



Q3 Alerts:

Workforce Compliance and Legislative Updates

August 13, 2024

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Meet your SMEs



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Product Intelligence Manager
Experian Employer Services



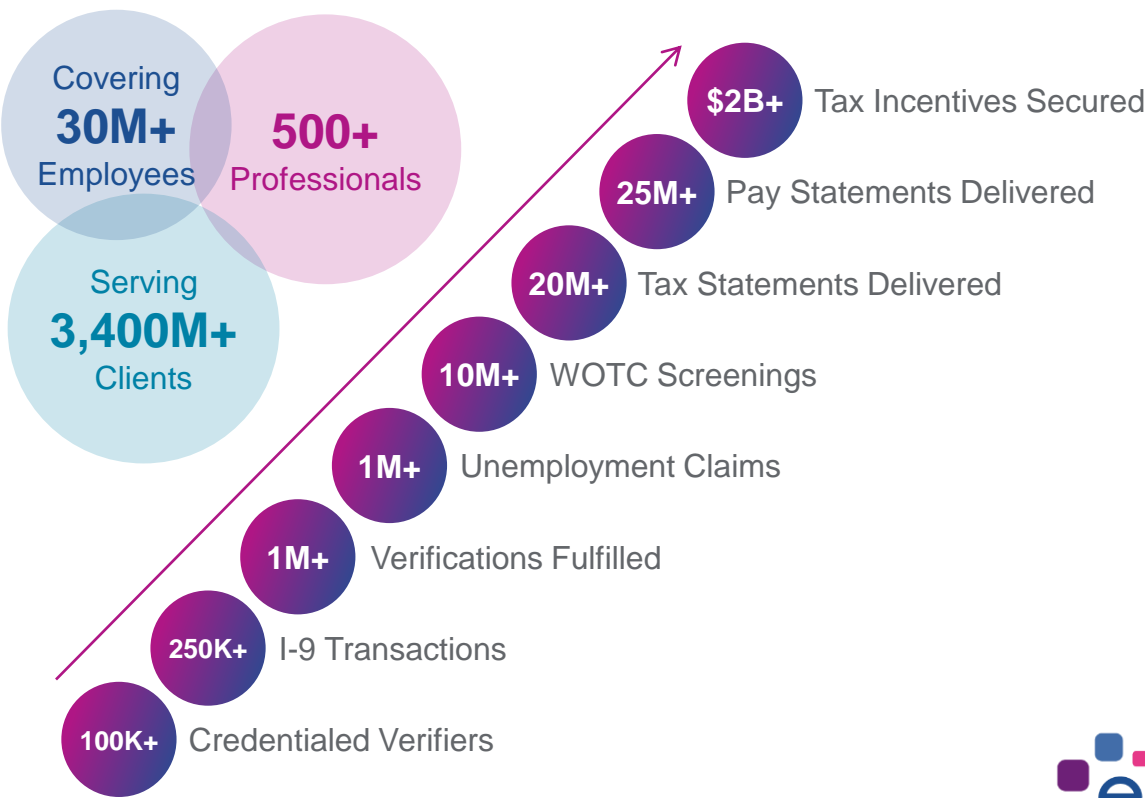
Wayne Rottger
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Experian Employer Services

Industry Expertise

At Every Stage of Employment



Serve Employers, Serving Employees



Agenda

- Unemployment Insurance
 - State Legislation
 - State Separation Notices
- Workforce Compliance
 - State and Local Legislation
 - Federal Legislation
- Q&A



Unemployment Insurance - State Legislation

State Legislation 2024

Changes



22

Approved
Tracked Legislative
Changes



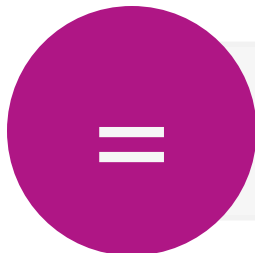
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Pending
Tracked Legislative
Changes



58

Failed
Tracked Legislative
Changes



125 Tracked Legislative Changes

Poll Question 1

During a trade dispute, employees are eligible to collect unemployment benefits?

