

State labor legislation enacted in 2007

Laws concerning the minimum wage, prevailing wages, equal employment opportunity, wages paid, time off, drug and alcohol testing, child labor, and worker privacy were among the most active areas with new or amended legislation enacted during the year

John J. Fitzpatrick, Jr.,
and
James L. Perine

The Wage and Hour Division of the U.S. Department of Labor is responsible for tracking various categories of labor legislation and reporting on any amendments or new laws falling under those categories and enacted by States. More than 30 categories are tracked during this yearly process. Among the categories tracked are agriculture, child labor, State departments of labor, the discharge of employees, drug and alcohol testing, equal employment opportunity, employment agencies, employer leasing, family issues, genetic testing, handicapped workers, hours worked, human trafficking, immigrant protections, inmate labor, living wages, the minimum wage, offsite work, overtime, plant closings, prevailing wages, the right to work, time off, unfair labor practices, wages paid, whistleblower protections, worker privacy, and workplace security. Not every piece of enacted legislation that comes within the purview of one of these categories is addressed in this article. Among the laws that are not addressed are those which (1) amend existing State law, but are strictly technical in nature, (2) affect only a limited number of individuals, (3) require the initiation, completion, or distribution of a study

of an issue, or (4) deal with funding matters related to an issue. Also not covered are areas of labor legislation that concentrate on issues relating to occupational safety and health, employment and training, labor relations, employee background checks (except for those dealing with potential national security issues), economic security, and local-area living wage ordinances.

A larger volume of State labor legislation was enacted during 2007 than during the previous year. The increase was due in part to the fact that, unlike the situation in 2006, all 50 State legislatures and the District of Columbia met in regularly scheduled sessions in 2007. The labor legislation that was enacted or amended by the States and the District last year addressed a variety of issues in 26 employment standards areas and included many important measures.

Most State legislation in 2007 occurred in eight categories: child labor, drug and alcohol testing, equal employment opportunity, the minimum wage, prevailing wages, time off, wages paid, and worker privacy. Forty-six of the 50 States and Puerto Rico enacted labor legislation of consequence in one or more of the 30 categories tracked. The legislatures of

John J. Fitzpatrick, Jr., is the State Standards Team leader in the Office of Performance, Budget, and Departmental Liaison, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor; James L. Perine is a compliance specialist on the State Standards Team in the same Office. E-mail: fitzpatrickjr.john@dol.gov or perine.james@dol.gov

Illinois, Hawaii, Maine, New York, North Carolina, Oregon, Texas, and Virginia enacted above-average numbers of labor-related pieces of legislation in the categories tracked. At the time this article was sent off for publication, only Arkansas, Mississippi, Pennsylvania, South Carolina, and the District of Columbia had not enacted labor legislation within any of the 30 categories tracked.

For the second year in a row, minimum-wage legislation was the “hot-button” issue. The substantial level of activity in State minimum-wage legislation was due in part to an increase in the Federal minimum wage. Effective July 24, 2007, the Federal minimum wage for covered nonexempt employees was raised to \$5.85 per hour. The minimum wage increases to \$6.55 per hour effective July 24, 2008, and \$7.25 per hour effective July 24, 2009. The Federal increase resulted in increases in a number of State minimum-wage rates, because several States previously had enacted legislation that required them to maintain a minimum wage at least equal to, or even greater than, the Federal minimum wage. More than 40 States now have such minimum-wage requirements. A few States have minimum-wage rates that are less than the Federal minimum wage. Finally, 5 States—Alabama, Louisiana, Mississippi, South Carolina, and Tennessee—have not yet established a minimum-wage requirement, although Tennessee does enforce a promised-wage law.¹

The remainder of this article comprises two sections. The first provides a brief overview of several of the most active legislative categories tracked and discusses some, but not nearly all, of the pieces of legislation that resulted in laws which were amended or enacted by the individual State legislatures during 2007. The second section consists of a more comprehensive description of each State’s labor-related legislative activities, again subdivided by legislative category, that resulted in laws amended or enacted by the individual State legislatures during the course of the past year.

Child labor. California extended the expiration date of an exemption for 16- and 17-year-old minors employed in one particular county to work up to 60 hours per week during peak harvest season when school is not in session. Illinois amended the State hazardous orders so that they now prohibit persons under the age of 16 from working in occupations handling human blood, body fluids, or body tissues. Massachusetts amended the hours of work permitted for

16-year-old minors in some occupations and now requires an adult to be present on the jobsite if a minor is employed after 8:00 p.m. New Hampshire employers may employ 16- and 17-year-old youths who are still in school, as long as the employer maintains a file copy of a signed written document from a parent or guardian of the child in question that permits the youth’s employment. The requirements for work permits for minors in various occupations and the hours of work permitted for performers less than 18 years of age in New Mexico were modified. The child labor code does not now apply to minors in Texas who are engaged in the direct sale of newspapers to the general public. Virginia increased the fines assessed against employers who incur the death of a child in their employ. In addition, minors under 18 years of age may not be employed in any capacity in the manufacturing of paint or of goods with alcoholic content. Minors in the State of Washington who are under 14 years of age may not work without the written permission of a judge of the superior court of the county wherein the child resides.

Drug and alcohol testing. Drivers in Arkansas who are covered by the Federal Motor Carrier Safety Act must submit to drug and alcohol testing, and the appropriate database must be checked by employers to determine applicants’ eligibility for employment. Florida licensees of slot machine gaming must implement drug and alcohol programs for employees. Hawaii employers whose employees test positive in an onsite screening test must have their employees report to a licensed laboratory within 4 hours of having completed the test. Employers in Maine may no longer require, request, or suggest that an employee or applicant sign consent forms absolving employers from, among other things, potential liabilities due to the imposition of substance abuse testing. In North Carolina, operators who have commercial driver’s licenses and who have tested positive in a substance abuse test must be disqualified from operating a commercial motor vehicle until the employer obtains a receipt of proof of successful completion by the employee of assessment and treatment. Motor carriers for hire in Tennessee who provide passenger transportation in vehicles designed to transport eight or more passengers must conduct a mandatory drug-testing program.

Equal employment opportunity. Colorado added the two categories of religion and sexual orientation to its list of grounds upon which employers may not discriminate.

Now employers may not refuse to hire, discharge, promote or demote, harass during the course of employment, or discriminate in matters of compensation against any otherwise qualified person on the basis of his or her religion or sexual orientation. In Illinois, it is now considered a civil rights violation for a public employer to refuse to temporarily transfer a pregnant peace officer or firefighter to a less strenuous or hazardous position for the duration of the pregnancy if so requested by the employee under the advice of a physician and if the request can be reasonably accommodated. In addition, the State Civil Rights Act now includes gender among those characteristics that cannot be used by any unit of State, county, or local government to exclude a person from participation in, deny a person any benefits from, or subject a person to discrimination under any program or activity. Iowa added sexual orientation and gender identity to the group of factors that are prohibited from being used by persons to discriminate in the area of employment activities. North Dakota amended the definition of “discriminatory practice” in the State Century Code. Oregon amended its State laws so that they now encourage the fullest utilization of the available workforce. The State removed arbitrary standards of race, sexual orientation, disability, and marital status that were acting as a barrier to employment.

Minimum wage. Nearly 190 pieces of legislation pertaining to the minimum wage were introduced in 46 States. Changes in the State minimum wage laws were brought about either on account of newly enacted or amended legislation that occurred during the year, because changes were required as a result of legislation which had been enacted in previous years and that called for specific actions to occur in subsequent years, or because of ballot issues that had been approved by public vote.

Arizona statutes regarding employer liability for non-payment of the minimum wage were amended, while Arkansas amended the minimum-wage allowance for gratuities and also refined the definition of an employee. Idaho now requires that the State minimum wage conform to and track with the Federal minimum wage. The Illinois minimum wage was increased to \$7.50 per hour, with additional increases scheduled for July 1, 2008, 2009, and 2010. Employers in Indiana who employ two or more employees during a workweek shall pay the employees wages not less than the Federal minimum wage. Iowa increased the State minimum wage to \$6.20 per hour in April, while Kentucky increased its State minimum wage to \$5.85 per hour in June 2007, to be followed by increases to \$6.55 per hour in July 2008 and \$7.25 in July 2009. Maine amended

the coverage portion of the State minimum-wage law by extending coverage to (1) individuals employed in domestic service in or about a private home and engaged directly by the resident or owner of the home or (2) individuals in the family or residence of the homeowner. Montana now requires the State minimum wage to exclude the value of tips received by an employee. In addition, the minimum-wage requirement in Montana will now be subject to an annual cost-of-living adjustment. Among other changes in the Nevada minimum-wage law, tips or gratuities received by employees shall neither be credited as being any part of, nor be offset against, the wage rates required by the State law. The New Hampshire minimum wage was increased to \$6.50 per hour, with an additional increase scheduled for September 2008. The minimum wage in New Mexico increased to \$6.50 per hour on January 1, 2008, and will be increased further to \$7.25 per hour on January 1, 2009. In addition, New Mexico enacted legislation that prohibits any city, town, county, home rule municipality, or other political subdivision from adopting or continuing in effect any law or ordinance that mandates a minimum wage higher than that set forth in the State Minimum Wage Act. The New Mexico legislation is effective for a period of 2 years from January 1, 2008. The North Dakota and South Dakota minimum-wage rates were increased to \$5.85 per hour, the same as the newly increased Federal minimum wage, and will match the next two Federal minimum-wage rate increases set for 2008 and 2009. Vermont employers in the hotel, motel, tourist place, and restaurant industry must pay a service or tipped employee at a basic hourly wage of not less than \$3.65 per hour, and this basic rate shall be increased at the same percentage as the minimum-wage rate. The definition of a service or tipped employee in the State was redefined to mean an employee in any of the aforesaid industries who customarily and regularly receives more than \$120 per month in tips for direct and personal services performed. Virginia redefined the definition of an employee to clarify who is excluded from being considered an employee.

Prevailing wage. Hawaii revised the definition of a public work to include work performed under a construction contract between private persons if more than 50 percent of the assignable square feet of a project is leased or assigned for use by the State, any county in the State, or any agency of the State or any county, whether or not the property is privately owned. The Illinois Prevailing Wage Act was amended to clarify the fact that the Act applies to the wages of laborers, mechanics, and other workers employed in any public works, by any public body, and to anyone un-

der contract for public works. In Illinois, no employee may use, possess, distribute, deliver, or be under the influence of a drug or alcohol while performing work on a public works project. Before employers in the State begin work on public works projects, they must have in place a written program that meets or exceeds State requirements and that must be filed with the public body engaged in the public works and made available to the general public for the prevention of substance abuse among their employees. Legislation in New Jersey has strengthened the prohibition against any contractor or subcontractor who has been debarred from public work due to violations of the prevailing-wage law from using a firm, corporation, or partnership in which the contractor has an interest. Construction employers in New Jersey, and their representatives who fail to properly classify an individual as an employee for purposes of the State Prevailing Wage Act and other State statutes, who fail to pay wages, benefits, taxes, or other contributions required by those acts shall be guilty of a disorderly person's offense and shall, upon conviction, be fined not less than \$100 or more than \$1,000, or be imprisoned for not less than 10 days or more than 90 days, or both. Each week, any day of which employees are misclassified, constitutes a separate offense. The size of the contract may affect the size of the fine and the length of imprisonment. Texas no longer requires that the prevailing-wage rate determined by a survey conducted by the U.S. Department of Labor be no more than 3 years of age. Wyoming increased the State prevailing-wage threshold to encompass \$100,000 contracts for the entire State, with the exception of any area defined as a metropolitan statistical area as delineated under specific U.S. codes.

Time off. Arizona employers who have 50 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year are required to allow an employee who is a victim of a crime to leave work in order to obtain or attempt to obtain an order of protection, an injunction against harassment, or any other injunctive relief to help ensure the health, safety, or welfare of the victim or the victim's child. California enacted legislation that requires qualified employers to allow a qualified employee who is the spouse of a qualified member of the Armed Forces of the United States, the National Guard, or the Reserves to take up to 10 days of unpaid leave while the qualified member is home on leave. In an amendment, Hawaii State law now stipulates that the employee is the only one entitled to make a decision to take family leave as unpaid leave or to substitute the unpaid leave with accrued vacation, personal, or paid

family leave time. Employees in Illinois who are subject to the Employee Blood Donation Leave Act may be entitled to blood donation leave with pay. Employees in Montana who terminate their employment for a reason not reflecting discredit upon them are entitled, upon the date of termination, to cash compensation for unused vacation leave, assuming that they have worked the qualifying length of time. Nebraska employers who employ between 15 and 50 employees are required to provide up to 15 days of unpaid family military leave to an employee during the time Federal or State deployment orders are in effect. Employers who have more than 50 employees shall provide 30 days of leave. Employees in Nevada who are summoned for jury duty may not be required by their employers to use sick leave or vacation time for their jury service. Employers in New York must grant a leave of absence of 3 hours in any 12-month period to an employee who seeks to donate blood. In Vermont, duly qualified members of the "Reserve components of the Armed Forces," of the Ready Reserve, or of an organized unit of the National Guard shall, upon request, be entitled to leaves of absence for a total of 15 days in any calendar year for the purpose of engaging in military drill, training, or other temporary duty under military authority. Virginia employers shall allow any employee who is a victim of a crime to leave work to be present at all criminal proceedings relating to the crime against the employee.

Wages paid. If an employer in Colorado disputes the amount of wages or compensation claimed by an employee who has been terminated under the State Revised Statutes, and if, within 14 days after the employee's demand, the employer makes a legal tender of the amount that the employer, in good faith, believes is due, the employer shall not be liable for any penalty, unless, in a legal action, the employee recovers a greater amount than the amount tendered. Employees in Illinois may file a complaint with the State Department of Labor alleging violations of the State Wage Payment and Collection Act within 1 year after the wages, final compensation, or wage supplements were due. Iowa employers who fail to send an employee's wages for direct deposit on or by the regular payday are liable for the amount of any overdraft charges if the overdraft is created on the employee's account because of the employer's failure to send the wages by the regular payday. Kansas employers are now permitted to designate the method of payment by which employees receive wages, provided that all wages are paid by one of four specific methods. Nebraska amended its State Wage Payment and Collection Act so that whenever an employer separates an

employee from the payroll, the unpaid wages constituting commissions shall become due on the next regular payday following the employer's receipt of payment for the goods or services from the customer who generated the commission. New Hampshire expanded the list of reasons for which employers are authorized to withhold wages. In addition, employers in the State are now authorized to pay employees via payroll card. It is now an unlawful practice for a temporary help service firm in New Jersey to willfully withhold or divert wages for any purpose not expressly permitted by statute. Deductions from employees' wages by an employer in Oregon, as required and authorized by law or agreement, shall be paid to the appropriate recipients within the time required by the law or agreement. If such a time requirement is not specified, payment must be made within 7 days after the date the wages from which the deductions are made are due. If a business relationship between an employer in Utah and a sales representative terminates, the employer shall pay the sales representative all commissions due within 30 days after the day on which the termination is effective, and within 14 days after the day on which a commission becomes due if said commission is due after the day on which the termination is effective.

Worker privacy. Arizona added the position of code enforcement officer to the list of public employees, and others, who may request that the general public be prohibited from accessing the unique identifier and the recording date contained in indexes of recorded instruments maintained by the county recorder. Florida statutes were amended to exempt certain personal identifying information from the public records requirements. Now exempt is personal identifying information that is contained in records documenting an act of domestic violence and that is submitted to an agency by an agency employee. Indiana expanded

the categories of public records that may not be disclosed by a public agency unless access to the records is specifically required by a State or Federal statute or is ordered by a court under the rules of discovery. Except when data are to be released to certain Federal, State, and local government entities, Nebraska employers shall not publicly post or display, in any manner, more than the last four digits of an employee's Social Security number, or otherwise make more than the last four digits available to the general public or to an employee's coworkers. Nevada amended the exemptions from State law that authorize the release of the home address of a peace officer by a law enforcement agency. New York employers shall make reasonable efforts to provide a room or other location, in close proximity to the work area, where an employee can express milk in privacy. Confidential employment information secured by the Oregon Employment Department may be provided to the State Department of Transportation to assist that department in carrying out its duties relating to the collection of delinquent and liquidated debts, including taxes, due under the State Revised Statutes and the State Vehicle Code. In Tennessee, the residential address, as well as the personal telephone and cell phone numbers, of any State, county, municipal, or other public law enforcement officer shall now be treated as confidential and not open for inspection by members of the public. It is now unlawful in Virginia for any person to publish the name or photograph of a law enforcement officer, along with identifying information, with the intent to utilize that information to coerce, intimidate, or harass the officer. It is now unlawful in Washington State for any person, firm, or corporation to require, either directly or indirectly, that any employee or prospective employee take or be subject to any lie detector or similar tests as a condition of either employment or continued employment.

Alabama

Other legislation. Active and contributing members of a city or municipal retirement system who participate in the State Employee Retirement System and who have rendered prior service as a full-time firefighter with a nonparticipating city employer which has been annexed into a city or municipality that participates in the retirement system may purchase credit, including credit for hazardous duty service in the retirement system, for prior service if the member pays to the secretary-treasurer of the retirement system, prior to the date of the member's retirement, a sum

equal to the full actuarial determined cost for each year of service purchased, as determined by the actuary for the system. The local government entity that currently employs the member shall furnish the retirement system with documentation of the prior service being claimed by the member, as requested by the retirement system.

Arizona

Immigrant protection. Legislation was enacted that prohibits employers from intentionally or knowingly employing an unauthorized alien. The same legislation established penalties, be-

ginning January 1, 2008, for employers in violation. Under the legislation, all employers are required to use the Basic Employment Verification Pilot Program, which has existed since November 1997, is jointly operated by the U.S. Citizenship and Immigration Service (under the Department of Homeland Security) and the Social Security Administration, and is used to verify the authorization of all newly hired employees. Currently, an employer's participation in the project is voluntary, and participating employers may be accessed via the Internet. For a first violation of this new State law, during a 3-year period in which an employer knowingly employs an unauthorized

alien, the court may order the appropriate licensing agencies to suspend all licenses held by the employer, unless the employer files a sworn affidavit with the county attorney within 3 business days. The affidavit must state that the employer has terminated the employment of all unauthorized aliens and that the employer will not intentionally or knowingly employ an unauthorized alien. Suspended licenses will remain suspended until the employer files the signed affidavit with the county attorney. For a first intentional violation, the court will order the suspension of all of the employer's licenses for a minimum of 10 days. A second knowing or intentional violation of the new State law will result in the court ordering the permanent revocation of all of the employer's licenses that are held at the employer's place of business.

Minimum wage. The State Revised Statutes concerning employer liability for nonpayment of the minimum wage were amended. In any action or proceeding occurring on or after January 1, 2007, an employer or other entity is not liable if either fails to pay the minimum wage, as long as the party in question proves that the act or omission was in good faith and that it conformed with and relied on a State administrative regulation, order, ruling, approval, interpretation, administrative practice, or enforcement policy issued by the State Industrial Commission.

