

Buck Consultants Summary of Employment/Human Resources Legislation in the 111th Congress

Leave Legislation

Bill	Summary	Status
<p>Pandemic Protection for Workers, Families and Businesses Act H.R. 4092, S. 2790 DeLauro (D-CT), Dodd (D-CT)</p>	<ul style="list-style-type: none"> • Requires a covered employer (15 + employees) to provide each full-time covered employee (employed at least 30 days) with at least 7 days of paid sick time per year. • Requires a covered employer to provide each part-time covered employee with a pro rata share of the 7 days paid sick leave per year, as determined by the Secretary of Labor. • Provides that if an employer already provides the above leave, the employer is not required to provide additional paid sick leave. • Provides that an employer is not required to reimburse an employee upon the employee's termination, resignation, retirement or other separation for paid sick leave that has not been used. • Provides that an employer cannot require an employee, as a condition of receiving paid sick leave, to search for or find a replacement worker. • Provides that paid sick leave may be used for any of the following purposes: <ul style="list-style-type: none"> ○ Absence relating to a medical condition of an employee experiencing symptoms of a contagious illness, including the need to obtain medical diagnosis or care, or an absence to obtain preventive care for the employee for a contagious illness. ○ Absence due to a determination by the health authority having jurisdiction or by a health care provider that the employee's presence on the job would jeopardize the health of others because of the employees' exposure 	<p>Introduced on November 17, 2009 and referred to following House committees: Administration, Oversight and Government Reform and Education and Labor and the Senate HELP Committee.</p>

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	<p>to a contagious illness.</p> <ul style="list-style-type: none"> ○ Absence for purpose of caring for the employee’s child who is experiencing symptoms of a contagious illness, including the need to obtain medical diagnosis or care, or an absence to obtain preventive care for the child for a contagious illness. ○ Absence for purpose of caring for the employee’s child due to a determination by a health authority or health care provider that the child’s presence in the community would jeopardize the health of others because of the child’s exposure to a contagious illness. ○ Absence because the employee’s place of business was closed due to a contagious illness or a covered employee’s need to care for a child whose school or child care has been closed due to a contagious illness. <ul style="list-style-type: none"> ● Requires that paid sick leave be provided upon the oral or written request of the covered employee. ● Provides that the Secretary may issue regulations regarding medical certification requirements, and states that the employer may not require an employee to provide medical certification inconsistent with the regulations. ● Requires the employer to post notices regarding the availability of paid sick leave and take other “reasonable measures” that may be specified in the regulations to inform employees of their rights to paid sick leave. ● Provides that an employer may not interfere with, restrain or deny the exercise of, or the attempt to exercise, the rights provided under this Act and prohibits discrimination against an individual (including job applicants) who oppose a practice prohibited by this Act. ● Provides that it is unlawful for any person to discharge or otherwise discriminate against a person (including a job applicant) who files a claim relating to this Act, 	

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	<p>gives information in connection with an inquiry or proceeding under this Act or has/will testify in any inquiry or proceeding under this Act.</p> <ul style="list-style-type: none"> • Provides covered employees and individuals a right to an action in either Federal or state court to recover damages or equitable relief. • Allows the Secretary to file actions under the Act. 	
<p>Emergency Influenza Containment Act H.R. 3991 Miller (D-CA)</p>	<ul style="list-style-type: none"> • Requires an employer (15+ employees) who directs an employee to leave work or not to come to work because the employer believes the employee has symptoms of a contagious illness or has been in close contact with an individual who has symptoms of a contagious illness to provide a maximum of 5 paid sick leave in a 12 month period to the employee for each workday the employee complies with such directive. • Allows the employer to require the employee to follow reasonable notice procedures to continue receiving paid sick leave. • Requires the employer to post notices in the workplace regarding the availability of paid leave. • Provides that an employer cannot discharge, discipline or discriminate against an employee who complies with an employer's leave directive or who files a complaint or institutes an proceeding relating to the Act. • Provides that an employer who does not pay sick leave or who willfully violates the Act is considered in violation of the FLSA and to FSLA penalties. • Provides that the Act will expire 2 years after its effective date. 	<p>Introduced on November 3, 2009 and referred to the Education and Labor Committee.</p>
<p>Supporting Military Families Act of 2009</p>	<ul style="list-style-type: none"> • Amends the Family and Medical Leave Act (FMLA) to provide leave for family members of members of the Armed Forces and leave to care for covered 	<p>Introduced on July 30, 2009 and referred to the following</p>

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H.R. 3403, S. 1543 Woolsey (D-CA), Dodd (D-CT)	veterans. <ul style="list-style-type: none"> ○ A covered service member or veteran is one who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness. ○ For veterans, the veteran must have been a member of the Armed Forces during the 5-year period before the date on which the veteran undergoes the medical treatment, recuperation or therapy. 	committees: Education and Labor, Oversight and Government Reform and Administration and the Senate HELP Committee.
Airline Flight Crew Technical Corrections Act S. 1422 Murray (D-WA)	<ul style="list-style-type: none"> • Amends the FMLA to clarify the eligibility requirements with respect to airline flight crews. For purposes of determining whether an employee who is a flight attendant or flight crewmember meets the hours of service requirement, the employee will be considered to meet the requirements if: <ul style="list-style-type: none"> ○ The employee has worked or has been paid for at least 60 percent of the applicable total monthly guarantee, or the equivalent, for the previously 12-month period for or by the employer; and ○ The employee has worked or has been paid for at least 504 hours during the previous 12-month period for or by that employer. • Requires employers covered by this provision to maintain a file with the Secretary of Labor containing information specifying the applicable monthly guarantee for each category of employee to which such guarantee applies. 	Introduced on July 9, 2009 and referred to the HELP Committee. Enacted December 21, 2009.
Balancing Act of 2009 H.R. 3047 Woolsey (D-CA)	Paid Leave for New Parents and Family and Medical Leave Insurance <ul style="list-style-type: none"> • Requires the Secretary of Labor to establish a Family and Medical Insurance Program (Program). <i>Program Benefits</i> • Provides that an eligible employee of a covered employer is entitled to a family 	Introduced on June 25, 2009 and referred to the following committees: Education and Labor, Oversight and Government Reform, Armed Services, Ways and Means

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	<p>and medical leave insurance benefit for a total of 12 weeks of leave during any 12 month period for 1 or more of the following reasons:</p> <ul style="list-style-type: none"> ○ Birth of a child or to care for such child. ○ Adoption or foster care placement with employee. ○ Care for a child, parent, spouse, domestic partner, grandchild, grandparent, or sibling of the employee who has a serious health condition. ○ Employee suffering a serious health condition that makes him/her unable to perform the functions of his/her position. ○ Because of any qualifying exigency (as defined by the Secretary of Labor) arising from the fact that the spouse, child or parent of an employee is on active duty in the Armed Forces in support of a contingency operation. ○ To care for a child, parent, spouse, domestic partner, grandchild, grandparent, sibling or next of kin who is a covered service member. <ul style="list-style-type: none"> ● Provides that during each 12-month period, an eligible employee is subject to a waiting period of 5 workdays of leave (not to exceed 7 days) during which a leave benefit will not be paid to the employee. The waiting period does not reduce the 12 workweeks of leave benefits available under the Act. ● Provides that any employer may submit an application to the Secretary for approval of a voluntary plan. If plan is approved, the employer may provide a voluntary paid benefit under the plan rather than participating in the program. ● The Secretary must approve the voluntary plan if it finds each of the following: <ul style="list-style-type: none"> ○ The rights afforded to employees covered under the voluntary plan are equal to or greater than the rights afforded through the Program. ○ The plan is made available to all employees of the employer employed in 	<p>and Administration.</p>

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	<p>the U.S. or to all employees at any one distinct, separate establishment maintained by the employer in the U.S.</p> <ul style="list-style-type: none"> ○ A majority of the employees of the employer employed at any one distinct, separate establishment maintained by the employer in the U.S. have consented to the plan. ○ The plan provides for insurance to be issued by an admitted disability insurer approved by the Secretary or equivalent insurance. ○ The employer has consented to the plan and has agreed to make the premium contributions required, if any, and transmit the proceeds to the disability insurance, if any. ○ The plan provides for the inclusion of future employees. ○ The employer must maintain the plan for at least a year and thereafter continuously unless the employer has given written notice of intent to terminate the plan and pay the required fee. The required fee is determined by the Secretary. It is an amount adequate to provide leave benefits to eligible workers of the employer for at least 4 months, plus an amount to pay related administrative costs. <p><i>Additional Benefits</i></p> <ul style="list-style-type: none"> ● Provides that employers participating in the Program or providing a voluntary plan are not prohibited from providing additional benefits in conjunction with the leave described in this Act. ● Employers still obligated to comply with any collective bargaining agreement or any employee benefit program or plan that provides greater paid leave rights to employees than the rights established under the Act. <p><i>Prohibited Acts by Employer/Enforcement/Right of Action</i></p>	

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	<ul style="list-style-type: none"> • Provides that employers are prohibited from interfering with an employee’s exercise of his/her rights under the Act, discriminating against an employee who opposes a practice made unlawful under the Act and interfering with proceeding or inquiries under the Act. • Provides that a covered employer who engages in conducted prohibited by the Act (see immediately above) is liable to the eligible employee affected: <ul style="list-style-type: none"> ○ For damages equal to (1) the amount of any wages, salary, employment benefits or other compensation denied or lost to such employee by reason of the violation or when wages, etc. have not been denied, any actual monetary losses sustained by the employee as a direct result of the violation; (2) the interest on the amount described above; and (3) liquidated damages equal to the sum of the amounts described above at (1) and (2). ○ For appropriate equitable relief, including employment, reinstatement or promotion. ○ Reasonable attorneys’ fees, expert witness fees and other costs also may be awarded to the plaintiff. • Provides that employers are obligated to keep and reserve their records. However, the Secretary cannot require any covered employer to submit records more than once during any 12-month period unless the Secretary has reasonable cause to believe there may exist a violation of the Act. <p><i>Penalties</i></p> <ul style="list-style-type: none"> • Provides that the Secretary will impose a penalty of up to 100 percent of the benefits paid for any submission of a false certification of the health condition of someone to obtain leave benefits with the intent to defraud. • Criminal penalties are also sanctioned under the Act. 	