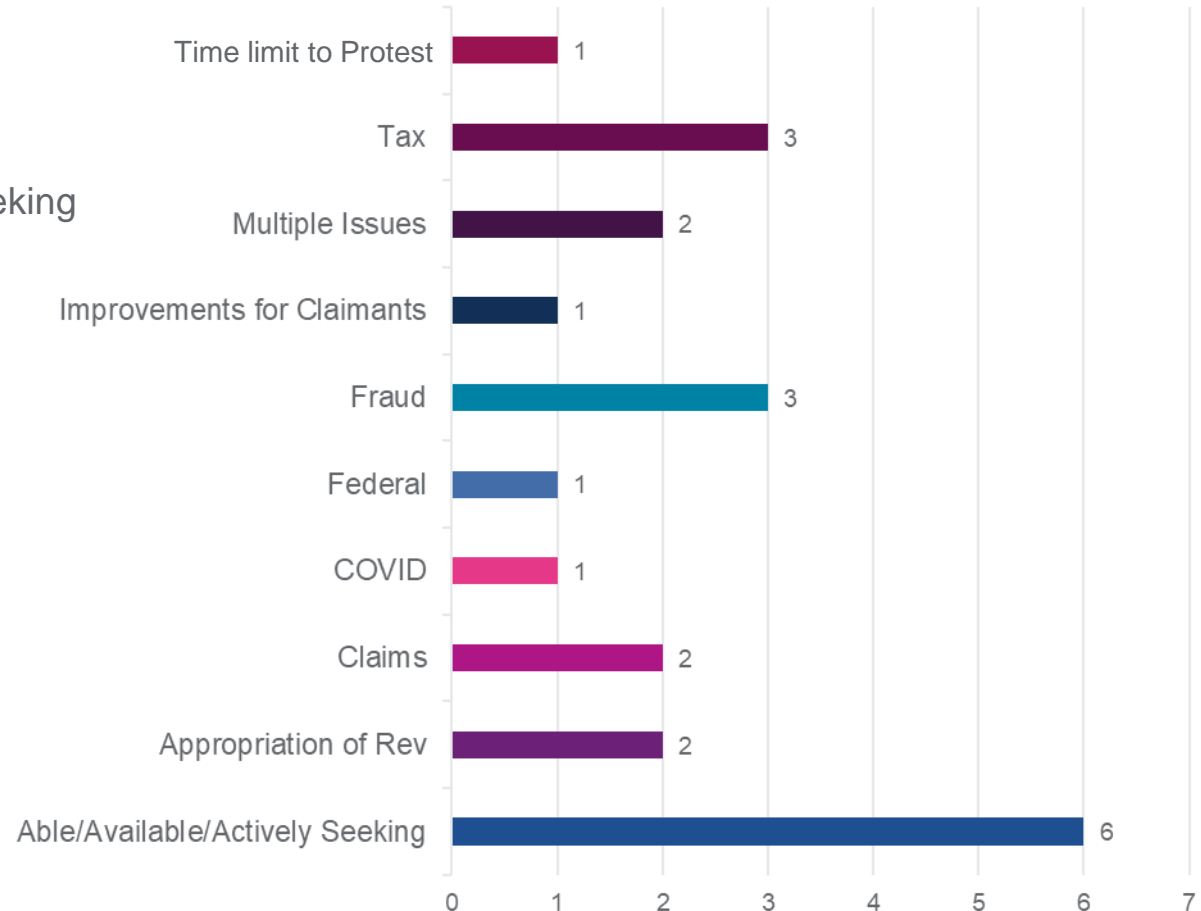
- Always
- Sometimes
- Never

State Legislation 2024

Approved Legislation - Breakdown by Topic

Trends in Approved Legislation

- Most prevalent topic is Able/Available/Actively Seeking
- Next most prevalent topic is split between two
 - Tax
 - Fraud



State Legislation 2024

Approved Legislation - Impact to Employers

- Most common category of current legislation has to do with a claimant being able, available and actively seeking employment
 - If a former employee is awarded benefits, they must continue to prove they are able, available and actively seeking new employment
 - There are different parameters around the country for what constitutes proof of this
 - Applications completed
 - Resumes submitted
 - Interviews completed
- The next most common category of current legislation are related to Fraud and Tax
 - Tax: Rate calculation change, installment payment agreement, voluntary contribution continuation
 - Fraud: Overpayment collection and record matching

