



# Regulatory Update on Employment Law



## Speaker

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# Agenda

- Minimum Wage Increases
- U.S. Department of Labor's Overtime Rules
- Worker Classification
- Fair Scheduling Requirements

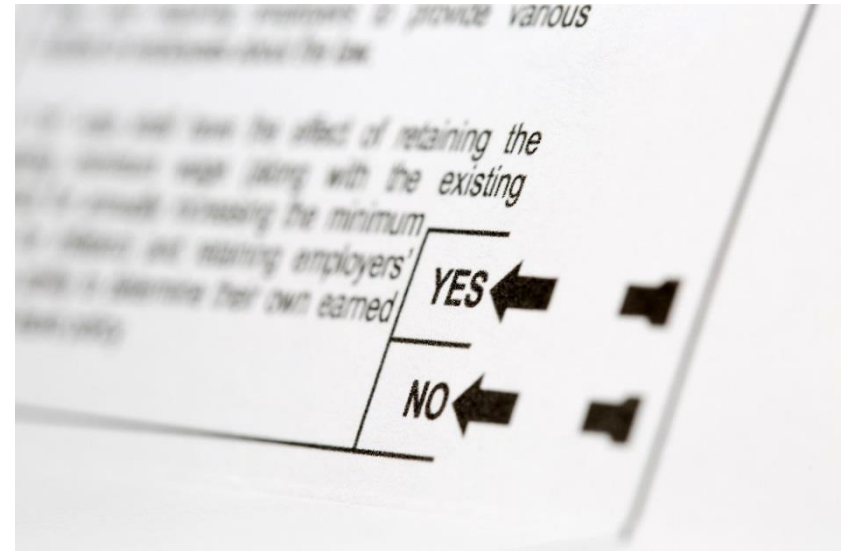