Time off. The State Revised Statutes regarding victims' rights were amended. Employers who have 50 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, along with agents of such employers, are required to allow an employee who is a victim of a crime to leave work. The allowance to leave work is in order to provide the employee with time to obtain, or attempt to obtain, an order of protection, an injunction against harassment, or any other injunctive relief to help ensure the health, safety, or welfare of the victim or victim's child.

Worker privacy. The employment position of a State code enforcement officer was added to the list of public employees, and others, who may request that the general public be prohibited from accessing the unique identifier and the recording date contained in indexes of recorded instruments maintained by the county recorder. The officer (or others) may request the recorder to prohibit access to the officer's residential address and telephone number contained in instruments or writings recorded by the county recorder and made available on the Internet. The officer also may request that the general public be prohibited from accessing records maintained by any of the following county employees: assessor, treasurer, peace officer, judge, justice, commissioner, public

defender, and prosecutor. The officer must file an affidavit containing specific information in order to request the prohibition on the release of information.

Arkansas

Drug and alcohol testing. Any person employed by a State employer in a safety-sensitive transportation job, or who has submitted an application for employment with an employer in the State in a safety-sensitive transportation job, for which drug and alcohol tests are required under the Federal Motor Carrier Safety Regulations and who holds a commercial driver's license shall submit to drug and alcohol testing. The employer must report to the State Office of Driver Services the results of the alcohol screening test, or the refusal to provide a specimen for the screening test, within 3 business days. The State Office of Driver Services shall maintain the information received, which is considered confidential, in a database, to be known as the Commercial Driver Alcohol and Drug Testing Database, for at least 3 years. An employer can request information from the database for each employee who is subject to drug and alcohol testing. The penalty for an employer who knowingly fails to check the database as required is \$1,000, effective July 1, 2008. The penalty for knowingly hiring an employee with a record of a positive alcohol or drug test in the database is \$5,000. The penalty for an employer who knowingly fails to report an occurrence regarding a drug test is \$500. Such penalties do not apply to the State or to an agency or political subdivision of the State.

Immigrant protections. No State agency may enter into or renew a public contract for services with a contractor who knows that the contractor or one of its subcontractors employs or contracts with an illegal immigrant to perform work under the contract. Before executing a public contract, each prospective contractor shall certify, in a manner that does not violate Federal law in existence on January 1, 2007, that the contractor is neither employing nor contracting with an illegal immigrant at the time of the certification. If a contractor violates this provision, the State shall require the contractor to remedy the violation within 60 days. If the contractor fails to remedy the violation within 60 days, the State shall terminate the contract for breach of contract. The contractor shall be liable to the State for actual damages if the contract is terminated under such circumstances. Subcontractors are required to submit certification on their employees within 30 days after execution of the contract.

Minimum wage. The State law concerning the minimum-wage allowance for gratuities

was amended. Every employer of an employee engaged in any occupation in which gratuities have been customarily and usually constituted and have been recognized as a part of remuneration for hiring purposes shall now be entitled to an allowance for gratuities as a part of the hourly wage rate in the amount of no less than \$3.62 per hour. This entitlement is based upon the proviso that the employee actually received that amount in gratuities and that the application of the foregoing gratuity allowances results in payment of wages other than gratuities to tipped employees, including full-time students, of not less than \$2.63 per hour.

Overtime. The State definition of an employee, as covered by minimum-wage and overtime law, was amended. The definition no longer includes (1) an employee employed in connection with the publication of a weekly, semimonthly, or daily newspaper with a circulation under 4,000; (2) one employed on a casual basis in domestic service to provide babysitting services or companionship services for those who are no longer able to care for themselves due to age or infirmity; (3) one engaged in the delivery of newspapers to retail subscribers; or (4) a homemaker engaged in making wreaths composed principally of natural holly, pine, cedar, or other evergreens and harvesting natural holly, pine, cedar, and other evergreens used in making such wreaths. In another enactment, the director of the State Department of Labor may now authorize employment in excess of the standard 40 hours per week or may authorize the calculation of overtime on a basis other than the regular rate of pay required by the law (time and one-half for hours exceeding 40 hours per week) for employment that (1) necessitates irregular hours of work; (2) is performed at a piecework rate; (3) pays on a commission basis in a retail or service establishment; (4) is performed in a hospital or enterprise engaged in the care of the sick, the aged, or the mentally ill by an independently owned and controlled local enterprise in the wholesale or bulk distribution of petroleum products; or (5) is performed under a collective bargaining agreement.

Worker privacy. The commercial driver's license record in effect on January 1, 2007, and released by the State Office of Driver Services to the employer or prospective employer of a commercial driver shall be a complete record that includes any convictions, disqualifications, and other licensing actions for violations required to be retained on a commercial driver's license record. If a driver operates a motor vehicle and is convicted of being intoxicated by drugs or alcohol or for refusing to submit to chemical testing, the driver shall be disqualified from operating a commercial motor vehicle

for 1 year or 3 years, depending upon the type of cargo. For a second conviction, disqualification is for life (but the driver may be reinstated after 10 years if the he or she has been subject to rehabilitation). The penalties imposed for leaving the scene of an accident are the same as those listed for operating a motor vehicle under the influence of drugs or alcohol or for refusing to submit to chemical testing.

California

Child labor. Legislation was enacted that extended the authority of the State labor commissioner to allow an exemption for minors 16 or 17 years of age who reside in Lake County to work up to 60 hours per week during peak harvest season. The legislation, which is effective from January 1, 2008, to January 1, 2012, requires that work hours be extended only when school is not in session and only upon written approval of the Lake County Board of Education. The commissioner may require inspections of agricultural packing plants prior to issuing the exemption. In addition, the legislation removed the requirement that the minor be enrolled in school in Lake County for the exemption to apply. Finally, Lake County is now required to issue an annual report on working conditions of minors employed in the agricultural packing industry in the past year, notwithstanding provisions of the law that expired on January 1, 2008, making agency reports permissive.

Overtime. An employee in the computer software field shall be exempt from the requirement that an overtime rate of compensation be paid if (1) the employee is engaged primarily in work that is intellectual or creative and requires the exercise of discretion and independent judgment; (2) the employee's work involves the application of systems analysis techniques and procedures, including consulting with users to determine hardware, software, or system functional specifications; (3) the employee is highly skilled and is proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming, and software engineering; and (4) the employee's hourly rate of pay is not less than \$36.00 or the annualized full-time salary equivalent of that rate (\$75,000). This pay rate shall be adjusted in accordance with the State Consumer Price Index for Urban Wage Earners and Clerical Workers on October 1 of each year, to be effective January 1 of the next year. The exemption does not apply if (1) the employee is a trainee or in an entry-level position or has not attained the level of skill and expertise necessary to work independently and without close supervision; (2) the employee is engaged in the operation of computers or

in the manufacture, repair, or maintenance of computer hardware and related equipment; (3) the employee is an engineer, drafter, machinist, or other professional whose work is highly dependent upon, or facilitated by, the use of computers and computer software programs, and the employee is not in a computer systems analysis or programming occupation; or (4) the employee is a writer engaged in writing materials such as box labels, product descriptions, documentation, promotional material, setup and installation instructions, and other, similar written information.

Time off. Legislation was enacted that requires qualified employers to allow a qualified employee who is the spouse of a qualified member of the Armed Forces of the United States, the National Guard, or the Reserves to take up to 10 days of unpaid leave while the qualified member is home on leave. A qualified employer is defined as any individual, corporation, company, firm, State, city, county, municipal corporation, district, public authority, or any other governmental subdivision that employs 25 or more employees. A qualified employee is defined as (1) a spouse of the qualified member, (2) an employee who performs service for hire for an employer for an average of 20 or more hours per week, but is not an independent contractor, (3) an employee who, within 2 days of receiving official notice that the qualified member will be on leave from deployment, provides the employer with notice of his or her intention to take the leave provided for; and (4) an employee who submits written documentation to the employer certifying that the qualified member will be on leave from deployment during the time the leave provided for is requested. A qualified member is defined as a person who is (1) a member of the Armed Forces of the United States who, during a period of military conflict, has been deployed to an area designated as a combat theater or combat zone by the President of the United States, (2) a member of the National Guard who has been deployed during a period of military conflict, or (3) a member of the Reserves who has been deployed during a period of military conflict.

Whistleblower. Legislation was enacted that amended the new category of medical professionals to whom whistleblower protections were extended. Health facilities are prohibited from discriminating or retaliating against any of their patients, employees, medical staff, or other health care workers because that person (1) presented a grievance, complaint, or report to an entity or agency responsible for accrediting or evaluating the facility or any other governmental entity; or (2) initiated, participated, or cooperated in an investigation or administrative proceeding related to the quality of care, services, or conditions pro-

vided at the facility. Violators of the amended legislation shall be subject to a civil penalty of up to \$25,000. Employees who have been discriminated against shall be entitled to reinstatement, to reimbursement for lost wages and work benefits caused by the acts of the employer, or to any remedy deemed warranted by the court. A health-care worker who has been discriminated against and who prevails in court will be entitled to reimbursement for lost income and for any legal costs associated with pursuing the case or to any remedy deemed warranted by the court.

Colorado

Equal employment opportunity. The category of employment nondiscriminatory protections in the State was expanded to cover two additional protection subcategories. Under State law, it shall be a discriminatory or unfair employment practice for an employer to refuse to hire, to discharge, to promote or demote, to harass during the course of employment, or to discriminate in matters of compensation against any otherwise qualified person because of disability, race, creed, color, sex, age, national origin, or ancestry. Sexual orientation and religion were added to the list of subcategories covered. In addition, employment agencies are prohibited from refusing, because of sexual orientation or religion, to list and properly classify an individual for employment, or to refer an individual for employment, in a known available job for which such individual is otherwise qualified. Finally, it shall also be a discriminatory or unfair employment practice for employers, labor organizations, joint apprenticeship committees, or vocational schools to act against any qualified person in pursuit of apprenticeship programs, or to discriminate against such person, in the terms, conditions, or privileges of such programs because of sexual orientation or religion (as well as against qualified persons in the other subcategories listed).

Immigrant protections. No State agency or political subdivision shall enter into or renew a public contract for services with a contractor or subcontractor who knowingly employs or contracts with an illegal alien to perform work under the contract. Prior to executing a public contract for services, each prospective contractor shall certify that, at the time of the certification, it does not knowingly employ or contract with an illegal alien and that it has participated, or attempted to participate, in the basic pilot program that confirms the employment eligibility of all employees who are newly hired for employment in the United States. If the contractor is not accepted into the basic pilot program prior to entering into a public contract for services, the contractor shall apply to participate in the program every 3 months

until the contractor is accepted or the public contract for services has been completed, whichever is earlier. This provision shall be neither required nor effective in a public contract for services if the basic pilot program is discontinued.

Minimum wage. The State minimum wage was increased to \$6.85 on January 1, 2007. No more than \$3.02 per hour in tip income may be used to offset the minimum wage of employees who regularly receive tips. A tipped employee is defined as an employee who is engaged in an occupation in which he or she customarily and regularly receives more than \$30.00 a month in tips.

Wages paid. Employers are required to pay terminated employees in a timely manner. If the employer disputes the amount of wages or compensation claimed by an employee under the State Revised Statutes, and if, within 14 days after the employee's demand, the employer makes a legal tender of the amount that the employer in good faith believes is due, the employer shall not be liable for any penalty unless, in a legal action, the employee recovers a greater amount than the amount tendered. If, within 14 days of receipt of a demand for payment, the employer fails to mail an employee's earned, vested, and determinable wages or compensation to the place specified in the demand, then the employer is liable for the wages or compensation, together with a penalty in the sum of the following amounts: (1) 125 percent of the amount of such wages or compensation, up to and including \$7,500; and (2) 50 percent of the amount of such wages or compensation that exceeds \$7,500. If the employee can show that the employer's failure to pay was willful, these penalties increase by 50 percent. Evidence of a judgment against the employer within the last 5 years for failure to pay wages or compensation shall be admissible as evidence of willful conduct. Where an action taken by the employee fails to recover a greater sum than the amount tendered by the employer, the court may, when certain conditions are met, award the employer reasonable costs and attorneys' fees incurred in such action.

Whistleblower. Patient safety is of paramount importance in the delivery of health care. Patients are safest when a health-care worker has the right to speak out on the patient's behalf without fear of reprisal or retaliation. Health-care workers have the right to report patient safety concerns and to advocate for a patient's well-being without the risk of disciplinary action or loss of employment. Many health-care professions are under existing legal, licensing, or ethical obligations to report unsafe practices, and it is a violation of public policy for practitioners in those professions to be fired

or penalized for fulfilling those obligations. A new section of an existing statute protects the health-care worker who makes a good-faith report or disclosure without malice or consideration of personal benefit. The health-care worker is not granted immunity for his or her own acts of medical negligence or for unprofessional conduct. Also, the health-care worker must be sure to follow the procedures that exist within his or her organization prior to pursuing any further reporting or disclosure activity.

Worker privacy. The State Revised Statutes were amended to remove the names of the county employees and officials from the two published reports that originally listed the name, job title, and gross monthly salary of each employee. The first report was published in August for the period prior to June of the same year, and the second report shall be published in February and shall list each employee's salary for the previous calendar year. Each publication with information on employees' salaries shall be accompanied by information on the countywide average percentage of salary that is paid in fringe benefits, including, but not limited to, insurance, medical care, retirement plans, housing, transportation, or other subsidized employee expenses.

Connecticut

Human trafficking. The State established a State Trafficking in Persons Council. The council's responsibilities are to (1) hold meetings to provide updates and progress reports, (2) identify criteria for providing services to adult victims of trafficking, (3) identify criteria for providing services to children of trafficking victims, and (4) consult with governmental and nongovernmental organizations in developing recommendations to strengthen State and local efforts to prevent trafficking, protect and assist victims of trafficking, and prosecute traffickers. Trafficking is defined as all acts involved in the recruitment, abduction, transport, harboring, transfer, sale, or receipt of persons, within national or across international borders, through force, coercion, fraud, or deception, to place persons in situations of slavery or slaverylike conditions, forced labor, or forced services, such as forced prostitution or sexual services, domestic servitude, bonded slavery labor, or other debt-related bondage.

Delaware

Drug and alcohol testing. Any State Department of Education employee working in the prison education program and whose permanent work assignment location resides within or on the campus of a State Department of Correction Level 5 or Level 4 facility must submit to the same random drug-testing pro-

cedure required of State Department of Correction employees.

Human trafficking. The State Code was amended through the addition of a new section on human trafficking recognizing the aspects of the crime of human trafficking, defining prohibited activities, and making it more likely that the crime will be charged. A person is guilty of involuntary servitude when the person knowingly subjects, or attempts to subject, another person to forced labor or services by (1) causing or threatening to cause physical harm (a Class B felony), (2) physically restraining or threatening to physically restrain the other person (a Class B felony), (3) abusing or threatening to abuse the law or legal process (a Class C felony), (4) knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or other actual or purported government document, of the other person (a Class E felony), (5) using blackmail, or using or threatening to cause financial harm or financial control, over the other person (a Class F felony). A person is guilty of trafficking of persons for forced labor or services (a Class B felony) when a person knowingly (1) recruits, entices, harbors, provides, transports, or obtains, by any means, another person, intending or knowing that the person will be subjected to forced labor or services, or (2) profits, in a financial manner or by receiving anything of value, from participation in a venture that has engaged in an act that is a violation of the State Code. A person is guilty of sexual servitude of a minor when the person knowingly (1) recruits, entices, harbors, transports, provides, or obtains by any means, a minor under 18 years of age, knowing that the minor will engage in commercial sexual activity, a sexually explicit performance, or the production of pornography, or (2) causes a minor to engage in commercial sexual activity or a sexually explicit performance. Sexual servitude of a minor between the ages of 14 and 18 is a Class C felony, while sexual servitude of a minor under 14 years of age is a Class B felony.

Florida

Drug and alcohol testing. The State Division of Pari-mutuel Wagering has adopted and implemented certain rules and procedures that apply to licensees of slot machine gaming. One of those rules is that the licensees must implement a drug-testing program for employees that includes, but is not limited to, requiring each employee to sign an agreement that he or she understands that the slot machine facility is a drug-free workplace. The division may impose a civil fine of up to \$5,000 for each violation of the rules and procedures in place under the State statute affecting gaming.

Minimum wage. As a result of previously enacted legislation, the State minimum wage was increased to \$6.79 per hour, effective January 1, 2008.

Worker privacy. The State statutes were amended to provide an exemption from the public records requirements for certain records and time sheets provided to a government agency. Personal identifying information that is contained in records documenting an act of domestic violence and that is submitted to an agency by an agency employee is confidential and exempt from public disclosure. This exemption applies to records submitted to an agency that document an act of domestic violence and that are submitted in order to obtain leave. The release of such information could expose the victim of domestic violence to public humiliation and shame and could allow persons to determine the schedule and location of the employee who is the victim of domestic violence. The information is exempt from release for 1 year after the leave has been taken by the victim.

Workplace violence. An employer who has 50 or more employees must permit an employee who has been employed by the employer for 3 or more months to request and take up to 3 working days of leave in any 12-month period if the employee or a family or household member of the employee is the victim of domestic violence. At the discretion of the employer, the leave may be taken with or without pay. The employee may use the leave to (1) seek an injunction for protection against domestic violence or an injunction for protection in cases of repeat violence, dating violence, or sexual violence, (2) obtain medical care or medical health counseling, or both, for the employee or a family or household member in order to address physical or psychological injuries resulting from an act of domestic violence, (3) obtain services from a victim-services organization, (4) make the employee's home secure from the perpetrator of the domestic violence or seek new housing to escape the perpetrator, or (5) seek legal assistance in addressing issues arising from the act of domestic violence, or attend and prepare for court-related proceedings arising from the act of domestic violence.

Georgia

Immigrant protections. The portion of the State Annotated Official Code relating to income taxes was amended. On or after January 1, 2008, no payment, compensation, or other remuneration, including, but not limited to, wages, salaries, bonuses, benefits, in-kind exchanges, expenses, or any other economic benefit, paid for labor services to an individual and totaling \$600 or more in a taxable year

may be claimed or allowed as a deductible business expense for State income taxes for the employment of certain employees. The deduction for a business expense may be claimed only if such individual is an authorized employee, defined as any individual whose hiring for employment or continuing employment in the United States does not violate 8 U.S.C., Section 1324a, having to do with the unlawful employment of aliens.

Inmate labor. Employers participating in prison inmate work programs under the State Code shall be prohibited from providing anything of value to the State Board of Corrections, the State Department of Corrections, the State Correctional Industries Administration, or any officer or employee thereof, other than the payments authorized by the State Code section pertaining to the inmate work programs.

