

**Sponsor:** Rep. Heath Shuler (NC-11)

**Status:** 03/16/2008 Discharge Petitions (House, H1772-H1773)

S 2717, “Effective Immigration Enforcement Partnerships Act of 2008.” This bill would provide for enhanced federal enforcement of, and State and local assistance in the enforcement of, the immigration laws of the United States. This bill authorizes state and local police to enforce federal civil immigration laws. Furthermore, it gives state and local police the ability to “investigate, identify, apprehend, arrest, detain, and transfer to federal custody” all suspected violators of immigration law. This language (taken from the CLEAR Act) also grants immunity to state or local police who break the law while enforcing this new authority. Currently, many laws exist expressly prohibit local law enforcement from serving this function. This legislation would preempt any “sanctuary” city or law which limits local police investigation of immigration status of crime victims or witnesses.

**Sponsor:** Sen. Saxby Chambliss (R-Ga.)

**Status:** 03/07/2008 Measures Placed On The Calendar (Senate, S1702-S1703)

**INSURANCE**

HR 5792. “Increasing Insurance Coverage Options for Consumers Act of 2008.” This bill would amend the Liability Risk Retention Act of 1986 to increase insurance competition and available coverage for consumers. HR 5792 would allow risk retention groups (RRGs) to write property coverage. The bill also addresses several corporate governance standards for risk retention groups. This bill would amend The Liability Risk Retention Act of 1986 by requiring uniform corporate governance, disclosure, and financial accounting standards and reinforcing a foundation of the Act that exempts RRGs and risk purchasing groups from laws of a State other than their chartering State. This allows RRGs to ignore State laws that conflict with the laws of their chartering State.

**Sponsors:** Rep. Dennis Moore (D-Kan.)

**Status:** 04/15/2008 Referred to House Committee on Financial Services

**INTERNET**

S. 1853. “Community Broadband Act of 2007.” This legislation would preempt state laws or pending legislation restricting or prohibiting municipalities from offering high-speed Internet service to residents over public networks. The federal law would prohibit any public provider from deploying broadband services and also prohibits cities from discriminating against competing public providers.

---

1 Sen. Vitter introduced amendment SA 4309 to S. Con Res. 70 which shared this goal. SA 4309 would withhold COPS funding from any city, locality, or state which maintained these types of laws – whereas S 2717 preempts these laws.
Sponsors: Lautenberg (D-NJ)
Status: 12/03/2007  Congressional Budget Office cost estimate released for bill, as ordered reported by the Senate Commerce, Science and Transportation Committee

Proposed and Draft Legislation

SHOULD THERE BE NATIONAL REGULATIONS FOR WIRELESS CARRIERS? That question continues to swirl around a staff discussion draft that Massachusetts Representative Edward Markey is circulating. The draft would create a national regulatory regime, including a laundry list of consumer protections that are today typically found in state statutes and regulations. The Markey draft would preempt state authority to determine whether local governments can offer telecommunications and broadband services. The bill also permits state attorneys general and other authorized state agencies to file civil actions on behalf of state residents.
Status: Draft bill - Not introduced

Recently Enacted and Proposed Agency Regulations

The Internal Revenue Service’s proposed regulation for Travel Expenses of State Legislators. The Internal Revenue Service (IRS) proposed a new rule on March 31, 2007 that will preempt State definitions of a “legislative day” for the purposes of Legislator per diem tax deductions. If this proposed rule is finalized, a State “legislative day” will be defined by the IRS and may prohibit the deduction of certain types of sessions, meetings, or events. The proposed regulations also preempt state definitions of “state legislator” and “committee” for the purposes of per diem tax deductions.
Status: Comments due June 30, 2008

Department of Justice National Guidelines for Sex Offender Registration and Notification. The Sex Offender Registration and Notification Act (SORNA) requires the Indian tribes to comply with the national registration requirements, extends the classes of sex offenders and offenses for which registration is required, requires that sex offenders in the covered classes register and keep their registration current in the jurisdictions in which they reside, work or go to school and requires additional national standards for periodic in-person appearances by registrants to verify and update registration information. In addition, the act adopts reforms affecting the required duration of registration. The said changes preempt each jurisdictions’ current laws and thus dictate the manner in which they maintain their registration and notification systems. NCSL states for the record that the proposed guidelines, coupled with the underlying law they seek to clarify, promote a burdensome, preemptive scheme for the states with absolutely no federal funding provided for their implementation. Although each jurisdiction shall maintain their own jurisdiction-wide sex offender registries, the registries must conform to the above title. By requiring states to implement minimum federal standards in order to comply
with the requirements of the act, the federal government is imposing on a matter which is traditionally regulated by the states. As individual jurisdictions, states have a multitude of differing standards and regulations in place governing the process by which the offenders are required to register and a federally funded study is needed to determine the extent by which each jurisdiction has complied with the act. Title I of Public Law 109-248 would require states to adjust their current system in order to comply.