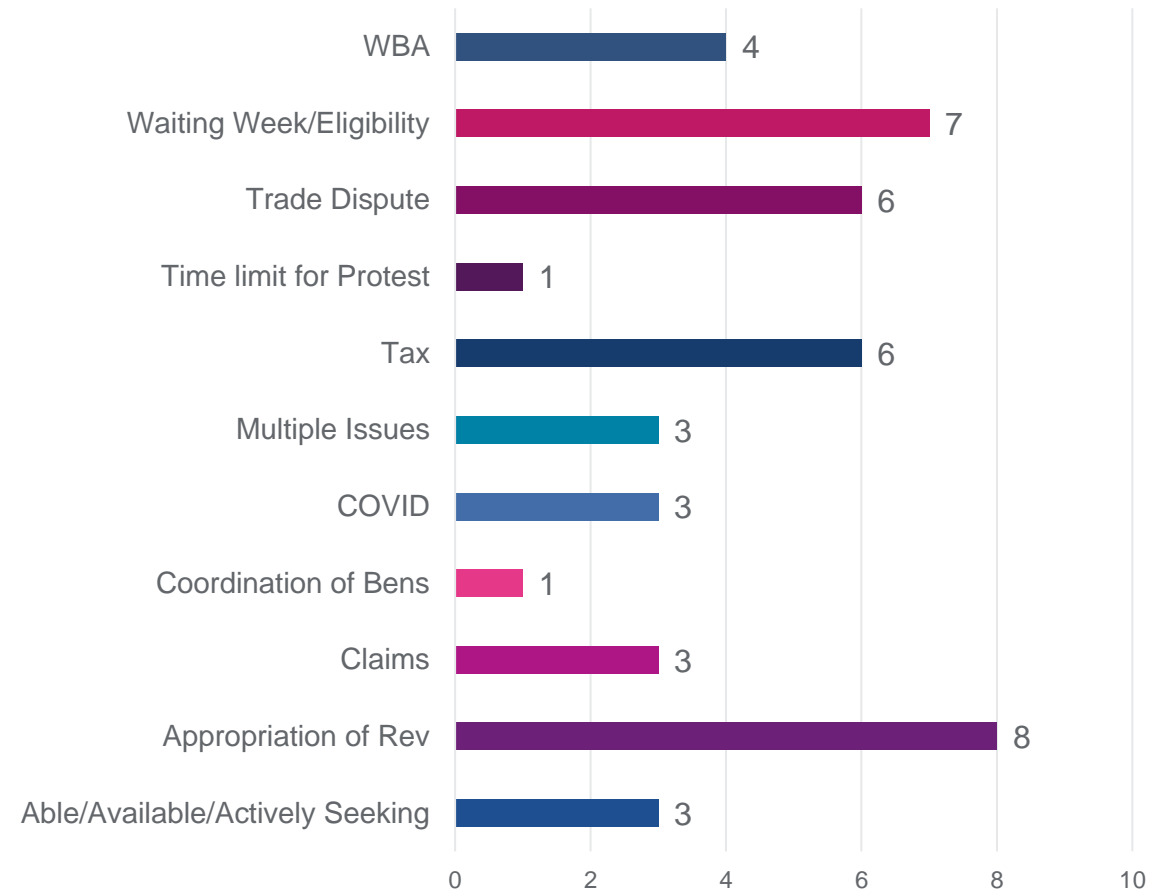


State Legislation 2024

Pending Legislation - Breakdown by Topic

Trends in Pending Legislation

- Most prevalent topic is Appropriation of Revenue
- Next most prevalent topic is Waiting Week/Eligibility
- Third most prevalent topic is Trade Dispute and Tax