Hawaii

Drug and alcohol testing. The State Revised Statutes were amended by modifying the definitions of two key terms. A *substance abuse onsite screening test* is now defined as a portable substance abuse test that meets the requirements of the United States Food and Drug Administration for commercial distribution or is manufactured by a facility that is minimally certified as meeting the standards established by the International Organization for Standardization and that may be used by an employer in the workplace. A *substance abuse test* is any testing procedure designed to take and analyze body fluids or other materials from the body for the purpose of measuring the amount of drugs, alcohol, or the metabolites of drugs in the sample test. Every employer shall administer the test according to the package insert that accompanies the test. Employers shall have the employee or prospective employee report, within 4 hours after testing positive, to a laboratory licensed by State regulation, and the employers are required to bear the cost of the laboratory testing. Employers are empowered to take punitive action against any employee who fails to show up for the laboratory test. All information concerning the substance abuse onsite screening test shall be strictly confidential. Under certain circumstances, employers are prohibited from discharging, suspending, or discriminating against any employee who tests positive for the presence of drugs, alcohol, or the metabolites of drugs.

Plant closing. Any employer of an establishment covered by State statute shall provide, to each employee and the State director of labor and industrial relations, written notification of a closing, divestiture, partial closing, or relocation of the business establishment at least

60 days prior to its occurrence. Failure by the employer to perform such action shall result in the employer being liable to each affected employee for an amount equal to backpay and benefits for the period of violation, but not to exceed 60 days. This liability may be reduced by (1) the amount of any wages paid by the employer during the notification period and (2) any voluntary and unconditional payment not required by a legal obligation. An employer of a covered establishment that is actively seeking a buyer for a sale, transfer, or merger is not required to provide said notice until the employer has entered into a binding agreement for the sale, transfer, or merger of the covered establishment that results in a divestiture. An employer who fails to provide such notice shall be subject to a civil fine not to exceed \$500 for each day of the violation.

Prevailing wage. The State Revised Statutes regarding public works were amended. The issuance of special-purpose revenue bonds for a public work project not directly caused by a governmental contracting agency shall be reported promptly by the director of the State Department of Budget Finance to the director of the State Department of Labor and Industrial Relations. When the State Department of Budget and Finance enters into an agreement with a party to finance or refinance a project with the proceeds of special-purpose revenue bonds, and such party has entered into a collective bargaining agreement with a bona fide labor union governing the party's workforce, the terms of that collective bargaining agreement and associated provisions shall be deemed the prevailing wages and terms. Those terms shall serve as the basis of compliance for work on the project for the party's workforce, provided that the enforcement powers of the director of the State Department of Labor and Industrial Relations, including the power to collect and maintain certified copies of all payrolls, are not adversely affected.

The State requirements for public works private construction contracts under the State Revised Statutes were amended. The definition of a public work now shall also include a construction contract between private persons if more than 50 percent of the assignable square feet of a project is leased or assigned for use by the State, by any county, or by any agency of the State or any county, whether or not the property is privately owned and (1) the lease or other agreement is entered into prior to the contract's becoming effective or (2) construction work is performed according to a plan, specification, or criteria established by the State, by any county, or by any agency of the State or any county. The construction project owner shall submit weekly certified payrolls to the governmental leasing agency or the governmental agency that has accepted the construction project for its use, either of

which shall be the governmental contracting agency for the construction project.

Because of an amendment to the State Revised Statutes, a civil action to recover unpaid wages or overtime compensation may be filed in any court of competent jurisdiction by any one or more laborers or mechanics for, and on behalf of, the worker(s) and others similarly situated. The employees may file an action for injunctive and other relief against an employer that fails to pay the prevailing wage to its employees as required by this statute and pursuant to the Federal Labor Management Cooperation Act.

Time off. Under current State law, employees are entitled to 4 weeks of family leave, which shall consist of unpaid leave, paid leave, or a combination of paid leave and unpaid leave. The law originally permitted either the employer or the employee to decide which type of leave to apply to a period of family leave. As now amended, State law leaves the employee as the only one entitled to make the decision to take family leave as unpaid leave or to substitute the unpaid leave with accrued vacation, personal, or paid family leave time. There is, however, a stipulation: the employee shall not use more than 10 paid leave days per year for the purpose of family leave, unless an express provision of a valid collective bargaining agreement authorizes the use of more than 10 days of sick leave for such purpose.

Worker privacy. The State Uniform Information Practices Act was amended to specify that each State agency shall make available, for public inspection and duplication during regular business hours, information regarding (1) the name, address, and occupation of any person borrowing funds from a State or county loan program and (2) the amount, purpose, and current status of the loan. Certified payroll records on public works contracts shall not include Social Security numbers and home addresses. Information on contract hires and consultants hired by agencies shall contain the amount of compensation and the duration and objectives of the contract, but not the Social Security numbers or home addresses of the workers or consultants.

Idaho

Minimum wage. The portion of the State Code concerning the minimum wage was amended. The amount of the minimum wage shall now conform to, and track with, the Federal minimum wage. In determining the wages of a tipped employee, the amount of direct wages paid by an employer to the employee shall be deemed to be increased on account of tips actually received by the employee—provided, however, that the direct wages paid to the employee by the employer shall not be in

an amount less than \$3.35 per hour. If the tips actually received by the employee, combined with the direct wages paid by the employer, do not at least equal the minimum wage, the employer must make up the difference.

Illinois

Child labor. The Hazardous Occupations section of the State Child Labor Law was amended to include a section which states that no minor under 16 years of age shall be employed, permitted, or allowed to work in occupations that involve the handling or storage of human blood, human blood products, human body fluids, or human body tissues.

Equal employment opportunity. As the result of an amendment to the State Human Rights Act, it will now be considered a civil rights violation for a public employer to refuse to temporarily transfer a pregnant peace officer or firefighter to a less strenuous or hazardous position for the duration of the pregnancy. The request must be at the behest of the peace officer or firefighter acting under the advice of her physician, and the employer must be able to reasonably accommodate the request or transfer.

The State Human Rights Act also was amended to secure the right of freedom from sexual harassment in employment in institutions of elementary and secondary education, in addition to those of higher education. It is now a civil rights violation for any elementary, secondary, or higher education representative to commit or engage in sexual harassment in elementary, secondary, or higher education. It is also a civil rights violation to retaliate against a person because the person has opposed that which he or she reasonably and in good faith believes to be unlawful discrimination or sexual harassment in elementary, secondary, or higher education.

The State Civil Rights Act of 2003 now includes gender among those issues which cannot be used by any of unit of State, county, or local government to exclude a person from participation in, deny a person any benefits of, or subject a person to discrimination under any program or activity.

A charge filed with the State Equal Employment Opportunity Commission within 180 days after the date of an alleged civil rights violation shall be deemed filed with the State Department of Human Rights on the date it was filed with the State Equal Employment Opportunity Commission. The director of the commission will make a determination regarding substantial evidence, and if it is ruled that there is insufficient evidence, then the director shall give the complainant notice of his or her right to seek review before the commission or commence a civil action in the appropriate circuit court. If the complainant chooses to file

a request for review with the commission, the complainant may not later commence a civil action in a circuit court. If the complainant chooses to commence a civil action in a circuit court, the complainant must do so within 90 days after receipt of the director's notice. If the director determines that there is substantial evidence, the complainant and respondent will be notified of the determination. If the complainant chooses to have the department file a complaint with the commission on the complainant's behalf, then, within 14 days after receipt of the director's notice, the complainant must request, in writing, that the department file the complaint. If the complainant fails to request, in writing and in a timely manner, that the department file the complaint, the complainant may commence a civil action only in the appropriate circuit court. If the complainant chooses to commence a civil action in a circuit court, the complainant must do so in the circuit court in the county wherein the civil rights violation was allegedly committed. If the department has not issued its report within 365 days after the charge is filed, the complainant shall have 90 days to either file his or her own complaint with the commission or commence a civil action.

All applicants for a position in either the fire or police department of a municipality in the State shall be under 35 years of age and shall be subject to an examination that shall be public, competitive, and open to all applicants. Reasonable limitations as to residence, health, habits, and moral character shall apply. The age limitation does not apply to any person previously employed as a police officer or firefighter in a regularly constituted police or fire department of any municipality, regardless of whether the municipality is located in the State or in another state. Applicants who are 20 years of age and who have successfully completed 2 years of law enforcement studies at an accredited college or university may be considered for appointment to active duty with the police department, but shall not have the power of arrest or be permitted to carry firearms until they have reached 21 years of age. Applicants who are 18 years of age and who have successfully completed 2 years of study in fire techniques, amounting to a total of four high school credits, within the cadet program of a municipality may be considered for appointment to active duty with the fire department of any municipality in the State.

Independent contractor. The State Employee Classification Act was amended to address the practice of misclassifying employees as independent contractors within the State. The State Department of Labor shall post a summary of the requirements in English, Spanish, and Polish on its official Web site and on bulletin boards in each of its offices. The department shall have the power to conduct investi-

gations in connection with the administration and enforcement of the law on the issue of employee classification, with the right to inspect documents related to the determination of whether an individual is an employee. Employers may be fined up to \$1,500 for each violation of the Act uncovered during a first audit. Employers found in violation during subsequent audits conducted within 5 years of an earlier violation may be fined up to \$2,500 for each violation and shall not be awarded any State contract until 4 years have elapsed from the date of the last violation. For willful violations, the civil money penalties assessed may be double the amount of the usual assessment. Employers found to have committed first-time willful violations are guilty of a Class C misdemeanor. Employers found guilty of subsequent willful violations committed within 5 years of the previous violation have committed a Class 4 felony. The State Department of Labor, the State Department of Employment Security, the State Department of Revenue, and the State Workers' Compensation Commission shall cooperate by sharing information concerning any suspected misclassification by an employer or other entity of one or more of its employees as independent contractors. These offices and the Office of the State Comptroller shall be obliged to check such employer or other entity's compliance with the State Employee Classification Act, which takes effect January 1, 2008.

Minimum wage. The State minimum wage was increased to \$7.50 per hour on July 1, 2007. Further increases are scheduled. The minimum wage is scheduled to increase to \$7.75 per hour on July 1, 2008, \$8.00 per hour on July 1, 2009, and \$8.25 per hour on July 1, 2010.

During the first 90 consecutive calendar days after an employee who is 18 years of age or older and whose wages are based upon the rates described in the preceding paragraph and have not been reduced from those rates is initially employed by an employer, the employer may pay the employee a wage that is not more than 50 cents less than the applicable minimum wage described in the preceding paragraph. In addition, an employer may pay a day or temporary laborer who is 18 years of age or older at a rate that is not more than 50 cents less per hour than the applicable minimum wage if the employment is occasional or irregular and requires no more than 90 days to complete. Also, there shall be no discrimination between employees on the basis of sex or mental or physical handicap. For those occupations involving gratuities, each employer is allowed a tip credit not to exceed 40 percent of the applicable minimum wage. Finally, no camp counselor who resides on the premises of a seasonal camp of an organized not-for-profit corporation shall be subject

to the adult minimum wage if he or she (1) works 40 or more hours per week and receives a total weekly salary of not less than the adult minimum wage for a 40-hour week, (2) is paid a stipend on a one-time or periodic basis, or (3) is a minor working with parental consent that has been received in writing prior to the commencement of such employment. If the employment is for less than 40 hours per week, then the counselor shall be paid the minimum hourly wage for each hour worked.

Prevailing wage. The State Prevailing Wage Act was amended to clarify the fact that the Act applies to the wages of laborers, mechanics, and other workers employed in any public works, by any public body, and to anyone under contract for public works. This application of the Act includes and applies to any maintenance, repair, assembly, or disassembly work performed on equipment, whether owned, leased, or rented.

No employee may use, possess, distribute, deliver, or be under the influence of a drug or alcohol while performing work on a public works project. An employee is considered to be under the influence of alcohol if an analysis of the alcohol concentration in the employee's blood or breath indicates that the concentration is at or above 0.02 percent at the time of the alleged violation. Before an employer begins work on a public works project, the employer shall have in place a written program that meets or exceeds the requirements of the State Substance Abuse Prevention on Public Works Projects Act. The program must be filed with the public body engaged in the public works and must be made available to the general public in order to discourage substance abuse among the employer's employees. All testing must be performed by a laboratory that is certified for Federal Workplace Drug Testing Programs by the Substance Abuse and Mental Health Service Administration of the U.S. Department of Health and Human Services. The employer's program must include, at a minimum, (1) a requirement of a nine-panel urine drug test plus a test for alcohol; (2) a requirement that employees submit to prehire, random, reasonable-suspicion, and postaccident drug and alcohol testing (however, prehire testing of an employee is not required if the employee has been participating in a random-testing program during the 90 days preceding the work commencement date); (3) a procedure for notifying an employee who tests positive for the presence of a drug in his or her system or who refuses to submit to testing; and (4) reasonable-suspicion testing. An employee who is barred or removed from work for having tested positive for the presence of a drug or for refusing to take appropriate drug tests may return to work after testing negative in subsequent tests or successfully completing a rehabilitation program. The employee shall

be reinstated to his or her former employment status if work for which the employee is qualified exists.

Time off. Upon approval from the employee's agency, an employee may use (1) up to 30 days of organ donation leave in any 12-month period to serve as a bone marrow or organ donor, (2) up to 1 hour or more to donate blood every 56 days, and (3) up to 2 hours or more to donate blood platelets. Leave for platelet donation may not be granted more than 24 times in a 12-month period. An employee may not be required to use accumulated sick or vacation leave time before being eligible for organ donor leave and must present medical documentation before leave can be approved.

Upon request, an employee subject to the State Employee Blood Donation Leave Act may be entitled to blood donation leave with pay. An employee may use up to 1 hour, or more if authorized by the employer or a collective bargaining agreement, to donate blood every 56 days in accordance with appropriate medical standards established by the American Red Cross, America's Blood Centers, the American Association of Blood Banks, or any other nationally recognized standard.

Wages paid. An employee may file a complaint with the State Department of Labor alleging violations of the State Wage Payment and Collection Act within 1 year after the wages, final compensation, or wage supplements were due. Any employer or agency thereof who willfully refuses to pay is guilty of a Class C misdemeanor upon conviction, and each day during which any violation of the Act continues shall constitute a separate and distinct offense. Any employer whom the State director of labor has demanded, or whom a court has ordered to pay wages due an employee and who fails to do so within 15 days after such demand or order is entered shall be liable to pay a penalty of 1 percent of the wages due per calendar day to the employee for each day of delay in paying such wages, up to an amount equal to twice the sum of unpaid wages due the employee. Such employer shall also be liable to the State Department of Labor for 20 percent of such unpaid wages. Any employer who knowingly discharges or in any other manner knowingly discriminates against any employee because that employee has made a complaint to his employer or the State Director of Labor is guilty of a Class C misdemeanor upon conviction.

Workplace violence. A person commits an aggravated assault when, in committing an assault, he or she knows the individual assaulted to be a caseworker, an investigator, or another person employed by the State Department of Healthcare and Family Services

or the County Department of Public Aid and is upon the grounds of a public-aid office or grounds adjacent thereto or is in any part of a building used for public-aid purposes. If the caseworker, investigator, or other person employed and engaged in the business of the agency is violated upon the grounds of a home of a public-aid applicant or recipient, or of any other person being interviewed or investigated in connection with the employee's discharge of his or her duties, an assault is also committed. In addition, an assault is committed if the assailant knowingly accosts a utility worker while the utility worker is engaged in the execution of his or her duties or is prevented from performing those duties or if the attack is in retaliation for the utility worker's performing the said duties. This latter category also includes independent contractors working on behalf of a public utility or telecommunications entity.

Indiana

Minimum wage. The State minimum-wage law was amended so that, effective June 30, 2007, employers in the State who employ two or more employees during a workweek were required to pay wages to the employees of not less than the minimum wage required under the Fair Labor Standards Act of 1938, as amended. This wage requirement does not apply to tipped employees, in relation to which the employer may claim an allowed tip credit where appropriate. In addition, the employer is not required to pay the State minimum wage for the first 90 days of employment to employees who have not yet reached 20 years of age, as long as the rate paid complies with the rate required for such employees under the Fair Labor Standards Act.

Time off. A new section was added to the State Code to highlight the work of the State wing of the Civil Air Patrol. No member of the Civil Air Patrol participating in an emergency service operation may be disciplined for absence from work by any public or private employer if the member has notified his or her immediate supervisor in writing that the person is a member of the Civil Air Patrol. No action may be taken against the person if he or she already has reported to work on the day of the emergency service operation and secures authorization from the supervisor to leave the duty station. The commander or any other officer in charge of the Civil Air Patrol also must present a written statement to the member's immediate supervisor indicating that the member was engaged in an emergency service operation at the time of his or her absence from work. A public employer in the State is in violation of this legislation if the employer disciplines an employee for missing work because of the employee's participation

in an emergency service operation. A public employee may bring a civil action against the employer in the county of employment in order to seek back wages, reinstatement to a former position, fringe benefits wrongly denied or withdrawn, or seniority rights wrongly denied or withdrawn.

The State Code pertaining to military service was amended. The code now contains an exemption from service on any jury in any court in the State for individuals who serve on active duty in the Armed Forces of the United States or the State National Guard. In addition, military family leave of 10 days is applicable to employers who employ at least 50 employees for each working day during each of at least 20 calendar workweeks. To be eligible, employees must have been employed by the employer for at least 12 months and have worked at least 1,500 hours during the 12-month period immediately preceding the day the leave begins. A covered employee must be the spouse, parent, grandparent, or sibling of a person who is ordered to active duty. The employee is entitled to unpaid leave, or the employee may opt to use earned paid vacation leave, personal leave, or other leave; alternatively, the employer may require that some such paid leave be utilized.

Wages paid. Every person, firm, corporation, or association doing business in the State shall pay each employee at least semimonthly, or bi-weekly if requested, the amount due the employee. The payment shall be made in lawful currency of the United States, by negotiable check, draft, or money order, or by electronic transfer to a financial institution designated by the employee. Payment shall be made for all wages earned up to a date not more than 10 business days prior to the date of payment. Payments may be made at shorter intervals. If an employee voluntarily leaves employment, either permanently or temporarily, the employer shall not be required to pay the employee an amount due until the next usual and regular day for payment of wages as established by the employer. If an employee leaves employment voluntarily and without the employer's knowing the employee's whereabouts or address, the employer is not subject to pay until 10 business days have elapsed after the employee has made a demand for the wages due and has furnished the employer with an address to where the wages may be sent or forwarded. A business day is any day other than Saturday, Sunday, or a legal holiday.

Worker privacy. The categories of public records that may not be disclosed by a public agency unless access to the records is specifically required by a State or Federal statute or is ordered by a court under the rules of discovery have been expanded. The excluded categories now comprise the name, amount of compen-

sation, job title, business address, business telephone number, job description, education and training background, previous work experience, and dates of first employment of a law enforcement officer who is operating in an undercover capacity.

Iowa

Drug and alcohol testing. The State amended its policy for the employer practice of unannounced drug and alcohol testing. Employers may conduct unannounced drug or alcohol tests on employees selected from three pools. The first pool consists of the entire employee population at a particular worksite of the employer, except for employees not subject to testing pursuant to a collective bargaining agreement, those who are not scheduled to be at work at the time the testing is to be conducted because of their status (for example, those on annual or sick leave and those in training), and those who have been excused from work pursuant to the employer's work policy prior to the time the testing is announced to the employees. The second pool consists of the entire full-time active employee population at a particular worksite, minus those exempt because of a collective bargaining agreement, those not scheduled to be at work at the time testing is conducted because of their status, and those who have been excused from work pursuant to the employer's work policy. The final pool consists of all employees at a particular worksite who are in a pool of employees in a safety-sensitive position and who are scheduled to be at work at the time testing is conducted, other than employees not subject to testing pursuant to a collective bargaining agreement or employees who are not scheduled to be at work at the time testing is to be conducted or who have been excused from work pursuant to the employer's work policy prior to the time the testing is announced to the employees.