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	<p><i>Civil Service Family and Medical Leave Insurance Program</i></p> <ul style="list-style-type: none"> Provides that the Director of the Office of Personnel Management must establish a Civil Service Family and Medical Leave Insurance Program. <p><i>Family and Medical Leave Insurance Fund</i></p> <ul style="list-style-type: none"> Provides for the establishment of a Family and Medical Leave Insurance Fund. Amends the IRC to provide for employer, employee and self-employed family and medical leave premiums (.1% (small employers), .2 % (large employers), .4 % (self-employed) for those who participate in the Program. <p><i>Family and Medical Leave Enhancement Act of 2009</i></p> <ul style="list-style-type: none"> Provides for additional leave under the FMLA for parental involvement and family wellness. Specifically, provides for leave to participate in or attend school or community organization events of the school or organization attended by the employee's child or grandchild and for leave to meet routine family medical needs. Provides that an eligible employee is entitled to leave not to exceed 4 hours during any 30-day period or 24 hours during any 12-month period. Provides that this leave is in addition to any leave already provided under the FMLA. Provides that employers are not required to provide paid sick leave or paid medical leave in any situation in which the employer would not normally provide such paid leave. If the employee elects or the employer requires the substitution of accrued paid leave for leave provided under this Act, the employer cannot restrict or limit this substitution or impose any additional terms and conditions on such leave that are more stringent on the employee than the terms and conditions set forth in the Act. Provides that an employee is required to provide the employer with at least 7 days' 	

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	<p>notice or as much notice as is practicable before the date the leave is to be taken and to make a reasonable effort to schedule leave so as not to disrupt the operations of the employer.</p> <ul style="list-style-type: none"> An employer can require that a request for leave be support by a certification. <p>Domestic Violence Leave Act</p> <ul style="list-style-type: none"> Provides for leave for an employee to care for a family member who is dealing with domestic violence, sexual assault or stalking and their effects. Provides that the employee requesting the leave must provide notice when reasonable and practicable. Provides that domestic violence leave applies to same-sex spouses and domestic partners. <p>Healthy Families Act</p> <ul style="list-style-type: none"> Provides that an employer must allow an employee to earn at least 1 hour of paid sick time for every 30 hours worked. Employer would not be required to permit an employee to earn more than 56 hours of paid sick time in a calendar year (but the employer can set a higher limit if it chooses). Provides that employees would begin to earn paid sick time at the beginning of their employment and may begin using such time 60 days after they start work. After the 60th day, employees may use the paid sick as the time is earned. At its discretion, an employer may loan paid sick time to an employee in advance of the earning of the time. Provides that earned paid sick time carries over from 1 calendar year to the next. An employer is not required to permit an employee to accrue more than 56 hours of earned paid sick time at a given time. Provides that if an employer already has a paid sick time policy sufficient to meet 	

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	<p>the requirements of the Act, the employer is not required to permit an employee to earn additional paid sick time under the Act.</p> <ul style="list-style-type: none"> • Provides that the Act does not require financial or other reimbursement of unused paid sick time to an employee upon the employee's termination. • Provides that if a former employee is rehired within 12 months of termination, the employer must reinstate the employee's previously earned paid sick time. • Provides that an employer cannot require, as a condition of providing paid sick time, that the employee involved find a replacement to cover his/her work. • Provides that paid sick time can be used for the following: <ul style="list-style-type: none"> ○ Physical or mental illness, injury or medical condition of the employee. ○ Obtaining professional medical diagnosis or care or preventive medical care for the employee. ○ Caring for a child, parent, spouse or any other blood relative or person whose close relationship with the employee is the equivalent of a family relationship. ○ Domestic violence, sexual assault or stalking. • Paid sick time must be provided upon either the oral or written request of an employee. An employee must make a reasonable effort to schedule a period of paid sick time in a manner that does not unduly disrupt the employer's operations. • Provides that an employer may require that a request for paid sick time be supported by a certification issued by a health care provider or other appropriate individual if the leave requested exceeds 3 consecutive workdays. If requested, the employee must provide the certification no later than 30 days after the first day of leave. 	

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	<ul style="list-style-type: none"> • Provides that employers are prohibited from interfering with an employee’s rights under the Act, discharging or otherwise discriminating against any person for opposing a practice prohibited by the Act or interfering with proceedings or inquiries related to behavior challenged under the Act. • Provides that a covered employer who engages in conducted prohibited by the Act is liable to the eligible employee affected: <ul style="list-style-type: none"> ○ For damages equal to (1) the amount of any wages, salary, employment benefits or other compensation denied or lost to such employee by reason of the violation or when wages, etc. have not been denied, any actual monetary losses sustained by the employee as a direct result of the violation up to a sum of 56 hours of wages or salary for the employee or individual; (2) the interest on the amount described above; and (3) liquidated damages. ○ For appropriate equitable relief, including employment, reinstatement or promotion. ○ Reasonable attorneys’ fees, expert witness fees and other costs may also be awarded to the plaintiff. <p><i>Business Child Care Incentive Grant Program</i></p> <ul style="list-style-type: none"> • Provides that the Secretary of HHS shall establish a program to award grants to states, on a competitive basis, to assist states in providing funds to encourage the establishment and operation of employer-operated child care programs. <p><i>Part-Time and Temporary Worker Benefits</i></p> <ul style="list-style-type: none"> • With respect to pension plans, amends ERISA (Minimum Participation Standards) to provide that for employees who customarily complete 500 or more hours of service but less than 1,000 hours per year or who are employed in a position that customarily works 500 hours but less than 1,000 hours per year, completion of 500 	

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	<p>hours of service within a 12-month period can be treated as completion of 1,000 hours of services when for eligibility and vesting purposes.</p> <ul style="list-style-type: none"> • Amends ERISA to provide that employees who customarily complete 500 or more hours of service but less than 1,000 hours per year or who are employed in a position that customarily works 500 hours but less than 1,000 hours per year, will not have a break in service for vesting and accrual purposes if the individual has at least 250 (vesting)/500 (accrual) hours of service in a year. • Amends ERISA to only allow for a reduction in the amount of employer-provided premiums under a group health plan with respect to non-full time employees is allowed only if the employee: <ul style="list-style-type: none"> ○ Has customarily completed less than 30 hours of service per week; or ○ Is employed in a type of position in which employment customarily constitutes less than 30 hours of service per week. • Provides that if a reduction in the employer-provided premium is permitted, the reduction cannot be less than a ratable portion of the employer-provided premium compared to the hours worked. • Expands ERISA's definition of employee to include: <ul style="list-style-type: none"> ○ Persons who have (pursuant to an agreement with the employer or any other person) performed services for the employer (or related persons) for a period of at least 1 year (6 months in the case of core health benefits) and at least 500 hours per year if such services are of a type historically performed, in the business or field of the employer, by employees. 	
Living Organ Donor Job Security Act	<p>Amends the FMLA to allow employees to take leave for the following:</p> <ul style="list-style-type: none"> • Tests used to determine whether the eligible employee is medically suitable for live 	Introduced on June 9, 2009 and referred to the following committees: Education and

