

## FEDERAL MINIMUM WAGE TO INCREASE

On July 24, 2009, the federal minimum wage will increase to \$7.25 per hour. This is the last in a three-phase increase to the minimum wage under the Fair Labor Standards Act (“FLSA”). The first increase occurred on July 24, 2007 and raised minimum wage to \$5.85 per hour. The second increase occurred on July 24, 2008 and resulted in a federal minimum wage of \$6.55. All employers subject to the FLSA should ensure that their payroll is updated to reflect this increase. If an employer is located in a state with a higher minimum wage than that required under the FLSA, the state’s minimum wage should be followed. For example, Iowa’s minimum wage was increased to \$7.25 per hour on January 1, 2008, so this change in the federal minimum wage will not impact the current minimum wage for Iowa employers. If you have any questions about whether you are subject to the FLSA or about your state’s minimum wage, please contact a member of Koley Jessen’s Employment, Labor and Benefits Group.

## NEBRASKA MOST RECENT STATE TO MANDATE USE OF E-VERIFY

Effective October 1, 2009, all public employers and contractors in Nebraska will be required to register with and use the federal government’s E-Verify program to determine the employment eligibility of all new hires. E-Verify is an electronic employment verification system administered cooperatively by the Department of Homeland Security and the Social Security Administration that allows employers to electronically verify the work eligibility of newly-hired individuals. With the passage of Legislative Bill 403 (“LB 403”), Nebraska becomes the fourteenth state to mandate the use of E-Verify in some form, joining Arizona, Arkansas, Colorado, Georgia, Idaho, Minnesota, Mississippi, Missouri, North Carolina, Oklahoma, Rhode Island, South Carolina and Utah.

Pursuant to Section 7(1)(c) of LB 403, "public employer" means any agency or political subdivision of the State of Nebraska. LB 403 provides that every contract between a public employer and a contractor must contain a provision requiring the contractor to use E-Verify to determine each new hire's employment eligibility. Notably, Nebraska's private sector employers that do not maintain contracts with public employers are not required by LB 403 to take any additional action at this time. However, LB 403 does condition the receipt of tax incentives pursuant to a number of existing state programs upon enrollment in E-Verify. Moreover, beginning on October 1, 2009, and continuing for a period of two years, the Nebraska Department of Labor is required to make available to all private sector employers information regarding E-Verify to encourage use of the same. Upon completion of this two-year period, the Nebraska Unicameral will examine the use of E-Verify by all Nebraska employers and determine what changes, if any, should be made to require additional use.

In addition to LB 403 and the other state-level requirements, certain federal contractors may be required to use E-Verify in the near future. Pending resolution of a legal challenge regarding the federal regulations implementing this requirement, federal contractors may be required to verify the employment eligibility of all new hires beginning in September 2009.

If you have any questions regarding your E-Verify obligations in Nebraska or any of the states listed above, please contact a member of Koley Jessen's Employment, Labor and Benefits Group.

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