Equal employment opportunity. The categories of sexual orientation and gender identity were added to other discriminatory categories listed in the State Code. Employers now may not refuse to hire, accept, register, classify, or refer for employment any applicant for employment or any employee on the basis of the person's sexual orientation or gender identity. Nor may employers discharge any employee or otherwise discriminate in employment against any applicant for employment or any employee on the same basis.

Minimum wage. Effective April 1, 2007, the State minimum wage was increased to \$6.20 per hour. A further increase to \$7.25 will become effective on January 1, 2008. Employers may, but are not required to, pay employees the applicable State minimum wage until the employee has completed 90 calendar days of

employment with the employer. Employers, however, are required to pay those same employees an hourly wage of at least \$5.30 as of April 1, 2007, and a rate of at least \$6.35 as of January 1, 2008.

Wages paid. If an employer fails to send an employee's wages for direct deposit on or by the regular payday, the employer is liable for the amount of any overdraft charge if the overdraft is created on the employee's account because of the employer's failure to send the wages on or by the regular payday. The overdraft charges may be a basis for a monetary claim and for damages under the State Code.

Kansas

Equal employment opportunity. The governor signed an executive order dedicated to the principles of freedom and equality among all of the State's citizens and declared that all State entities shall make certain that the following programs are in place: (1) a diversity management program that includes outreach recruitment and hiring, support, mentoring, development, rewards, and recognitions for achievement, as well as a means of monitoring the effectiveness of the program; (2) a strong program, including training and a prompt and confidential method for expressing complaints, prohibiting discrimination and harassment on account of race, color, gender, sexual orientation, gender identity, religion, national origin, ancestry, age, military or veteran status, or disability status, and (3) a program of awareness regarding legal protections for persons with disabilities, in order to allow qualified applicants to apply for employment and to allow employees with disabilities to perform the essential functions of jobs and enjoy the privileges and benefits of employment.

Wages paid. Employers in the State are now permitted to designate the method by which employees receive wages, provided that all wages are paid by at least one of the following methods: (1) in lawful money of the United States; (2) by check or draft negotiable in the community wherein the place of employment is located; (3) by the transfer or deposit of electronic funds to an automated clearing-house member financial institution account designated by the employee; (4) by payroll card. Employers that elect to pay wages by one of these methods shall offer an alternative form or payment method as a default option for employees who fail to designate a financial institution account for the transfer or deposit of electronic funds. In addition, employers that elect to use one of the methods listed shall allow employees at least one means of access to their funds per pay period at no cost to the employee for an amount up to and in-

cluding the total amount of the employee's net wages, as stated on the employee's earnings statement. Finally, employers may not charge an employee initiation, loading, or other participation fees to receive wages payable in an electronic fund transfer to a payroll account, except for the cost required to replace a lost, stolen, or damaged payroll card.

Kentucky

Minimum wage. The State minimum wage was increased to \$5.85 per hour in June and is scheduled for two subsequent increases: to \$6.55 per hour on July 1, 2008, and to \$7.25 per hour on July 1, 2009. If the Federal minimum wage is increased in excess of the minimum hourly rate required by State law, the State minimum wage shall be increased, on the same date, to the same amount as the required Federal hourly rate.

Louisiana

Whistleblower. Persons who violate State law relating to freedom from reprisal against public employees for the disclosure of improper acts shall be subject to the fines and penalties provided by State law. If, as a result of a public hearing, there is a finding of probable cause to believe that a person has violated such a criminal law of the State, the finding shall be forwarded for appropriate action to the district attorney of the parish in which the violation occurred. Each agency head shall ensure that a notice containing an explanation, in plain language, of the rights of employees under State law is posted and maintained at some convenient and conspicuous location in each building in which more than 10 public employees are employed.

Maine

Discharge. Public employers may deduct any service fees owed by an employee to a collective bargaining agent from the employee's pay, without signed authorization from the employee, and remit those fees to the bargaining agent as long as the fee obligation arises from a lawfully executed and implemented collective bargaining agreement. In the event that a fee payor owes any arrears on its fee obligations, the deductions authorized by statute may include an installment on a payment plan to reimburse all arrears, but in each pay period may not exceed 10 percent of the gross pay owed. Public employees have a right to join or refrain from joining labor organizations. Thus, public employers may not require an employee to become a member of a union, an employee organization, or a bargaining agent. Nor may such employers terminate or discipline an employee for not paying union dues or fees of any type.

Drug and alcohol testing. The State Employment Practices Law regarding testing for substance abuse among temporary workers was amended. The use of consent forms is prohibited. An employer may not require, request, or suggest that any employee or applicant for employment sign or agree to any form or agreement that attempts to (1) absolve the employer from any liability that may arise out of the imposition of the substance abuse test or (2) waive an employee's or applicant's rights, or eliminate or diminish an employer's obligation, under the State Revised Statutes Annotated, except as provided by State statute. An employment agency, as defined by State statute, may request a written waiver for a temporary placement from an individual already in its employ or on a roster of eligibility, as long as the client company has an approved substance abuse testing policy and the individual has not been assigned work at the client company in the 30 days previous to the request. The test must otherwise comply with both State standards and the employment agency's approved policy regarding applicant testing. The agency may not take adverse action against the individual for refusal to sign a waiver.

Family issues. The State expanded the reasons for which employees may utilize family medical leave. In addition to being permitted to take family medical leave for the birth of their own or their spouse's children, employees may now take leave for the birth of their domestic partners' children or for the placement of children 16 years of age or younger with their domestic partners in connection with the adoption of the children by the employees or their domestic partners. A domestic partner is defined as an employee's partner who (1) is a mentally competent adult; (2) has been legally domiciled with the employee for at least 12 months; (3) is not legally married to, or legally separated from, another individual; (4) is the sole partner of the employee and expects to remain so; and (5) is jointly responsible with the employee for each other's common welfare, as evidenced by a joint living arrangement, joint financial arrangements, or joint ownership of real or personal property.

The State Revised Statutes regarding family military leave were amended. Subject to State requirements, an employer who now employs 15 or more employees shall provide each eligible employee up to 15 days of family military leave per deployment if requested by the employee. Such family military leave authorized under the statute may be taken only within one or more of the following timeframes: (1) the 15 days immediately prior to deployment, (2) deployment if the military member is granted leave, and (3) the 15 days immediately following deployment. Family military leave granted under the statute may

consist of unpaid leave. In addition, the employee is entitled to military leave upon the death or incurrence of a serious health condition of the employee's spouse, domestic partner, parent, or child if the spouse, domestic partner, parent, or child, as a member of the State military forces or the U.S. Armed Forces, including the National Guard and Reserves, dies or incurs the serious health condition while on active duty. Finally, the definition of an employer, as amended, now no longer includes an independent contractor.

The State's Family Medical Leave Law was amended to provide for intermittent leave, as is provided under the Federal Family and Medical Leave Act. The 10 weeks of family medical leave that qualified employees are entitled to in any 2 years no longer has to be used consecutively. Family medical leave on an intermittent or reduced schedule may be taken, subject to some limitations, such as an agreement reached by the employer and the employee and medical necessity.

Minimum wage. Because of previously passed legislation, the State minimum wage was increased to \$7.00 per hour on October 1.

The coverage portion of the State Minimum Wage Act, as it pertains to domestic workers, was amended. Coverage now extends to an individual employed in domestic service in or about a private home and engaged directly by the resident or owner of the home or the family of the resident or homeowner.

A service employee is now defined to mean any employee engaged in an occupation in which the employee customarily and regularly receives more than \$30.00 a month in tips. Among such employees are waiters, waitresses, bellhops, counter personnel, and bartenders who serve customers. The tips received by a service employee become the property of the employee and may not be shared with the employer. Service employees may volunteer to pool their tips to be split evenly among themselves and other service employees or may volunteer to share a part of their tips with other employees who do not generally receive tips directly from the customers. Tips that are automatically included in the customer's bill or that are charged to a credit card must be given to the service employee, except that if the employer must pay the credit card company a percentage on each sale, the employer may deduct from the employee's tip a proportion of the credit card charge that is the same proportion that the tip is to the total bill. A tip that is charged to a credit card must be paid by the employer to the employee by the next regular payday and may not be held while the employer is awaiting reimbursement from a credit card company.

Overtime. The State labor laws regarding automobile dealerships were amended. An auto-

mobile salesperson is defined as a person who is engaged primarily in selling automobiles or trucks as an employee of an establishment engaged primarily in the business of selling those vehicles to the ultimate purchaser. The term "automobile salesperson" now includes a person who is engaged primarily in assisting in the financing and providing of insurance products to the ultimate purchaser. An automobile service writer has been newly defined as a person employed for the purpose of, and engaged primarily in, receiving, analyzing, and referencing requests for service, repair, or analysis of motor vehicles as an employee of an establishment engaged primarily in the business of selling automobiles or trucks to the ultimate purchaser, except that the term "automobile service writer" does not include an employee who is paid on an hourly basis.

Plant closing. Employers or persons proposing to terminate or to relocate an establishment covered by State statute outside the State shall notify employees and municipal officers of the municipality in which the plant is located, in writing, not less than 60 days prior to the termination or relocation. Persons breaching this requirement commit a civil violation for which a fine of not more than \$500 may be adjudged, except that a fine is not adjudged if the relocation is necessitated by a physical calamity or if the failure to give notice is due to unforeseen circumstances. Persons violating sections of the State statutes regarding plant closings, with the exception of the circumstances just discussed, commit a civil violation for which a fine of not more than \$1,000 per violation may be adjudged. Each employee affected constitutes a separate violation.

Maryland

Human trafficking. The State statutes dealing with human trafficking and servitude were amended to include extortion. A person may not obtain, attempt to obtain, or conspire to obtain money, property, labor, services, or anything of value from another person with the person's consent if the consent is induced by the wrongful use of actual or threatened (1) force or violence; (2) economic injury; or (3) destruction, concealment, removal, confiscation, or possession of any immigration or government identification document with intent to harm the immigration status of either the person in question or another person. If the value of the property, labor, or services is \$500 or more, then the person who violates this section of the statutes is guilty of the felony of extortion and, upon conviction, is subject to imprisonment not exceeding 10 years, or a fine of \$5,000, or both. If the value of the property, labor, or services is less than \$500, then the person who violates this section of the statutes is guilty of the misdemeanor of

extortion and, upon conviction, is subject to imprisonment not exceeding 18 months, or a fine not exceeding \$500, or both. A person seeking to extort money, property, labor, services, or anything of value from someone may not falsely accuse, or threaten to falsely accuse, that person or another person of a crime or of anything that, if the accusation were true, would tend to bring either of the latter individuals in contempt or disrepute. A person who violates this section of the statutes is guilty of a misdemeanor and, upon conviction, is subject to imprisonment not exceeding 10 years, or a fine not exceeding \$10,000, or both. Parents, guardians, or persons who have permanent or temporary care, custody, or responsibility for the supervision of another may not consent to the taking or detention of the other for prostitution. Persons found guilty of such actions are guilty of human trafficking and, upon conviction, are subject to imprisonment not exceeding 10 years, or a fine of \$5,000, or both. If the victim of the trafficking is a minor, the person who is convicted is guilty of a felony and, upon conviction, is subject to imprisonment not exceeding 25 years, or a fine of \$15,000, or both.

Living wage. The State enacted a new law requiring that a living wage be applied to all employees working on State procurement contracts. The law requires contractors or subcontractors that employ more than 10 employees and that have a contract for \$100,000 or more to comply with the requirements of the State Living Wage Law. The law does not apply to employers who employ 10 or fewer employees and who have a State contract for services valued at less than \$500,000. The law does apply to employees of covered employers for the duration of the contract if at least one-half of the employees' time during any workweek relates to a State contract for services or a subcontract for services under a State contract. The employees must be paid at least \$11.30 per hour if the State contract services are valued at 50 percent or more of the total value of the contract and are performed in Montgomery, Prince Georges, Anne Arundel, Howard, or Baltimore counties or in Baltimore city. If the employees are performing the work in the State, but outside of these locales, the employees must be paid at least \$8.50 per hour. The commissioner of the State Department of Labor is required to assess the appropriateness of the measures used to adjust the wage rates every 3 years.

Offsite work. The State Department of Transportation has implemented the Telework Partnership with Employers Initiative by collaborating with several State agencies to allow employees to work outside the traditional environment, either at home or in a satellite office. Telework affords employees flexible work

arrangements and reduced commuting costs, with an eye toward providing for a better work-family balance, reduced stress, improved job satisfaction, and reduced travel time and expense. On or before December 31, 2007, the State Department of Transportation shall evaluate the State Department's Telework Partnership with Employers Initiative and issue a report of its findings and recommendations regarding the initiative to the governor.

Massachusetts

Child labor. A person shall not employ a child or permit a child to work in, about, or in connection with any establishment or occupation before 6:00 a.m. or after 10:00 p.m., except as an operator in a regular-service telephone exchange or a telegraph office until, but not after, 11:00 p.m. A child 16 years of age or older may be employed until, but not after, 11:30 p.m. on any night other than a night preceding a regularly scheduled schoolday. In addition, a child 16 years of age or older may be employed in a restaurant or racetrack until, but not after, 12 midnight on any night other than a night preceding a regularly scheduled schoolday. An establishment that stops serving clients or customers at 10:00 p.m. may employ a child until, but not after, 10:15 p.m. A child employed after 8:00 p.m. must be under the direct and immediate supervision of an adult acting in a supervisory capacity who is situated in the workplace and is reasonably accessible to the child. This stipulation does not apply to a child employed at a kiosk, cart, or stand located within the common areas of an enclosed shopping mall that employs security personnel every night from 8:00 p.m. until the mall is closed to the public. Whoever employs or permits any minor to work contrary to the preceding legislative requirements shall be punished by a fine of not less than \$500 or more than \$5,000, or by imprisonment of not more than 1 month, or both. As an alternative to initiating criminal proceedings to enforce any violation of the statute, the State attorney general may issue a written warning or citation and may impose a separate civil money penalty of not more than \$250 for the first violation, not more than \$500 for the second violation, and not more than \$2,500 for the third and each subsequent violation. If said person employing such a minor has been notified in writing by any authorized inspector or supervisor, the violations shall be considered to constitute a separate offense for every day during which the employment continues. If a minor 16 years of age or older fails to meet the requirements for completion of the sixth grade, a person shall not employ that minor while a public evening school is maintained in the town where the minor resides or is employed if said minor is authorized to attend a public

evening school. If the minor regularly attends the evening school or a day school, then each week the minor must present his or her employer with a school record demonstrating proper attendance. When the record shows unexcused absences, the minor's attendance shall be deemed irregular and insufficient. Appropriate teachers or authorized persons who issue permits may excuse justifiable absence or waive the school attendance requirements if the physical or mental condition of the minor is such as to render his or her attendance at school harmful or impracticable.

Independent contractor. By Executive order of the State Governor, it shall be the policy of all agencies in the Executive Branch of the State government to prohibit the use of undocumented workers in connection with the performance of State contracts. As a condition of receiving Commonwealth funds, all contracts entered into by the executive branch shall require the associated contractors to certify that they shall not knowingly use undocumented workers in connection with the performance of the contract and that they shall verify the immigration status of all workers assigned to the contract without engaging in unlawful discrimination. The employer further shall not recklessly alter, falsify, or accept altered or falsified documents from any such worker. All contracts shall specify that a breach of any of the terms of this Executive order during the period of the contract may be regarded as a material breach subjecting the contractor to sanctions including, but not limited to, monetary penalties, withholding of payments, or suspension or termination of the contract.

Michigan

Minimum wage. The State minimum wage was increased to \$7.15 per hour on July 1, 2007.

Minnesota

Overtime. The commissioner of the State Department of Labor and Industry may issue an order requiring an employer to comply with the State statute prohibiting the employer from taking action against a nurse solely on the grounds that the nurse fails to accept an assignment of additional consecutive work hours in excess of a normal work period at the facility at which the nurse is employed. The nurse may decline to perform the additional work because doing so may, in the nurse's judgment, jeopardize patient safety. Notwithstanding the prohibition, the nurse may be scheduled for duty or required to continue on duty for more than one normal work period in an emergency. The prohibition does not apply to a nursing facility, an intermediate-care

facility, any persons with developmental disabilities, a licensed boarding-care facility, or a "Housing with Services Establishment."²

Other laws. Upon the hiring of a job applicant, an employer is required to provide the applicant with written notice of the rights and remedies afforded employees by State law.

Missouri

Discharge. Any employer in the State that is found, in any State court or in any U.S. district court located in the State, to have terminated, demoted, or taken an adverse employment action toward a veteran of the war on terror during his or her deployment shall be subject to an administrative penalty in the amount of \$35,000 when certain conditions are met. The director of the State Division of Employment Security shall take judicial notice of judgments in suits brought under the Uniformed Services Employment and Reemployment Rights Act.

Time off. No public or private employer shall terminate an employee for joining, as a volunteer firefighter, any fire department or fire protection district, including, but not limited to, any municipal, volunteer, rural, or subscription fire department or organization, volunteer fire protection association, State Disaster Medical Assistance Team, State Task Force One, or Urban Search and Rescue Team. No public or private employer shall terminate an employee who is a volunteer firefighter or a member of any of the aforementioned agencies and who is absent from, or late to, his or her employment in order to respond to an emergency that arises before the time the employee is to report to his or her place of employment. An employer may charge, against an employee's regular pay, any time that the employee loses from employment because of the employee's response to an emergency in the course of performing his or her duties as a volunteer firefighter or member of any of the aforementioned agencies. The employer may request the employee to provide a written statement from the supervisor or acting supervisor of the volunteer fire department, or any of the other aforementioned agencies, stating that the employee responded to an emergency and citing the time and date of the emergency.

Montana

Minimum wage. State law now requires that the State minimum wage of \$6.15 per hour exclude both the value of tips received by the employee and the special provisions for a training wage. In addition, the minimum wage is now subject to the following annual cost-of-living adjustment: no later than September 30 of each year, an adjustment of the wage amount specified in the first sentence of this

section shall be based upon the increase, if any, from August of the preceding year to August of the year in which the calculation is made, in the Consumer Price Index for All Urban Consumers, U.S. city average, for all items, as published by the Bureau of Labor Statistics of the U.S. Department of Labor. The wage amount established by means of this formula, rounded to the nearest 5 cents, becomes effective on January 1 of the following year.