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H.R. 2776 Hinojosa (D-TX)	<p>organ donation.</p> <ul style="list-style-type: none"> Physical, psychological, and social evaluations of the live donor; Pretransplant outpatient services. Postoperative inpatient and outpatient transplantation services. Travel in connection with tests, evaluations, and services described above. Recuperation consistent with the type of transplant performed. 	Labor, Oversight and Government Reform and Administration.
Paid Vacation Act of 2009 H.R. 2564 Grayson (D-FL)	<ul style="list-style-type: none"> Amends the FLSA to: <ul style="list-style-type: none"> Provide that upon enactment, employees of employers with 100+ employees at any time during the calendar year are entitled to 1 week of paid vacation. Require that three years after enactment, beginning on their 1st anniversary of employment, employees of employers with 50+ employees are entitled to 1 week of paid vacation and employees of employers with 100+ employees are entitled to 2 weeks of paid vacation. Eligible employees would be required to provide at least 30 days notice of their intention to take vacation. 	Introduced on May 21, 2009 and referred to the Committee on Education and Labor.
Healthy Families Act H.R. 2460, S. 1152 DeLauro (D-CT), Kennedy (D-MA)	<ul style="list-style-type: none"> Requires employers with more than 15 employees to permit workers to earn at least 1 hour of paid sick time for every 30 hours worked: <ul style="list-style-type: none"> Employer not required to allow an employee to earn more than 56 hours of paid sick time in a calendar year. Paid sick time can carry over from one calendar year to the next. 	Introduced on May 18, 2009 in the House and May 21, 2009 in the Senate and referred to the following committees: House Committees on Education and Labor, Oversight and Government

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	<ul style="list-style-type: none"> ○ Employers with paid sick leave policies with similar terms are not required to adopt the plan under this legislation. ○ Employers are not required to reimburse an employee at termination for unused leave time. However, if an employee is reinstated within 12 months of separation, the employer must reinstate the employee's previously earned paid sick time. ○ Employers cannot require that employees using such leave find a replacement for their services. ○ Workers can use the time earned to: <ul style="list-style-type: none"> ▪ Recover from illness or injury. ▪ Obtain professional medical diagnosis or care. ▪ Care for a sick child, parent, spouse, or other individual related by blood or affinity equivalent to a family member. ▪ Address issues relating to domestic violence, sexual assault or stalking. ● Provides that employees must make a reasonable effort to schedule leave so that it does not disrupt operations of the employer. ● Provides that requests for leave must be made, when foreseeable, at least 7 days in advance of the requested leave. ● Provides that an employer may require a certification issued by a health care provider that would have to be presented to the employer within 30 days of the first day of leave. ● Provides for a private right of action to recover damages or equitable relief. Class actions permitted. An employer who violates the Act will be liable to an employee or individual effected: 	<p>Reform and Administration and the Senate HELP Committee.</p>

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	<ul style="list-style-type: none"> ○ For damages equal to the amount of any compensation or where no compensation was lost, any actual monetary losses sustained as a direct result of the violation up to a sum equal to 56 hours of wages or salary for the employee or individual plus the interest on the amount described above and any additional amount of liquidated damages. ○ For equitable relief where appropriate. ○ The court is allowed to award to the plaintiff reasonable attorneys' fees, reasonable expert witness fees and other costs of the action. 	
<p>Family and Medical Leave Restoration Act H.R. 2161 Shea-Porter (D-NH)</p>	<ul style="list-style-type: none"> ● Directs the Secretary of Labor to revise the FMLA regulations within 180 days of enactment as follows: <ul style="list-style-type: none"> ○ Repeal the regulations promulgated on November 17, 2008. ○ Restore the regulations that were promulgated January 6, 1996. ○ Revise 29 CFR § 825.308(b) to permit an employer to require recertification of a medical condition no earlier than: <ul style="list-style-type: none"> ▪ The expiration of the length of time indicated in the original certification of the medical condition; or ▪ 1 year after obtaining the original certification for a medical condition, if the original certification indicated that the condition would last longer than 1 year. ○ Revise 29 CFR § 825.115(a) and (c) to remove the requirements for a specific number of periodic visits for treatment by a health care provider to qualify for leave for a serious health condition or chronic condition and to require only the treatment that the health care provider determines proper. ● Directs the Secretary of Labor to revise the medical certification form templates within 180 days of enactment to permit health care providers to make the 	<p>Introduced on April 29, 2009 and referred to the following committees: Administration, Oversight and Government Reform and Education and Labor.</p>

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	determination of whether a medical condition qualifies as a serious health condition for purposes of the FMLA.	
Family and Medical Leave Inclusion Act H.R. 2132 Maloney (D-NY)	<ul style="list-style-type: none"> • Amends the FMLA to provide for employee leave to care for same-sex spouse (look to state law), domestic partner, children, parent-in-law, adult child, sibling or grandparent, if such person has a serious health condition. • Amends federal civil service law to apply the same leave allowance to federal employees. 	Introduced on April 28, 2009 and referred to the following committees: Administration, Oversight and Government Reform and Education and Labor.
Family Leave Insurance Act of 2009 H.R. 1723 Stark (D-CA)	<ul style="list-style-type: none"> • Directs the Secretary of Labor to establish a Family and Medical Insurance Program ("Program"). In carrying out the Federal Program, the Secretary may: <ul style="list-style-type: none"> ○ Enter into a contract with a State under which: <ul style="list-style-type: none"> ▪ The State agrees to establish or expand a State program in effect at the date of the enactment of this Act to include, a State Family and Medical Insurance Program that provides the benefits described in the Act; and ▪ The Secretary agrees to instruct the Managing Trustee of the Family and Medical Leave Insurance Fund to provide the State funds for such benefits. <p style="text-align: center;">or</p> ○ At the request of a State's governor, enter into an interagency agreement with the Social Security Commissioner under which: <ul style="list-style-type: none"> ▪ The Commissioner agrees to establish a State Family and Medical Insurance Program in such State to provide the benefits described in the Act; and ▪ The Secretary agrees to instruct the Managing Trustee of the 	Introduced on March 25, 2009 and referred to the following committees: Ways and Means, Oversight and Government Reform and Education and Labor.

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	<p style="text-align: center;">Insurance Fund to provide the Commissioner of Social Security funds for such benefits from the Insurance Fund.</p> <ul style="list-style-type: none"> • Entitles eligible employees to family and medical leave insurance benefits for a total of 12 work weeks of leave during any 12 month period for 1 or more of the following reasons: <ul style="list-style-type: none"> ○ The birth of a son or daughter and for the care of such child. ○ The placement of a son or daughter with the employee because of adoption or foster care. ○ To care for a child, parent, spouse, domestic partner, grandchild, grandparent or sibling of the employee with a serious health condition. ○ Because of a serious health condition that makes the employee unable to perform the functions of his/her position. ○ Because of a qualifying exigency arising out of the fact that the spouse, son, daughter or parent is on active duty in the Armed Forces of the U.S. ○ To care for a child, parent, spouse, domestic parent, grandchild, grandparent, sibling or next of kin of the employee who is a covered service member. • Provides for a waiting period of 5 workdays of leave during which a leave benefit will not be paid to the employee. • Authorizes any employer to establish a voluntary plan meeting specified criteria. Such plan must be approved by the Secretary. • A covered employer cannot interfere with rights provided under the Act, discharge or otherwise discriminate against an individual opposing a practice made unlawful under the Act or interfere with proceedings or inquiries of conduct alleged to be unlawful under the Act. 	

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	<ul style="list-style-type: none"> • A covered employer who violates the Act is liable for damages equal to the amount of any compensation denied or lost to the employee because of the violation or where compensation has not been lost or denied, any actual monetary losses sustained as a direct result of the violation up to an amount equal to 8 weeks of wages or salary for the employee. In addition, interest on this amount, calculated at the prevailing rate, will also be awarded. • Liquidated damages may be awarded except where it is determined the employer acted in good faith. • Equitable relief may also be awarded. • Requires the Director of the Office of Personnel Management to establish a Civil Service Family and Medical Leave Insurance Program with the same program benefits for federal agency employees. • Establishes the Family and Medical Leave Insurance Fund in the Treasury. • Amends the Internal Revenue Code to impose a family and medical leave premium on every individual and every employer (.1% (small employer)/.2% (large employer) of wages to finance a Family and Medical Leave Trust Fund in the Treasury for Program benefits. Exempts the following: <ul style="list-style-type: none"> ○ Employers or the self-employed with voluntary plans approved by the Secretary as equivalent or better than the Program; and ○ Small employers who have elected not to participate in it. 	
<p>Airline Flight Crew Technical Corrections Act H.R. 912</p>	<ul style="list-style-type: none"> • Amends the FMLA by adding a special hours of service requirement for flight attendants and flight crew members. • Provides that a flight attendant or flight crew member meets the hours-of-service requirement if s/he has worked or been paid for: 	<p>Introduced on February 9, 2009. Considered under suspension of the rules and agreed to by voice vote.</p>