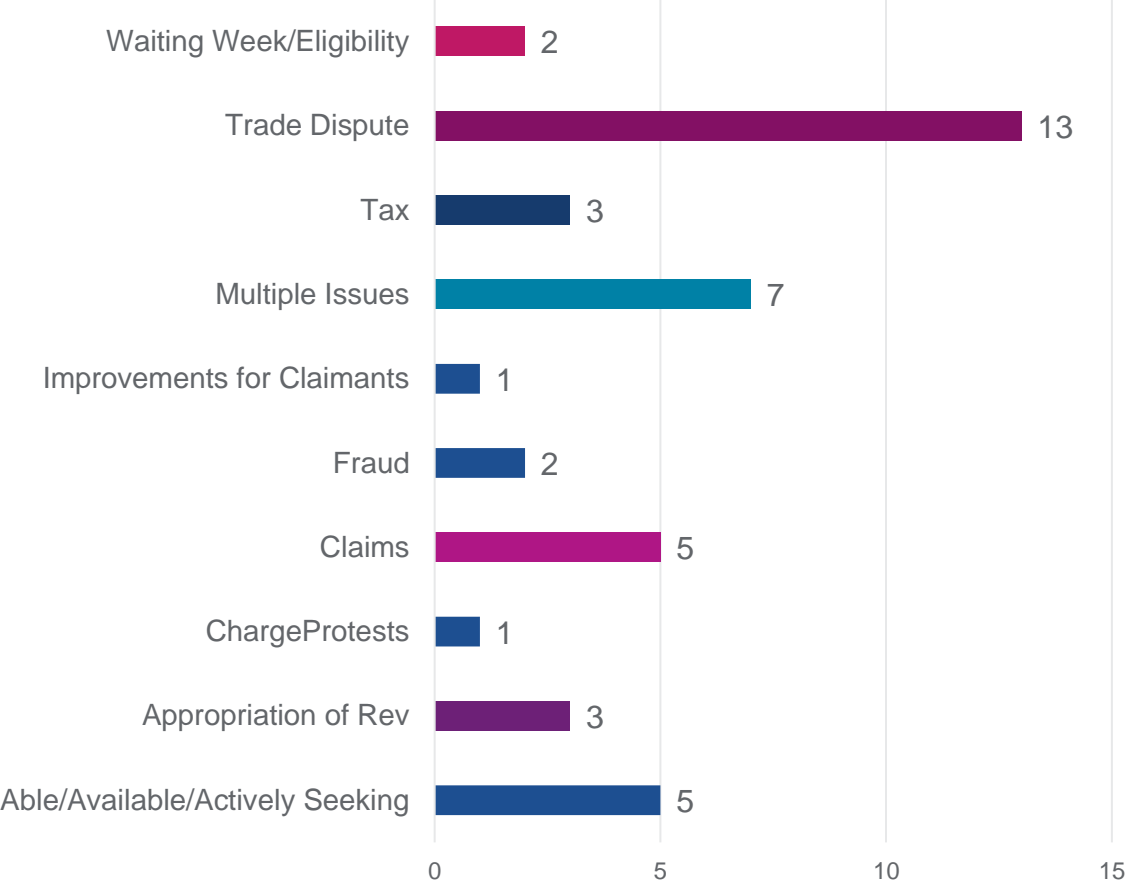
State Legislation 2024

Pending Legislation – Impact to Employers

- Most common category of pending legislation is Appropriation of Revenue
 - States are shoring up their trust funds by flushing with cash from ARPA and other means
- Next most common category of pending legislation is Waiting Week and Eligibility
 - This doesn't have a material impact on employers but depending on which direction the regulation goes, if it creates a waiting week where there wasn't one, that would reduce the benefits paid
 - Conversely if it removes a waiting week where there is one, it could increase the benefits paid
- Third most common categories are Tax and Trade Disputes
 - Trade Dispute legislation became very popular this period
 - Could be politically motivated
 - Most states involved do not allow benefits to claimants on strike but pending legislation would change that if passed

State Legislation 2024

Failed Legislation - Breakdown by Topic



Unemployment Insurance - State Separation Notices

Poll Question 2

Every state requires a notification to the workforce agency when an employee terminates.

- True
- False

State Separation Notices

Guidelines

- Definition
- In certain states, a formal notification must be delivered to an employee upon termination of their employment
- Must have certain data points, more in some states, less in others; must be delivered either on the date of employment or within a designated timeframe from the date of termination
- The main reason most states require this form is to advise the employee of their rights to file an unemployment claim