**Status:** The period for comment on the proposed guidelines ended on August 1, 2007. The final guidelines are expected in early 2008.

**The Federal Communications Commission order (MB Docket No. 07-51).** The Federal Communications Commission has unanimously approved an order (MB Docket No. 07-51) that effectively preempts numerous state laws that permit “exclusive contracts” for provision of video services within individual facilities, such as hotels, office and apartment buildings, and nursing homes. NCSL opposed this action as an “unwarranted preemption of state authority” in an Oct. 18, 2007, letter signed by Maryland Senator Delores Kelley, chair of NCSL’s Communications, Financial Services and Interstate Commerce Committee. The letter can be found at: http://www.ncsl.org/standcomm/sccomfc/Communication101807LTR.htm.

**Status:** 11/20/07. Approved

---

**Recently Decided Supreme Court Cases**

**Rowe v. New Hampshire Motor Transport Association.** On February 20, 2008 the U.S. Supreme Court, by 9-0 and 8-1 margins, scuttled state laws aimed at restricting Internet tobacco sales to minors. In the shutout, Maine’s statutes aimed at preventing truck delivery of tobacco products fell to express preemptive provisions written 14 years ago in the Federal Aviation Administration Authority Act that reinforced Congress’ intent to deregulate trucking and forego any state marketplace barriers. The unanimous ruling on this matter came in Rowe v. New Hampshire Motor Transport Association, U.S., No. 06-457, 02/20/08.

**Riegel v. Medtronic Inc.** Riegel v. Medtronic Inc., U.S., No. 06-179, also delivered on February 20, 2008, preempts state-law claims regarding medical devices. This is the first of three Food and Drug Administration (FDA) preemption cases in the Supreme Court. Medtronic argued that Riegel’s lawsuit was preempted because if successful it would impose state requirements different from the federal requirements arising out of the device’s approval by the FDA. The Court ruled that federal law preempts state-law claims against medical device manufacturers who have gone through the federal FDA pre-market approval process. The Court held that state tort claims would impose conflicting requirements beyond those of the FDA. Justice Ruth Ginsburg cast the only dissenting vote.

**Warner-Lambert v. Kent.** This is a class action lawsuit involving Michigan residents who suffered injuries after taking Rezulin to treat their Type-2 diabetes. FDA approved Rezulin as a treatment option for Type-2 diabetes in 1997, but requested that Warner-Lambert withdraw Rezulin from the US market in 2000 after linking the drug to eighty-nine liver failures, including sixty-one deaths. Warner-Lambert raised a question about the constitutionality of the fraud exception. The Supreme Court has previously held that the Medical Device Amendments of 1976 (MDA) indirectly preempts state tort suits that are based on “fraud on the agency” claims. The Supreme Court found that policing agency fraud was the province of
FDA, not the state courts, so the lawsuit was impliedly preempted. On March 3, 2008, the Supreme Court Justices voted a 4-4 tie (Chief Justice Roberts, who holds $15,000 in stock in Warner-Lambert’s parent corporation, Pfizer, recused himself from the case). Accordingly, the Second Circuit decision, which held that the fraud exception of the Michigan statute was not preempted by federal law, was “affirmed by an equally divided Court.” The Supreme Court’s action has no precedential value (because it was a tie) and another case may result in a preemption in this area.2

**Wyeth v. Levine.** Unlike the MDA, the Food Drug and Cosmetics Act (FDCA) does not contain an express preemption provision, so this case will examine whether common law claims of failure to warn conflict with FDA’s labeling rule. This may be the most important of the three cases because a finding of implied preemption of state common-law claims would drastically reduce pharmaceutical manufacturers’ potential liabilities as long as they use labels submitted to and approved by FDA. Oral argument will be during the Supreme Court’s October 2008 Term.3

---

**Climate Change Issues**

**Climate Change and the States.** One of the tougher hurdles confronting congressional policymakers regarding potential cap-and-trade legislation is what role to authorize for state and local governments. This issue is the focus of a House Energy and Commerce Committee white paper released in February 2008. The issue carries with it a slant toward preemption, but the paper does lay out options for intergovernmental roles to be played with federal climate change legislation. The “Climate Change Legislation Design White Paper” on intergovernmental roles can be found at: [http://energycommerce.house.gov/Climate_Change/white%20paper%20final%202-22.pdf](http://energycommerce.house.gov/Climate_Change/white%20paper%20final%202-22.pdf).