Bill	Summary	Status
<p>Bishop (D-NY)</p>	<ul style="list-style-type: none"> ○ 60% of the applicable monthly guarantee or the equivalent annualized over the preceding 12-month period; and ○ A minimum of 504 hours during the preceding 12-month period. 	<p>Received in Senate and referred to HELP Committee (see S. 1422).</p>
<p>Family and Medical Leave Enhancement Act of 2009 H.R. 824 Maloney (D-NY)</p>	<ul style="list-style-type: none"> • Amends the FMLA to cover employees at worksites that employ 25-49 persons. • Amends the FMLA to provide additional leave to covered employees for parental involvement and family wellness. Specifically, eligible employees are entitled to leave to: <ul style="list-style-type: none"> ○ Participate in or attend activities sponsored by a school or community organization attended by the covered employee's son, daughter or granddaughter. ○ Meet routine family medical needs of the employee or a son, daughter, spouse or grandchild. ○ Attend to the care needs of elderly persons who are related to the eligible employee. The legislation does not specify the type of relationship that the elderly person must have with an eligible employee. • Provides that the parental involvement and family wellness leave cannot exceed: <ul style="list-style-type: none"> ○ 4 hours of leave during any 30-day period. ○ 24 hours of leave during any 12-month period. • Provides that an eligible employee may elect, or an employer may require that the employee substitute any accrued vacation, personal leave or family leave for any parent involvement and family wellness leave provided under the Act. If the employee elects or the employer requires the substitution of accrued paid leave, the employer cannot restrict or limit the substitution or impose any additional terms or condition on such leave that are more stringent than the terms and conditions 	<p>Introduced on February 3, 2009 and referred to the following committees: Administration, Oversight and Government Reform and Education and Labor.</p>

Bill	Summary	Status
	<p>set forth in the FMLA.</p> <ul style="list-style-type: none"> • Provides that an employee requesting leave must provide the employer at least 7 days notice when practicable and make a reasonable effort to not disrupt the operations of the employer. • Provides that an employer may require that a request for leave be supported by a certification, as determined by the Secretary of Labor. • Provides that parental involvement and wellness leave can also be taken by federal employees. 	
<p>Family Fairness Act of 2009 H.R. 389 Baldwin (D-WI)</p>	<p>Amends the FMLA to eliminate the requirement that employees worked at least 1,250 hours during the 12-month period before a leave request and only requires the employee to be employed for 12 months by the covered employer, allowing part-time employees to be covered by the Act.</p>	<p>Introduced on January 9, 2009 and referred to the following committees: Administration, Oversight and Government Reform and Education and Labor.</p>

National Labor Relations Act Legislation

Bill	Summary	Status
National Right-to-Work Act H.R. 4107 King (R-IA)	<ul style="list-style-type: none"> Amends the NLRA to strike language which makes an employee's right to form, join or assist a labor organization, or to refrain from such activities, subject to any agreement requiring membership in a labor organization as a condition of employment. Amends the NLRA by striking language to make an employer's inability to encourage or discourage membership in a labor organization subject to an employer's ability to make certain agreements with labor organizations relating to conditions of employment. Amends the NLRA by strike language that makes it an unfair labor practice for a labor organization to discriminate against an employee whose membership has been denied on some ground other than a failure to pay dues and to strike language that protects only employees covered by an agreement from being required to pay excessive or discriminatory fees. Amends the NLRA by striking language that deals with an employer in the building and construction industry's ability to make agreements dealing with employees engaged with a labor organization. Amends the Railway Labor Act to move language permitting unions to make agreements to ensure the security of the union. 	Introduced on November 18, 2009 and referred to the Committee on Education and Labor.
Truth in Employment Act of 2009 H.R. 2808 King (R-IA)	<ul style="list-style-type: none"> Amends the NLRA to protect an employer from being required to hire any person who is seeking a job to promote interests unrelated to those of the employer. 	Introduced on June 10, 2009 and referred to the Committee on Education and Labor.

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Bill	Summary	Status
<p>Rewarding Achievement and Incentivizing Successful Employees Act H.R. 2732 McClintock (R-CA)</p>	<ul style="list-style-type: none"> Amends the NLRA to allow employers to reward high-performing employees through raises, bonuses, or other compensation. 	<p>Introduced on June 4, 2009 and referred to the Committee on Education and Labor.</p>
<p>Employee Free Choice Act of 2009 H.R. 1409, S. 560 Miller (D-CA), Kennedy (D-MA)</p>	<ul style="list-style-type: none"> Amends the NLRA to allow a union or employee to file a petition stating that a majority of employees wish to be represented. If, after investigation, the NLRB finds that a majority of employees in the unit has signed valid authorizations, the NLRB will certify the union. Provides that there is a duty to bargain: <ul style="list-style-type: none"> After certification, the union may request to begin bargaining, and the union and employer must meet and begin collective bargaining within 10 days of the request and make every reasonable effort to sign a collective bargaining agreement. If no agreement is reached by 90 days after the request to bargain, either party may notify the Federal Mediation and Conciliation Service (FMCS) and request mediation. If no agreement is reached 30 days after the request for mediation, the dispute is referred to an arbitration board. The arbitration board will issue a decision settling any dispute, and the decision is binding for two years, unless the employer and the union amend it by written consent. Requires the NLRB to seek a federal court injunction against an employer 	<p>Introduced on March 10, 2009 in the House and Senate and referred to the following committees: House Committee on Education and Labor and the Senate HELP Committee.</p>

Bill	Summary	Status
	<p>whenever there is reasonable cause to believe that during an organizing drive or first contract drive the employer has:</p> <ul style="list-style-type: none"> ○ Discharged or discriminated against employees ○ Threatened to discharge or discriminate against employees, or ○ Engaged in conduct that significantly interferes with employee rights during an organizing or first contract drive. <ul style="list-style-type: none"> • Provides for treble back pay if an employer discriminates or discharges an employee for exercising the employee's right to organize while the employee is seeking representation and until the first contract is entered into. • Provides for civil fines of up to \$20,000 per violation against employers found to have willfully or repeatedly violated employees' rights during an organizing or first contract drive. 	
<p>National Labor Relations Modernization Act H.R. 1355 Sestak (D-PA)</p>	<p>Preventing Excessive Delays in Initial Collective Bargaining Agreements</p> <ul style="list-style-type: none"> • Amends the NLRA to require that within 10 days (or later upon agreement of the parties) of receiving a written request for collective bargaining from an individual or a labor organization that has been newly organized or certified as a representative, the parties must meet and commence collective bargaining, and make a reasonable effort to sign a collective bargaining agreement. • Provides that if the parties fail to reach agreement within 120 days (or other time as agreed to by the parties) of the beginning of bargaining, either party may notify the FMCS and request the appointment of an arbitration panel. • Provides that if the parties cannot be brought to an agreement through mediation 120 days after the request for mediation, the arbitration panel must begin to arbitrate the dispute in accordance with regulations prescribed by the FMCS. The 	<p>Introduced March 5, 2009 and referred to the Committee on Education and Labor.</p>

Bill	Summary	Status
	<p>arbitration panel must make a decision within 30 days of beginning arbitration. The decision will be binding on the parties for a period of 18 months, unless amended by written consent of the parties.</p> <p>Strengthening Enforcement Against Intimidation of Workers</p> <ul style="list-style-type: none"> • Provides for injunctions against unfair labor practices during organizing drives. • Provides for backpay and civil penalties where worker intimidation is found. <ul style="list-style-type: none"> ○ In addition, 2 times the amount of backpay must be rewarded as liquidated damages. ○ Employers who willfully and repeatedly commit unfair labor practices will be subject to a civil penalty not to exceed \$20,000 for each violation. <p>Equal Access to Labor Organizations Prior to Elections</p> <ul style="list-style-type: none"> • Requires an employer, within 30 days after the NLRB orders an election to: <ul style="list-style-type: none"> ○ Notify the designated representative of activities the employer intends to engage in to oppose recognition of the representative. ○ Provide the representative with equal access to the place of employment to campaign. • Makes it an unlawful labor practice for an employer to fail to provide the representative with the notice and equal access. 	
<p>Secret Ballot Protection Act H.R. 1176, S. 478 Kline (R-MN), DeMint</p>	<p>Amends the NLRA to make it an unfair labor practice for:</p> <ul style="list-style-type: none"> • An employer to recognize or bargain collectively with a labor organization that has not been selected by a majority of the employees in a secret ballot election conducted by the National Labor Relations Board, except for those recognized 	<p>Introduced in the House and Senate on February 25, 2009 and referred to the House Committee on Education and Labor. In the Senate, bill</p>

Bill	Summary	Status
(R-SC)	<p>before enactment.</p> <ul style="list-style-type: none"> • A labor organization to cause or attempt to cause an employer to recognize or bargain collectively with a representative that has not been selected in such manner, except for those recognized before enactment. 	<p>placed on Senate Legislative Calendar under General Orders. Calendar No. 24.</p>

Other Employment Legislation

Bill	Summary	Status
Helping Unemployed Workers Act H.R. 4183, S. 2831 McDermott (D-WA), Reed (D-RI)	<ul style="list-style-type: none"> Amends the Supplemental Appropriations Act of 2008 and the Assistance for Unemployed Workers and Struggling Families Act (Public Law 111-5) to provide for the temporary extension of programs providing unemployment benefits. 	Introduced on December 2, 2009 and referred to the House Ways and Means and Senate Finance Committees.
Shortening Hours and Retaining Employees Credit Act of 2009 H.R. 4179 Conyers (D-MI)	<ul style="list-style-type: none"> Amends the Internal Revenue Code (IRC) to add a new section providing for a work share credit. Provides that there must be allowed as a credit against the tax imposed of an amount equal to the wages paid or incurred by the taxpayer during the taxable year to each qualified work share employee. The credit allowed per qualified work share employee cannot exceed the lesser of \$3,000 or 10 percent of the wages paid or incurred to the employee for periods during which the employee did not perform services for the employer by reason of a reduction in the hours of an employee's service. Defines qualified work share employee as any employee of the taxpayer for any period if: <ul style="list-style-type: none"> Substantially all of the services performed during such period by such employee for the employer are performed in the United States in a trade or business of the employer, and Such employee is participating in a qualified work share program of the employer. Defines qualified work share program as any written program of the employer: 	Introduced on December 2, 2009 and referred on the Ways and Means Committee.