State Separation Notices

Pros and Cons

Pros

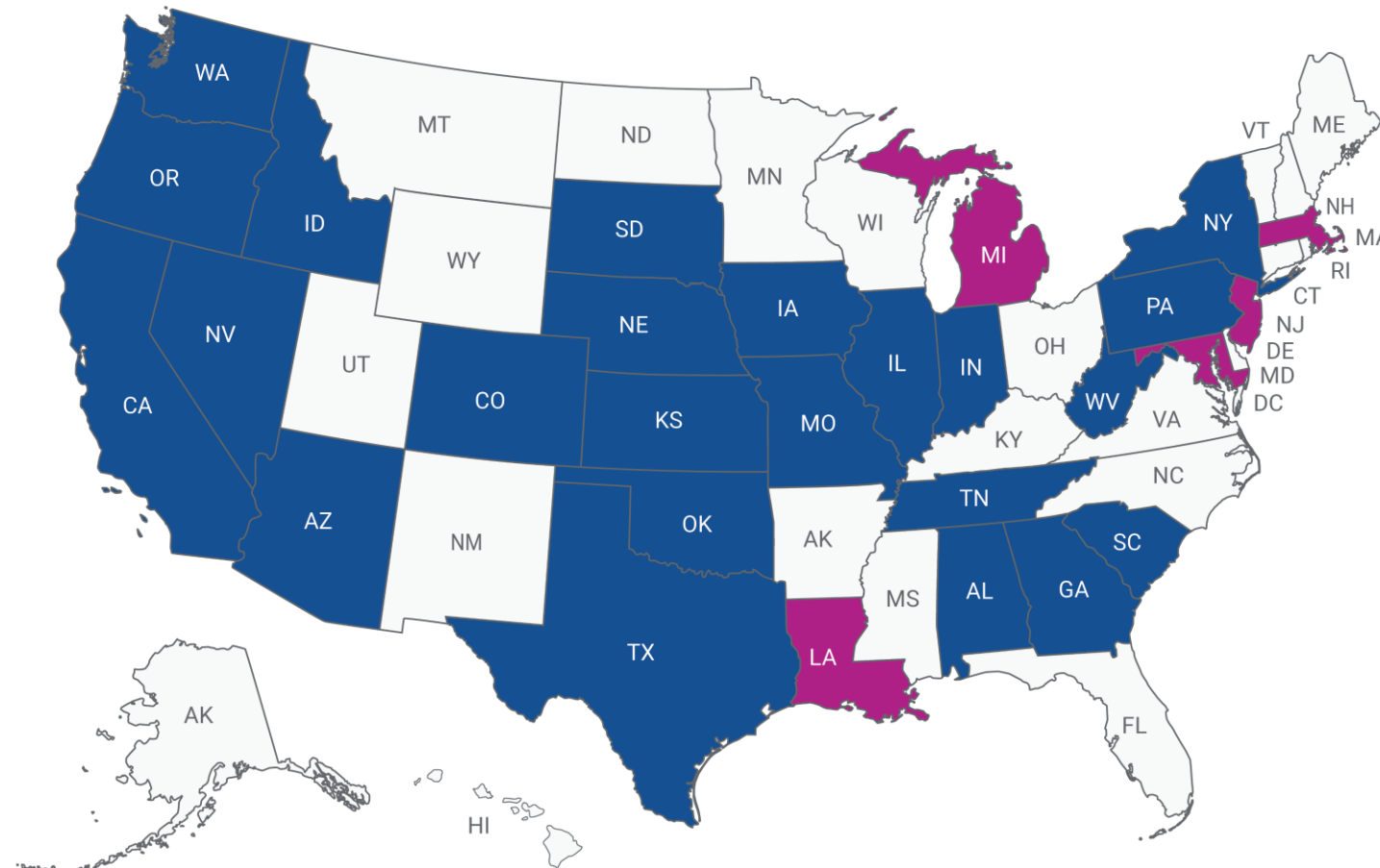
- Advises employee of their right to file
- Preemptively provides separation data to the state in the event the employee files an unemployment claim



Cons

- May encourage employees to file an unemployment claim resulting in increased tax rate for employer
- Additional paperwork for employer
- Some states have a monetary penalty for non-response

State Separation Notices

States that require State Separation Notices



-  States with a penalty for non-compliance
-  States requiring form but no penalty for non-compliance

State Separation Notices

States that Assign Penalty for Non-Compliance - Louisiana

- Form # 77 must be provided within 72 hours of the termination
- Method for notification is via the state portal
- Statutory Requirement
 - LAC40:IV:323 (1)
- Penalty
 - Loss of appeal rights

Louisiana Workforce Commission
Adjudication Support Unit
P. O. Box 91253
Baton Rouge, LA 70821-9253
Fax (225) 346-6068

Separation Notice

1. Applicant Information

First Name: Last Name:

SSN:

Date of Separation: Date Hired: Date Last Worked:

Please provide detailed explanation for the items checked below. Should this individual file a claim for unemployment insurance benefits, complete facts will enable this agency to make an equitable decision.