# Agenda

- Immigration
- EEOC Data Collection
- State Retirement Plans
- Same-Day ACH

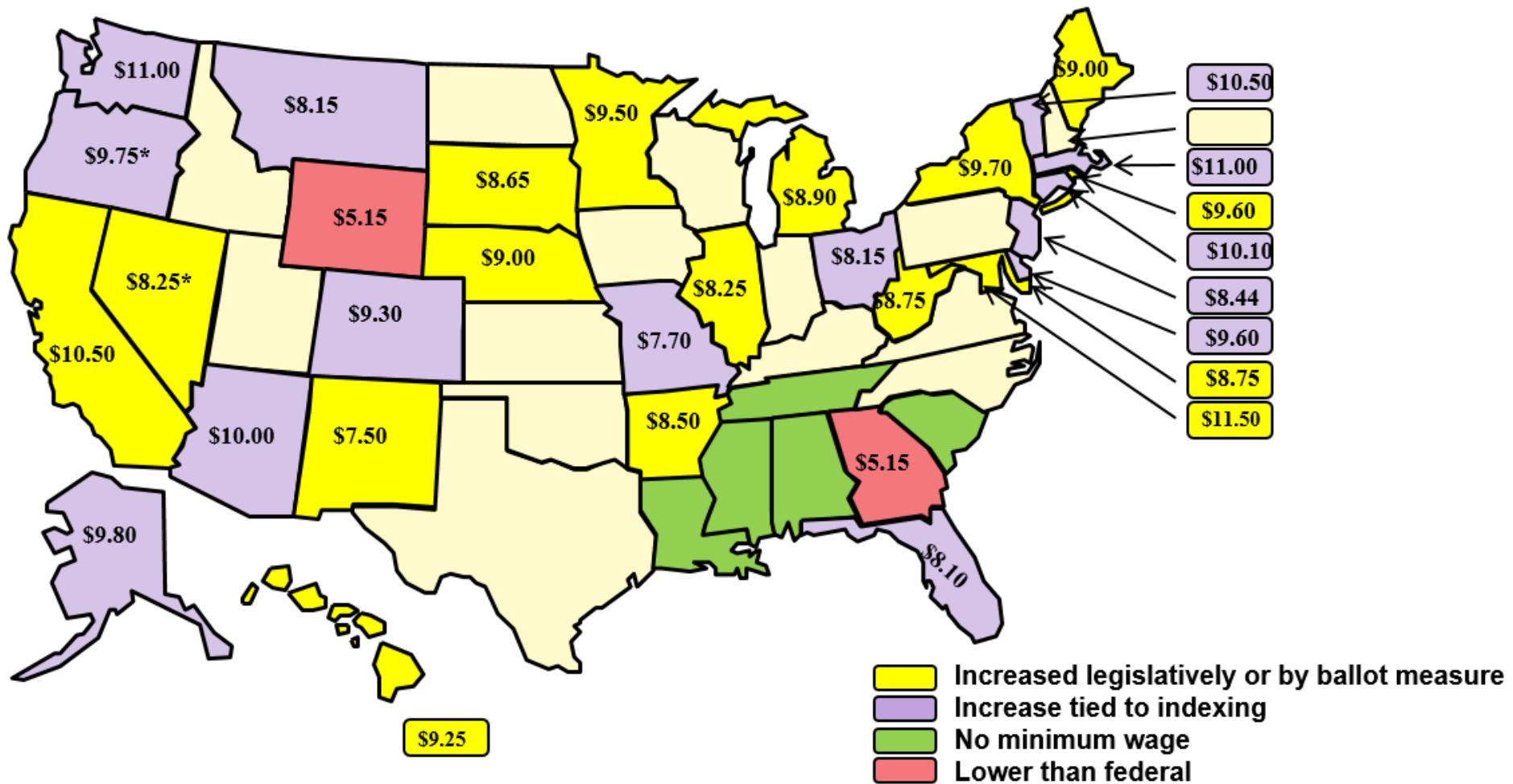
# Minimum Wage Increases

# Minimum Wage Rates

- 21 states increasing minimum wage in 2017
- 29 states above federal minimum
- Some state rates are now hard to define