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Bill	Summary	Status
	<ul style="list-style-type: none"> ○ Under which employees who participate in the program: <ul style="list-style-type: none"> ▪ Perform the same functions they would have performed were they not participants in the program, and ▪ Receive the same wages and benefits that they would have received (i) were they not participants in the program and (ii) without regard to any reduction in the hours of the employee's service required by the employer as a condition of participating in the program. 	
<p>Feed All Struggling Americans Act of 2009 H.R. 4163 Baca (D-CA)</p>	<ul style="list-style-type: none"> • Amends the Food and Nutrition Act of 2008 to exclude from income unemployment benefits received for continuous period exceeding 26 weeks. 	<p>Introduced on December 1, 2009 and referred to the Committee on Agriculture.</p>
<p>Keep Americans Working Act H.R. 4135 DeLauro (D-CT)</p>	<ul style="list-style-type: none"> • Amends IRC Section 3306 to add a new subsection providing for a short-time compensation program. <ul style="list-style-type: none"> ○ Employer participation in the program is voluntary. ○ Such a program allows an employer to reduce the number of hours worked by employees through certifying that such reductions are in lieu of temporary layoffs. ○ Provides that employees whose workweeks have been reduced by at least 10 percent are eligible for unemployment compensation. ○ Provides that the amount of unemployment compensation payable to any employee is a pro rata portion of the unemployment compensation which would be payable to the employee if such employee were totally 	<p>Introduced on November 19, 2009 and referred to the Committee on Ways and Means.</p>

Bill	Summary	Status
	<p>unemployed.</p> <ul style="list-style-type: none"> ○ Employees are not expected to meet the availability for work or work search test requirements while collecting short-time compensation benefits, but are required to be available for their normal workweek. ○ Eligible employees may participate in an employer-sponsored training program to enhance job skills if the program has been approved by the State agency. ○ Two years after this Act's enactment, the State agency must require an employer to certify that continuation of health benefits and retirement benefits under a defined benefit pension plan are not affected by participation in the program. ○ The State agency must require an employer to submit a written plan describing the manner in which the requirements of this Act will be implemented and containing any other information deemed appropriate by the Secretary of Labor. ○ Where employees are represented by a union, the union must agree to the terms of the employer's written plan and implementation of the plan must be consistent with employer obligations under the NLRA. 	
<p>Jumpstarting Our Business Sector Act of 2009 H.R. 4100 Broun (R-GA)</p>	<ul style="list-style-type: none"> ● Amends IRC Section 3101 to temporarily reduce the employee share of payroll taxes for a period of 2 years after enactment of Act. 	<p>Introduced on November 18, 2009 and referred to the following committees: Ways and Means and Appropriations.</p>

Bill	Summary	Status
Untitled H.R. 4079 Perriello (D-VA)	<ul style="list-style-type: none"> • Amends the IRC to temporarily remove the requirement that employers increase wages for veterans enrolled in on-the-job training programs. <ul style="list-style-type: none"> ○ Requires the training establishment that wants to be approved must submit to the appropriate state agency a written application for approval. 	Introduced on November 16, 2009 and referred to the Committee on Veterans' Affairs.
Untitled H.R. 4074 Burgess (R-TX)	<ul style="list-style-type: none"> • Amends IRC Section 3301 to eliminate the temporary increase in unemployment tax. 	Introduced on November 16, 2009 and referred to the Committee on Ways and Means.
Small Business and Military Family Assistance Act of 2009 H.R. 4042, S. 2748 Klein (D-FL), Kerry (D-MA)	<ul style="list-style-type: none"> • Amends the IRC to extend the employer wage credit for employees who are active duty to December 31, 2011 (from December 31, 2009). The Senate bill would extend the credit for only one year until December 31, 2010. 	Introduced on November 6, 2009 and referred to the House Ways and Means and Senate Finance Committees.
Back to Work Tax Credit Act H.R. 3953 Bocchieri (D-OH)	<ul style="list-style-type: none"> • Amends the IRC to expand the work opportunity tax credit to include long-term unemployed individuals. 	Introduced on October 28, 2009 and referred to the Ways and Means Committee.
Untitled	<ul style="list-style-type: none"> • Amends IRC Section 3101 to eliminate the temporary increase in unemployment tax. 	Introduced on October 27, 2009 and referred to the Ways

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Bill	Summary	Status
H.R. 3941 Burgess (R-TX)		and Means Committee.
Unemployment Compensation Extension Act of 2009 H.R. 3756 Welch (D-VT)	<ul style="list-style-type: none"> Amends the Supplemental Appropriations Act of 2008 to provide additional weeks of emergency unemployment benefits. 	Introduced on October 7, 2009 and referred to the Ways and Means Committee.
Non-Federal Employee Whistleblower Protection Act of 2009 S. 1745 McCaskill (D-MO)	<ul style="list-style-type: none"> Provides that an employee of any non-Federal employer receiving covered funds may not be discharged, demoted or otherwise discriminated against as a reprisal for initiating or participating in any proceeding related to the misuse of any Federal funds, reasonably opposing the misuse of any Federal funds or disclosing to a law enforcement official/authority information that the employee reasonably believes is evidence of: <ul style="list-style-type: none"> Gross mismanagement of any agency contract or grant relating to covered funds; A gross waste of covered funds; A substantial and specific danger to public health or safety related to the implementation or use of covered funds; An abuse of authority related to the implementation or use of covered funds; or A violation of law, rule or regulation related to an agency contract, subcontract or grant, awarded or issued relating to covered funds. 	Introduced on October 1, 2009 and referred to the Committee on Homeland Security and Governmental Affairs.

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Helping Invigorate and Revive Our Economy Act of 2009 H.R. 3784 Rooney (R-FL)	<ul style="list-style-type: none"> • Amends the IRC to expand the work opportunity tax credit to cover all new hires. • Increases the income tax credit for employers for each hire that is eligible under the current WOTC criteria up to 50 percent. • Creates a new income tax credit for all other hires outside the current WOTC up to 30 percent. • Increases the maximum wage eligibility for Veterans under the current WOTC from \$12,000 to \$16,000. • Increases tax credits for employers who offer childcare services or benefits to employees up to 35 percent. • Makes work opportunity tax credit, which is set to expire in 2011, permanent. 	<p>Introduced on October 8, 2009 and referred to the Committee on Ways and Means.</p>
Protecting Older Workers Against Discrimination Act H.R. 3721 Miller (D-CA)	<ul style="list-style-type: none"> • Amends the Age Discrimination in Employment Act (ADEA) to provide that a plaintiff establishes an unlawful employment practice if the plaintiff demonstrates by a preponderance of the evidence that: <ul style="list-style-type: none"> ○ An impermissible factor under the ADEA was a motivating factor for the practice complained of, even if other factors also motivated the practice; or ○ The practice complained of would not have occurred in the absence of an impermissible factor. • Provides that a plaintiff can establish an unlawful practice by relying on any type or form of admissible circumstantial or direct evidence and need only produce evidence sufficient for a reasonable trier of fact to conclude that a violation occurred. • If the plaintiff demonstrates a violation of the ADEA and the defendant demonstrates that it would have taken the same action in the absence of an 	<p>Introduced on October 6, 2009 and referred to the Committees on Education and Labor and Judiciary.</p>

Bill	Summary	Status
	<p>impermissible motivating factor, the court:</p> <ul style="list-style-type: none"> ○ May grant declaratory relief, injunctive relief and attorneys' fees and costs demonstrated to be directly attributable only to the pursuit of the claim; and ○ Cannot award damages or issue an order requiring an admission, reinstatement, hiring, promotion or payment. 	
<p>Untitled H.R. 3687 Issa (R-GA)</p>	<ul style="list-style-type: none"> • Amends the Immigration and Nationality Act to eliminate the diversity immigrant program and to reallocate those visas to certain employment-based immigrants who obtain an advanced degree in the United States. The number of visas issued pursuant to the reallocation cannot exceed 55,000. 	<p>Introduced on October 1, 2009 and referred to the Committee on the Judiciary.</p>
<p>Improving Methods to Promote Regular Occurrences of the Verification of Employability Status Act of 2009 H.R. 3676 Broun (R-GA)</p>	<ul style="list-style-type: none"> • Makes the E-Verify Program permanent. • Amends Section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 by adding a new subsection protecting an employer from liability by permitting an employer to wait for confirmation of an individual's identity and work eligibility before beginning to pay or train the individual. 	<p>Introduced on September 30, 2009 and referred to the Committees on Judiciary and Education and Labor.</p>
<p>Employer-Owned Life Insurance Limitation Act H.R. 3669</p>	<ul style="list-style-type: none"> • Provides that it is unlawful for any employer to carry an employer-owned life insurance policy on any employee of such employer whose salary is less than \$1,000,000 per year. • Provides that is unlawful for an employer to carry an employer-owned life insurance policy not prohibited by the legislation for an employee after 30 days 	<p>Introduced on September 29, 2009 and referred to the Committee on Education and Labor.</p>