2. Reason for Separation

☐ Voluntary Leaving (Quit)
☐ Discharged (Fired)
☐ Lack of Work (Reduction in Force)
☐ Leave of Absence
☐ Not Physically Able to Work
☐ School Employee Contract
☐ Refused Other Suitable Work
☐ Labor Dispute/Union Strike
☐ Retirement
☐ Work Part Time

3. Vacation, Severance, Dismissal, Bonus, Holiday Pay Information

Hourly Rate of Pay \$ Hrs Worked per Week

☐ Vacation/Accrued Leave - Not PTO \$ # Hrs
☐ Severance/Dismissal \$ # Hrs
☐ Bonus \$ # Hrs
☐ Holiday Pay \$ # Hrs
☐ Wages in Lieu of Notice \$ # Hrs

4. Pension

☐ Monthly Lump Sum \$

State Separation Notices

States that Assign Penalty for Non-Compliance - Maryland

- Must be provided at the time of the employee's termination
- Method for notification is via letter, email or text
- Statutory Requirement
 - MD Code, Labor & Employment – 8 – 627, Separation Notices
- Penalty
 - \$15 for each infraction



An abstract graphic featuring a network of red lines connecting various geometric shapes. These shapes include squares and circles in shades of purple, blue, and white. Some shapes have a dashed border. A prominent white square with a red dot is connected to several other shapes. In the bottom left, there is a white square with the number '20' inside. On the right side, there is a large blue square and a white square with a blue border. The background is a light blue gradient with faint circular patterns.

Obtaining UI services by telephone. It's Easy.



When you call the Unemployment Insurance TeleClaim Center, you will press a number on your telephone to choose services in English or another language.

Press **1** – to file a new UI claim or to reopen an existing claim.

You will be asked to enter your social security number and the year you were born. Then you will be transferred to a DUA agent who will help you file your claim.

Press **2** – for immediate information on the status of your check or claim certification form.

This pamphlet includes important information on how to file a claim for Unemployment Insurance benefits.

Unemployment Insurance is a benefit that provides temporary financial assistance to eligible workers who are unemployed through no fault of their own.

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THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE

To Massachusetts Workers:


How to File for Unemployment Insurance Benefits

State Separation Notices

States that Assign Penalty for Non-Compliance - Michigan

- Form # UIA 1711 must be provided at the time of termination of the employee
- Method for notification is not specified in statute or regulation
- Statutory Requirement
 - MI R 421.204 Unemployment Compensation Notice to Employee
- Penalty
 - \$10 per occurrence

UIA 1711
(Rev. 09-21)

Authorized by
MCL 421.1 et seq.

GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY
UNEMPLOYMENT INSURANCE AGENCY

SUSAN R. CORBIN
DIRECTOR

UNEMPLOYMENT COMPENSATION NOTICE TO EMPLOYEE
THIS FORM IS NOT A WAIVER REQUEST OR APPROVAL OF A WAIVER REQUEST.

Information Needed to File a Claim:

- Your Social Security card.
- Your state issued driver's license or ID card number or your Michigan's Automated Response Voice Interactive Network (MARVIN) PIN (if you have one).
- The names and addresses of employers you have worked for during the past 18 months and your quarterly gross earnings.
- The first and last date of employment with each employer.
- Your most recent employer's Federal Employer ID number (FEIN) and Employer Account Number (EAN). Depending on your situation, knowing the account number may speed up the processing of your claim.
- If you are not a U.S. Citizen or national, you will need your Alien Registration card and the expiration date of your work authorization.

Bi- Weekly Certification:
Unless the requirement has been waived, you must certify your eligibility every two weeks to receive benefits. The preferred method of certifying is online. Phone certification is also available.

- **Online:** Visit www.michigan.gov/uiia and sign into MiLogin to access your Michigan Web Account Manager (MiWAM) account. Your online account is accessible seven days a week, 24 hours a day.
- **By Phone:** Call MARVIN at 1-866-638-3993, Monday through Friday, 8:00 a.m. to 4:30 p.m.

State Separation Notices

States that Assign Penalty for Non-Compliance – New Jersey

- Form #BC-10 must be provided immediately and simultaneously at time of separation, to the employee and the NJ Dept of Labor Division of UI
- Method for notification is electronic
- Statutory Requirement
 - P.L. 2022 c. 120 and S2357
- Penalty
 - \$500 or 25% of any amount of unemployment benefits fraudulently withheld, whichever is greater

INSTRUCTIONS FOR CLAIMING UNEMPLOYMENT BENEFITS

Section 1 – Notice to Employer

YOU ARE REQUIRED, under section 6 (a) of the Unemployment Compensation Law of New Jersey and under Employment Security Rule N.J.A.C. 12:17-3.1 to complete this form and provide it to any worker who is separated (either permanently or temporarily) from work for any reason.

