

LEGISLATIVE UPDATE[†]

Legislative Update is a comprehensive survey of important federal and state legislation related to high technology that has been passed in 1989. The survey consists of brief summaries of new laws grouped under appropriate topic headings.

Where several states have passed similar legislation, the state summaries are preceded by a brief introduction setting forth common provisions.

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COMPUTER AND TELECOMMUNICATIONS CRIME

Computer Crime

These acts define various types of computer crime and abuse, establishing criminal penalties and civil remedies.

CALIFORNIA

Act approved September 29, 1989, c. 1076, 1989 Cal. Stat. ____ (codified at CAL. PENAL CODE § 502.1 and as amended at CAL. PENAL CODE § 502 (West 1990)) [hereinafter Chapter 1076].

Act approved October 2, 1989, c. 1357, 1989 Cal. Stat. ____ (codified at CAL. PENAL CODE §§ 502.01, 1203.047, 1203.048, 2702 and as amended at CAL. PENAL CODE §§ 502, 12022.6 (West 1990)) [hereinafter Chapter 1357].

These two acts overlap somewhat, making the following amendments to the state computer crime laws:

Computer Viruses: Both acts criminalize the introduction of computer viruses into computer equipment.

Sentencing Guidelines: Chapter 1357 requires a court sentencing one convicted of a violation of the state computer crime laws to consider (a) prohibitions on the use of computers and (b) alternative sentencing, including community service, if the defendant shows remorse and an inclination not to repeat the crime. The act also imposes heightened sentencing requirements for felonies resulting in more than \$25,000 in damages.

Forfeiture of Computer Equipment: Chapter 1357 subjects to forfeiture computer equipment used by its owner in the commission of certain computer-related crimes.

Probation Guidelines: Chapter 1076 provides that persons convicted of computer-related felonies and certain other computer crimes may be granted probation for *up to* three years. Chapter 1076 further provides that, as a term of probation, the court may prohibit employment where the convict will have access to computers "not operated by his or her employer" or may require the employer to be notified of the conviction if the convict is to have computer access.

Conversely, Chapter 1357 provides that one convicted of any of the same crimes may be granted probation for *not less than* three years. However, if the convict caused \$100,000 worth of damages, probation may only be granted in the "unusual cases" where it would best serve the interests of justice. Under Chapter 1357, the convict may not be employed where he or she would use a computer in any way connected to any other computer, unless a court finds that such employment poses no risk to the public.

Restriction on Computer Access by Convicts: Chapter 1357 prohibits persons convicted of certain computer-related crimes from having access to any computer system in the Department of Corrections.

Sanctions Against College Students: Chapter 1076 requires all state-accredited colleges (except the University of California) to impose disciplinary sanctions upon its students for committing computer related crimes.

Act approved September 29, 1989, c. 1110, 1989 Cal. Stat. ____ (codified as amended at CAL. PENAL CODE §§ 502, 502.7 (West 1990)).

This act subjects to forfeiture computer equipment used by the owner to defraud a telephone or telegraph service out of payments for services.

ILLINOIS

Act approved September 1, 1989, P.A. 86-762, 1989 Ill. Laws _____ (codified as amended at ILL. REV. STAT. ch. 38, para. 16D-3 (1990)).

This act criminalizes the introduction of computer viruses into computer equipment and provides civil relief for damages.

MARYLAND

Act approved May 25, 1989, ch. 722, 1989 Md. Laws 4074 (codified as amended at MD. ANN. CODE art. 27, § 146 (1989)).

This act increases the penalties against one who illegally accesses a computer system so as to adversely affect its operation or damage its data. The act also makes it a misdemeanor to distribute computer access codes to an unauthorized person.

MINNESOTA

Act approved May 9, 1989, c. 95, 1989 Minn. Laws 218 (codified at MINN. STAT. § 609.891 and as amended at MINN. STAT. §§ 609.531, 609.87 (1990)).

This act creates the crime of unauthorized penetration of a confidential computer security system. The penalty for the crime varies, depending on the resulting potential for harm.

Act approved May 16, 1989, c. 159, 1989 Minn. Laws 388 (codified at MINN. STAT. §§ 609.87, 609.88 (1990)).

This act criminalizes the introduction of computer viruses into computer equipment and provides civil relief for damages.

NEW MEXICO

Computer Crimes Act, ch. 215, 1989 N.M. Laws 1301 (codified at N.M. STAT. ANN. §§ 30-45-1 to 30-45-7 (1989)).

This act makes it illegal (a) to access a computer without authorization or with the intent to defraud or embezzle or (b) to disrupt a computer system without authorization. The act provides civil relief for damages resulting from such crimes and requires the forfeiture of any computer or other property used with its owner's knowledge in a felony violation of this act.

OKLAHOMA

Act approved May 8, 1989, c. 151, 1989 Okla. Sess. Laws 366 (codified as amended at OKLA. STAT. tit. 21, §§ 1952 to 1955 (1990)).

This act criminalizes the willful and illicit use or disruption of computer services. Proof of a defendant's disruption of a computer system or deletion of computer information is prima facie evidence of a willful violation. Civil remedies, including attorney's fees, are provided.

OREGON

Act approved July 20, 1989, c.737, 1989 Or. Laws 1180 (codified as amended at OR. REV. STAT. § 164.377 (1989)).

Under former law, it was a crime to use a computer to steal or fraudulently obtain property. This act specifically includes proprietary information of commercial value and intellectual property as items that may not be so obtained.

RHODE ISLAND

Act approved June 29, 1989, ch. 115, 1989 R.I. Pub. Laws ____ (codified at R.I. GEN. LAWS § 11-52-6 (1989)).

This act provides for recovery of damages resulting from violation of any computer crime provision.

Act approved June 30, 1989, ch. 136, 1989 R.I. Pub. Laws ____ (codified as amended at R.I. GEN. LAWS §§ 11-52-1 to 11-52-8 (1989)).

This act expands existing computer crime laws to criminalize the fraudulent destruction or alteration of any computer program or data. It makes it a misdemeanor to transmit false data in connection with a claim for payment or to alter a computer source document required to be kept by law. Source document alteration done with the intent to obstruct an investigation is made a felony.

TEXAS

Act approved June 14, 1989, ch. 306, 1989 Tex. Gen. Laws 1265 (codified at TEX. CIV. PRAC. & REM. CODE ANN. §§ 143.001, 143.002 and TEX. CRIM. PRO. CODE ANN. § 13.24 and as amended at TEX. PENAL CODE ANN. §§ 33.01 to 33.03 (Vernon 1990)).