Offsite work. A joint resolution of the State Senate and House of Representatives urged the executive and judicial branches of the State to implement telecommuting policies within those branches' agencies, identifying functions that may be performed by employees who work offsite, adopting policies and procedures, and implementing strategies for the policy initiatives. Offsite work is seen as a means of reducing energy usage, the Nation's dependency on foreign oil, and funding for terrorists and as a means of improving highway safety by reducing traffic. Further, telecommuting has been shown to increase worker productivity, improve retention of employees, and bring efficiency to the use of employer assets. Another benefit of such a policy is a reduction in the number of children without parents at home.

Time off. An employee who terminates employment for a reason not reflecting discredit upon him- or herself is entitled, upon the date of termination, to cash compensation for unused vacation leave, assuming that the employee has worked the qualifying period. Vacation leave contributed to the sick leave fund is nonrefundable and is not eligible for cash compensation upon termination. An employee may contribute accumulated vacation leave to a nonrefundable sick leave fund. In consultation with the State employee group benefits council, the State Department of Administration shall adopt rules for implementing such a policy.

Nebraska

Time off. The State legislature enacted the Family Military Leave Act, under whose authority and requirements any employer that employs between 15 and 50 employees shall provide up to 15 days of unpaid family military leave to an employee during the time Federal or State deployment orders pertaining to that employee are in effect. If the employer employs more than 50 employees, then the employer shall provide up to 30 days of unpaid family military leave. The employee shall give at least 14 days' notice of the intended date upon which the family military leave will commence if the leave will consist of 5 or more consecutive workdays. Employees taking family military leave for fewer than 5 consecutive

days shall give the employer as much advance notice thereof as is practicable. The employer may require certification from the proper military authority to verify the employee's eligibility. Any employee who exercises the right to family military leave shall, upon expiration of the leave, be entitled to be restored to the position held by the employee when the leave began or to a position with equivalent seniority status, benefits, pay, and other terms and conditions of employment. This stipulation does not apply to an employee who has not been so restored if the employer proves that the employee was not restored because of conditions unrelated to the employee's exercise of his or her rights under the Act.

Wages paid. The section of the State Wage Payment and Collection Act concerned with commissions was amended. Paid leave, other than earned but unused vacation leave, provided as a fringe benefit by the employer shall not be included in the wages due and payable at the time of separation, unless the employer and the employee (or the employer and the collective bargaining representative) have specifically agreed otherwise. In addition, wages include commissions on all orders delivered and on all orders on file with the employer at the time of separation, less the dollar amount for any returned or canceled orders. Whenever an employer separates an employee from the payroll, the unpaid wages constituting commissions shall become due on the next regular payday following the employer's receipt of payment for the goods or services from the customer from which the commission was generated. The employer shall provide the employee a periodic accounting of outstanding commissions until all commissions have been paid or the orders have been returned or canceled by the customer. If an employee establishes a claim for unpaid wages and secures judgment on such claim, an amount equal to the judgment may be recovered from the employer. If the nonpayment of wages is found to be willful, an amount equal to 2 times the amount of unpaid wages shall be recovered from the employer and shall be remitted to the State treasurer for distribution.

Worker privacy. The State Revised Statutes Cumulative Supplement concerning information that may be withheld from release to the public by the lawful custodian of the records, unless publicly disclosed in an open court, open administrative proceeding, or open meeting, or disclosed by a public entity pursuant to its duties, was amended in order to include an additional category of materials that may be withheld from release. Job application materials submitted by applicants, other than finalists who have applied for employment by any public body, may be withheld from release. Job application materials are defined

as applications, resumes, reference letters, and school transcripts. A finalist (1) is any applicant who reaches the final pool of applicants, numbering four or more, from which the successful applicant is to be selected, (2) is an original applicant when the final pool of applicants numbers fewer than four, or (3) is an original applicant among four or fewer original applicants.

Legislation was enacted that established the State Credit Report Protection Act. The Act excludes the release of data to certain Federal, State, and local government entities and stipulates that employers shall not publicly post or publicly display, in any manner, more than the last four digits of an employee's Social Security number. Specifically proscribed by the Act is intentionally communicating more than the last four digits of the Social Security number or otherwise making available more than the last four digits to the general public or to an employee's coworkers. Nor may employers require an employee to (1) transmit more than the last four digits over the Internet, unless the connection is secure or the information is encrypted; (2) use more than the last four digits to access an Internet Web site, unless a password, unique personal identification number, or other identification device is also required for access; or (3) use the last four digits as an employee number for any type of employment-related activity.

Nevada

Hours worked. The State has revised the definition of "intrastate driver." Under the State Revised Statutes, the term now excludes drivers who work for a public utility. In addition, the exemption for commercial intrastate drivers from the hours-of-service limitations in certain emergencies was repealed.

Minimum wage. As a result of a ballot measure vote, the State minimum wage was increased on November 28, 2006, to \$6.15 per hour if the employer does not provide health benefits or \$5.15 per hour if the employer provides health benefits at a total cost for premiums to the employee of not more than 10 percent of the employee's gross taxable income from the employer. A 2007 amendment to State law now requires that these wage rates be adjusted by the amount of increases in the Federal minimum wage that exceed \$5.15 per hour or, if greater than \$5.15 per hour, by the cumulative increase in the cost of living. The increase in the cost of living shall be measured by the percent increase as of December 31 in any year, over the level as of December 31, 2004, of the Consumer Price Index, as published by the Bureau of Labor Statistics, or of the successor index of that same Federal agency. No Consumer Price Index adjustment for any 1-year period may

be greater than 3 percent. Tips or gratuities received by employees shall not be credited as being any part of, or offset against, the wage rates required by the State law.

Because of previously passed legislation calling for increases in the cost of living, the minimum wage in the State was increased to \$6.33 per hour for employees without a qualified health plan as defined by the State. For those employees whose employer has offered them a qualified health plan, the basic hourly rate is set at \$5.30 per hour.

With regard to State statutes and State constitutional provisions governing the minimum wage paid to an employee, two types of relationships do not constitute employment relationships and are therefore not subject to those minimum-wage provisions. The first type is a relationship between a rehabilitation facility or workshop established by the State Department of Employment, Training, and Rehabilitation under the statutes and a handicapped individual participating in a training or rehabilitative program of such a facility or workshop. The second type is the relationship between a community-based training center that has been issued a certificate of qualification by the State Department of Health and Human Services, Division of Mental Health and Developmental Services, and an enrollee participating in a training or rehabilitative program of such a center.

Time off. The issue of employees having to use leave to serve time on jury duty was amended in the State Revised Statutes. If a person is summoned to appear for jury duty, the employer and any employee, agent, or officer of the employer shall not, as a consequence of the person's service as a juror or prospective juror, require the employee to use sick leave or vacation time. Nor shall the employer require the employee to work (1) within 8 hours before the time at which the employee is to appear for jury duty or (2) between 5 p.m. on the day of the employee's appearance for jury duty and 3 a.m. the following day if the employee's service has lasted for 4 or more hours (including the time taken to go to and return from the place where court is held) on the day of his or her appearance for jury duty. Persons who violate these revised statutes are guilty of a misdemeanor.

Worker privacy. The exceptions that authorize the release of the home address of a peace officer by a law enforcement agency in certain circumstances were amended. The home address of a peace officer may be released if the officer has been arrested and the home address is included in any of the following: (1) a report of a 911 call; (2) a police report, an investigative report, or a complaint that a person has filed with a law enforcement agency; (3) a statement made by a witness; (4) a report prepared

pursuant to specific State Revised Statutes by an agency that provides child welfare services when such report details a plan for the placement of a child.

The destination for the release of information about past and present employees by both public and private employers is no longer restricted to a law enforcement agency. The information may now be released to a public safety agency if the past or present employee is an applicant for the position of either firefighter or peace officer.

New Hampshire

Child labor. No youth 16 or 17 years of age, except such a youth who has graduated from high school or obtained a general equivalency diploma, shall be employed by an employer, unless the employer obtains and maintains on file a signed, written document from the youth's parent or legal guardian permitting the youth's employment. Employers who violate this requirement may be fined an amount not to exceed \$2,500 for each violation.

Minimum wage. The State minimum wage was increased to \$6.50 per hour on September 1, 2007. The rate is scheduled for a subsequent increase, to \$7.25 per hour, on September 1, 2008. If, at any time, the Federal minimum-wage rate is higher than the State minimum-wage rate, then the employer shall pay the greater rate. Employees of a restaurant, hotel, motel, inn, or cabin who customarily and regularly receive tips must now earn at least \$30 per month to be considered a tipped employee. Employers of tipped employees must pay the employees at least 45 percent of the applicable minimum wage.

Overtime. Legislation was enacted regulating mandatory overtime for nurses and assistants and providing penalties for violations thereof. With certain exceptions, a registered nurse, licensed practical nurse, or licensed nursing assistant licensed under State statutes shall not be disciplined or lose any right, benefit, or privilege for refusing to work more than 12 consecutive hours. The exceptions are (1) nurses participating in surgery, until the surgery is completed; (2) nurses working in critical care units, until another employee beginning a scheduled work shift relieves the nurse; (3) nurses working in home health care settings, until another qualified nurse or customary caregiver relieves the nurse; (4) nurses working to meet a public health emergency; and (5) nurses covered by collective bargaining agreements containing provisions addressing the issue of mandatory overtime. A nurse may be disciplined for refusing to work mandatory overtime in any of the preceding five situations. Any nurse who is mandated to work more than 12 consecutive hours, as

permitted by the statute, shall be allowed at least 8 consecutive hours of off-duty time immediately following the overtime hours worked. Employers who willfully violate State statutes regarding this issue shall be subject to civil penalties.

Wages paid. The list of reasons for which employers are authorized to withhold wages was expanded. Employers are required or authorized, by State or Federal law, to withhold wages for the purpose of paying payroll taxes; paying union dues; making health welfare, pension, and apprenticeship contributions; making voluntary contributions to charities; paying for housing and utilities; paying into savings funds held by someone other than the employer; paying voluntary rental fees for nonrequired clothing; paying for voluntary cleaning of uniforms and nonrequired clothing; paying for the employee's use of a vehicle under State statutes; paying for medical, surgical, hospital, or other group insurance benefits without financial advantage to the employer when the employee has given his or her written authorization and deductions are duly recorded; and paying for required clothing not covered by the definition of a uniform.

Employers in the State are now permitted to pay employees by payroll card. In doing so, the employer shall provide the employee at least one free means of withdrawing up to, and including, the full amount of the balance in the employee's payroll card or payroll card account during each pay period at a financial institution or other location convenient to the place of employment. None of the employer's costs associated with a payroll card or payroll card account shall be passed on to the employee. Employers may initiate payment of wages to an employee by electronic fund transfer to a payroll card account only after the employee has voluntarily consented in writing to that method of payment. Consent to payment of wages by electronic fund transfer to a payroll card account shall not be a condition of either hiring or continued employment. The written consent signed by the employee shall include the terms and conditions of the payroll card option. Employers also must offer the employee the option to discontinue receipt of wages by a payroll card or payroll card account at any time, without penalty to the employee.

Worker privacy. The commissioner of the State Department of Employment Security may enter into a reciprocal electronic data-exchange agreement with the Social Security Administration. The exchange of such information is permitted so long as the information is limited to detecting and preventing fraud, waste, and abuse in Social Security Administration programs and in the entitlement, eligibility, and benefit payment amounts of individuals under specific titles of the Social

Security Act. Authorized Federal employees shall be granted access by State statute on a case-by-case basis. The information shall be provided only upon a finding by the commissioner that sufficient guarantees of continued confidentiality are in place.

New Jersey

Employment agencies. Legislation was enacted that regulates the use of certain transportation services utilized in connection with the placement of individuals in employment by temporary-service firms. The legislation requires employees to obtain transportation services to get to or from the site of work. When the firm provides transportation services with any vehicle owned, leased, or otherwise under its control, the firm is responsible for compliance with the relevant laws regarding the vehicle and its use and with recordkeeping as required by the attorney general. If the firm does not provide transportation services, but refers, directs, or requires the individuals to use any other provider of transportation services, or offers no practical alternative to the use of the services of the provider, the firm is required to obtain and keep on file documentation that each provider is in compliance with the relevant laws. Such firms may not require the individuals to use transportation provided by the firm or another provider of transportation services if those individuals have other transportation available. Firms failing to comply with this legislation on more than one occasion may have their registration as a temporary-help service firm suspended or revoked by the State attorney general. This regulatory requirement does not apply (1) if the firm requires the employees to use their own vehicles or other transportation of their choice to and from work or (2) if public transportation is available at the times needed and the firm permits the employees to use the public transportation.

Prevailing wage. The prohibition against any contractor or subcontractor who has been debarred from public work due to violations of the prevailing-wage law by having used a firm, corporation, or partnership in which the contractor had an interest has been strengthened by legislation. The legislation provides that when certain conditions are met, a rebuttable presumption may arise asserting that a contractor or subcontractor who is debarred from prevailing-wage work has an interest in another firm, corporation, or partnership. The presumption shifts the burden of proof from the State Department of Labor and Workforce Development to the individual contractor to prove otherwise under certain circumstances. The department is permitted to immediately suspend a contractor's registration prior to a formal hearing on the matter if the director of

the State Division of Wage and Hour Compliance determines that an immediate suspension is in the public interest. The contractor must be afforded an opportunity to contest the immediate suspension.

The State requirements for prevailing wages to be paid for construction work on State-owned properties were amended. Every contract in excess of the prevailing-wage contract threshold amount for any public work to which any public body is a party, or for public work to be done on property or premises owned by, leased to, or leased by a public body, shall contain a provision stating the prevailing-wage rate that can be paid to the workers employed in performance of the contract. Such a contract shall also contain a provision whereby, if it is found that any worker employed by the contractor or any subcontractor covered by such contract, then the public body, the lessee to whom the public body is leasing a property or premises, or the lessor from whom the public body is leasing or will be leasing a property or premises may terminate the contractor's or subcontractor's right to proceed with the work. The contractor and his or her sureties shall be liable for any excess costs occasioned thereby to the public body, to any lessee to whom the public body is leasing a property or premises, or to any lessor from whom the public body is leasing or will be leasing a property or premises.

Employers in the construction industry who improperly classify employees as independent contractors not only deprive these workers of Social Security and other benefits while reducing the employers' State and Federal tax withholdings and related obligations, but also make other businesses bear higher costs for complying with employment law at a competitive disadvantage. Accordingly, an employer, or any officer, agent, superintendent, foreman, or employee of the employer, who fails to properly classify an individual as an employee for purposes of the State Prevailing Wage Act and other State statutes, and who fails to pay wages, benefits, taxes, or other contributions required by those acts, shall be guilty of a disorderly person's offense and shall, upon conviction, be fined not less than \$100 or more than \$1,000, or be imprisoned for not less than 10 or more than 90 days, or both. Each week during any day of which an employee is misclassified, and each employee so misclassified, shall constitute a separate offense. Any knowing violation is a crime of the second degree if the contract is for \$75,000 or more, a crime of the third degree if the contract is between \$2,500 and \$75,000, and a crime of the fourth degree if the contract is for \$2,500 or less. Any violation, even if not done knowingly or willfully, renders the violator guilty of a disorderly person's offense and may, in addition, subject the violator to administrative penalties for up to \$2,500 for a

first violation and up to \$5,000 for each subsequent violation.

Wages paid. State legislation was enacted that made it an unlawful practice for a temporary-help service firm to willfully withhold or divert wages for any purpose not expressly permitted by statute. In addition to imposing a fine or a penalty, the attorney general may refuse to issue or renew, and may suspend or revoke, a firm's registration to operate as a temporary-help service firm. No refusal, suspension, or revocation shall be made, except upon reasonable notice to, and the opportunity to be heard by, the applicant or registrant.

Workplace security. The State Department of Law and Public Safety shall perform criminal history record background checks on any applicants employed by, or applicants to be employed by, independent contractors in a critical position at a designated facility. The State attorney general, in consultation with the State director of the Office of Homeland Security and Preparedness, the State commissioner of environmental protection, and industry representatives, shall determine the titles and qualifications for all positions that shall be designated as critical positions. The department shall perform a thorough identity verification check on these applicants, to include, at a minimum, a credit investigation, an examination of the applicant's Social Security number to detect informational inconsistencies, and a cross-referencing of all applicants against appropriate law enforcement advisories and terror watch lists. The information obtained cannot be released to any non-criminal justice agency, unless authorized by the Federal Bureau of Investigation. Criminal history background checks and all identity verification checks shall be repeated for previously qualified employees at least once every 5 years, for as long as they are employed by an independent contractor in a critical position.

New Mexico

Child labor. A child under the age of 16 may be employed without obtaining a work permit and without any restrictions on the age of the child or time of employment if the child is employed by a parent in an occupation other than manufacturing, mining, or any other occupation found to be particularly hazardous or detrimental to the health of the child; or is employed as an actor or performer in motion picture, theatrical, radio, or television productions; or is employed to sell or deliver newspapers, with the parent's consent, during the school term or during vacation. The child must be attending school as required and may not engage in such employment except at times when he or she is not required at school. The employer of a child employed in one of

the aforementioned activities is not required to obtain and preserve a work permit in accordance with other sections of the Child Labor Act. A performer under 18 years of age who is participating in the performing arts, including motion picture, theatrical, radio, or television products, is considered a child subject to the State Child Labor Act, unless the performer (1) has satisfied the compulsory education laws of the State, (2) is married, (3) is a member of the U.S. Armed Forces, or (4) is legally emancipated. Such child may not begin work earlier than 5:00 a.m., and the workday must end no later than 10:00 p.m. on evenings preceding school days and 12:00 a.m. on mornings of nonschool days. A child performer's working hours are restricted as follows: under 6 years of age, the child shall work for no more than 6 hours in 1 day; over 6 years of age and under 9 years of age, the child shall work for no more than 8 hours in 1 day; (c) over 9 years of age and under 16 years of age, the child shall not work for no more than 9 hours in 1 day; and (d) between 16 years of age and under 18 years of age, the child shall work for no more than 10 hours in 1 day. No child under 14 years of age shall be employed or permitted to labor at any gainful occupation unless otherwise provided for in the Child Labor Act. No child over 14 years of age and under 16 years of age shall be employed or permitted to labor at any gainful occupation without procuring and filing a work permit, unless otherwise provided for in the Child Labor Act. Employers who employ a child in violation of the State Child Labor Act are guilty of a petty misdemeanor for a first violation and a misdemeanor for second or subsequent convictions.

Drug and alcohol testing. A new section was added to the State Motor Carrier Safety Act. A motor carrier (a vehicle that carries freight or passengers) is now required to have an in-house drug and alcohol testing program or be a member of a consortium which provides testing that meets Federal requirements. At the time of registration or renewal of registration of a commercial motor vehicle, a motor carrier shall certify to the State Department of Motor Vehicles and to the Motor Vehicle Division of the State Taxation and Revenue Department that the motor carrier is in compliance with the testing protocol. If the motor carrier is a member of a consortium, the carrier shall provide the names of the persons who operate the consortium. When a medical review officer of either the motor carrier's or the consortium's testing program determines that a positive test result is valid, the officer shall report the findings to the Motor Vehicle Division of the State Taxation and Revenue Department. The division shall then enter the positive test results into the commercial driver's license information system pursuant to

the State Commercial Driver's License Act.