1. Employer Name and Address:

2. New Jersey Employer Identification No.:

3. Employer Telephone No.:

4. Work location (if different than above):

5. Date of Separation:

Separation is: ☐ Permanent ☐ Temporary If Temporary, expected Recall Date:

Workforce Compliance

- State and Local Legislation



Poll Question 3

Which of the following worries you most in regards to tracking ongoing issues relevant to my workforce?

- Federal level
- State level
- Local level
- Judicial

State Legislation Workforce Compliance

Paid Leave and Wage Theft-related laws continue to lead the way

- Paid Family Leave and Sick Leave—Several states either enacted new laws or had passed laws take effect this year
- **Maryland, Delaware, Colorado, Minnesota, DC, and New Jersey** all have new laws establishing or tweaking processes

*Check your state notices to ensure new language included or
new forms ready*



State Legislation Workforce Compliance

- New York paid prenatal leave enacted in April Effective 1/25
 - Provides 20 hours of paid leave for health care services, in addition to paid sick leave accruals
 - Additional lactation break law effective as of 6/19
 - Employees must be provided 30 mins of paid break time
 - Updated notices
- Illinois SB3208 enacted new pay statement access law
 - Electronic stubs must provide access for up to 3 years after separation and provide employee with stubs in format requested
 - Fines associated with non-compliance up to \$500 per instance



State Legislation

Workforce Compliance

- **41 states introduced Artificial Intelligence related bills** in the 2024 session
- At one point this year there were over 450 AI bills active in state legislatures
- States with the most AI-related bills:
 - New York (65)
 - California (29)
 - Tennessee (28)
 - Illinois (27)



Local Legislation Workforce Compliance

- **New York City:** new DCWP "Know Your Rights at Work" notification to all employees in multiple languages
- **Chicago Paid Sick Leave:** effective 7/1
 - Up to 40 hrs in a 12 month period
 - Available 90 days after 7/1 or after start of employment, whichever is later



Workforce Compliance - Federal Legislation



Federal Updates

The current Congress, the 118th, has passed a total of 70 bills over the past two years; the 117th Congress passed 365

- **Pregnant Worker Fairness Act:**
 - Final regulations effective as of 6/18
 - Expansive recitation of rights and list of potential reasonable accommodations
 - EEOC being sued by 17 state Attorneys General

- **New Overtime Rule** issued by DOL, effective 7/1, (lawsuits pending)
 - Seeks to raise salary threshold for exemption to \$43,888 in July, then \$58,656 on Jan 1
 - Review employee classifications
 - Preliminary injunction from Federal Ct in Eastern TX

- **Federal Trade Commission issues Non-Compete Ban**
 - Set to take effect on Sept 4th but already being challenged
 - California law in effect since 2/24

Federal Updates

I-9 Management

- Most **EAD automatic extensions lengthened** from 180 to 540 days for I-9
- **E-Verify + rollout:** some employees may use once ready; more self-service in an error laden process
- **I-9 fines increased**
 - First offenses for paperwork violations now range from \$281 - \$2,701 per instance
 - Penalties for document fraud now stand at \$575 - \$11,524 regardless of first or subsequent offense
 - Failure to notify of Final non-confirmation now ranges from \$973 - \$1,942 per relevant individual

Federal Updates

Supreme Court

Recent Supreme Court decision in Loper Bright will have far-reaching consequences

- Handed down on June 28, 2024
- Negates Chevron Doctrine, followed since 1984
- No deference to agencies - now courts will supply clarity if laws are ambiguous
- Regulatory process must strictly adhere to the Administrative Procedure Act (APA)