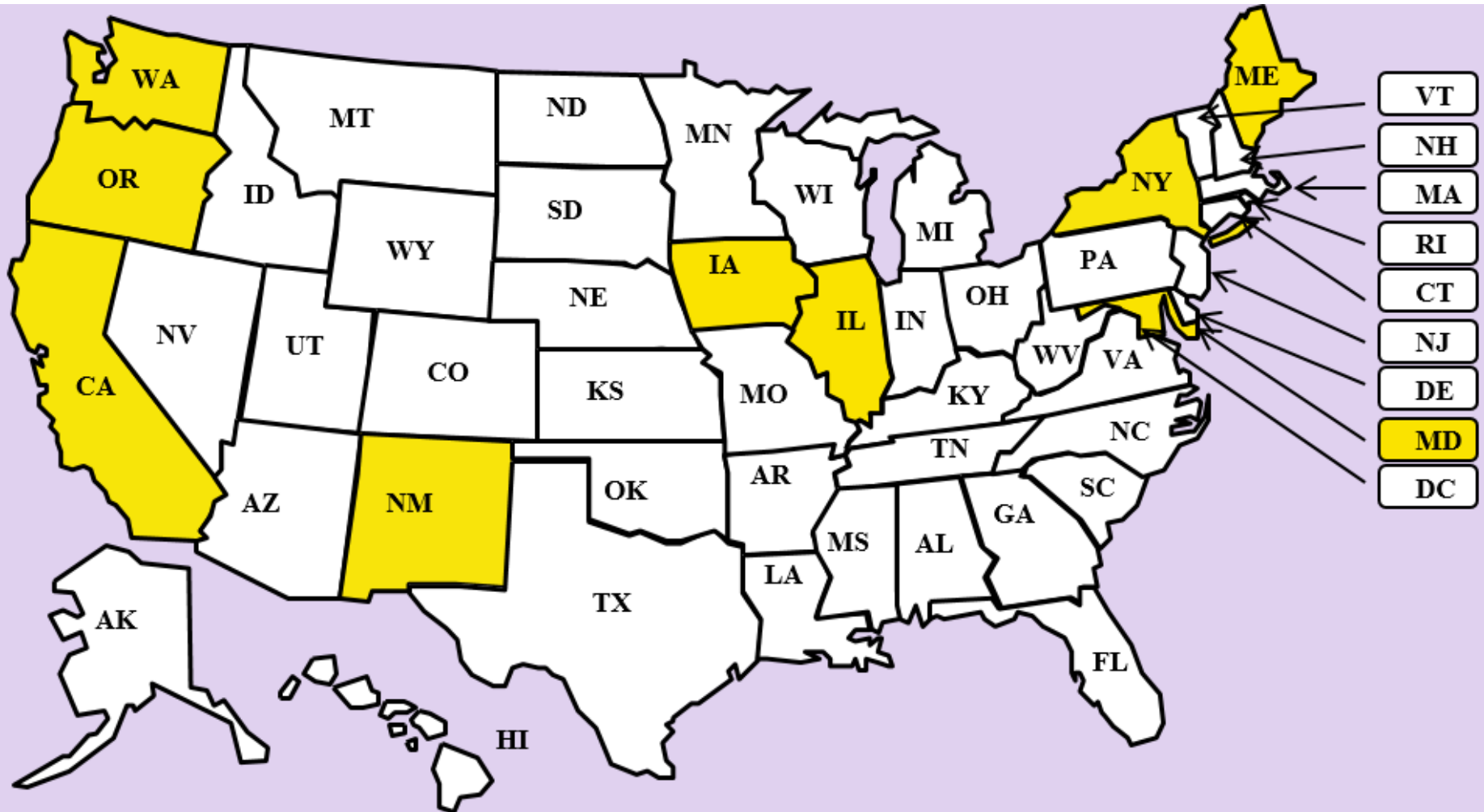


# State Minimum Wage Rates





# States With Local Minimum Wages





# Backlash

- **Living Wage Mandate Preemption Act**
  - Model state law to repeal or prevent local “living wage” mandates
- **Similar bills have been used in**
  - AL, KY, OK, MO, UT

# U.S. Department of Labor's Overtime Rules

# Overtime Rules in Limbo

- **Scheduled for December 1, 2016**
- **Delayed by court, pending appeal**
- **Options**
  - Continue with appeal
  - Drop issue altogether
  - Issue revised rule



# Request to Review Rules

- **In July, DOL asks court to review the rules**
- **Request for Information**
  - Asks 11 questions
  - Comments were due September 25

# Overtime

- **Salary level**

- Current = \$455/week (\$23,660/year)
- Proposed = \$913/week (\$47,476/year)

- **Labor Sec. Alex Acosta suggests**

- \$33,000/year (\$635/week)



The background of the slide features a blue-tinted image of a modern office interior. Silhouettes of several business professionals are visible, some standing and talking, others walking. Their reflections are clearly visible on the polished floor. The large windows in the background offer a view of a city skyline.