Minimum wage. Legislation was enacted that increased the State minimum wage in two stages. The first increase, effective January 1, 2008, raises the minimum wage to \$6.50 per hour. The second increase, effective on January 1, 2009, raises the minimum wage to \$7.50 per hour. Tipped employees must still receive at least \$2.13 per hour in cash wages. Employers may consider tips as part of wages, but the total of the tips and the employer's cash wage shall not equal less than the minimum-wage rates just mentioned. Agricultural employers who furnish food, utilities, supplies, or housing to an employee engaged in agriculture may deduct the reasonable value of such furnished items from any wages due the employee. For a period of 2 years, cities, counties, home-rule municipalities, and other political subdivisions of the State shall neither adopt nor continue in effect any law or ordinance that would mandate a minimum wage higher than the wage set forth in the State Minimum Wage Act. This prohibition expires on January 1, 2010. A local law or ordinance, whether advisory or self-executing, that is in effect on January 1, 2007, and that provides for a higher minimum-wage rate than the rate set forth in the State Minimum Wage Act shall continue in full force until repealed.

Time off. Nursing mothers have a right to use a breast pump in the workplace and to have a flexible break time in which to use it. Certain stipulations are contingent upon this right of the nursing mother who is an employee, and the employer shall provide a clean, private space near the employee's workspace, and not a bathroom, for using the breast pump. The employer is not liable for storage or refrigeration of breast milk, payment for a nursing mother's break time in addition to established employee breaks, or payment of overtime while a nursing mother is using a breast pump.

New York

Child labor. The legislature enacted legislation to amend the State Labor Law, the State Arts and Cultural Affairs Law, and the State General Business Law in relation to certain dancers. It is now unlawful for any person to employ, use, or exhibit any person under 18 years of age as a dancer or performer in any portion of a facility open to the public wherein performers appear and dance or otherwise perform unclothed. Any operator of such a facility who knowingly violates the provisions of the State statutes shall be subject to a civil penalty of up to \$500.

Human trafficking. The definition of human trafficking includes the victims of sex trafficking and labor trafficking as defined by State

statutes. A person is guilty of labor trafficking if he or she compels or induces another person to engage in labor or recruits, entices, or harbors another person by, among other activities, (1) requiring that the labor be performed to retire, repay, or service a real or purported debt that the actor has caused by a systematic ongoing course of conduct to defraud such person; (2) withholding, destroying, or confiscating any actual or purported passport, immigration document, or other actual or purported government identification document of another person with intent to impair said person's freedom of movement; or (3) using force or engaging in any scheme, plan, or pattern to compel or induce such person to engage, or continue to engage, in labor activity by means of instilling fear in such person that if the demand is not complied with, the actor or another person will perform one or more of certain types of actions, including, but not limited to, (a) causing physical injury, serious physical injury, or death to a person; (b) causing damage to property, other than the property of the actor; (c) engaging in other conduct constituting a felony or unlawful imprisonment in the second degree; and (d) causing criminal charges or deportation proceedings to be instituted against a person. Labor trafficking is a Class D felony, while sex trafficking is a Class B felony. The State Office of Temporary and Disability Assistance may coordinate with and assist law enforcement agencies and district attorney's offices to access appropriate services for victims of human trafficking.

Prevailing wage. The State Prevailing Wage Law was amended to require contractors and subcontractors to provide written notice to all laborers, workers, or mechanics of the prevailing wage for their particular job classification on each pay stub and, on a biannual basis, to provide the telephone number and address of the State Department of Labor. The biannual notice must also contain a statement asserting that it is the laborer's, worker's, or mechanic's right to contact the department or some other representative if the laborer, worker, or mechanic is not receiving the proper prevailing rate of wages or supplements for his or her particular job classification. Failure to comply shall result in the assessment of a civil money penalty of \$50 for the first violation, \$250 for a second violation, and \$500 for each subsequent violation.

Time off. The definition of an employer under State labor law, wherein an employer is defined as a person or entity that employs 20 or more employees at at least one site, was amended to now include the State itself, in addition to counties, towns, cities, school districts, public authorities, or other governmental subdivisions of any kind, as an employer.

An employer must grant 3 hours of leave of absence in any 12-month period to an employee who seeks to donate blood. The leave of absence may not exceed 3 hours, unless otherwise agreed to by the employer, and must comply with appropriate requirements of notice. An employer may not retaliate against an employee for requesting or obtaining a leave of absence. The employer is not prevented from providing leave for blood donation in addition to any leave allowed under this law, which does not affect an employee's rights to any other employee benefit.

Wages paid. State law relating to the payment of wages and penalties for violations was amended. The phrase "clerical and other workers" includes all employees, except commission salespersons and any person employed in a bona fide executive, administrative, or professional capacity whose earnings exceed \$900 per week. The agreed-upon terms of employment of a salesperson shall be reduced to writing, signed by employer and employee, kept on file by the employer for not less than 3 years, and made available to the commissioner of labor upon request. The failure by an employer to produce such written terms of employment upon request by the commissioner shall give rise to a presumption that the terms of employment presented by the commissioned salesperson are the agreed-upon terms of employment. If an employer has violated a provision of the State statutes regarding the day of rest or of meal periods, the commissioner may issue an order directing the payment of a civil penalty in an amount not to exceed \$1,000 for a first violation, \$2,000 for a second violation, and \$3,000 for a third or subsequent violation.

Worker privacy. An employer shall provide reasonable unpaid break time or permit an employee to use paid break time or meal time each day to allow the employee to express breast milk for her nursing child for up to 3 years following the child's birth. The employer shall make reasonable efforts to provide a room or other location, in close proximity to the work area, where the employee can express milk in privacy. No employer shall discriminate in any way against an employee who chooses to express breast milk in the workplace.

North Carolina

Agriculture. The State commissioner of labor has the power and duty (1) to delegate, to the State director of the Agriculture Safety and Health Bureau, the power and duties necessary to ensure safe and healthy migrant housing conditions; (2) to supervise the director; (3) to issue preoccupancy certificates to certify that housing for migrant workers has been found to be in compliance with the law;

and (4) to conduct postoccupancy inspections of migrant housing in accordance with the provisions of the State General Statutes. If an operator receives a preoccupancy inspection rating from the State Department of Labor of 100-percent compliance for a particular migrant housing unit for 2 consecutive years, then, in the third year, the operator shall have the right to conduct the preoccupancy inspection for that particular migrant housing unit for him- or herself. Such operators must register the migrant housing with the State Department of Labor 45 days prior to occupancy and must notify, in writing, the appropriate local health department, which shall then inspect the housing for compliance with specific State General Statutes. Such operators also shall request a preoccupancy inspection in the year following a year in which the operator conducted a self-inspection.

Drug and alcohol testing. Upon receipt of a notice of a positive drug or alcohol test, or of a refusal to participate in a drug or alcohol test, the State Division of Motor Vehicles, pursuant to State General Statute 20-37.19, must disqualify a commercial driver's license holder from operating a commercial motor vehicle until receipt of proof of successful completion of assessment and treatment by a substance abuse professional in accordance with 49 Code of Federal Regulations Section 382.503. Employers of employees or applicants for employment who test positive, or employers of any employee who refuses to participate, in a drug or alcohol test required under 49 Code of Federal Regulations Parts 382 and 655 must notify the division, in writing, within 5 business days following the employer's receipt of confirmation of a positive drug or alcohol test or of an employee's refusal to participate in the test. The notification must include the driver's name, address, driver's license number, and Social Security number, as well as the results of the drug or alcohol test or documentation from the employer of the refusal by the employee to take the test.

Inmate labor. The State General Statutes were amended to permit the State Department of Correction to establish work assignments for inmates or allow inmates to volunteer in service projects that benefit units of State or local government (or tax-exempt) entities that serve the citizens of the State. Such work assignments may include the use of inmate labor and the use of department resources in the production of finished goods. Any products so produced may be donated to the government unit or tax-exempt organization at no cost. An additional amendment to the statutes struck the exclusion of female convicts from working on public roads or streets and the restriction of male prisoners from working in any buildings utilized by any State department, agency,

or institution where women are housed or employed. Proper supervision by a duly designated custodial agent assigned by the State secretary of corrections allows for more flexibility in the kinds of inmate placements.

Worker privacy. Information contained in personnel files and that is relevant to possible criminal misconduct may be made available to law enforcement and the district attorney in order to assist in the investigation of (1) a report made to law enforcement pursuant to State statutes or (2) any report to law enforcement regarding an incident of arson, attempted arson, destruction of, theft from, theft of, embezzlement from, or embezzlement of any personal or real property owned by the local board of education. Employees shall be given 5 working days' prior written notice of any disclosure under State statute, to permit the employees to apply to the district attorney for an in-camera review prior to the date of disclosure to determine whether the information is relevant to the possible criminal misconduct. Failure of the employee to apply for a review shall constitute a waiver by the employee of any relief under the State statute.

Notwithstanding any other law relating to the privacy of personnel records, the Retirement Systems Division of the Department of State Treasurer shall furnish the State Fiscal Records Division direct online read-only access to information on active and retired members or to records maintained by the division in online information systems. Direct online read-only access shall not include access to medical records of individual members.

Local boards of education shall maintain records of each of their employees, showing the following: name; age; date of original employment or appointment; terms of the contract by which the employee is employed, whether written or oral, past and current, to the extent that the board has the written contract or a record of the oral contract in its possession; current position; title; current salary; date and amount of most recent increase or decrease in salary; date of most recent promotion, demotion, transfer, suspension, separation, or other change in position classification; and office or station to which the employee is currently assigned. These records are subject only to rules and regulations for their safekeeping adopted by the local board of education, and every person having custody of the records shall permit them to be inspected and examined by any person during regular business hours. Persons denied access to any record for the purpose of inspecting, examining, or copying the record shall have the right to compel compliance by application to a court of competent jurisdiction for a writ of mandamus or other appropriate relief.

Workplace security. The State chief informa-

tion officer may require background investigations of any employee or prospective employee, including a criminal history record check, which may include a search, based on a person's fingerprints, of the State and National Repositories of Criminal Histories. The background report is not a public record under the State General Statutes. The State Department of Justice may provide, to the State Office of Information Technology Services, the criminal history, from the State and National Repositories of Criminal Histories, of any current or prospective employee, volunteer, or contractor consenting to the criminal record check and the use of fingerprints and other identifying information required by the State and National Repositories, as well as any additional information required by the State Department of Justice. The State Office of Information Technology shall keep all such information that it receives confidential.

North Dakota

Equal employment opportunity. The definition of the term "discriminatory practice" in the State Century Code was amended. A discriminatory practice is now defined as an act or attempted act that, because of race, color, religion, sex, national origin, age, physical or mental disability, status with regard to marriage or public assistance, or participation in lawful activity off the employer's premises during nonworking hours that is not in direct conflict with the essential business-related interests of the employer, results in the unequal treatment, separation, or segregation of any persons or denies, prevents, limits, or otherwise adversely affects, or, if accomplished, would deny, prevent, limit, or otherwise adversely affect, the benefit of enjoyment by any person of employment, labor union membership, public accommodations, public services, or credit transactions.

The State Century Code pertaining to the duties and powers of the State Department of Labor, as related to human rights enforcement, was amended. Upon receiving and investigating complaints alleging violations of the code, the department shall emphasize conciliation to resolve the complaints. During the process of thoroughly investigating a complaint, the department may require the attendance of a witness and the production of certain records or objects at any hearing or with reference to any matter the department has the authority to investigate. If a witness fails to appear or refuses to produce the records or objects in question, the department may issue a subpoena to compel the witness to appear, or a *subpoena duces tecum* to compel the witness to appear and produce a relevant book, record, document, data, or other object. If a person refuses to obey a subpoena, the district court, upon application by the department, may is-

sue an order to the person requiring him or her to appear and give evidence, or otherwise produce documentary evidence, requested by the department regarding the matter under investigation.

Minimum wage. The State legislature enacted a series of minimum-wage increases, effective the same dates as the effective dates for the anticipated increases in the Federal minimum wage. When the Federal minimum-wage rate rose on July 24, the State minimum-wage rate was increased from \$5.15 per hour to \$5.85 per hour. The next State increase, set at \$6.55 per hour, is scheduled for implementation 1 year after the first, and the final increase in the series, set at \$7.25 per hour, is scheduled for implementation 1 year after the second increase.

Worker privacy. Employee retirement records are now confidential. A contributor to a State retirement program may purchase up to 5 years of service credit with either pretax or after-tax monies, at the Public Employees Retirement System Board's discretion. If an employer has purchased service credit for an employee, the following elements, and only the following elements, of information may be obtained from the employer: the employee's and employer's names, the name of the retirement program in which the employer participates, the amount of service credit purchased by the employer, and the total amount expended by the employer for that purchase of the service credit.

Ohio

Prevailing wage. By law, threshold amounts for contract coverage under the State prevailing-wage law are adjusted every 2 years in accordance with the change in the Census Bureau's Implicit Price Deflator for Construction, provided that no increase exceeds 6 percent for the 2-year period. As a result, effective January 1, 2008, the threshold amount for new construction rose from \$69,853 to \$73,891, and the threshold amount for reconstruction, remodeling, or renovation increased from \$20,955 to \$22,166.

Worker privacy. Public records are those records defined as being kept by any public office, such as the State, county, city, village, township, and school district units. Public records pertaining to the delivery of educational services by an alternative school in the State and kept by a nonprofit or for-profit entity operating alternative schools were the focus of a legislative amendment. The law was expanded to provide parole officers, prosecuting and assistant prosecuting attorneys, and certain correctional and youth services employees with the same options as peace

officers with respect to the confidentiality of certain personnel information. The legislation expanded the materials excluded from the definition of "public record." Now excluded are photographs of a peace officer who holds a position or has an assignment that may include undercover or plainclothes positions. Also excluded are the individual's home address, Social Security number, and personal telephone number; bank account, debit card, and charge card or credit card numbers; the name of any beneficiary of employment benefits; the identity of any charitable organizations to which the person contributes and the amounts of the contributions thereto; and the identity and amounts of any employment benefit deductions.

Oklahoma

Drug and alcohol testing. The sections of the law relating to the State Employment Security Act of 1980 and the State Standards for Workplace Drug and Alcohol Testing Act were amended. In any claim for compensation brought by a discharged employee, a copy of the results of the drug or alcohol test undergone by the employee shall be accepted as prima facie evidence of the administration and results of the test. No employer may request or require an applicant or employee to undergo drug or alcohol testing, unless the employer has first adopted a written, detailed policy setting forth the specifics of the testing program, which employees are subject to testing, and the circumstances under which testing may be requested or required. It shall be sufficient for the employer to state in the written policy that the substances tested for shall be drugs and alcohol, as defined in the Standards for Workplace Drug and Alcohol Testing Act, including controlled substances approved for testing by the State commissioner of health. The employer's drug-testing policy must explain the testing methods and collection procedures, the consequences of refusing to undergo testing, and the potential adverse personnel actions ensuing upon a positive result. An applicant or employee has the right to have explained, in confidence, the test results; his or her rights to obtain information and records related to the testing; confidentiality requirements; and all appeal procedures, remedies, and sanctions. Any employer implementing a drug-testing policy for the first time or implementing changes in an already existing policy shall provide at least 30 days' notice prior to the implementation. The policy shall be prominently posted and shall be given in written form to each employee, as well as to each applicant upon receipt of a conditional offer of employment.

Immigrant protections. The State Taxpayer and Citizen Protection Act of 2007 was en-

acted. Under the Act, after July 1, 2008, no public employer shall enter into a contract for the physical performance of services within the State, unless the contractor registers and participates in the Federal Status Verification System to verify the work eligibility of all of its new employees. In addition, after July 1, 2008, no contractor or subcontractor who enters into a contract with a public employer shall enter into such a contract or subcontract in connection with the physical performance of services within the State, unless the contractor or subcontractor registers and participates in the Federal Status Verification System to verify information on all of its new employees. Under the law, it shall be a discriminatory practice for an employing entity to discharge an employee working in the State who is a United States citizen or permanent resident alien while retaining an employee who the employing entity knows, or reasonably should have known, is an unauthorized alien hired after July 1, 2008, and who is working in the State in a job category which requires skill, effort, and responsibility equal to that possessed by the discharged employee and which is performed under working conditions similar to those of the job category held by the discharged employee, as defined by 29 U.S.C., Section 206 (d)(1).

Oregon

Agriculture. The commissioner of the State Bureau of Labor and Industries, or any other person, may bring suit in any court of competent jurisdiction to enjoin any person from using the services of an unlicensed farm labor contractor or to enjoin any person acting as a farm labor contractor from violating certain State statutes or rules promulgated pursuant thereto. The court may award costs and disbursements, as well as reasonable attorneys' fees, to the prevailing party. In addition, the amount of damages recoverable from a person acting as a farm labor contractor and who violated certain State statutes is actual damages or a now-increased amount of \$2,000, whichever is greater.

The section of the State Revised Statutes concerning the issue of service of process on a farmworker camp operator was amended. During the course of any action arising out of the activities of a farmworker camp operator who is operating an unregistered farmworker camp within the State and who is not in the State or is otherwise unavailable to accept service of process in the State, the operator may be served by other means—specifically, by mailing a certified true copy of the summons and complaint to (1) the State commissioner of the Bureau of Labor and Industries; (2) the last known address, if any, of the farmworker camp operator; and (3) any other address, the use of which the plaintiff knows or, on the basis of reasonable

inquiry, has reason to believe is most likely to result in actual notice.

State Department of Labor. The commissioner of the State Bureau of Labor and Industries shall adopt rules regarding meal periods for employees who serve food or beverages, receive tips, and report the tips to the employer. In rules adopted by the commissioner, the commissioner shall permit an employee to waive a meal period. However, an employer may not coerce an employee into waiving a meal period. In addition to prescribing any other penalty provided by law, the commissioner may assess a civil penalty not to exceed \$2,000 against an employer that the commissioner finds has coerced an employee into waiving a meal period in violation of State statutes. Each violation is a separate and distinct offense. In the case of a continuing violation, each day's continuance is a separate and distinct violation.

The State commissioner of the Bureau of Labor and Industries may conduct investigations, issue subpoenas and *subpoenas duces tecum*, administer oaths, obtain evidence, and take testimony in all matters relating to the commissioner's duties when the information sought is relevant to a lawful investigative purpose and reasonable in scope. The commissioner shall adopt rules for gathering information through subpoenas or testimony. If, after being served with a subpoena, a person refuses, without reasonable cause, to be examined, to answer any question, or to produce any document or other thing as required by the subpoena, the commissioner may petition the circuit court in the county in which the investigation is pending for an order directing the person to show cause why the person has not complied with the subpoena and should not be held in contempt.