This act expands the criminal offense of harmful computer access to specifically include the unauthorized access of a computer (a) to interrupt or impair a government operation or public service, (b) to tamper with official records, (c) to access confidential information, (d) to introduce false information damaging to credit records, (e) to alter a negotiable instrument, or (f) to insert a computer virus into a computer system. Civil remedies, including attorney's fees, are provided.

WEST VIRGINIA

West Virginia Computer Crime and Abuse Act, c. 47, 1989 W. Va. Acts 277 (codified at W. VA. CODE §§ 61-3C-1 to 61-3C-21 (1989)).

This comprehensive legislation defines and criminalizes various computer-related acts, including computer fraud, unauthorized access to computer services, unauthorized possession of computer data or information, unauthorized destruction of computer equipment, disruption of computer services, disclosure of computer security information, obtaining confidential public information via computer, computer invasion of privacy, use of a computer for forgery, and use of a computer to endanger public safety.

Electronic Invasion of Privacy

These acts regulate various forms of electronic surveillance to limit potential violations of privacy rights. The interception of electronic communications and the use of mobile tracking devices (which permit the detection of movement of a person or object) are included under this topic.

CALIFORNIA

Act approved September 15, 1989, c. 483, 1989 Cal. Stat. ____ (codified at CAL. PUB. UTIL. CODE § 2893 (West 1990)).

Certain telephone call identification services allow parties receiving telephone calls displayed access to the caller's telephone number. This act requires that callers be notified of the possibility of display and that they be able to withhold such display on a case-by-case basis without charge. Certain telephone systems, such as a public agency's emergency telephone line or an "800" or "900" number, are exempted from these requirements until it is determined that phone companies have the technical capacity to comply.

CONNECTICUT

Act approved May 16, 1989, P.A. 89-103, 1989 Conn. Acts 134 (Reg. Sess.) (codified as amended at CONN. GEN. STAT. §§ 53a-183, 53a-187 (1990)).

This statute broadens the definition of wiretapping to include the intentional interception of communications made via cellular telephone.

FLORIDA

Act approved July 3, 1989, c. 89-269, 1989 Fla. Laws 1490 (codified as amended at scattered sections of FLA. STAT. §§ 934.02 to 934.43 (1989)).

This act generally amends existing electronic surveillance laws and allows courts to authorize greater use of electronic surveillance by the government. Under this act, providers of electronic communication services may assist court-authorized officials in the interception of electronic communications, but they must keep confidential the fact that they provided such assistance. Also, the act allows Florida law enforcement officers to obtain a court order authorizing the use of mobile tracking devices in criminal investigations.

ILLINOIS

Act approved September 1, 1989, P.A. 86-766, 1989 Ill. Laws _____ (codified as amended at ILL. REV. STAT. ch. 37, para. 805-24 (1990)).

This act allows the use of electronic monitoring devices in juvenile probation programs involving home confinement. Such devices record or transmit information concerning the minor's presence in the home. The act requires that such devices be minimally intrusive and that they may not record or transmit visual images, sound, or information regarding the minor's activities without the minor's or other resident's written consent.

MINNESOTA

Act approved May 26, 1989, c. 336, 1989 Minn. Laws 2977 (codified at MINN. STAT. §§ 8.16, 388.23, 609.4971, 609.4975, 626A.02 to 626A.41 (1990)).

This act generally amends existing electronic surveillance laws. While prior law forbade the introduction of evidence consisting of illegally obtained wire or oral communications, this act expands

such protection to electronic communications as well. Civil remedies for privacy violations are provided.

Also, under the act, law enforcement officers may obtain court orders authorizing the use of mobile tracking devices in criminal investigations. Finally, judges may orally authorize law enforcement officers to intercept communications in cases involving imminent danger of death or injury.

OREGON

Act approved August 3, 1989, c.983, 1989 Or. Laws 1928 (codified as amended at OR. REV. STAT. § 165.540 and at scattered sections of OR. REV. STAT. §§ 133.545 to 133.739 (1989)).

This act makes general amendments to existing electronic surveillance laws. It expands a law regulating the interception of communications to include "electronic" as well as "oral" and "wire" communications. It also allows law enforcement officers to obtain a court order authorizing the use of mobile tracking devices, pen registers, and trap and trace devices in criminal investigations.

Automatic Phone Dialing Machines

Several states have recognized the public inconvenience resulting from the use of automated phone dialing machines which present pre-recorded solicitations and advertisements via telephone. These acts regulate the use of such devices.

CALIFORNIA

Act approved July 7, 1989, c. 100, 1989 Cal. Stat. ____ (codified as amended at CAL. PUB. UTIL. CODE § 2874 (West 1990)).

This act requires that a live announcement be made prior to the playing of a recorded message. The caller is required to explain the nature of the call, provide the name, address, and phone number of the calling organization, and ask for the other party's consent to receive the recorded message. If consent is not given, the call must be terminated and may not be repeated.

MISSISSIPPI

Act approved March 24, 1989, ch. 436, 1989 Miss. Laws 199 (codified at MISS. CODE ANN. §§ 77-3-451 to 77-3-459 (1989)).

This act prohibits the use of automatic phone dialing machines for commercial solicitation purposes except where the solicitee has a

pre-existing business relationship with the solicitor. Moreover, such machines may not be used for any purpose between the hours of 9 p.m. and 9 a.m. When the machines are used, the recorded message must be preceded by a live announcement stating the name, address, and business of the organization being represented. The solicitor must obtain the solicitee's consent before playing the recorded message.

Before using such a device, an organization must first apply to the telephone corporation through whose system it will be used. The phone company may deny the application if the requested use would cause excessive telephone traffic or otherwise harm telephone customers.

NEVADA

Act approved March 29, 1989, ch. 45, 1989 Nev. Stat. 79 (codified at NEV. REV. STAT §598.075 (1989)).

This act prohibits the use of automatic phone dialing machines for commercial solicitation purposes except where the solicitee has a pre-existing business relationship with the solicitor.

NEW MEXICO

Act approved April 6, 1989, ch. 309, 1989 N.M. Laws 1930 (codified at N.M. STAT. ANN. § 57-12-22 and as amended at N.M. STAT. ANN. § 57-12-2 (1989)).

This act prohibits the use of automatic phone dialing machines for commercial solicitation purposes except where the solicitee has a pre-existing business relationship with the solicitor and previously consents to receiving the recorded message. Commercial telephone solicitations, recorded or not, must promptly disclose the caller's business name, reason for calling, and all terms of any goods or services offered. Such solicitations must not request the recipient's credit card number until after recipient commits to making a purchase and must not be made from 9 p.m to 9 a.m.

OREGON

Act approved July 3, 1989, c.621, 1989 Or. Laws 873 (codified at OR. REV. STAT. §§ 646.872, 759.290 and as amended at OR. REV. STAT. § 646.608 (1989)).