# Worker Misclassification

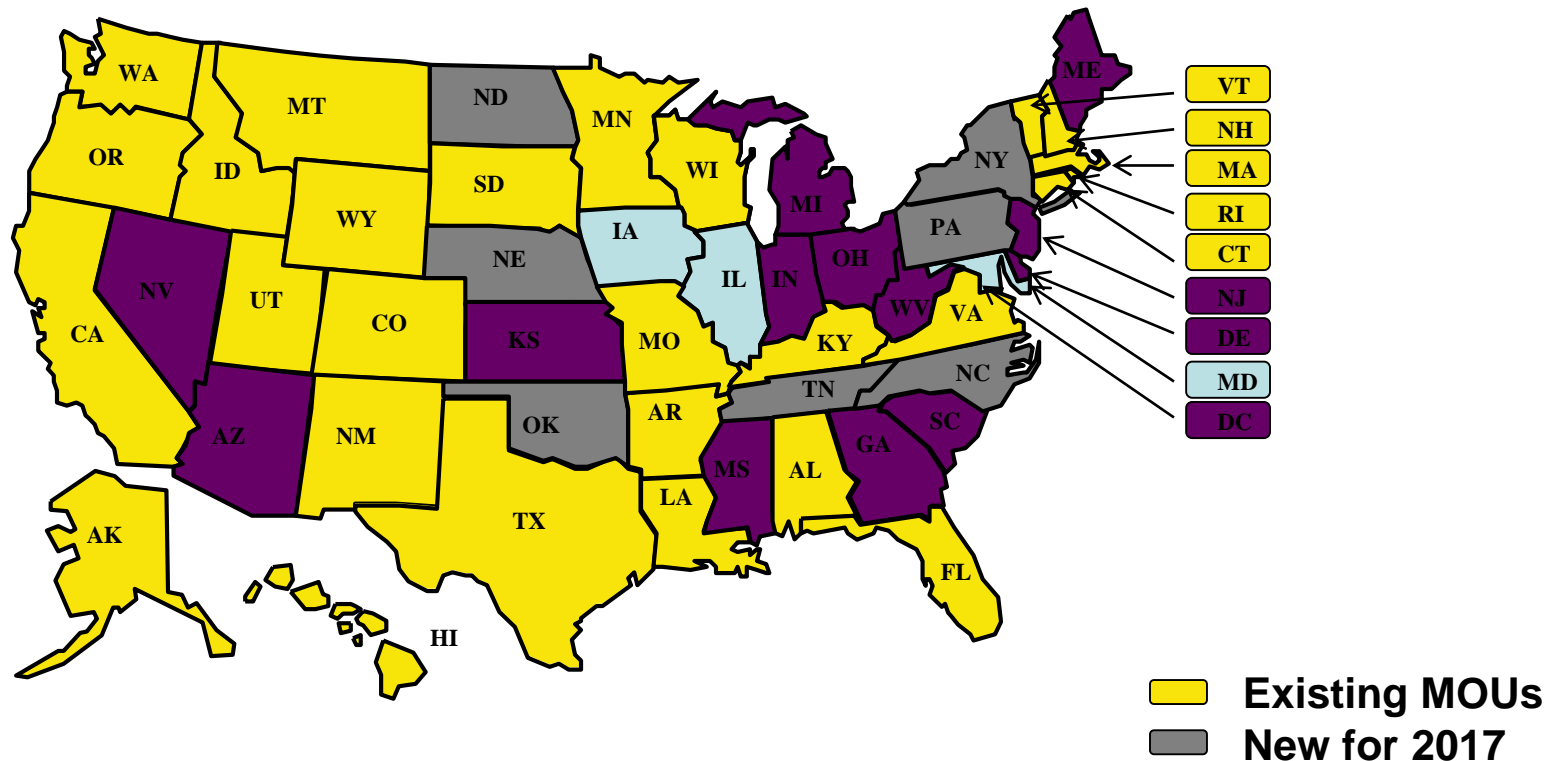
# Worker Misclassification

- **The U.S. DOL, IRS and State Agency Enforcement Efforts Continue**
- **The DOL has partnered with the IRS and 37 states**
- **BLS Survey**
- **Legislation?**





# DOL Memoranda of Understanding



# Gig Economy

- **Ride-sharing companies**
  - Legislation
  - Agency and court opinions



# Gig Economy

- **Freelance worker protections**
  - Applies in New York City
  - Written contract for \$800 or more
  - Timely and full payment
  - Protection from retaliation



# Fair Scheduling Requirements

# Fair Scheduling

- **State laws**
  - Georgia – prohibits local requirements
  - Oregon



# Fair Scheduling

- **Oregon requirements**

- Applies to retail, hospitality, food services
- 500+ employees worldwide
- Does not apply to exempt employees
- Good faith estimate of work schedules
- Compensation for schedule changes

# Fair Scheduling

- **Local laws**
  - Emeryville, California
  - New York City
  - San Francisco
  - Seattle