Discharge. Employers may not discharge or in any other manner discriminate against an employee because (1) the employee has made a wage claim or has discussed, inquired about, or consulted an attorney or agency about a wage claim; (2) the employee has caused wage proceedings under or related to specific State statutes to be instituted; or (3) the employee has testified or is about testify in any such wage claim proceedings. A violation of the State Revised Statute prohibiting such discharge or discrimination as a result of wage claim issues is an unlawful employment practice. Persons unlawfully discriminated against in this manner may file a complaint with the State commissioner of the Bureau of Labor and Industries. Employees aggrieved by such a practice also may file a civil action in circuit court. The court may award compensatory damages or \$200, whichever is greater, and punitive damages, in addition to the relief authorized by the statutes.

Equal employment opportunity. The State's Revised Statutes regarding discrimination were amended by the addition of various prohibited types of discrimination. Employers are now prohibited from refusing to hire or employ an individual or from barring or discharging the individual from employment because of the individual's color or sexual orientation. However, discrimination is not an unlawful employment practice if it results from a bona fide occupational qualification reasonably necessary to the normal operation of the employer's business.

Family issues. State law was amended to prohibit covered employers from reducing the amount of an employee's available family leave when the employee is unable to work because of a disabling compensable injury.

Employees in the State who take family leave are now entitled to use any paid accrued sick leave, in addition to any paid accrued vacation leave, during a period of family leave or to use any other paid leave that is offered by the employer in lieu of vacation leave during the period of family leave.

The State's Revised Statutes relating to family leave were amended. The definition of "family member" was expanded and now includes the grandparent or grandchild of the employee. In addition, it is an unlawful practice for an employer to deny family leave to which an eligible employee is entitled under the aforesaid statutes. It is also unlawful for an employer to retaliate or in any way discriminate against an individual with respect to hiring, tenure, or any other term or condition of employment because the individual inquired about the provisions of family leave, submitted a request for family leave, or invoked any provisions of the State's Revised Statutes regarding family leave.

Human trafficking. The State's Revised Statutes were amended by the creation of new provisions relating to the trafficking of persons and involuntary servitude. A person commits the crime of human trafficking, a Class B felony, if the person (1) knowingly performs actions or attempts to perform actions aimed at recruiting, enticing, harboring, transporting, providing, or obtaining by any means another person, knowing that the other person will be subjected to involuntary servitude as described by the statute, or (2) benefits financially or receives something of value from participation in a venture that involves acts prohibited by the statute. A person commits the crime of subjecting another person to involuntary servitude in the first degree, also a Class B felony, if the person knowingly and without lawful authority forces or attempts to force the other person to engage in services by causing or threatening to cause death or serious physical injury to a person

or by physically restraining or threatening to physically restrain a person. A person commits the crime of subjecting another person to involuntary servitude in the second degree, a Class C felony, if the person knowingly and without lawful authority forces or attempts to force the other person to engage in services by (1) abusing or threatening to abuse the law or the legal process; (2) destroying, concealing, removing, confiscating, or possessing an actual or purported government identification document of a person; (3) threatening to report a person to a government agency for the purpose of arrest or deportation; (4) threatening to collect an unlawful debt; or (5) instilling in the other person a fear that the actor will withhold from the other person the necessities of life, including, but not limited to, lodging, food, and clothing. Irrespective of any criminal prosecution or of the result of any criminal prosecution, a person injured by a violation of the kind described in this paragraph may bring a civil action for damages against a person whose actions are unlawful under the statute.

Minimum wage. On the basis of previously enacted legislation that called for cost-of-living increases, the minimum wage in the State for calendar-year 2008 was increased to \$7.95 per hour.

Plant closing. Under a State Department of Aviation rule, a person responsible for the operation of a public-use airport shall notify the department of the planned closure of the airport at least 180 days before its permanent closure.

Preference. Public employers shall grant a preference to veterans (including disabled veterans) who successfully complete an initial application screening or an application examination or who successfully complete a civil service test the employer administers to establish eligibility for a vacant civil service position. Different amounts of preference points are to be added by the employer to the veterans' scores. Public employers shall appoint an otherwise qualified veteran (who may be a disabled veteran) to a vacant civil service position if the results of the veteran's application examination, combined with the preference points awarded such individuals, are equal to or higher than the results of an application examination for a nonveteran. If a public employer does not appoint a veteran (who may be a disabled veteran) to a vacant civil service position, then, upon written request of the veteran, the employer shall provide, in writing, the employer's reasons for his or her decision. The employer may base a decision not to appoint the veteran (who may be a disabled veteran) solely on the veteran's merits or qualifications with respect to the vacant

civil service position.

Prevailing wage. The State prevailing-wage law was amended. When the prevailing rates of wages required are available electronically or are accessible on the Internet, the rates may be incorporated into a project's specifications by reference to the electronically accessible or Internet-accessible rates and by the provision of adequate information about how to access the rates. The commissioner of the State Bureau of Labor and Industries shall determine the site of a public works project in accordance with the Davis-Bacon Act, as well as on the basis of whether workers transporting materials and supplies to and from the site are subject to the Act and are entitled to be paid the prevailing wage. When a public works project is subject to the Davis-Bacon Act and a public agency fails to include the State and Federal prevailing rates in the specifications for the contract or fails to include information showing which rate is higher for workers in each trade or occupation, the public agency is liable to each affected worker for the worker's unpaid minimum wages, including fringe benefits, in an amount that, for each hour worked, equals the difference between the applicable higher rate and the lower rate and an additional amount equal to the amount of unpaid minimum wages as liquidated damages. The commissioner shall, by rule, establish a fee to be paid by the public agency that awards a public works contract. Such fee shall be used to pay the costs of (1) conducting surveys to determine the prevailing rates of wages, (2) administering and providing investigation under State statutes, and (3) providing educational programs on public contracting law under the State Public Contracting Code. Fees shall be set at 0.1 percent of the contract price. However, in no event may the fees be more than \$5,000 or less than \$100.

The State's Revised Statutes were amended by the addition of three sections to the discussion of public contracts. Upon the request of a public agency or other interested person, the State commissioner of the Bureau of Labor and Industries shall now make a determination about whether a project or proposed project is or would be a public work on which payment of the prevailing wage is or would be required under State statute. The requester shall provide the commissioner with the information necessary to make the determination. The commissioner shall make the determination within 60 days after receiving the request or 60 days after the requester has provided the commissioner with the information necessary to enable the commissioner to make the determination, whichever is later. The commissioner may take additional time to make the determination if the commissioner and the requester mutually agree that

the commissioner may do so.

Wages paid. Persons engaged in a business or enterprise of any kind in the State may not issue any order, check, memorandum, or other instrument of indebtedness in payment of, or as evidence of, indebtedness for wages due an employee, unless the instrument is negotiable and payable without discount in cash on demand at some bank or other established place of business in the county where the employee lives or works and where sufficient funds are available for payment of the instrument. An employer and employee may agree that the employer may pay wages through a direct-deposit system, automated teller machine card, payroll card, or other means of electronic transfer if the employee may (1) make an initial withdrawal of the entire amount of net pay without cost to the employee and (2) choose to use another means of payment of wages that involves no expense to the employee. The agreement must be in the language that the employer principally uses to communicate with the employee. To revoke such an agreement, except in specific circumstances, the employee shall give the employer written notice of its revocation. Unless agreed to otherwise, the agreement is revoked 30 days after the date the notice is received by the employer. Seasonal farmworkers may provide notice of revocation of an agreement either orally or in writing, and unless agreed to otherwise, the agreement is revoked 10 days after the notice is received by the employer.

If an employer has received notice that an employee has not been paid the full amount the employee is owed on a regular payday and there is no dispute between the employer and the employee regarding the amount of the unpaid wages, then (1) if the unpaid amount is less than 5 percent of the employee's gross wages due on the regular payday, the employer shall pay the employee the unpaid amount not later than the next regular payday; or (2) if the unpaid amount is 5 percent or more of the employee's gross wages due on the regular payday, the employer shall pay the employee the unpaid amount within 3 days after the employer has received notice of the unpaid amount, excluding Saturdays, Sundays, and holidays.

When an employer deducts an amount from an employee's wages as required or authorized by law or agreement, the employer shall pay the amount deducted to the appropriate recipient as required by the law or agreement. The employer shall pay the amount deducted within the time required by the law or the agreement or, if the time for payment is not specified by the law or agreement, within 7 days after the date the wages from which the deductions are made are due. Failure to pay the amount as required constitutes an unlawful decision, which may be penalized under penalty provided by law, where the

State commissioner of the Bureau of Labor and Industries may assess a civil penalty not to exceed \$1,000 against any person who commits such an act.

Worker privacy. Confidential employment information secured by the State Employment Department may be provided to the State Department of Transportation to assist that department in carrying out its duties relating to the collection of delinquent and liquidated debts, including taxes, due under the State's Revised Statutes and the State Vehicle Code. The information provided may include names and addresses of employers and employees, as well as payroll data. The information provided is confidential and may not be released by the State Department of Transportation in any manner that would identify any employing unit or employee, except to the extent necessary to carry out the department's duties or in auditing or reviewing any report or return required to be filed under the revenue and tax laws administered by the department. The information may not be disclosed to any private collection agency.

The worker privacy issue regarding school employees has been amended under the State's Revised Statutes. If a former school employee is convicted of a crime under specific statutes, the education provider that was the employer of the former employee when the crime was committed shall disclose the disciplinary records of the former employee to any person upon request.

The State's Revised Statutes regarding mediation were amended. If the only parties to mediation are public bodies, then communications or agreements made during the mediation are not confidential, except to the extent that those communications or agreements are exempt from disclosure. Mediation of workplace interpersonal disputes between employees of a public body is not subject to disclosure under the statute and is therefore confidential. If two or more public bodies are parties to a mediation in which a private person is also a party, then mediation communications are not confidential if the policies governing confidentiality of mediation communications for at least one of the public bodies provide that those communications are not confidential. Finally, if two or more public bodies are parties to a mediation in which a private person is also a party, then any communications made during the mediation are not confidential if the policies governing confidentiality for at least one of the public bodies provide that those communications are not confidential.

The State's Revised Statutes relating to personnel records were amended. Personnel records no longer include records relating to the conviction, arrest, or investigation of individuals for conduct constituting a violation of

the criminal laws of this State, another State, or the United States; confidential reports from previous employers; or records maintained in compliance with State statutes. Upon receipt of a request from an employee, the employer shall provide, within 45 days, a reasonable opportunity for the employee to inspect the employee's personal records that have been used to determine the employee's qualification for employment, promotion, additional compensation, termination, or some other disciplinary action. Employers shall keep a terminated employee's personnel records for not less than 60 days. Upon an employee's request, copies must be furnished within 45 days. If the records are not readily available, the employer and the employee may agree to extend the time within which the employer must provide the records to the employee.

Any employee returning to work after a pregnancy leave must provide reasonable notice to the employer that the employee intends to express milk for a child who is 18 months of age or younger. Unless otherwise agreed to by the employer and employee, the employer shall provide the employee with a 30-minute rest period to express milk during each 4-hour work period or during the major part of a 4-hour work period, to be taken by the employee approximately in the middle of the work period. The employee shall, if feasible, take the rest periods to express milk at the same time as that provided to other employees for their rest or meal periods. When an employer's contribution to the employee's health insurance is influenced by the number of hours the employee works, the employer shall treat any unpaid rest periods used by the employee to express milk as paid work time for the purpose of measuring the number of hours the employee works. An employer is not required to provide rest periods as a result of this legislation if doing so would impose a hardship on the employer's business operation. This employee entitlement applies only to employers who employ 25 or more employees in the State during each of the calendar workweeks of the year in which the rest periods are to be taken or of the year immediately preceding the year in which the rest periods are to be taken.

Workplace violence. Employers covered by State law shall allow an employee to take reasonable leave from employment for any of the following reasons: (1) to seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or the employee's minor child or dependent, including preparing for and participating in protective order proceedings or other civil or criminal legal proceedings related to domestic violence, sexual assault, or stalking; (2) to seek medical treatment for, or to recover from, injuries caused by domestic violence or sexual assault to, or stalking of, the eligible employee or the

employee's minor child or dependent; (3) to obtain, or to assist a minor child or dependent in obtaining, counseling from a licensed mental health professional for the effects related to an experience of domestic violence, sexual assault, or stalking; (4) to obtain services from a victim services provider for the eligible employee or the employee's minor child or dependent; and (5) to relocate or to take steps to secure an existing home in order to ensure the health and safety of the eligible employee or the employee's minor child or dependent. A covered employer may limit the amount of leave an eligible employee takes for the aforesaid activities if the employee's leave creates an undue hardship on the employer's business. It is unlawful for a covered employer to deny leave to an eligible employee or to discharge, threaten to discharge, demote, suspend, or in any manner discriminate or retaliate against an employee with regard to promotion, compensation, or other terms, conditions, or privileges of employment because the employee takes such leave.

Pennsylvania

Minimum wage. As a result of legislation enacted in previous years, the minimum wage in the State was increased to \$7.15 per hour on July 1, 2007.

Rhode Island

Hours worked. In order to pursue the health, efficiency, and general well-being of employees, as well as the health and general well-being of the persons to whom those employees provide services, the State declared a public policy that established a maximum workday for certain hourly-wage employees beyond which the employees cannot be required to perform overtime work. Health care facilities may not require employees to work overtime in excess of an agreed-upon, predetermined scheduled work shift of 8, 10, or 12 hours, except in unforeseeable circumstances. In no case shall a health care facility require an employee to work in excess of 12 consecutive hours. The refusal of any employee to accept such overtime work shall not be grounds for discrimination, dismissal, discharge, or any other penalty or employment decision adverse to the employee. Voluntary overtime in excess of these limitations is not to be construed as prohibited.

Human trafficking. The State General Law titled "Criminal Offenses" added a new chapter titled "Trafficking of Persons and Involuntary Servitude." Language within the chapter established and defined both the trafficking of persons and involuntary servitude as criminal offenses related to the activities of intimidation; forced labor; commercial sexual activity;

and knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document. Fines and penalties for conviction of involuntary servitude may range from 20 years' imprisonment and \$20,000 in fines to 40 years' imprisonment and \$40,000 in fines, depending upon the age of the victim(s). Human trafficking may result in penalties of 20 years' imprisonment and \$20,000 in fines.

Independent contractor. The section of the State General Laws entitled "Causes of Action" was amended. A section dealing with misclassification of employees was added to the laws. Any person, firm, or corporation that suffers damages as a result of a competitive bid for a contract not being accepted due to another person, firm, or corporation knowingly misclassifying employees as independent subcontractors may bring an action for damages in the appropriate district or superior court. For the purposes of these actions, an employee's status shall be determined by the applicable provisions of the appropriate Internal Revenue Code of 1986 or any subsequent corresponding Internal Revenue Code of the United States, as amended from time to time.

Overtime. State law requires that work performed by employees on Sundays and holidays be paid for at a rate at least time-and-one-half the normal rate for the work, provided that an employee's refusing to work on any Sunday or holiday enumerated by State statute is not grounds for discharge or meting out any other penalty upon the employee. Any manufacturer that operates for 7 continuous days per week is exempt from this requirement. Thus, any and all employees of a chauffer-driven limousine or taxicab company that operates 7 continuous days per week, 24 hours per day, are newly listed as exempt from the State-required time-and-one-half provisions. In addition, any car rental company that operates a car rental agency at T. F. Green Airport and is required, pursuant to its lease agreement with the State Airport Corporation, to operate on Sundays and/or holidays is exempt from overtime provisions for Sunday and holiday work with respect to work performed at that airport location.

Prevailing wage. Contractors in the State who are awarded a public works contract are now required to contact the Department of Labor and Training on or before July 1 of each year for the duration of the contract, in order to ascertain the prevailing rate of wages on an hourly basis and the amount of payment or contributions paid or payable on behalf of each mechanic, laborer, or worker performing the work contracted to be done each year. Every July 1, the contractor shall make any

necessary adjustments to the prevailing rate of wages and to the payment or contributions paid or payable on behalf of each employee.

South Dakota

Minimum wage. The State minimum-wage law was amended. On the effective date, July 24, 2007, of the increase in the Federal minimum wage under the Federal Fair Labor Standards Act, the State minimum wage was increased to \$5.85 per hour for every employer. Twelve months later, the State minimum wage will be increased to \$6.55 per hour, and effective 12 months after that, the State minimum wage will be increased to \$7.25 per hour. Employers in violation of the requirement for the payment of these minimum wages are guilty of a Class 2 misdemeanor.

Workplace security. Each person hired in any capacity by the Division of Banking of the State Department of Revenue and Regulation shall agree to submit to a background investigation by means of fingerprint checks performed by the State Division of Criminal Investigation and the Federal Bureau of Investigation. Completed fingerprint cards shall be submitted to the division before the prospective new employee enters into service. If no disqualifying record is identified at the State level, the fingerprints shall be forwarded by the division to the Federal Bureau of Investigation for a national criminal history record check. Any person whose employment is contingent on satisfying this requirement may enter into service on a temporary basis pending receipt of the results of the background investigation. The division may, without liability, withdraw its offer of employment or terminate the temporary employment without notice if the report reveals that the person has been convicted of any financial crime or any crime that otherwise reveals circumstances which reasonably suggest that the person should not be employed by the division.

Tennessee

Drug and alcohol testing. For-hire motor carriers providing passenger transportation service in a motor vehicle or motor vehicles designed or constructed to accommodate and transport eight or more passengers, exclusive of the driver, shall conduct a program of mandatory random drug testing for the operators of their motor vehicles in accordance with regulations promulgated by the U.S. Department of Transportation.

Equal employment opportunity. Most fire stations in use today were planned and built with a single-sex workforce in mind. Many of these buildings are now being used by a workforce that includes both men and women. Any fire

station constructed after June 26, 2007, is encouraged to have separate restroom facilities, showers, and locker rooms for men and women. Each municipal or county fire department and each volunteer fire department or company are urged to develop plans that, to the greatest extent possible, will create gender-friendly conditions in existing facilities. Existing facilities that cannot be upgraded to gender-friendly stations should be made gender friendly to the greatest extent possible.

Immigrant protections. No person in the State is permitted to accept an individual taxpayer identification number as a form of identification. Any person, including any contractor, in the State who is presented with an individual taxpayer identification number by a potential employee or subcontractor as a form of identification or to prove immigration status shall reject such number and request the lawful resident verification information that the person is required to obtain pursuant to Federal law. The phrase "lawful resident verification information" is defined as the documentation required by the U.S. Department of Homeland Security in completing the employment eligibility verification form commonly referred to as the Federal "Form I-9."

Worker privacy. The State Code Annotated was amended by treating additional types of personal information as confidential. The residential address, as well as the personal telephone and cell phone numbers, of any State, county, municipal, or other public law enforcement officer shall now be treated as confidential and not open for inspection by members of the public.

Texas

Child labor. The State Child Labor Code does not apply to the employment of a minor 16 years of age or older who is engaged in the direct sale of newspapers to the general public.

Prevailing wage. Any contract for a public work project awarded by a political subdivision of the State shall follow the general prevailing rate of per diem wages in the locality in which the public work is to be performed, for each craft or type of worker needed to execute the contract, and shall also follow the prevailing rate for legal holiday and overtime work. Those rates are established by (1) conducting a survey of the wages received by classes of workers employed on projects of a character similar to the contract work in the political subdivision of the State in which the public work is to be performed or (2) using the prevailing wage rate as determined by the U.S. Department of Labor in accordance with the Davis-Bacon Act (40 U.S.C. Section 27a

et seq.) and its subsequent amendments. There no longer exists a State requirement that the prevailing wage rate must have been determined by a survey conducted no more than 3 years earlier by the Department of Labor.