This act prohibits the use of automatic phone dialing machines for commercial solicitation purposes except where the solicitee has a

pre-existing business relationship with the solicitor. Use of such machines for charitable and political solicitations is specifically exempted from this restriction.

Unsolicited Facsimiles

Several states have found telephonic facsimile communication devices ("FAX machines") to be a potentially intrusive mode of advertising and have enacted laws regulating their use in this respect.

CONNECTICUT

Act of May 16, 1989, P.A. 89-103, 1989 Conn. Acts 134 (Reg. Sess.) (codified as amended at CONN. GEN. STAT. §§ 53a-183, 53a-187 (1990)).

This act prohibits the sending of unsolicited commercial advertising material via FAX machine. The act also expands a pre-existing statute covering harassment by obscene telephone calls, telegraphs, and letters to include harassment by FAX as well.

FLORIDA

Act approved June 20, 1989, c. 89-95, 1989 Fla. Laws 172 (codified at FLA. STAT. § 365.1657 (1989)).

This act prohibits the sending of unsolicited commercial advertising material via FAX machine.

MARYLAND

Act approved May 25, 1989, ch. 825, 1989 Md. Laws 4480 (codified at MD. COMM. LAW CODE ANN. § 14-1313 (1989)).

This act prohibits the sending of unsolicited commercial advertising material via FAX machine, except where the solicitee has a pre-existing business relationship with the solicitor.

NEW YORK

Act approved July 21, 1989, c. 597, 1989 N.Y. Laws ____ (codified at N.Y. GEN. BUS. LAW § 396-aa (McKinney 1990)).

This act prohibits the sending of unsolicited commercial advertising material via FAX machine, except where the solicitee has a pre-existing business relationship with the solicitor. Transmissions exceeding five pages received between 9 p.m. and 6 a.m. are exempted from this prohibition, but a recipient of such a

transmission may send notice to the solicitor prohibiting future advertisements.

OREGON

Act approved July 3, 1989, c.621, 1989 Or. Laws 873 (codified at OR. REV. STAT. §§ 646.872, 759.290 and as amended at OR. REV. STAT. § 646.608 (1989)).

This act provides that one who receives unsolicited commercial advertising material may send a notice to the solicitor prohibiting the sending of future advertisements.

RHODE ISLAND

Act approved July 10, 1989, ch. 539, 1989 R.I. Pub. Laws ____ (codified at R.I. GEN. Laws § 11-35-27 (1989)).

This act prohibits the sending of unsolicited commercial advertising material via FAX machine.

Interference with Cable Television Transmissions

These acts provide criminal penalties for interfering with cable television transmissions.

CALIFORNIA

Act approved September 29, 1989, c. 964, 1989 Cal. Stat. ____ (codified as amended at CAL. PENAL CODE § 593d (West 1990)).

While prior law already prohibited the theft of cable television services, this act prohibits the making of an unauthorized cable connection for the purpose of interfering with, altering, or degrading cable service transmitted to others or for the purpose of broadcasting a program not intended to be broadcast by the cable television station.

UTAH

Act approved February 22, 1989, ch. 30, 1989 Utah Laws 77 (codified as amended at UTAH CODE ANN. § 76-6-409.3 (1990)).

This act criminalizes the theft of cable television services and the assisting or instructing of others in such theft.

USE OF COMPUTER AND TELECOMMUNICATIONS TECHNOLOGY BY COURTS AND OTHER INSTITUTIONS

Authenticity of Electronic Documents

These acts authorize the preservation of various government documents through electronic means and provide for their authenticity.

ALABAMA

Act approved April 28, 1989, No. 89-403, 1989 Ala. Acts 800 (codified as amended at ALA. CODE §§ 40-2-12 to 40-2-14 (1989)).

This act authorizes the Department of Revenue to preserve its records solely through electronic reproduction or computer microfilm. Such records are admissible in all courts.

FLORIDA

Act approved July 5, 1989, c. 89-341, 1989 Fla. Laws 2184 (codified as amended at FLA. STAT. § 15.16 (1989)).

This act authorizes the Department of State to receive certain required filings electronically. Further, the Department may certify and electronically transmit any record maintained by it, and such records shall have the same force and effect as originals.

GEORGIA

Act approved April 10, 1989, no. 571, 1989 Ga. Laws 1080 (codified as amended at GA. CODE ANN. §§ 24-3-17, 35-3-34 (1989)).

This act provides that certain records obtained electronically from any terminal lawfully connected to the Georgia Crime Information Center may be received by a court as evidence without further authentication.

MONTANA

Act approved March 18, 1989, Ch. 153, 1989 Mont. Laws 313 (codified as amended at MONT. CODE. ANN. §§ 35-1-1101, 35-2-901, 35-3-209 (1989)).

This act allows corporations to file their annual reports in a computerized format prescribed by the Secretary of State.

OREGON

Act approved March 28, 1989, c.16, 1989 Or. Laws 41 (codified as amended at OR. REV. STAT. § 192.005 (1989)).

This act redefines "public record" to include "machine readable electronic records" publicly filed or recorded pursuant to law.

VIRGINIA

Act approved March 8, 1989, c. 212, 1989 Va. Acts 271 (codified as amended at VA. CODE ANN. § 8.01-391 (1989)).

This act provides that electric copies of records are admissible in court as if they were originals, if they were made in the regular course of a business activity, or if they were made by a governmental body pursuant to proper authority.

Use of Facsimile Transmissions in Court Proceedings

These acts allow for the use of FAX machines for filing documents in court and for service of process in court proceedings.

ARKANSAS

Act approved February 14, 1989, No. 58, 1989 Ark. Acts ____ (codified at ARK. STAT. ANN. § 16-20-109 (1989)).

This act allows facsimile copies of pleadings to be accepted in court. However, if the pleadings are not transmitted onto bond paper which can be preserved for at least ten years, then an original must be substituted within ten days.

CALIFORNIA

Act approved September 29, 1989, ch. 1100, 1989 Cal. Stat. ____ (codified at CAL. CIV. PROC. CODE § 1012.5 (West 1990)).

This act provides for pilot projects to be conducted by the Judicial Council to determine how best to implement the use of FAX transmissions in court and to assess the extent of savings resulting from such use. These projects shall take place in three or more superior courts and three or more municipal or justice courts from January 1, 1990 to June 30, 1991.

LOUISIANA

Act approved July 5, 1989, No. 524, 1989 La. Acts 1531 (codified as amended at LA. REV. STAT. ANN. § 13:3471 (West 1990)).