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Bill	Summary	Status
<p>Gutierrez (D-IL)</p>	<p>after such employee terminates employment with the employer.</p> <ul style="list-style-type: none"> Provides that for policies that are not prohibited, the employer must, within 30 days of purchasing an employer-owned life insurance policy, provide written notice to the employee who is the subject of the policy. The written notice must contain a statement that the employer carries such insurance, the identity of the insurance carrier of the policy, the benefit amount of the policy and the name of the beneficiary of the policy. Provides that any employee who is the subject of an employer-owned life insurance policy in violation of this legislation may commence a civil action in federal court to enjoin the employer from carrying such a policy and to obtain damages in an amount that is the greater of \$500,000 or (a) if the employee has died, 3 times the amount of any benefit paid or payable to the employer from the insurance policy or (b) if the employee has not died, 3 times the amount of any benefit that would be payable under the policy. Provides for criminal penalties for employers who violate the Act. Specifically, a employer found guilty of violating the Act will be deemed guilty of a misdemeanor and fined \$500,000 and imprisoned for up to 1 year. 	
<p>Children’s Act for Responsible Employment of 2009 or Care Act of 2009 H.R. 3564 Roybal-Allard (D-CA)</p>	<ul style="list-style-type: none"> Amends the FLSA to strengthen the provisions relating to child labor by adding a new paragraph that provides that the provisions of Section 12 of the FLSA relating to child labor must apply to any employee under 18 years of age employed in agriculture unless the employee is employed by a parent of the employee or by a person standing in the place of the parent on a farm owned or operated by the parent or person. Provides for increased civil penalties for child labor violations in amounts not less than \$500 and not more than \$15,000 for each employee who is the subject of such a violation. If the violation causes serious injury, serious illness or death of an employee under the age of 18, the penalty is not less than \$15,000 and not 	<p>Introduced on September 15, 2009 and referred to the Committee on Education and Labor.</p>

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Bill	Summary	Status
	<p>more than \$50,000 (these amounts can be doubled if the violation is a repeated or willful violation).</p> <ul style="list-style-type: none"> • Provides for special criminal penalties for certain aggravated child labor violations. Where a person repeatedly or willfully violates any provision of Section 12 of the FLSA and the violations result in or contribute to the death or permanent disability of an employee under 18 years of age at the time of such violation, that person will be subject to imprisonment for not more than 5 years or a fine under Title 18 of the U.S. Code or both. • Sets forth employer reporting requirements. The Secretary may assess a civil penalty on any employer who fails to file a report in an amount not less than \$500 and not more than \$7,000 per violation. Employers are required to submit a report to the Secretary (who will in turn publish the reports in the Federal Register and post the reports on the Department of Labor's website) in the event any of the following take place: <ul style="list-style-type: none"> ○ A work-related serious injury to an employee under 18 years of age employed in agriculture. ○ The discovery of a work-related serious illness of an employee under 18 years of age employed in agriculture; or ○ The work-related death of an employee under 18 years of age employed in agriculture. 	
<p>Assistance for Unemployed Workers Extension Act S. 1647</p>	<ul style="list-style-type: none"> • Amends the Supplemental Appropriations Act of 2008 to provide for the extension of the emergency unemployment compensation program until December 31, 2010. • Amends the Assistance for Unemployed Workers and Struggling Families Act to extend the increase in unemployment compensation benefits, to extend full federal funding of extended unemployment compensation for a limited period and to provide for the extension of temporary federal matching for the first week of 	<p>Introduced on August 7, 2009 and referred to the Committee on Finance.</p>

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Bill	Summary	Status
Reed (D-RI)	<p>extended benefits for states with no waiting week.</p> <ul style="list-style-type: none"> • Amends The Supplemental Appropriations Act of 2008 to add a new subsection titled “Third Tier of Benefits.” This new subsection provides that when the additional emergency unemployment compensation is exhausted or the individual’s State is in an extended benefit period, the individual’s account will be further augmented once by an amount equal to the lesser of: <ul style="list-style-type: none"> ○ 50 percent of the total amount of regular compensation payable to the individual during the individual’s benefit year under the State law; or ○ 13 times the individual’s average weekly benefit amount for the benefit year. 	
Keep Americans Working Act S. 1646 Reed (D-RI)	<ul style="list-style-type: none"> • Amends the IRC to add a new subsection titled “Short-Time Compensation Program.” <ul style="list-style-type: none"> ○ Defines “short-time compensation program” as a program under which: <ul style="list-style-type: none"> ▪ Employer participation is voluntary; ▪ The employer reduces the number of hours worked by employees through certifying that such reductions are in place of temporary layoffs. ▪ Employees whose workweeks have been reduced by at least 10 percent are eligible for unemployment compensation. ▪ The amount of unemployment compensation payable to any employee is a pro rata portion of the unemployment compensation which would be payable to the employee if s/he was totally unemployed. ▪ Employees are not required to meet the availability for work or work search test requirements while collecting short-time compensation benefits, but are required to be available for their normal workweek. ▪ Eligible employees may participate in a State agency-approved 	Introduced on August 7, 2009 and referred to the Committee on Finance.

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Bill	Summary	Status
	<p>employer-sponsored training program to enhance job skills.</p> <ul style="list-style-type: none"> ▪ Two years after enactment, the State agency must require employers to certify that the continuation of health benefits and retirement benefits under a defined benefit pension plan is not affected by participation in the short-time compensation program. ▪ The State agency must require an employer to submit a written plan describing the manner in which the requirements of this new subsection will be implemented and containing any other information the Secretary of Labor deems important. ▪ Where employees are represented by a union, the appropriate union official must agree to the terms of the employer's written plan and implantation of the plan must be consistent with employer obligations under the NLRA. <ul style="list-style-type: none"> • Provides for temporary financing of short-time compensation programs. <ul style="list-style-type: none"> ○ No later than 30 days after enactment, the Secretary must establish a program under which s/he makes payments to any State unemployment trust fund to be used if the Secretary approves a State's application to operate a short-time compensation program. States entitled to 100 percent of the total amount of benefits paid to individual by the State pursuant to the short-time compensation program during the period before September 30, 2011. ○ Limitations on payments: <ul style="list-style-type: none"> ▪ No payments can be made to a State for benefits paid to an individual pursuant to a short-time compensation program that is in excess of 26 weeks of benefits. ▪ No payments can be made to a State for benefits paid to an individual pursuant to a short-time compensation program if the employee is employed by an employer: (1) whose workforce during the preceding 3 	

Bill	Summary	Status
	<p>months has been reduced by temporary layoffs in excess of 20 percent; (2) on a seasonal, temporary or intermittent basis; or (3) engaged in a labor dispute.</p> <ul style="list-style-type: none"> ▪ In making any payment to a State, the Secretary may limit the frequency of employer participation in a short-time compensation program. 	
<p>Public Safety Employer-Employee Cooperation Act of 2009 S. 1611 Gregg (R-NH)</p>	<ul style="list-style-type: none"> • Provides for collective bargaining rights for public safety officers employed by States or their political subdivisions. <ul style="list-style-type: none"> ○ Within 180 days of enactment, the Federal Labor Relations Authority (Authority) must determine whether a State's law substantially allows for the following: <ul style="list-style-type: none"> ▪ Granting public safety officers the right to form and join a labor organization. ▪ Requiring public safety employers to recognize the employees' labor organization, to agree to bargain with the labor organization and to commit any agreements to writing in a contract or memorandum of understanding. ▪ Providing for the right to bargain over hours, wages and terms and conditions of employment. ▪ Making available an interest impasse resolution mechanism, such as fact-finding, mediation, arbitration or comparable procedures. ▪ Requiring enforcement of all rights, responsibilities and protections provided by State law and enumerated in this Act. ○ If a State's law substantially provides the above rights and responsibilities, the State's law is not preempted by this Act. However, if the Authority determines that a State does not substantially provide the above listed rights and responsibilities, then the State is subject to the regulations and 	<p>Introduced on August 6, 2009 and referred to the Senate HELP Committee.</p>