# Immigration

# Immigration Law

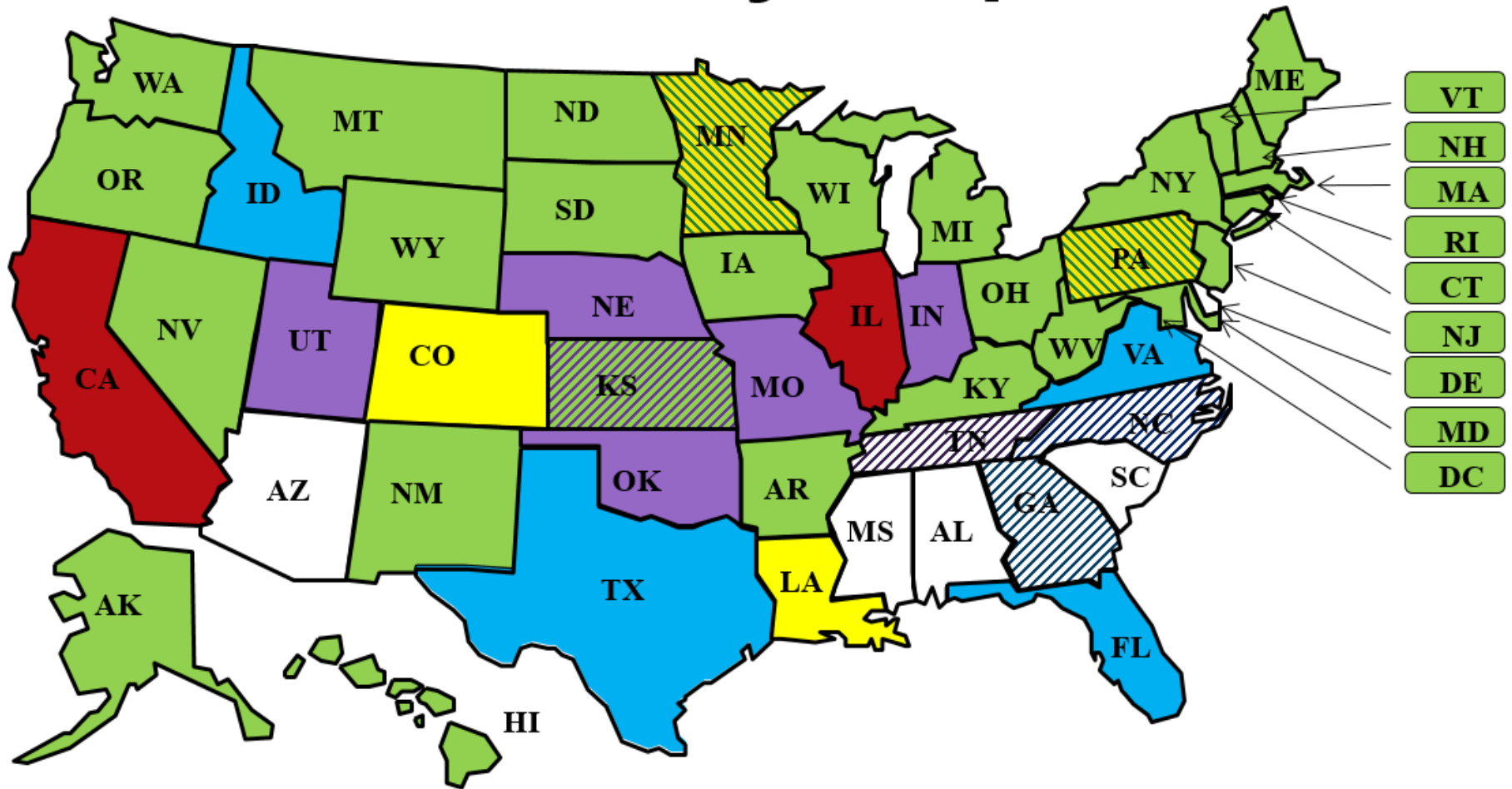
- **Immigration Reform and Control Act**
  - Forbids employers from knowingly hiring unauthorized workers
- **Immigration and Nationality Act (INA)**
  - Employment eligibility verification

# Revised Form I-9

- **USCIS published a revised Form I-9**
  - required for use as of 9/18/17
- **Next revised form March 2018**
- **Spanish language I-9 Central website updated**



# State E-Verify Requirements



# DACA Program

- **Deferred Action for Childhood Arrivals (DACA) program**
  - 9/5/17 President Trump decision to end
- **Affects “dreamers” – individuals working in the U.S. under the DACA program**



# DACA Program

- **Guidance to employers**
  - California
    - Employers not required to immediately re-verify work authorization documents
  - New York City
    - Employment authorization cards valid until expiration

# DACA Program

- **APA seeks guidance regarding employment verification and work authorization**
  - What happens when an employee's work authorization expires?