This act provides that after the service of the original petition in a civil suit has been made, subsequent documents servicable by mail may also be served by FAX.

NEW YORK

Act approved July 16, 1989, c. 461, 1989 N.Y. Laws ____ (codified as amended at N.Y. CIV. PRAC. L. & R. 2103 (McKinney 1990)).

This act provides that the designation by an attorney of a telephone number for service by electronic means shall constitute consent to such service.

OREGON

Act approved June 7, 1989, c.295, 1989 Or. Laws 412 (codified as amended at OR. R. CIV. P. 9 and OR. REV. STAT. § 1.006 (1989)).

This act authorizes the state high court to prescribe rules by which pleadings and other papers to be submitted in civil proceedings may be filed by FAX. Moreover, it provides that where service is to be made on a party represented by an attorney owning a FAX machine, such service may be made by FAX.

Use of Two-Way Television in Criminal Proceedings

These acts authorize the use of two-way electronic audio video communication devices between a criminal defendant and the courtroom in certain proceedings in lieu of a personal appearance by the defendant.

CALIFORNIA

Act approved September 12, 1989, ch. 374, 1989 Cal. Stat. ____ (codified as amended at CAL. PENAL CODE § 977.2 (West 1990)).

This act authorizes Kern and Ventura Counties to join nine other counties in an existing four-year pilot program. The program allows defendants to appear at their initial arraignments by means of two-way television. Defendants indicted by a grand jury are excluded. The judge is not allowed to accept a plea of guilty or no contest from a defendant not physically present in the courtroom.

Finally, the defendant must be informed of his right to be physically present in the courtroom.

KANSAS

Act approved April 13, 1989, ch. 98, 1989 Kan. Sess. Laws 693 (codified as amended at KAN. STAT. ANN. §§ 22-2802, 22-3205, 22-3208 (1989)).

The act allows a defendant to appear via two-way televisions in bond proceedings, arraignments, and pre-trial motions. The defendant must be informed of his right to be physically present in the courtroom.

Computerized Selection of Jurors

NEVADA

Act approved July 5, 1989, ch. 712, 1989 Nev. Stat. 1644 (codified as amended at NEV. REV. STAT. § 6.045 (1989)).

This act extends the authority to use computerized jury lists to all counties. Formerly, only counties with a population of 100,000 or more were so authorized.

Corporate Meetings Through Electronic Means

WEST VIRGINIA

Act approved April 24, 1989, c. 37, 1989 W. Va. Acts 213 (codified as amended at W. VA. CODE § 31-1-73 (1989)).

This act allows businesses and non-profit corporations to conduct board or shareholder meetings by telephone or through similar electronic means. However, a corporation must first provide for this option in its articles of incorporation or its bylaws, and any agreement reached during such a conference must be reduced to writing and approved by the shareholders or directors at their next regular meeting.

INTELLECTUAL PROPERTY

Copying and Marketing of Recorded Sounds and Live Performances

In an attempt to stop bootlegging and counterfeiting of recorded sounds (phonographs, discs, etc.), several states have

recently enacted legislation that criminalizes unauthorized reproduction, manufacture, and sale of such sounds. Moreover, some states that had already passed similar anti-counterfeiting laws amended them to generally conform with the provisions listed below.

Common Provisions

Unlawful Duplication or Transfer: These acts generally provide that it is unlawful to knowingly make unauthorized copies of recorded sounds with the intent to sell them for financial gain.

Unlawful Manufacture, Transport, Distribution, Sale, or Rental: These acts provide that it is unlawful to manufacture, transport, distribute, sell, or rent recorded sounds that are known to be unauthorized copies.

Labeling: Most of these acts now require every recorded article that is for sale or rent to contain on its packaging the name and address of the manufacturer and the name of the performer.

Unlawful Copying of Live Performances: These acts render it unlawful to record a live performance with the intent to sell the recording for financial gain without the owner's consent.

Penalties: The penalties for the above offenses are broken down according to the severity of the infringement. Offenses involving over 100 sound recordings or 7 audio-visual recordings are generally classified as felonies.

Confiscation: Law enforcement officials are to confiscate any articles in violation of these acts.

Broadcaster Exception: These acts generally provide an exemption for radio, TV, or cable broadcasters who copy for broadcast or archival purposes.

Specific Acts

Except as otherwise noted, each state listed below has modified its statute to substantially conform to the common provisions described above.

ALABAMA

Act approved May 4, 1989, No. 89-532, 1989 Ala. Acts 1089 (codified as amended at ALA. CODE §§ 13A-8-80 to 13A-8-86 (1989)).

FLORIDA

Act approved June 28, 1989, c. 89-181, 1989 Fla. Laws 749 (codified as amended at FLA. STAT § 540.11 (1989)).

This act incorporates the above common provisions, but provides an exemption in some cases for non-profit organizations and governmental agencies.

NORTH CAROLINA

Act of July 6, 1989, c. 589, 1989 N.C. Sess. Laws. ____ (codified as amended at N.C. GEN. STAT. §§ 14-432 to 14-437 (1989)).

SOUTH CAROLINA

Act approved May 22, 1989, No. 92, 1989 S.C. Acts 219 (codified as amended at S.C. CODE ANN. §§ 16-11-910 to 16-11-950 (Law. Co-op. 1989)).

TEXAS

Act approved June 14, 1989, ch. 339, 1989 Tex. Gen. Laws 1305 (codified at TEX. BUS. & COM. CODE ANN. §§ 35.91 to 35.96 (Vernon 1990)).

VIRGINIA

Act approved March 9, 1989, c. 240, 1989 Va. Acts 294 (codified as amended at VA. CODE ANN. §§ 59.1-41.1 to 59.1-41.6 (1989)).

Inventor's Rights**NORTH CAROLINA**

Act of August 9, 1989, c. 746, 1989 N.C. Sess. Laws ____ (codified at N.C. GEN. STAT. §§ 66-189 to 66-196 (1989)).

This act regulates "invention development services" to safeguard inventors' rights. Invention developers are businesses who, on behalf of inventors, seek out buyers and licensees of the inventor's intellectual property rights in his or her work.

This act requires that invention developers disclose to their customers (a) the median fee charged to all of its customers in the preceding six months; (b) the total number of inventors who have contracted with the invention developer in the previous six months;

(c) the total number of inventors who have received money in excess of what they paid to the invention developer as a result of the developer's services; and (d) a statement advising the customer to inquire into the law governing intellectual property. The act also requires invention developers to maintain a bond of at least \$25,000.

UTAH

Employment Inventions Act, ch. 217, 1989 Utah Laws 605 (codified at UTAH CODE ANN. §§ 34-39-1 to 34-39-3 (1990)).