Bill	Summary	Status
	<p>procedures set forth in the Act beginning on the later of:</p> <ul style="list-style-type: none"> ▪ Two years after the date of enactment. ▪ The last day of the first regular session of the State legislature that begins after the date of enactment. ▪ Where the State receives a subsequent determination from the Authority, the last day of the first regular session of the State legislature after the date the Authority made the determination. <ul style="list-style-type: none"> • Prohibits employers, public safety officers or labor organizations from engaging in lockouts, sickouts, work slowdowns, strikes or any other organized job action that would measurably disrupt the delivery of emergency services and is designed to compel an employer, public safety officer or labor organization to agree to the terms of a proposed contract. • Provides that existing collective bargaining unit and agreement are not invalidated by the enactment of this Act. 	
<p>Wounded Veteran Job Security Act of 2009</p> <p>S. 1607</p> <p>Brown (D-OH)</p>	<ul style="list-style-type: none"> • Amends Title 38 of the United States Code to provide that a person who is absent from work because of medical treatment for a military service-connected disability is entitled to: <ul style="list-style-type: none"> ○ Retain his/her position with the employer. ○ Retain the seniority and other rights and benefits determined by seniority that s/he would have on the date treatment begins plus the additional seniority and rights and benefits that would have been attained if s/he had remained continuously employed. • Provides that a person absent because s/he is receiving medical treatment for a military service-connected disability shall be: <ul style="list-style-type: none"> ○ Deemed to be on furlough or leave of absence while receiving medical 	<p>Introduced on August 6, 2009 and referred to the Committee on Veterans' Affairs.</p>

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	<p>treatment; and</p> <ul style="list-style-type: none"> ○ Entitled to any other rights and benefits that are not determined by seniority that are generally provided by the employer to employees having similar seniority, status and pay who are on furlough or leave of absence under a contract, agreement, policy, practice or plan in effect at the beginning of such service or established while such person is absent. ● Provides that a person is absent from work because of medical treatment for a military service-connected disability who knowingly provides written notice of his/her intent not to return to work after receiving treatment is not entitled to the rights and benefits described above. ● Provides that persons on leave because they are receiving medical treatment for a military service-connected disability must, upon request, be allowed to use any vacation, annual, medical or other similar with pay accrued before the of leave; however, an employer cannot require the person on leave to use his/her vacation, annual, family, medial or similar leave. ● Provides for exceptions to employer compliance (employer bears the burden of proof): <ul style="list-style-type: none"> ○ Employer's circumstances have changed so as to make compliance impossible or unreasonable. ○ Compliance would impose an undue hardship on the employer. ○ The employment from which the employee is absent is for a brief, nonrecurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period. 	
<p>Taxpayer Responsibility,</p>	<ul style="list-style-type: none"> ● Amends the IRC, modifying the rules relating to the treatment of individuals as independent contractors or employees. 	<p>Introduced on July 30, 2009 and referred to the Committee</p>

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<p>Accountability and Consistency Act of 2009 H.R. 3408 McDermott (D-WA)</p>	<ul style="list-style-type: none"> ○ If the employer did not treat an individual as an employee for any period and the employer's Federal tax returns with respect to such individual are consistent with such treatment, the individual will be deemed not to be an employee, unless the taxpayer has no reasonable basis for not treating such individual as an employee. ○ Provides that a taxpayer has a reasonable basis for not treating an individual as an employee only if: <ul style="list-style-type: none"> ▪ The employer's treatment was in reasonable reliance on a written determination issued to the employer addressing the employment status or such individual or another individual holding a substantially similar position to the taxpayer or a concluded examination of whether such individual should be treated as an employee of the taxpayer with respect to which there was no determination that such individual should be treated as an employee; and ▪ The employer has not treated any other individual holding a substantially similar position as an employee for purposes of employment taxes for any period beginning after 12/31/77. ○ Provides that one year after the date of enactment, individuals performing services for a taxpayer may petition for a determination of his/her status for employment tax purposes. Any administrative procedures developed under the Act must provide that a determination of status must be provided to the petitioner within 90 days of filing the petition and that the petitioner has a right to an administrative appeal of a determination that the individual is not an employee of the taxpayer. ○ Requires the Secretary of Treasury to issue an annual report on worker misclassification. ○ Increases the amount of information return penalties. However, if information is corrected within a specified period of time, the penalties are 	<p>on Ways and Means.</p>

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Bill	Summary	Status
	lower.	
Emergency Unemployment Compensation Extension Act of 2009 H.R. 3404 McDermott (D-WA)	<ul style="list-style-type: none"> • Provides for the temporary extension of certain unemployment benefits. <ul style="list-style-type: none"> ○ Amends the Supplemental Appropriations Act of 2008 to provide for emergency unemployment compensation. ○ Amends the Assistance for Unemployed Workers and Struggling Families Act to provide for additional regular compensation. ○ Provides for extended unemployment benefits under the Railroad Unemployment Insurance Act. • Provides for additional emergency unemployment compensation if the amounts provided through the extension of already provided unemployment benefits is exhausted or the individual's State is in an extended benefit period. The individual's account would be augmented no more than one time by an amount equal to the lesser of: <ul style="list-style-type: none"> ○ 50 percent of the total amount of regular compensation payable to the individual during the individual's benefit year under the State law; or ○ 13 times the individual's average weekly benefit amount for the benefit year. 	Introduced on July 30, 2009 and referred to the following committees: Ways and Means and Transportation and Infrastructure.
Untitled H.R. 3309 Olson (R-TX)	<ul style="list-style-type: none"> • Amends the Fair Labor Standards Act to postpone the increase in the minimum wage for one year (July 24, 2010). 	Introduced on July 30, 2009 and referred to the Committee on Education and Labor.
Equal Employment	<ul style="list-style-type: none"> • Amends the Fair Credit Reporting Act to prohibit the use of consumer credit 	Introduced on July 9, 2009 and

Bill	Summary	Status
for All Act H.R. 3149 Cohen (D-TN)	<p>checks against prospective and current employees for purpose of making adverse employment decisions. This prohibition would apply even if the employee/potential employee authorized the procurement or use of the consumer report for employment purposes or in connection with an adverse employment action.</p> <ul style="list-style-type: none"> • Provides exceptions to the above prohibition: <ul style="list-style-type: none"> ○ When the consumer applies for or currently holds a position that requires national security or FDIC clearance. ○ When the consumer applies for or currently holds a position with a State or local government agency which otherwise requires use of a consumer report. ○ When the consumer applies for or currently holds a supervisory, managerial, professional or executive position at a financial institution. ○ When otherwise required by law. 	referred to the Committee on Financial Services.
Forewarn Act H.R. 3042, S. 1374 Miller (D-CA), Brown (D-OH)	<ul style="list-style-type: none"> • Provides the Department of Labor authority to enforce the WARN Act. • Increases penalties for violation of the WARN Act to double back pay. • Reduces the mass layoff figure from 50 to 25, reduces the employer size from 100 to 75 employees, and lowers the mass layoff trigger. The lower thresholds would protect employees in both manufacturing and services firms. • Lengthens the notification period from 60 to 90 days. • Requires employers to provide written notification to the Department of Labor, including the reason for the plant closing or mass layoff, whether the employer has jobs elsewhere, and a statement of each employee's right to wages and benefits. • Expands required notice recipients to include the Secretary of Labor, elected 	Introduced on June 25, 2009 and referred to the House Committee on Education and Labor and the Senate HELP Committee.

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	officials including the governor, member(s) of Congress, and state representatives, and the appropriate labor union(s), when applicable.	
Living American Wage Act of 2009 H.R. 3041 Green (D-TX)	<ul style="list-style-type: none"> Amends the FLSA to provide for the calculation of the minimum wage based on the Federal poverty thresholds for a family of 2, as determined by the Census Bureau. Provides that the calculation must be done no later than Jun 1, 2010 and once every 4 years thereafter. Provides that the minimum wage rate determined by the Secretary must be the minimum hourly wage sufficient for a person working 40 hours a week/52 weeks per year to earn an annual income that is 15 percent higher than the Federal poverty threshold for a family of 2. 	Introduced on June 25, 2009 and referred on the Committee on Education and Labor.
Employment Non-Discrimination Act of 2009 H.R. 3017 Frank (D-MA)	<i>See H.R. 2981 below.</i>	Introduced on June 24, 2009 and referred to the following committees: Education and Labor, Administration, Oversight and Government Reform and Judiciary.
Employment Non-Discrimination Act of 2009 H.R. 2981, S. 1584 Frank (D-MA), Merkley (D-OR)	<ul style="list-style-type: none"> Prohibits employers, labor organizations and employment agencies, and related training programs, from engaging in employment discrimination on the basis of sexual orientation or gender identity. Provides that it is unlawful to take any action against an individual based on the actual or perceived sexual orientation or gender identity of a person with whom the individual associates or has associated. 	Introduced on June 19, 2009 in House and referred to the following committees: Education and Labor, Oversight and Government Reform, Administration and Judiciary.