**California Waiver.** In December 2002, the California State Legislature passed legislation that would require automakers to reduce vehicle greenhouse gas emissions 30 percent by the year 2016. This would necessitate that automakers begin to make the needed alterations to their vehicles for model year 2009. Under the Clean Air Act Amendments, California is the only state not preempted from enacting stricter or stronger regulations than the federal government save for the fact that they must receive permission from the United States Environmental Protection Agency (EPA) to implement such rules. As such, California filed a request for a waiver to implement the legislation on December 21, 2005. California is not the only state who is waiting for an answer from the EPA. Under the Clean Air Act, states that have non-attainment or maintenance areas are permitted to adopt regulations that have been approved for California over federal regulations. Currently, there are 14 states who have adopted California’s vehicle greenhouse gas emissions reduction regulations, and whose enforcement of the regulations is contingent on the EPA. The 14 states are Arizona, Connecticut, Florida, Maine, Maryland, Massachusetts, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Vermont, and Washington.

---

2 Warner-Lambert v. Kent. case summary provided by the Center for Progressive Reform
3 Wyeth v. Levine. case summary provided by the Center for Progressive Reform
Massachusetts v. EPA. On April 2, 2007, the United States Supreme Court stated that the EPA does have the authority to regulate greenhouse gas emissions under the Clean Air Act in the case Massachusetts v. EPA.