This act regulates an employer's right to acquire intellectual property rights in employee-created inventions. The act distinguishes "non-employment inventions" from "employment inventions," the latter of which is defined broadly to include inventions related to the employer's business and development and inventions created within the scope of employment, on the employer's time, or with the aid of any of the employer's resources.

Under the act, employment cannot be made contingent on assigning to the employer the rights to future non-employment inventions. Moreover, assignment of such non-employment inventions requires separate consideration beyond the inventor's compensation as an employee.

Trade Secrets and Other Proprietary Information

NEW HAMPSHIRE

Act approved May 24, 1989, No. 220, 1989 N.H. Laws 264 (codified at N.H. REV. STAT. ANN. §§ 350-B:1 to 350-B:9 (1989)).

This act adopts the Uniform Trade Secrets Act, providing for injunctive relief and damages for the misappropriation of trade secrets. The act authorizes punitive damages for the willful and malicious misappropriation of such secrets. In civil actions under this act, the court is charged with preserving the secrecy of trade secrets.

NORTH DAKOTA

Act approved March 14, 1989, ch. 542, 1989 N.D. Laws 1421 (codified at N.D. CENT. CODE §§ 44-04-18.4, 44-04-18.5 (1989)).

This act provides that trade secrets and other commercial and financial information that is privileged or confidential shall remain confidential after being obtained by a state governmental body

under a contract or license agreement. Computer software programs that are subject to copyright or patent protection are specifically included in the definition of "trade secret." Further, the act also makes confidential computer software programs for which a state governmental body acquires a copyright or patent.

Use of Copyrighted Materials by the Government

ILLINOIS

Act approved September 1, 1989, P.A. 86-599, 1989 Ill. Laws ____ (codified as amended at ILL. REV. STAT. ch. 127, para. 1006.02 (1990)).

This act provides that agencies which incorporate other entities' rules into their rules by reference need not make such materials available for copying if such copying would infringe on the other entities' copyright.

ENVIRONMENTAL LAW

Regulation of Chlorofluorocarbons

These acts attempt to reduce emissions of ozone-depleting chlorofluorocarbons (CFCs) by restricting their use, requiring their recovery and recycling, or promoting the development of alternatives.

CONNECTICUT

Act approved June 22, 1989, P.A. 89-227, 1989 Conn. Acts 440 (Reg. Sess.).

This act prohibits the sale after July 1, 1992 of any new products containing or packaged in polystyrene foam manufactured using ozone-depleting CFCs. An exemption is provided where the Commissioner of Environmental Protection determines that no technological or economical alternative exists. The commissioner is required to establish standards for the emissions of CFCs and requirements for CFC recovery and recycling. The legislation also regulates the sale of CFCs to recharge air conditioning and refrigeration systems and mandates CFC reuse or recycling when air conditioning systems of certain state and business-owned automobiles are serviced.

HAWAII

Act approved May 11, 1989, c 77, 1989 Haw. Sess. Laws 139 (codified as amended at HAW. REV. STAT. §§ 342-11, 437B-1, 437B-4, 437B-11, 437B-12, 444-1, 444-4, 444-17, 444-23, 487-5 (1989)).

This act prohibits the sale of CFC coolants used in air conditioners in containers smaller than fifteen pounds net. It also forbids servicing air conditioners without using CFC recovery and recycling equipment or otherwise willfully allowing CFCs to be released into the air.

ILLINOIS

Act approved September 1, 1989, P.A. 86-756, 1989 Ill. Laws ____ (codified at ILL. REV. STAT. ch. 111 1/2, para. 1009.7 (1990)).

This act requires the Department of Environmental Protection to prepare recommendations for the recovery and recycling of CFCs during the servicing or disposal of refrigeration units, air conditioners, and automobiles.

MISSOURI

Act approved June 21, 1989, p. 384, 1989 Mo. Laws 384 (codified at MO. REV. STAT. §§ 34.034, 260.280, 260.281, 643.400 and as amended at MO. REV. STAT. §§ 34.031, 34.032 (1990)).

This act forbids the sale or distribution of foods or beverages packaged in polystyrene foam containers produced using CFCs. Effective January 1, 1992, it also bans the sale or distribution of any products containing polystyrene foam manufactured using ozone-depleting CFCs.

OREGON

Act approved July 28, 1989, c.903, 1989 Or. Laws 1691 (codified at OR. REV. STAT. §§ 468.612 to 468.621 (1989)).

This legislation prohibits the sale of certain products containing CFCs after January 1, 1991, including coolants, cleaners, and polystyrene foam food containers. It also requires the use of CFC recovery and recycling equipment during the servicing or disposing of automobile air conditioners where such equipment is deemed affordable and available. Some automobile repair shops are exempted from this requirement for a limited period of time.

Recycling of Plastics

These acts encourage the recycling of plastics by establishing a uniform plastics labeling system based on resin type and by imposing other requirements or incentives to promote plastics recycling.

COLORADO

Act approved May 17, 1989, ch. 241, 1989 Colo. Sess. Laws 1180 (codified at COLO. REV. STAT. §§ 8-19.5-101, 25-17-101 to 25-17-106, 39-22-114.5, 39-22-309 (1989)).

This act requires all plastic bottles and rigid plastic containers sold after July 1, 1992 to be labeled by resin type. Furthermore, the act authorizes a pilot program to make appropriate grants and loans to private industry to develop new recycling technologies, establishes a tax credit for individuals and corporations investing in plastic recycling technologies, and provides for a public projects bidding preference for proposals using products containing at least 10% recycled plastics.

CONNECTICUT

Act approved July 5, 1989, P.A. 89-385, 1989 Conn. Acts 1135 (Reg. Sess.) (codified as amended at CONN. GEN. STAT. ANN. §§ 4b-15, 22a-228, 22a-255c, (1990)).

This act authorizes the Commissioner of Environmental Protection to establish standards and requirements to enhance the recyclability of disposable packaging material. It further authorizes the commissioner to adopt official symbols that may be placed on packages to indicate whether the content is recyclable and whether it consists of recycled material.

MISSOURI

Act approved June 21, 1989, p. 384, 1989 Mo. Laws 384 (codified at MO. REV. STAT. §§ 34.034, 260.280, 260.281, 643.400 and as amended at MO. REV. STAT. §§ 34.031, 34.032 (1990)).

This act forbids the sale of containers connected by non-degradable plastic rings after January 1, 1991. The act also requires all plastic bottles and rigid plastic containers to be labeled by resin type.