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	<ul style="list-style-type: none"> • Provides that preferential treatment or quotas are not required under the Act. • Provides that only disparate treatment claims (plaintiff must establish a discriminatory intent or motive on the part of the defendant) may be brought under the Act. • Prohibits retaliation (i.e. prohibits discrimination against a person who opposes a practice made unlawful by the Act or participated in a complaint brought under the Act). • Exempts religious organizations. • Provides that Act does not apply to members of the Armed Forces or to any veterans' preferences that may be in place. • Prohibits the EEOC from collecting statistics on actual or perceived sexual orientation or gender identity from covered entities or compelling the collection of such statistics by covered entities. • Provides guidance as to how Act is to be construed: <ul style="list-style-type: none"> ○ Provides that for Act to be violated there must be intent. If rules or policies are designed and applied uniformly to all individuals regardless of actual or perceived sexual orientation or gender identity, the Act is not violated. ○ Provides that Act does not limit a covered entity from taking adverse action against an individual because of a charge of sexual harassment against that person as long as the rules and policies on sexual harassment are uniformly applied. ○ Provides that Act does not make unlawful the denial of access to shared shower or dressing facilities provided that the employer provides reasonable access to adequate facilities. The Act does not require that additional facilities be provided. 	<p>Introduced on August 5, 2009 in the Senate and referred to the Senate HELP Committee.</p>

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	<ul style="list-style-type: none"> ○ Employer may still require reasonable dress or grooming standards, provided they accommodate persons who are undergoing a gender transition. ○ Provides that the Act does not require a covered entity to provide employee benefits to an unmarried couple. • The procedures and remedies applicable to a violation of Title VII of the Civil Rights Act apply under this Act. • States, state official and the United States are not immune from suit under the Act. • Provides that attorneys' fees may be awarded at the discretion of the enforcing entity (i.e. court, EEOC) to the prevailing party (excepting the EEOC or the United States) and that the EEOC and the United States may be liable for costs to the same extent as a private person. • Provides that the Act would not limit the rights, remedies or procedures otherwise available to a person claiming discrimination. 	
No Title H.R. 2928 Perriello (R-VA)	<p>Amends Title 38 of the United State Code to provide for an apprenticeship and on-job training program under the Post-9/11 Veterans Educational Assistance Program.</p> <p>Provides that amendments would be effective 90 days after enactment of the Act.</p>	<p>Introduced on June 17, 2009 and referred to the Committee on Veterans' Affairs.</p>
Davis-Bacon Repeal Act H.R. 2900 King (R-IA)	<ul style="list-style-type: none"> • Provides for the repeal of the wage rate requirements found in the Davis-Bacon Act. • If enacted, legislation would take effect 30 days after enactment. Contracts in existence on the date of enactment or made pursuant to outstanding bids would not be affected by the legislation. 	<p>Introduced on June 16, 2009 and referred to the Committee on Education and Labor.</p>

Bill	Summary	Status
Breastfeeding Promotion Act of 2009 H.R. 2819 Maloney (D-NY)	Among other things, amends the Civil Rights Act to protect breastfeeding by new mothers.	Introduced on June 11, 2009 and referred to the following committees: Education and Labor, Energy and Commerce and Ways and Means.
Green Jobs Improvement Act S. 1238 Isakson (R-GA)	Amends the Workforce Investment Act of 1998 to make non-union training programs eligible for Federal funding under the Green Jobs program.	Introduced on June 11, 2009 and referred to the Senate HELP Committee.
Volunteer Firefighter and EMS Personnel Job Protection Act S. 1025 Carper (D-DE)	Prohibits termination of employment of volunteer firefighters and emergency medical personnel who respond to emergencies or major disasters.	Introduced on May 12, 2009 and referred to the HELP Committee.
Arbitration Fairness Act of 2009 S. 931 Feingold (D-WI)	<ul style="list-style-type: none"> Provides that no predispute arbitration agreement is valid or enforceable if it requires arbitration of an employment, consumer, franchise, or civil rights dispute. Provides that whether the Act applies to an arbitration agreement is a determination to be made by the courts under Federal law. Exempts from this Act arbitration provisions in a contract between an employer and a labor organization or between labor organizations. However, such arbitration provision does not have the effect of waiving the employee's right to seek judicial 	Introduced on April 29, 2009 and referred on the Committee on Judiciary.

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	enforcement of a right arising under the Constitution of the United States, a state constitution, or a federal or state statute, or public policy arising there from.	
Fair Pay Act of 2009 H.R. 2151, S. 904 Holmes-Norton (D-D.C.), Harkin (D-IA)	<ul style="list-style-type: none"> • Amends the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on the basis of sex, race or national origin. • Requires employers to provide equal pay for jobs that are comparable in skill, effort, responsibility and working conditions. • Provides that the Act applies to each company individually and prohibits companies from reducing other employees' wages to achieve pay equity. • Prohibits retaliation against actions prohibited by the Act or participation in investigations of conduct prohibited by the Act. • Requires public disclosure of employer job categories and their pay scales, without requiring specific information on individual employees. • Allows payment of different wages under a seniority system, merit system, or system that measures earnings by quantity or quality of production. • Allows employees who allege discrimination in wage-setting based on sex, race or national origin to either file a complaint with the EEOC or go to court. 	<p>Introduced April 28, 2009 in the House and Senate and referred to the following committees: House Committee on Education and Labor and Senate HELP Committee.</p>
New Employee Verification Act of 2009 H.R. 2028 Johnson (R-TX)	<ul style="list-style-type: none"> • Amends the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to extend the employment eligibility confirmation pilot programs (which include the E-Verify basic pilot program). • Amends the Immigration and Nationality Act (INA) to require covered employers to verify employee identification and employment eligibility under the Electronic Employment Verification System (EEVS) or the Secure Employment Eligibility Verification System (SEEVs) (as established by this Act). 	<p>Introduced April 22, 2009 and referred to the following committees: Judiciary, Education and Labor, Ways and Means and Rules.</p>

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	<ul style="list-style-type: none"> • Amends the INA to: <ul style="list-style-type: none"> ○ Apply certain antidiscrimination provisions to EEVS and SEEVS. ○ Increase civil money penalties for unfair employment practice violations. ○ Increase civil money penalties for certain hiring, recruiting, and referral violations (reduces certain penalties for small employers, exempts certain good faith, first-time violations, and provides a safe harbor for certain contractors), and ○ Increase criminal penalties for pattern or practice violations. 	
<p>The Paycheck Fairness Act H.R. 12 DeLauro (D-CT)</p>	<p>Amends the FLSA:</p> <ul style="list-style-type: none"> • Narrows the defense that employers can use to demonstrate that a difference in compensation is not based on gender. • Provides that the bona fide factor defense applies only if the employer demonstrates that the factor: <ul style="list-style-type: none"> ○ Is not based upon or derived from a sex-based differential in compensation; ○ Is job-related with respect to the position in question; and ○ Is consistent with business necessity. • The bona fide factor defense will not apply if the employee shows that: <ul style="list-style-type: none"> ○ An alternative employment practice exists that would serve the same business purpose without producing such differential; and ○ The employer has refused to adopt such alternative practice. • Prohibits employers from retaliating against employees who share salary 	<p>Introduced on January 6, 2009 and tabled pursuant to H. Res. 5, which requires that the text of the Act as passed by the House will be appended to the end of H.R. 11 as a new matter.</p>

Bill	Summary	Status
	<p>information.</p> <ul style="list-style-type: none"> • Makes employers who violate sex discrimination prohibitions liable in a civil action for either compensatory or (except for the federal government) punitive damages. • Makes it easier to file a class action lawsuit under the Equal Pay Act by providing that any action brought to enforce the prohibition against sex discrimination may be maintained as a class action in which individuals may be joined as party plaintiffs without their written consent. • Authorizes the Secretary of Labor (Secretary) to seek additional compensatory or punitive damages in a sex discrimination action. 	
<p>Lilly Ledbetter Fair Pay Act of 2009 S. 181, P.L. 111-2 Mikulski (D-MD)</p>	<ul style="list-style-type: none"> • Reverses the Supreme Court's decision in <i>Ledbetter v. Goodyear Tire & Rubber Co., Inc.</i> • Amends Title VII of the Civil Rights Act to provide that an unlawful employment practice that triggers the time for filing a pay discrimination claim with the EEOC occurs when: <ul style="list-style-type: none"> ○ A discriminatory compensation decision or other practice is adopted. ○ An individual becomes subject to a discriminatory compensation decision or practice. ○ An individual is affected by a discriminatory compensation decision or practice, including each time wages, benefits or other compensation affected by that decision or practice is paid. • Effectively eliminates the 180/300-day limitations period for filing a charge as long as the employee remains employed. It also resets the clock for filing a charge when a post-retirement benefit check is issued or other compensation is paid reflecting a prior allegedly discriminatory pay practice or decision. 	<p>Introduced on January 8, 2009 and became Public Law 111-2 on 1/29/09.</p>

Bill	Summary	Status
	<ul style="list-style-type: none"> • Extends the same rule for filing a charge that alleges pay discrimination under the Age Discrimination in Employment Act (ADEA), the Americans with Disabilities Act (ADA) and the Rehabilitation Act of 1973 (applies to federal contractors). • Provides that law is effective retroactive to May 28, 2007 – the day before the Supreme Court’s <i>Ledbetter</i> decision – and applicable to all pay discrimination claims pending on or after that date. • Provides that employers are not required to repay employees for long-standing claims. The law limits recovery to up to 2 years of back pay before the filing of the Title VII, ADA or Rehabilitation Act pay discrimination charge in addition to other damages available under current law. However, there is no 2 year recovery limitation for ADEA claims. 	