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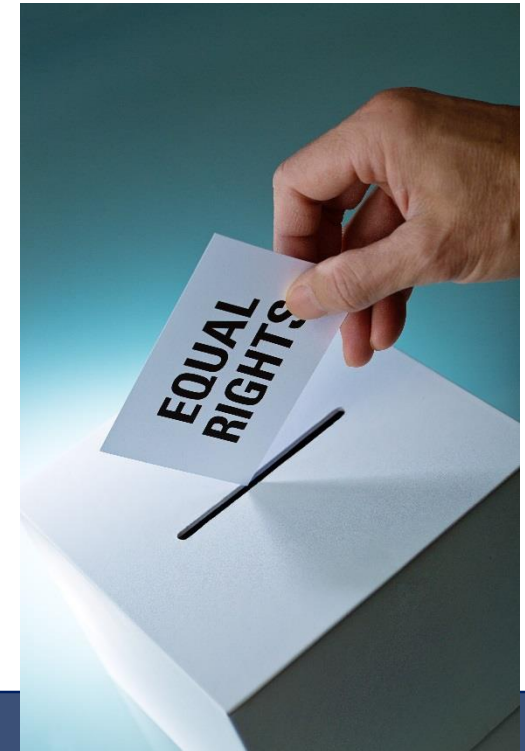
# EEOC Data Collection

# **Pay Data Collection**

- **Pay data collection**
  - **Final rule published September 29, 2016**
  - **EEO-1 due March 31, 2018**
  - **Employers with 100 employees**
  - **Electronic reporting**

# Equal Pay for Equal Work

- **Legislative activity to strengthen pay discrimination laws at federal and state level**
- **Restrictions on Salary History Inquiries**
- **Revised EEO-1 Reporting Form**



# **Pay Data Collection Blocked**

- **8/29/17 OMB memo sent to EEOC**
- **Stops revisions to EEO-1 that would have required summary pay data**
- **Previously approved EEO-1 form that collects data on race, ethnicity, gender by occupational category remains in effect (due March 2018)**

# Pay Data Collection

**Employers report total  
number of full and  
part-time employees  
in 12 pay bands**

Proposed Pay Bands	
Pay Bands	Pay Bands Label
<b>1</b>	\$19,239 and Under
<b>2</b>	\$19,240 — \$24,439
<b>3</b>	\$24,440 — \$30,679
<b>4</b>	\$30,680 — \$38,999
<b>5</b>	\$39,000 — \$49,919
<b>6</b>	\$49,920 — \$62,919
<b>7</b>	\$62,920 — \$80,079
<b>8</b>	\$80,080 — \$101,919
<b>9</b>	\$101,920 — \$128,959
<b>10</b>	\$128,960 — \$163,799
<b>11</b>	\$163,800 — \$207,999
<b>12</b>	\$208,000 and Over

# Pay Data Collection

## 10 job categories

Executive/Senior Level Officials and Managers	Administrative Support Workers
First/Mid-Level Officials and Managers	Craft Workers
Professionals	Operatives
Technicians	Laborers and Helpers
Sales Workers	Service Workers

# State Retirement Plans



# ERISA Safe Harbor

- **Employee Retirement Income Security Act of 1974 (ERISA) safe harbor**
- **Congressional Review Act**
  - H.J. Res. 66 (States)
  - H.J. Res. 67 (Political subdivisions)