NORTH DAKOTA

Act approved April 10, 1989, ch. 329, 1989 N.D. Laws 917 (codified at N.D. CENT. CODE §§ 23-32-01 to 23-32-04, 54-44.4-07 (1989))

This act requires all plastic bottles and rigid containers sold after January 1, 1992 to be coded according to resin type. The act also prohibits the sale of containers connected by non-degradable plastic rings and requires state agencies and institutions to use garbage can liners composed of starch-based plastics.

TEXAS

Act approved April 26, 1989, ch. 36, 1989 Tex. Gen. Laws 319 (codified at TEX. REV. CIV. STAT. ANN. art. 4477-7g (Vernon 1990)).

This legislation requires all plastic bottles and rigid plastic containers manufactured or distributed after July 1, 1991 to be coded by resin type.

Alternative Fuel and Energy Sources

These acts employ various means to encourage the development of alternative types of fuel and energy.

FEDERAL

Renewable Energy and Energy Efficiency Technology Competitive Act of 1989, Pub. L. No. 101-218, 103 Stat. 1859 (codified at 42 U.S.C. §§ 12001 to 12007 and as amended at 10 U.S.C. § 2857, 22 U.S.C. § 2194, 42 U.S.C. §§ 6276, 8243 (1989)).

This act is aimed at improving the research and development of renewable and efficient energy techniques. It provides for joint ventures between the federal government and the private sector to accomplish this goal. The specific energy sources to be developed are wind, photovoltaic, and solar thermal. In addition, several other alternative energy technologies will be pursued, including biofuels, hydrogen energy, solar buildings, ocean energy, geothermal, low-head hydro, and energy storage systems. Specific federal programs in which this research is to be pursued are transportation, industrial, buildings and community systems, multi-sector, and policy and management.

CALIFORNIA

Act approved September 26, 1989, ch. 940, 1989 Cal. Stat. ____ (codified at CAL. PUB. RES. CODE § 25617 and as amended at CAL. HEALTH & SAFETY CODE § 44011.6 (West 1990)).

This act imposes special fines on operators of heavy duty motor vehicles having excessive smoke emissions. It provides that the proceeds of these fines and other available funds be used to support the research and development of petroleum diesel fuels which are at least as clean as alternative fuels.

CONNECTICUT

Act approved May 2, 1989, P.A. 89-43, 1989 Conn. Acts 60 (Reg. Sess.) (codified as amended at CONN. GEN. STAT. § 16-243a (1990)).

This act establishes a preference in some cases for the purchase of energy by state and local utilities from private power producers fueled by renewable resources other than wood.

MONTANA

Act approved April 20, 1989, ch. 593, 1989 Mont. Laws 1464 (codified as amended at MONT. CODE ANN. § 15-70-522 (1989)).

This legislation extends the period during which tax incentives are available for the production of alcohol to be used as fuel, but it also decreases the total amount of allowable incentive payments.

SOUTH CAROLINA

Act approved June 5, 1989, No. 149, 1989 S.C. Acts 514 (codified as amended at S.C. CODE ANN. § 12-27-430 (Law. Co-op. 1989)).

This act amends an existing statute which provides tax incentives on fuel ethanol blends. It adds corn to the list of feed stocks from which the fuel ethanol may be manufactured.

UTAH

Fusion/Energy Technology Act, ch. 1 (1st Spec. Sess.), 1989 Utah Laws 1017 (codified at UTAH CODE ANN. §§ 63-76-1 to 63-76-10 (1990)).

This statute creates the Fusion/Energy Advisory Council to advise the governor on fusion/energy experiments conducted at the University of Utah. It gives the Council authority to allocate money to develop fusion/energy technology, to confirm that public safety

is not threatened by such technology, and to obtain and protect legal and scientific rights to such technology. The act also provides that the Council shall set a deadline for confirmation of the fusion/energy technology. The Council may not allocate any money until such confirmation, and if confirmation is not obtained by the deadline, money appropriated to the Council will lapse into the state's general fund. Finally, the act creates an oversight committee in the state legislature to review the work of the Council.

WASHINGTON

Act approved April 20, 1989, ch. 113, 1989 Wash. Laws 526 (codified as amended at WASH. REV. CODE § 43.19.570 (1990)).

This act authorizes the use of alternative fuels in state vehicles and provides for the use of state vehicles to conduct field tests on alternative fuels.

Fish and Game Regulation

NORTH CAROLINA

Act of May 23, 1989, ch. 129, 1989 N.C. Sess. Laws ____.

This act permits electro-fishing for catfish in certain areas.

Health and Public Safety

MAINE

Act approved June 20, 1989, c. 376, 1989 Me. Laws ____ (codified as amended at ME. REV. STAT. ANN. tit. 22, § 2155 (1989)).

This act prohibits the knowing selling of irradiated food or the treating of any human or animal food with gamma radiation or other ionizing radiation, except as part of a research project.

WASHINGTON

Act approved April 20, 1989, ch. 143, 1989 Wash. Laws 597.

This act stems from Washington's uncertainty as to whether electric and magnetic fields pose any health risks. Washington, in cooperation with Oregon, directed a commission to oversee a review of current studies throughout the nation and to identify what "high priority" research of the medical risks of such fields still needed to be undertaken. The commission's report was due

December 1, 1989. Apparently, Washington is using the report to decide whether to limit public exposure to such fields.

MEDICAL RESEARCH AND TECHNOLOGY

Transplantation of Tissues and Organs

New legislation in this area encourages organ, tissue, and eye donations by limiting liability for suppliers and donors and by requiring greater efforts to recruit and identify potential donors.

NEVADA

Act approved May 26, 1989, ch. 200, 1989 Nev. Stat. 431 (codified as amended at NEV. REV. STAT. §§ 451.500 to 451.590 (1989)).

This act makes general amendments to the Uniform Anatomical Gift Act. It requires hospitals and emergency personnel to search for documents identifying a person dead or near death as a donor and immunizes donors and their estates from liability for any damages resulting from use of the anatomical gift.

Act approved March 20, 1989, ch. 32, 1989 Nev. Stat. 60 (codified as amended at NEV. REV. STAT. § 460.010 (1989)).

This act limits the imposition of liability on providers of organ-donating services for the transmission of infectious diseases to acts involving negligence or willful misconduct.

NORTH DAKOTA

Uniform Anatomical Gift Act, ch. 303, 1989 N.D. Laws 836 (codified at N.D. CENT. CODE §§ 23-06.2-01 to 23-06.2-12 and as amended at N.D. CENT. CODE §§ 23-06-01.2, 39-06-07, 39-06-14 (1989)).

This legislation adopts the Uniform Anatomical Gift Act. It allows for the making of anatomical gifts for medical or educational purposes. Certain close family members of a decedent may authorize donation of the decedent's anatomical parts, unless the decedent has previously objected to such a gift. Hospitals must set up a routine contact protocol to ensure that families of suitable donors are offered the opportunity to consider donation.

