MINIMUM WAGE “HOT-BUTTON” ISSUE IN STATE LAWS PASSED IN 2007

States enacted more labor and employment legislation in 2007 than the previous year, with 46 of them creating new laws “of consequence” to the workplace, according to a report prepared by the Labor Department’s Employment Standards Administration. A greater volume of legislation was enacted primarily because all 50 state legislatures met in regular sessions, compared with about 35 that held sessions in 2006. As in 2006, the minimum wage was the “hot button” issue in 2007, with 190 pieces of legislation introduced in 46 states.

Some of the heavy activity on the issue resulted from the increase in the federal minimum wage in 2007, because more than 40 states now have laws requiring them to maintain a minimum wage equal to or greater than the federal rate. Congress raised the national pay floor to $7.25 per hour from $5.15 per hour over three years starting with an initial increase to $5.85 per hour on July 24, 2007. A few states have a lower minimum than the federal rate, while five states—Alabama, Louisiana, Mississippi, South Carolina, and Tennessee—have not yet established a wage floor. Nevada and Montana adopted amendments to their minimum wage laws prohibiting employers from counting tips or gratuities received by workers toward the minimum pay requirement, while Colorado and Idaho capped the amount of tips and gratuities that can be applied toward meeting the minimum. New Mexico enacted legislation barring cities and counties for two years from adopting or maintaining ordinances that require a higher minimum wage than the state rate.

Included in the report are summaries of new laws by topic and a state-by-state breakdown of labor legislation enacted during the past year. Other workplace issues addressed in state laws enacted last year include child labor, drug and alcohol testing, equal employment opportunity, immigration, prevailing wages, time off, wage payment, and worker privacy. In the absence of federal enactment of immigration legislation in 2007, state lawmakers introduced nearly 1,600 bills addressing immigration, almost three times as many as the previous year, the National Conference of State Legislatures reported earlier.

The report cites an Arizona statute that prohibits employers from intentionally or knowingly employing an illegal alien, with penalties for violations scheduled to take effect January 1, 2008 [see IRC Newsletter, November-December 2007]. Arizona officials agreed to postpone enforcement of the employer sanctions until March, allowing a federal court to rule on whether the law should be blocked altogether. The U.S. district court for the District of Arizona upheld the law on February 7.

Arkansas enacted a law that requires state contractors to certify prior to executing a public contract for services that they are not employing or contracting with an illegal immigrant. A contractor who violates the provision and fails to remedy the violation within 60 days will have its contract terminated for breach of contract. State agencies are barred from knowingly entering into or renewing a public contract for services with a contractor employing an illegal immigrant to perform work under the contract or using a subcontractor. Colorado enacted a similar law that applies to both state and local government services contracts. Georgia amended its state income tax code effective January 1, 2008, to prohibit businesses from claiming as a deductible expense any wages, salaries, benefits, or other compensation totaling $600 or more per year provided to a worker whose employment violates a federal statute pertaining to unlawful employment of aliens.