Preemption Watch List

<table>
<thead>
<tr>
<th>Issue</th>
<th>Bill No.</th>
<th>Sponsor</th>
<th>Explanation</th>
<th>Bill Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Criminal Justice</td>
<td>H.R. 2640</td>
<td>McCarthy (D-NY)</td>
<td>H.R. 2640, “The National Instant Criminal Background Check System Improvement Amendments Act of 2007.” This bill would have a profound effect on the states, requiring the states to provide estimates of the number of records it transmits to the NICS and mandating states to make electronically available to the Attorney General records relating to persons it disqualified from possessing a firearm, convicted of misdemeanor crimes of domestic violence or adjudicated as mentally defective or committed to mental institutions. This law would require states to update, correct, modify or remove obsolete records in the NICS. Furthermore, the act provides for discretionary and mandatory penalties for states that fail to provide the information required by this act.</td>
<td>01/08/2008 Became Public Law No. 110-180</td>
</tr>
<tr>
<td>Criminal Justice</td>
<td>Department of Justice National Guidelines for Sex Offender Registration and Notification</td>
<td>Department of Justice</td>
<td>The Sex Offender Registration and Notification Act (SORNA) requires the Indian tribes to comply with the national registration requirements, extends the classes of sex offenders and offenses for which registration is required, requires that sex offenders in the covered classes register and keep their registration current in the jurisdictions in which they reside, work or go to school and requires additional national standards for periodic in-person appearances by registrants to verify and update registration information. In addition, the act adopts reforms affecting the required duration of registration. The said changes preempt each jurisdictions’ current laws and thus dictate the manner in which they maintain their registration and notification systems. Title I of Public Law 109-248 would require states to adjust their current system in order to comply.</td>
<td>The period for comment on the proposed guidelines ended on August 1, 2007. It is unknown when the final guidelines will be issued.</td>
</tr>
<tr>
<td>Defense</td>
<td>S. 1547/H.R.</td>
<td>Levin (D-MI)</td>
<td>S. 1547, H.R. 1585, Department of Defense FY2008</td>
<td>10/1/07: Passed</td>
</tr>
<tr>
<td>Page 1585</td>
<td>Appropriations Bill</td>
<td>Provisions in both House and Senate Department of Defense authorization bills would return power to deploy the National Guard to states. Last year, Congress preempted state authority and granted the president exclusive power to call out the guard for various “major disasters” without state consent. Last year, NCSL opposed this “blatant and dangerous” threat to public stating that “...the historic domestic mission of the National Guard in emergency management under state authority must be strengthened rather than co-opted by federal decree.”</td>
<td>the Senate 92 – 3 01/15/2008 Motion to refer veto message to the House Armed Services Committee, passed by voice vote</td>
<td></td>
</tr>
<tr>
<td>Elections</td>
<td>H.R. 811 Holt (D-NJ)</td>
<td>“Voter Confidence and Increased Accessibility Act.” The bill seeks to amend HAVA with respect to: (1) paper-ballot verification requirement and electronic voting machines; (2) mandatory paper record audit capacity; and, (3) accessibility and ballot verification of results for individuals with disabilities. This legislation is before the House Administration Committee, and preempts laws in at least 40 states. The legislation requires states to purchase new or retrofit old voting systems to provide a paper trail that conforms to federal standards; however, the technology and voting system software called for in the bill do not yet exist. Additionally, the bill contains an authorization of appropriation of $1 billion which is insufficient to cover the costs of such a massive endeavor. The legislation also requires random, hand-count audit procedures which have not been piloted and are not based on any current state system. H.R. 811 contains a compliance deadline of January 1, 2008, not providing enough time for implementation, nor enough confidence in the procedures’ effectiveness in time for the next election. H.R. 811 seeks to micromanage election administration, undermining the ability of states to hold elections appropriate for their constituents. Furthermore, the bill proposes unfunded mandates for states to carry out a rash plan, not based on sufficient research or quality testing. BILL FAILED to reach House floor due to State and local government opposition. A subsequent voluntary measure also failed on the House floor. (See H.R. 5036)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Environment</td>
<td>H.R. 569 Pascrell (D-NJ)</td>
<td>Amendment to H.R. 569, “Water Quality Investment Act.” Amendment by Representative Rohrabacher (R-CA) which would prohibit the EPA from making a grant to a state, municipality or municipal entity unless the EPA has been provided satisfactory</td>
<td>3/8/2007 The bill passed in the House 367 – 58 Referred to Senate</td>
<td></td>
</tr>
<tr>
<td>Committee</td>
<td>Bill Number</td>
<td>Sponsor</td>
<td>Bill Description</td>
<td>Date</td>
</tr>
<tr>
<td>------------</td>
<td>-------------</td>
<td>---------</td>
<td>------------------</td>
<td>------</td>
</tr>
<tr>
<td>Environment</td>
<td>S. 357</td>
<td>Feinstein (D-CA)</td>
<td><strong>Ten-in-Ten Fuel Economy Act.</strong> A bill which would increase fuel economy standards for passenger automobiles and light, medium, and heavy trucks starting in 2011, and would require the Department of Transportation (DOT) and the Environmental Protection Agency (EPA) to promulgate rules and regulations to implement the increased standards. However, S. 357 would preempt state and local authority to implement their own consumer information laws or regulations on the fuel efficiency impact of vehicle tires; that preemption constitutes an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA).</td>
<td>04/07/2008</td>
</tr>
<tr>
<td>Health</td>
<td>S. 1082</td>
<td>Kennedy (D-MA)</td>
<td><strong>S. 1082, “The Prescription Drug User Free Act of 2007,” as part of The Food and Drug Administration Revitalization Act.</strong> Language was stripped from all 10 drafts of the PDUFA legislation which, if included, would have provided a safeguard against FDA preemption of state laws. The language would also have undone the FDA Prescription Drug Labeling Rule preamble preemption. The preamble preemption stated that the rule preempted all state law requirements pertaining to a drug company’s obligation to warn the public of a drug’s potential side-effects. This occurs without regard to whether the drug company intentionally withheld information or negligently failed to continually monitor, test, and analyze data regarding the safety, efficacy, and prescribing practices of the drugs.</td>