The donor and his or her estate are exempted from liability for injuries resulting from the use of an anatomical gift. Likewise, doctors acting in good faith to comply with the provisions of this law are exempted from criminal or civil liability for such acts.

The sale or purchase of anatomical parts is prohibited, although there may be a charge for the reasonable costs of removing, preserving, and disposing of such parts.

Fetal Tissue Regulation

These acts regulate experimentation with or sale of fetal tissue.

GEORGIA

Act approved April 3, 1989, no. 433, 1989 Ga. Laws 456 (codified as amended at Ga. Code Ann. § 16-12-160 (1989)).

This act makes it unlawful to buy or sell a human fetus or any part thereof.

NORTH CAROLINA

Act of May 4, 1989, c. 85, 1989 N.C. Sess. Laws ___.

This act requires that fetal tissue from terminated pregnancies be disposed of by burial, cremation, or some type of hospital-approved incineration.

NORTH DAKOTA

Act approved March 29, 1989, ch. 173, 1989 N.D. Laws 526 (codified as amended at N.D. CENT. CODE §§ 14-02.2-01, 14-02.2-02 (1989)).

This act prohibits the use of fetal tissues from induced abortions for research, experimentation, or transplantation purposes. Exceptions are provided for diagnostic or remedial procedures directly related to the health of the fetus or the mother and for the use of such tissues for pathological study.

Surrogate Parentage Laws

These acts address the legality of surrogate parentage contracts and establish presumptions as to parenthood where such contracts are made.

ARIZONA

Act approved April 28, 1989, Ch. 114, 1989 Ariz. Sess. Laws 393 (codified at ARIZ. REV. STAT. ANN. § 25-218 and as amended at ARIZ. REV. STAT. ANN. § 36-322 (1989)).

This act prohibits surrogate parentage contracts. The surrogate mother is declared to be the legal mother, and, if she is married, her husband is the presumed father.

ARKANSAS

Act approved March 17, 1989, No. 647, 1989 Ark. Acts ____ (codified as amended at ARK. STAT. ANN. § 9-10-201 (1989)).

This act specifies that any child born to a surrogate mother shall be presumed to be the child of only the biological father and, if he is married, his wife. If an anonymous donor's sperm was used for artificial insemination, then the child shall be that of the woman intended to be the parent.

UTAH

Act approved March 13, 1989, ch. 140, 1989 Utah Laws 333 (codified at UTAH CODE ANN. § 76-7-204 (1990)).

This act makes it a misdemeanor to enter into a surrogate parentage contract for profit and renders all such agreements void. The surrogate mother and, if she is married, her husband are deemed the child's legal parents.

WASHINGTON

Act approved May 13, 1989, ch. 404, 1989 Wash. Laws 2178 (codified at WASH. REV. CODE §§ 26.26.210 to 26.26.260 (1990)).

This act makes it a misdemeanor to enter into a surrogate parentage contract for profit and renders all such agreements void. However, the act provides for no presumption regarding parenthood but rather requires a court to determine who should have custody based on certain enumerated factors.

Paternity Testing

These acts authorize the use of DNA testing in paternity actions.

ARKANSAS

Act approved March 21, 1989, No. 725, 1989 Ark. Acts ____ (codified as amended at ARK. STAT. ANN. §§ 9-10-101, 9-10-102, 9-10-104, 9-10-108, 9-10-117 (1989)).

This act specifically authorizes the use of DNA testing at the request of any party in a paternity action.

MONTANA

Act approved March 16, 1989, Ch. 119, 1989 Mont. Laws 251 (codified at MONT. CODE ANN. §§ 40-5-231 to 40-5-237 and as amended at MONT. CODE ANN. § 40-5-201 (1989)).

This act authorizes compulsory paternity blood testing, including DNA testing, where evidence shows a reasonable probability that an alleged father had sexual intercourse with the mother during the probable time of conception.

DNA Identification of Sex Offenders

These acts require convicted sex offenders to submit to the withdrawal of blood and saliva samples from which DNA identification profiles will be determined. The profiles are to be stored at a central agency and made available to criminal justice agencies.

ARIZONA

Act approved May 16, 1989, Ch. 200, 1989 Ariz. Sess. Laws 774 (codified at ARIZ. REV. STAT. ANN. § 31-281 (1989)).

Persons convicted of a sexual offense must submit to DNA testing for law enforcement identification purposes.

ILLINOIS

Act approved September 8, 1989, P.A. 86-881, 1989 Ill. Laws ____ (codified at ILL. REV. STAT. ch. 38, para. 1005-4-3 (1990)).

Persons either convicted of a sexual offense or institutionalized as being "sexually dangerous" are required to submit specimens of blood and saliva for law enforcement identification purposes.

LOUISIANA

Act approved June 26, 1989, No. 194, 1989 La. Acts 768 (codified at LA. REV. STAT. ANN. §§ 15:535, 15:536 and as amended at LA. REV. STAT. ANN. §§ 15:571.7, 15:574.4, 15:578, and at LA. CODE CRIM. PROC. ANN. art. 895 (West 1990)).

This act requires sexual offenders to submit blood and saliva samples. It further requires that information on genetic markers of

the blood and secretor status of the saliva be maintained as part of the criminal record of sexual offenders.

Act approved June 28, 1989, No. 340, 1989 La. Acts 1073 (codified at LA. REV. STAT. ANN. § 15:441.1 (West 1990)).

This act provides that evidence of DNA profiles, genetic markers of the blood, and secretor status of saliva is relevant as proof of identity.

MARYLAND

Act approved May 19, 1989, ch. 430, 1989 Md. Laws 2892 (codified at MD. CTS. & JUD. PROC. CODE ANN. § 10-915 (1989)).

This act provides that evidence of a DNA profile is admissible to prove the identity of any person in any criminal proceeding.

NEVADA

Act approved May 18, 1989, ch. 168, 1989 Nev. Stat. 378 (codified at NEV. REV. STAT. § 176.111 and as amended at NEV. REV. STAT. §§ 56.020, 179A.075 (1989)).

This act requires convicted sex offenders to submit blood and saliva samples. Information on genetic markers and secretor status obtained from such samples shall be recorded as part of the offender's criminal history.

VIRGINIA

Act approved March 23, 1989, c. 536, 1989 Va. Acts 789 (codified at VA. CODE ANN. § 53.1-23.1 (1989)).

This act requires persons convicted of a felony sex offense to submit to DNA testing for law enforcement identification purposes.

WASHINGTON

Act of May 12, 1989, ch. 350, 1989 Wash. Laws 1748 (codified at WASH. REV. CODE §§ 43.43.752 to 43.43.758 (1990)).