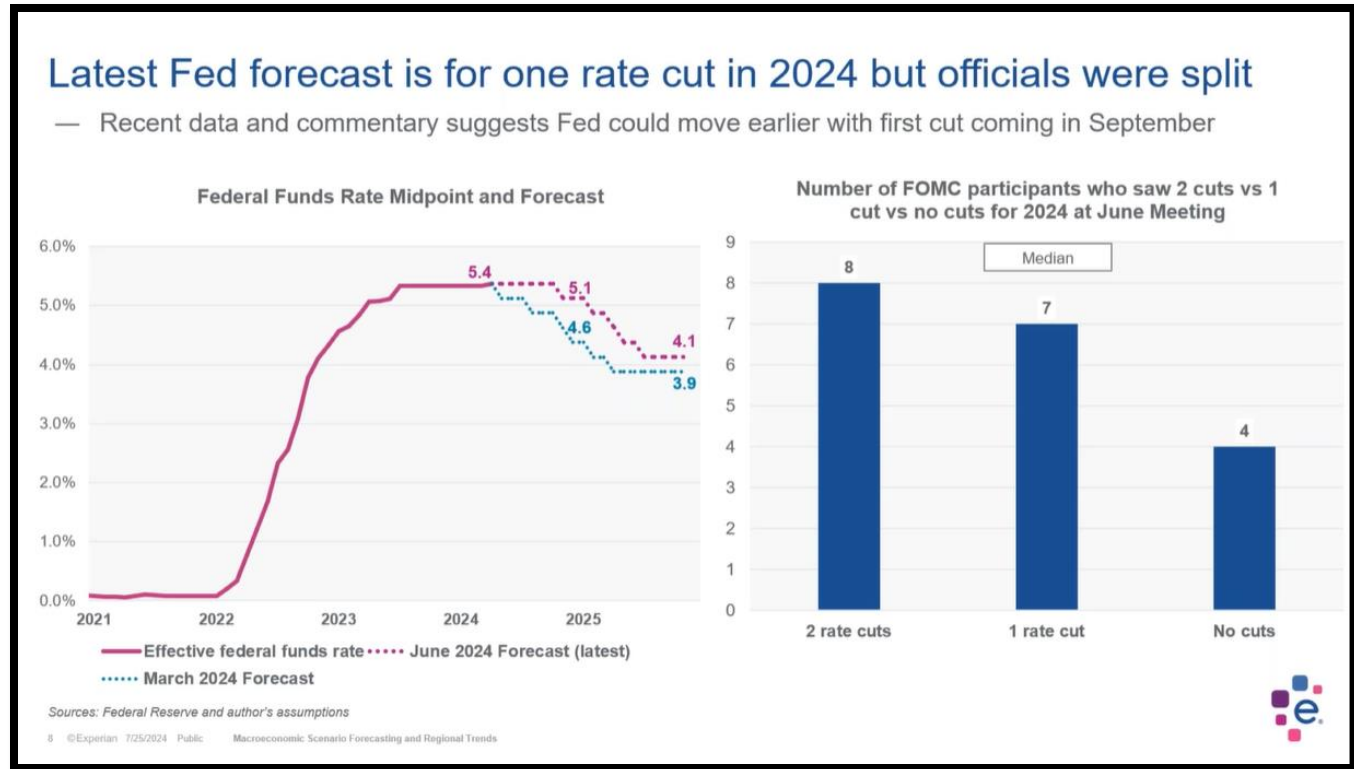
Federal Updates

Supreme Court

- Likely to produce immediate surge in regulatory challenges; all that any challenger to an issue needs to show is that an agency interpretation is not the best interpretation for that issue
- Could lead to overruling of earlier decisions based on deference to agencies, so regulatory challenges are likely to continue for years
- While courts still may find an agency's technical expertise "especially informative" this still moves such technical questions to the realm of the courts, not the agencies—away from any formal expertise
- Specific agencies likely to come under fire immediately include the IRS, EPA, CFPB, EEOC, NLRB, DOL, and OSHA, among others
- Will likely impact lawmaking behavior, as Congress will need to take extra care in drafting statutes to avoid ambiguity; rulemaking will likewise change to closely adhere to the APA

Economic Landscape

- Mortgage rates have dropped to their lowest level in over a year
- Most economists expect the Federal Reserve will cut its key interest rate at their upcoming meeting in September
- A drop of just one percentage point in mortgage rates could trigger 5 million people to refinance
- Impact to employment and income verification requests to employers



Poll Question 4

Approximately how many verification requests does your organization receive for your workforce on an annual basis?

- Less than 1,000
- 1,001 – 10,000
- 10,001 - 25,000
- Over 25,000
- No idea!



Questions?



Resources



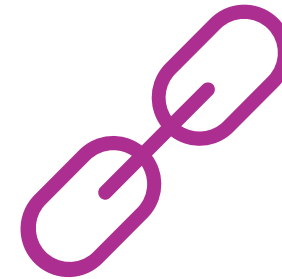
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employerservices@experian.com



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on-demand recordings



Be Prepared

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