Whistleblower. A school district grievance policy must permit a school district employee to report a grievance against a supervisor that alleges a violation of the law in the workplace or the supervisor's unlawful harassment of the employee to a supervisor other than the supervisor against whom the employee intends to report the grievance.

Worker privacy. Two categories of employees were added to the group of employees about whom information such as the home address, home telephone number, or Social Security number of the person or information that reveals whether the person has family members is not required to be placed into the public domain. The categories added are those officers and other employees who conduct presentence investigations, supervise and rehabilitate defendants placed on community supervision, and enforce the conditions of community supervision and staff community corrections facilities.

Peace officers of the State Department of Public Safety are now entitled to the same protection provided to peace officers who operate under a civil service system of the State Local Government Code, which renders the personnel records of the civil-service peace officers confidential, except for information relating to commendations, confirmed complaints, disciplinary actions, and details about basic employment. In addition, a release of exempted information does not waive the right to assert in the future that the information is exempted from required disclosure. The State Workforce Commission shall remove the home address of a judge or justice from a financial statement filed under State requirements before permitting a member of the public to view the statement or providing a copy of the statement to a member of the public.

Workplace security. The State Department of Public Safety may require a commissioned or noncommissioned officer or employee of the department to submit to the administration of a polygraph examination administered by the polygraph examiner if (1) the officer or employee is assigned to a position that requires him or her to work with a Federal Agency on national security issues and (2) the Federal Agency requires that the officer or employee submit to a polygraph examination. If an officer of the department does not submit to a polygraph examination as required by the department, the department may (1) assign

the officer or employee to another position or (2) refuse to assign the officer or employee to the position in question that requires working with a Federal Agency on national security issues.

Utah

Inmate labor. When an inmate is incarcerated in a county jail or in a detention facility, the custodial authority may allow the inmate to work outside of the jail or facility as part of a supervised work detail, to seek employment, or to attend an educational institution. This proviso is contingent upon whether or not the offense the inmate has committed (1) is an offense for which the State prohibits the inmate's release or (2) is for a misdemeanor and the sentencing judge has not entered an order prohibiting the inmate's release. Any inmate so employed may be released from jail during those hours which the custodial authority deems reasonable and necessary to accomplish the objectives of the employment, the seeking of employment, attendance at an educational institution, the obtaining of necessary medical treatment, or any other reasonable purpose. All prisoners so released are in the custody of the custodial authority and are subject to being returned to jail at any time. The judge may order that the prisoner pay monies earned from employment during the jail term to those persons he or she is legally responsible for supporting and may order the inmate to retain sufficient money to pay the costs of transportation, meals, and other incidental and necessary expenses related to his or her special release.

Wages paid. The State Sales Representative Commission Act was amended to indicate that if a business relationship between a principal and a sales representative terminates, the principal shall pay the sales representative all commissions due within 30 days after the day on which the termination is effective and within 14 days after the day on which a commission becomes due if said commission is due after the day on which the termination is effective. The acceptance by a sales representative of a partial commission payment from the principal does not constitute a release as to the balance of any commission that the sales representative claims is due because of the business relationship. If a principal makes a revocable offer of a commission to a sales representative and the principal revokes the offer of commission, then the sales representative is entitled to the commission agreed upon under the business relationship if (1) the sales representative establishes that the revocation is for the purpose of avoiding payment of the commission or (2) the revocation occurs after the principal obtains an order for the principal's product or service through the efforts of the

sales representative, and the order is paid for by a customer. When the employer fails to pay the commission, the sales representative may bring a civil action in a court of competent jurisdiction against a principal for failure by the principal to comply with the provisions of the agreement. If a principal is found liable, the principal is liable for 3 times the amount of the unpaid commission, plus reasonable attorney fees and court costs, minus monies owed by the sales representative to the principal.

Workplace security. A concurrent resolution was passed by the legislature and signed by the Governor urging the U.S. Congress to pass legislation to resolve Federal identity theft and fraud issues. The resolution urged that the legislation include increased and effective verification requirements by companies, accompanied by the tools and resources necessary to verify whether a Social Security number is fraudulent, and also include increased penalties for individuals who intentionally use fraudulent Social Security numbers to obtain employment, to avoid child support obligations, or for other personal gain. In addition, the resolution urged that the legislation include increased penalties on companies that repeatedly report wages of employees with fraudulent Social Security numbers.

Vermont

Minimum wage. On account of previously enacted legislation, the State minimum wage was increased to \$7.68 per hour on January 1, 2008.

An employer in a hotel, motel, tourist attraction, or restaurant industry shall not employ a service or tipped employee at a basic wage rate less than \$3.65 an hour, and beginning January 1, 2008, and on each January 1 thereafter, this basic tip rate shall be increased by the same percentage as the minimum-wage rate. A "service or tipped employee" is defined as an employee of a hotel, motel, tourist place, or restaurant who customarily and regularly receives more than \$120 per month in tips for direct and personal service.

Time off. Upon request, any duly qualified member of the "Reserve components of the Armed Forces," of the Ready Reserve, or of an organized unit of the National Guard, shall be entitled to leaves of absence for a total of 15 days in any calendar year for the purpose of engaging in military drill, military training, or some other temporary duty under military authority. A leave of absence shall be with or without pay, as determined by the employer. Upon completion of the military drill, training, or other temporary duty under military authority, a permanent employee shall be reinstated in that same position, with the same status, pay, and seniority, including seniority

that accrued during the period of absence.

Virginia

Child labor. The State Code relating to child labor was amended to specify that no child under 18 years of age shall be employed, permitted, or suffered to work in any capacity in the manufacturing of paints, colors, white lead, brick tile, or kindred products, or in any place where goods of alcoholic content are manufactured, bottled, or sold for consumption on the premises, except farm wineries. In these instances, the alcoholic beverages (containing 18 percent or less alcohol by volume) may be sold for on-premises consumption and in closed containers for off-premises consumption; however, no child employed at the farm winery shall serve or dispense alcoholic beverages.

The State Code was amended to stipulate that any person who employs, procures, or, having under his control, permits a child to be employed, or who issues an employment certificate that results in the child being seriously injured or dying in the course of that employment, shall be subject to a civil penalty not to exceed \$10,000 for each violation. The determination by the State commissioner of labor and industry shall be final, unless, within 15 days after receipt of such notice, the person charged with the violation notifies the commissioner by certified mail that he or she intends to contest the proposed penalty before the appropriate general district court.

Human trafficking. The portion of the State Code relating to the extortion of immigrants was amended by the addition of a type of action to a previous listing of prohibited actions and by a definition of the seriousness of such an action. Any person who threatens another person with injury, accuses another person of an offense, or confiscates, withholds, or threatens to withhold any actual or purported passport, immigration document, or other government identification document, and thereby extorts money, property, or pecuniary benefit or any note, bond, or other evidence of debt from another person, is guilty of a Class 5 felony.

Minimum wage. The State Minimum Wage Act was amended through a redefinition of the term "employee." Persons who have reached their 65th birthday are no longer automatically considered nonemployees.

Offsite work. The State secretary of administration, in conjunction with the heads of each State agency, established a telecommuting and alternative-work policy outlining the types of employees eligible, the broad categories of positions determined to be ineligible for telecommuting, and the justifications for

exclusion. The policy encourages the use of alternative work locations that are separate from the agency's central workplace. The policy also promotes the use of Commonwealth information technology assets where feasible, but may allow eligible employees who telecommute to use computers, computing devices, or related electronic equipment not owned or leased by the Commonwealth. This aspect of the policy requires technical and economic feasibility, and the telecommuting sites must meet information security standards established by the State Information Technologies Agency or must receive an exception from the State chief information officer of the Commonwealth or his or her designee.

Time off. The State Code regarding reemployment rights for members of the State National Guard, the State Defense Force, and the Naval Militia called to State active duty or military duty pursuant to Title 32 of the U.S. Code was amended. Upon honorable release from State active duty or military duty pursuant to Title 32 of the U.S. Code, a member of any of the aforementioned bodies shall make written application to his or her previous employer within 14 days of release from active duty or from hospitalization following release. The employee's restoration rights to a previously held position, to a position of like seniority, status, and pay, or to a comparable vacant position shall not apply when the cumulative length of the absence and of all previous absences from a position of employment with the employer in question exceeds 5 years by reason of service in the uniformed services.

Every employer shall allow an employee who is a victim of a crime to leave work to be present at all criminal proceedings relating to the crime. The employee must have provided the employer with a copy of the form furnished to the employee by the law enforcement agency and, if applicable, with a copy of the notice of each scheduled criminal proceeding, such copy also provided to the employee-victim. An employer may limit the leave granted if the employee's leave creates an undue hardship on the employer's business. An employer shall not dismiss an employee who is a victim of a crime because the employee exercises the right to leave work. The employer is not required to compensate an employee for the time off. Finally, an employer shall not refuse to hire or employ, shall not bar or discharge from employment, and shall not discriminate against an individual in compensation or any other terms of employment because the individual leaves work to attend a criminal proceeding involving an employee-victim.

Worker privacy. The State Code concerned with the release of criminal history record in-

formation was amended. An additional entity is now entitled to receive such information either directly or through an intermediary. The State Department of Medical Assistance Services or its designee is entitled to receive criminal history record information in the circumstances described for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program, the Family Access to Medical Insurance Security Program, or any other program administered by the State Department of Medical Assistance Services.

It shall be unlawful for any person to publish the name or photograph of a law enforcement officer, along with identifying information, including the officer's primary residential address, with the intent to utilize that information in order to coerce, intimidate, or harass the officer. A person who violates this amended section of the State Code is guilty of a Class 1 misdemeanor. If the violator knew or had reason to know that the person about whom the information was being printed was a law enforcement officer, then the violator shall be guilty of a Class 6 felony with a mandatory minimum term of confinement of 6 months.

Washington

Child labor. The State Revised Code asserts that every person who shall employ, and every parent, guardian, or other person having the care, custody, or control of such child, who shall permit to be employed, by another, any child under 14 years of age at any labor whatever, in or in connection with any store, shop, factory, mine, or any inside employment not connected with farmwork or housework, without the written permit thereto of a judge of a superior court of the county wherein such child may live shall be guilty of a misdemeanor. This prohibition does not apply to youth soccer referees who have been certified by a national referee association.

Equal employment opportunity. The State Revised Code was amended to direct the director of the State Department of Personnel to adopt rules establishing guidelines for policies, procedures, and mandatory training programs on sexual harassment for State employees. The amended Code also (1) directed State agencies to adopt the rules pertaining to compliance with the department's policies and procedures and (2) established reporting requirements for State agencies regarding such compliance. All agencies and units of State government shall develop and disseminate, among all agency employees and contractors, a policy that (1) defines and prohibits sexual

harassment in the workplace, (2) includes procedures that describe how the agency will address concerns of employees who are affected by sexual harassment in the workplace, (3) identifies appropriate sanctions and disciplinary actions, and (4) complies with guidelines adopted by the director. The agencies shall also (1) respond promptly and effectively to sexual harassment concerns, (2) conduct training and education for all employees in order to prevent and eliminate sexual harassment in the organization, (3) inform employees of their right to file a complaint with the State human rights commission, and (4) report to the director of personnel regarding their compliance with the requirements.

Family issues. Effective October 1, 2009, a new family leave insurance or partial wage replacement program is established by the State. An individual employee is eligible to receive benefits if he or she has worked 680 hours in employment covered by unemployment compensation during the first four of the last five calendar quarters or during the last four calendar quarters completed before beginning family leave. An employer or a self-employed person not mandatorily covered may elect coverage. The amount of the weekly benefit is \$250 for a maximum of 5 weeks for an individual who was regularly working 35 or more hours per week and is on leave for the same number of hours. Benefits are prorated for an individual who was regularly working fewer than 35 hours per week and is on leave for fewer hours per week than he or she was regularly working. Individuals are entitled to be restored to a position of employment in the same manner that an employee entitled to leave under the State Family Leave Law is restored to a position of employment. However, to be reinstated, the individual must have worked for an employer with more than 25 employees for a total of at least 12 months and for at least 1,250 hours over the 12 months prior to the reinstatement.

Prevailing wage. As amended, the Revised Code of the State now authorizes port districts, either individually or jointly with any other municipality, person, or any combination thereof, to acquire and operate tourism-related facilities. Such port district, or such municipality or other entity involved in a joint venture or project with a port district, shall comply with the provisions of Chapter 39.12 of the Revised Code of the State—that is, those dealing with prevailing-wage requirements.

Worker privacy. It shall be unlawful for any person, firm, or corporation to require, either directly or indirectly, that any employee or prospective employee take or be subject to any lie detector or similar test as a condition of

either employment or continued employment. This restriction does not apply if the person is applying for employment with any law enforcement agency or with the juvenile court services agency or if the person is returning to work after a break of more than 24 consecutive months in service as a fully commissioned law enforcement officer. Nor does the restriction apply to either the initial application for employment or the continued employment of persons who manufacture, distribute, or dispense controlled substances or who hold sensitive positions directly involving national security. Psychological tests are permitted.

West Virginia

Immigrant protections. Effective January 1, 2008, no wages or remuneration of \$600 or more per annum for services paid to an unauthorized worker may be claimed and allowed as a deductible business expense for State income tax purposes by a taxpayer if the employer has been convicted under this article for employing, hiring, recruiting, or referring the unauthorized worker. Under State law, the commissioner of labor shall notify the State Department of Revenue of any conviction of an employer regarding the aforementioned activities, and the department is to take the appropriate action against the taxpayer. If, upon examination of the record or records of convictions, the commissioner determines that an employer has been convicted of a third or subsequent offense under the State Code, the commissioner may enter an order to (1) permanently revoke, or file an action to revoke, any license held by the employer or (2) suspend, or move for a suspension, for a specified time, of any license held by the employer.

Inmate labor. The executive director of the State Regional Jail and Correctional Facility Authority is authorized to establish guidelines and qualifications to allow inmates at each regional jail facility to be gainfully employed with local businesses and governmental entities in a work program and to establish an inmate trustee account. The executive director of the State Division of Corrections or a designee thereof shall determine the eligibility of each inmate for participation in the work program and shall consent to the participation of eligible inmates. An inmate convicted of a sexual offense or a violent felony is disqualified from the program. The administrator or designee of each regional jail facility shall receive and take charge of all money earned by the inmates as compensation for work performed, shall credit the money and earnings to the entitled inmate, and shall keep an accurate account of all monies received. At least 10 percent of all monies earned during the inmate's incarceration shall be paid to the inmate at the time of release, and the inmate

may withdraw money from his or her mandatory savings for the purpose of preparing for reentry into society. The participating inmate shall reimburse the Authority toward the cost of his or her incarceration in accordance with the inmate's ability to pay, the nature and extent of the inmate's responsibilities to dependents, and any other court-ordered financial obligations.

Overtime. The State Code was amended in order to modify the Nurse Overtime and Patient Safety Act. Hospitals are now required to designate an anonymous process for patients and nurses to register complaints related to safety. In addition, hospitals are required to post, in one or more conspicuous places where notices to employee nurses are customarily posted, a notice, in a form approved by the commissioner of labor, setting forth nurses' rights under the amended Act. The State commissioner of labor is to keep each complaint anonymous until he or she finds that the complaint has merit. The commissioner shall establish a process for notifying a hospital of a complaint and shall also establish an appeals procedure and a notification procedure, including any signs that must be posted by the facility.

Plant closing. Any hospital, any extended-care facility operated in connection with a hospital, any ambulatory health care facility, or any ambulatory surgical facility, either freestanding or operated in connection with a hospital, that intends to terminate operations shall provide at least 3 weeks' notice of such intent to the public prior to its termination of operations. In addition, at least 3 weeks prior to the date of termination of services, the hospital or health care facility shall place a Class III legal advertisement in all qualified newspapers of general circulation where the operation is geographically located.

Wisconsin

Prevailing wage. On January 1, 2007, the prevailing-wage threshold amount for coverage under the State prevailing-wage laws for State and municipal contracts was changed administratively from \$209,000 to \$216,000 for contracts in which more than one trade is involved and from \$43,000 to \$44,000 for contracts in which a single trade is involved. On January 1, 2008, these amounts were changed administratively to \$221,000 for contracts in which more than one trade is involved and \$45,000 for contracts in which a single trade is involved.

Wyoming

Equal employment opportunity. The State statutes regarding discriminatory or unfair

employment practices were amended. It is a discriminatory or unfair employment practice for an employer to refuse to hire, to discharge, to promote or demote, or to discriminate against a qualified disabled person, or any persons otherwise qualified, due to age, sex, race, creed, color, national origin or ancestry, and (the newest category) pregnancy in matters of compensation or in the terms, conditions, or privileges of employment. This statutory amendment became effective July 1, 2007.

Prevailing wage. The prevailing-wage threshold for State construction contracts was increased to \$100,000 for the entire State, with the exception of any area defined as a metropolitan statistical area pursuant to 44 U.S.C. 3504(e)(3) and 31 U.S.C. 1104(d). Upon a complaint of a violation of the prevailing-wage act, or upon a reasonable suspicion that a violation of this act has occurred, the director of the State Department of Employment shall investigate and shall institute actions for penalties for proven violations that he or she considers intentional and willful in nature. When reviewing bids for public works contracts, the public body reviewing the bids shall award a bid preference, in the percentage

specified by State statutes and for the period applicable to the contract being awarded, only to those prospective contractors who participated, as certified by the department, in the department's wage survey. All others are precluded from bidding.

Workplace security. The State Department of Transportation shall not issue, renew, upgrade, or transfer a hazardous-materials endorsement for a commercial driver's license to any person, unless the U.S. Transportation Security Administration has completed a security threat assessment of the person seeking the endorsement and determined that the person does not pose a security risk warranting denial of the endorsement.

The State Statutes were amended to require that criminal history record information shall now be disseminated by criminal justice agencies in the State, either directly or through an intermediary, to the State Military Department. The department is now entitled to receive such information if, as a condition for employment, the department requires prospective employees or volunteers, or both, to submit to fingerprinting in order to obtain State and national criminal history record information.

Puerto Rico

Worker privacy. Legislation was enacted that prohibits employers of private enterprises or public corporations of the Commonwealth from showing or displaying the Social Security number of an employee on the employee's identification card, regardless of the nature of the employee's position or appointment. In addition, the number may not be shown or displayed in a place visible to the general public or in a document of general circulation. Finally, the number may not be included in any personnel directory or in any similar list made available to persons who have no need or authority to access such data. □

Notes

¹ For a listing of the current State minimum-wage requirements that were effective on January 1, 2008, visit www.dol.gov/esa/minwage/america.htm.

² For a definition of "Housing with Services Establishment," visit <http://www.state.mn.us/license/content.do?mode=license&LicenseID=4791>.