This act requires persons convicted of a sex offense or certain violent offenses to submit a blood sample for DNA testing for law enforcement identification purposes.

Experimentation on Prisoners

CALIFORNIA

Act approved September 29, 1989, ch. 979, 1989 Cal. Stat. ____ (codified at CAL. PENAL CODE § 3502.5 (West 1990)).

This act authorizes prisoners' physicians to treat their patients with certain new, experimental drugs to treat immediately life-threatening diseases if (1) the physician determines that such treatment is in the best medical interest of the patient and (2) the patient has given informed consent. It precludes liability on the part of public entities or public employees for injury caused by the administration of such a drug pursuant to this new procedure.

Act approved October 2, 1989, ch. 1367, 1989 Cal. Stat. ____ (codified at CAL. WELF. & INST. CODE § 1706 and as amended at CAL. PENAL CODE § 3502 (West 1990)).

This act authorizes research involving the administration of vitamins, minerals, and amino acids to wards and the subsequent analysis of the effects of such substances on their hair and blood. "Wards" are defined as persons 18 or older committed to the Department of the Youth Authority. The subjects must give their informed consent. The substances administered must be limited to those approved by the FDA, must not require a physician's prescription, and must be administered in certain limited amounts. The act creates an oversight committee to review and approve of the research protocols.

Employee Testing

OREGON

Act approved July 28, 1989, c.892, 1989 Or. Laws 1678 (codified at OR. REV. STAT. § 659.380 and as amended at OR. REV. STAT. § 659.227 (1989)).

This act makes it an unlawful employment practice to subject an employee to genetic screening or to a brainwave test.

Release of Genetically Engineered Organisms

Common provisions

Mechanism for State Regulation: The release of genetically engineered organisms into the environment is primarily regulated by the federal government. These state acts require that persons wishing to release genetically engineered organisms submit a copy of all information required by the federal regulator to a designated state reviewing department as well.

Confidentiality: Any information submitted to a federal regulator that is classified as confidential under the Freedom of Information Act, 5 U.S.C. 552, may be submitted in summarized form. Any confidential information that is given to the reviewing department will be kept confidential.

Penalties: These acts provide for penalties of up to \$25,000 per day for failure to comply.

Specific Acts

Both of the following acts conform to the above common provisions.

ILLINOIS

Act approved August 30, 1989, P.A. 86-306, 1989 Ill. Acts. ____ (codified at ILL. REV. STAT. ch. 111, paras. 7601 to 7611 (1990)).

WISCONSIN

Act approved June 2, 1989, Act 15, 1989 Wis. Laws ____ (codified at WIS. STAT. § 146.60 (1989)).

Interference With Animal Experimentation

LOUISIANA

Act approved July 9, 1989, No. 784, 1989 La. Acts 2193 (codified at LA. REV. STAT. ANN. § 14.102.9 (West 1990)).

This act criminalizes interfering with animal research, which includes the unauthorized release of animals housed in a research laboratory and the damaging of such a laboratory.

UTAH

Act approved March 13, 1989, ch. 179, 1989 Utah Laws 463 (codified at UTAH CODE ANN. §§ 76-10-2001, 76-10-2002 (1990)).

This act makes it a felony to "burglarize a research facility," which includes the unauthorized entry into a research facility with the intent to damage equipment or data, to release animals or micro-organisms, to assault personnel, or to commit any other felony. Interference with the operations of a research facility that does not constitute an assault is defined as a misdemeanor.

BUSINESS INCENTIVES

Tax Credits and Deductions

FEDERAL

Omnibus Budget Reconciliation Act of 1989, Pub. L. No. 101-239, 103 Stat. 2106 (codified as amended at 26 U.S.C. 1253 and scattered other sections of U.S.C. (1989)).

Among its many provisions, this act curtails tax deductions for certain transfers of franchises, trademarks, and trade names. Formerly, amounts paid for franchises, trademarks, and trade names that were contingent on the productivity thereof were deductible in full as ordinary and necessary business expenses. Fixed-sum payments for franchises, trademarks, and trade names in which the transferor retained a significant interest (meaning that the transfer could not be treated as a sale of a capital asset) could be deducted ratably over a period of up to ten years.

Under this act, a contingent payment may only be deducted if it is one of a series of substantially equal payments for the franchise, trademark, or trade name and if the payments are due at least annually. Moreover, the provisions applying to the fixed sum payments apply only where the total amount to be paid for the franchise, trademark, or trade name is no more than \$100,000. Amounts paid for franchises, trademarks, or trade names to which the above provisions do not apply shall be treated as amounts chargeable to capital. The taxpayer may elect to recover such amounts ratably over a 25-year period.

MAINE

Act approved July 7, 1989, c. 530, 1989 Me. Laws ____ (codified at ME. REV. STAT. ANN. tit. 36 § 5219-C and as amended at ME. REV. STAT. ANN. tit. 5, § 1515, tit. 36, § 5278 (1989)).

This act creates a 1.5% general tax credit for all machinery equipment placed in service in the state within three years. To qualify, the machinery and equipment must be used directly or primarily to produce tangible goods for sale.

The credit allowable for any given year may not exceed the sum of \$25,000 plus 75% of the tax liability over \$25,000. If the credit exceeds the limitation it may be carried forward no more than five years and carried back no more than three years.

OREGON

Act approved August 2, 1989, c.911, 1989 Or. Laws 1743 (codified as amended at OR. REV. STAT. § 318.031 (1989)).

This act provides a tax credit to certain companies for expenses incurred in the course of performing "qualified research," defined as basic research occurring within the state in the fields of advanced computing, advanced materials, biotechnology, electronic device technology, or environmental technology. This credit may not be carried forward or back.

Act approved August 3, 1989, c.989, 1989 Or. Laws 1948.

This act extends through 1997 a tax credit to corporations for contributions of computers or scientific instruments to educational institutions and for contributions under contract for scientific or engineering research.

Zoning**CALIFORNIA**

Act approved September 25, 1989, ch. 899, 1989 Cal. Stat. ____ (codified as amended at CAL. GOV'T CODE §§ 7073, 7073.5, 7082 (West 1990)).

This act expands the scope of former law by increasing the number of areas the Department of Commerce can designate as "enterprise zones" from 10 to 25 and as "high technology enterprise zones" from 2 to 3. Enterprise zones are defined as economically depressed areas in which the state seeks to stimulate industrial

growth and development by reducing taxes, excessive regulations, and other government burdens on economic opportunity within the zone. High technology enterprise zones are enterprise zones intended to attract high technology industries and in which it is contemplated that associations between those industries and an urban university or college will form.