<td>05/10/2007</td>
</tr>
<tr>
<td>Health</td>
<td>H.R. 493/S. 358, Slaughter (D-NY), Snowe (R-ME)</td>
<td></td>
<td><strong>H.R. 493, S. 358, Genetic Information Nondiscrimination Act of 2007.</strong> H.R. 493 and S. 358 would preempt current state laws in place by prohibiting discrimination on the basis of genetic information with respect to health insurance and employment. Federal health insurance legislation that establishes mandated benefits or uniform standards, should establish a floor, not a ceiling.</td>
<td>03/05/2008</td>
</tr>
<tr>
<td>Health</td>
<td>S. 558</td>
<td>S. 558, Mental Health Parity Act of 2007. This bill would provide parity between health insurance coverage of mental health benefits and benefits for medical and surgical services. The bill amends the Employee Retirement Income Security Act (ERISA) and the Public Health Service Act to require a group health plan that provides both medical and surgical benefits and mental health benefits to ensure that: (1) the financial requirements applicable to such mental health benefits are no more restrictive than those of substantially all medical and surgical benefits covered by the plan, including deductibles and co-payments; and (2) the treatment limitations applicable to such mental health benefits are no more restrictive than those applied to substantially all medical and surgical benefits covered by the plan, including limits on the frequency of treatments or similar limits on the scope or duration of treatment. Prohibits the plan from establishing separate cost sharing requirements that are applicable only with respect to mental health benefits.</td>
<td>9/18/07 Passed Senate with amendment unanimous consent. 10/16/2007 Markup report filed for the House Energy and Commerce Committee markup</td>
<td></td>
</tr>
<tr>
<td>Health</td>
<td>S. 910</td>
<td>S. 910, The Healthy Families Act. Mandates that states provide for paid sick leave to ensure that Americans can address their own health needs and the health needs of their families. The bill would require certain employers, who employ 15 or more employees for each working day during 20 or more workweeks a year, to provide a minimum paid sick leave and employment benefits of: (1) seven days annually for those who work at least 30 hours per week; and (2) a prorated annual amount for those who work less than 30 but at least 20 hours a week, or less than 1,500 but at least 1,000 hours per year. Allows employees to use such leave to meet their own medical needs or to care for the medical needs of certain family members.</td>
<td>05/23/2007 Congressional Budget Office cost estimate released for bill, as introduced</td>
<td></td>
</tr>
<tr>
<td>Category</td>
<td>Bill Numbers</td>
<td>Sponsor(s)</td>
<td>Description</td>
<td>Date of Event</td>
</tr>
<tr>
<td>--------------</td>
<td>--------------</td>
<td>----------------------------------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------</td>
</tr>
<tr>
<td>Health</td>
<td>S. 625/H.R. 1108</td>
<td>Kennedy (D-MA), Waxman (D-CA)</td>
<td>S. 625, H.R. 1108, Family Smoking Prevention and Tobacco Control Act. This bill would preempt current state laws by implementing language in an attempt to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products. Amends the Federal Food, Drug, and Cosmetic Act to provide for the regulation of tobacco products by the Secretary of Health and Human Services through the Food and Drug Administration, including through disclosure, annual registration, inspection, recordkeeping, and user fee requirements.</td>
<td>01/30/2008 Congressional Budget Office cost estimate released for bill, as ordered reported by the Senate HELP Committee 04/02/2008 Markup report filed for the House Energy and Commerce Committee markup</td>
</tr>
<tr>
<td>Identification</td>
<td>H.R. 2419/S. 2302</td>
<td>Gregg (R-NH), Coleman (R-MN)</td>
<td>H.R. 2419/S. 2302, “Farm, Nutrition and Bioenergy Act of 2007.” An amendment by Senator Judd Gregg (R-NH) would preempt any state from issuing a driver’s license or other identification document to an unauthorized immigrant. Senator Norm Coleman (R-MN) would preempt any state action that would result in a driver’s license or photo identification card being issued to an unauthorized immigrant. Eight states have laws allowing the granting of licenses to unauthorized immigrants, usually for public safety and insurance purposes.</td>
<td>House: 04/15/2008 Conference committee markup held Senate: 11/05/2007 CBO cost estimate released for bill</td>
</tr>
<tr>
<td>Insurance</td>
<td>S. 618/HR 1081</td>
<td>Leahy (D-VT), DeFazio (D-OR)</td>
<td>S. 618, HR 1081, A Bill To Further Competition in the Insurance Industry. S. 618 and HR 1081 would repeal certain sections of the McCarran-Ferguson Act enacted in 1945 which gave states the sole authority to regulate the business of insurance. The legislation would repeal the antitrust provisions of the McCarran-Ferguson Act. In doing so, Congress would end the exclusive role of the states as the regulator of insurance. States would have to share regulatory authority with the Department of Justice and the Federal Trade Commission.</td>
<td>3/7/07: Committee on the Judiciary. Hearings held</td>
</tr>
<tr>
<td>Internet</td>
<td>S. 1853</td>
<td>Lautenberg (D-NJ)</td>
<td>S. 1853, “Community Broadband Act of 2007.” This law would</td>
<td>12/03/2007</td>
</tr>
<tr>
<td>Category</td>
<td>Bill</td>
<td>Sponsor</td>
<td>Description</td>
<td>Notes</td>
</tr>
<tr>
<td>---------------</td>
<td>----------</td>
<td>--------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------</td>
</tr>
<tr>
<td>Public Safety</td>
<td>H.R. 980</td>
<td>Kildee (D-MI)</td>
<td><strong>H.R. 980, Public Safety Employer/Employee Cooperation Act of 2007.</strong> HR 980 establishes minimum organized-labor rights for firefighters, police officers and other public safety officials, including the rights to form and join a union and to bargain collectively over hours, wages and work conditions. It also would provide for the enforcement of contracts through the state government. This bill would give the Federal Labor Relations Authority 180 days to determine whether states meet the minimum standards. In deciding that public safety workers should have the right to join unions, this usurps a role traditionally granted to the states.</td>
<td>7/17/07: Passed in the House. 7/20/07: Placed on the Senate Calendar No. 275.</td>
</tr>
</tbody>
</table>