# State Retirement Plans

- Marketplace plans
- Secure choice plans

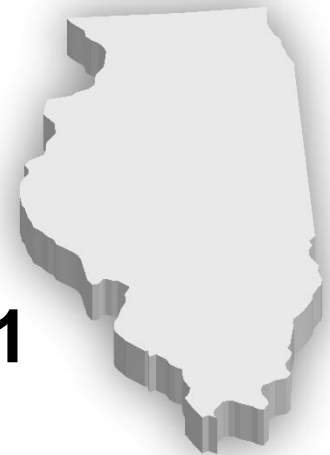


# State Retirement Plan Initiatives

- **Programs face challenges:**
  - set-up costs are expensive
  - fiduciary accountability
- **IL program data collection is now in effect**
- **OR launches program July 1, 2017**
- **Next states will be WA, CA, CT, MA, NJ, MD**

# Illinois Secure Choice Savers Program

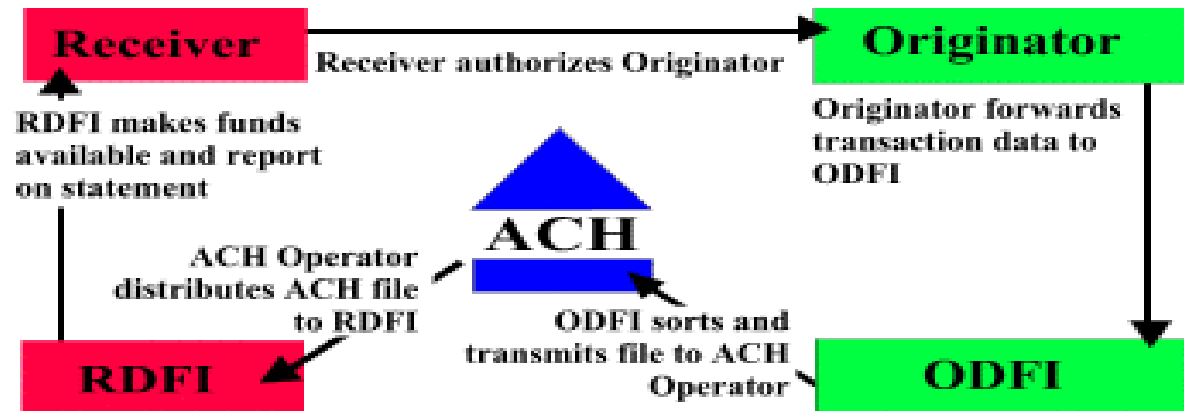
- **Employers Covered:**
  - 25 or more employees
  - Not offering qualifying retirement plan in the past 2 years
- **Tax Income Withholding Form IL-941**



# Same-day ACH

# Same-Day ACH

- ACH network = 71M transactions daily
- 31% of traffic is payroll



# Same-Day ACH

- Transition from *next-day* settlement to multiple *same-day* settlements



# Same-Day ACH

- **Potential uses:**

- Same-day payroll
- Expedited bill pay
- Business-to-business payments
- Account-to-account transfers





# Same-Day ACH

- You are not required to use same-day ACH
- RDFIs must:
  - Accept same-day ACH files
  - Make funds available at end of day



# Same-Day ACH

- **SDACH will better support:**
  - Direct deposit functions for
    - Hourly staff
    - Temporary staff
    - Termination pay



# Same-Day ACH

- **SDACH will better support:**
  - Contingency plans for missed deadlines
  - Payroll error corrections
  - Tax withholding remittances
  - Garnishment remittances

# Same-Day ACH



- **Limitations:**

- No individual transactions >\$25,000
- No international ACH transactions (IATs)

# Same-Day ACH



- **Phase 1 – eff. 9/23/2016**
  - **ACH credit** transactions
    - 10:30 am transaction settles at 1:00 pm ET
    - 2:45 pm transaction settles at 5:00 pm ET

# Same-Day ACH

- **Phase 1 credit transactions useful for:**
  - Payroll
  - Person-to-person payments
  - Same-day bill pay



# Same-Day ACH

- **Phase 2 – eff. 9/15/2017**
  - ACH **debit** transactions



# Same-Day ACH

- **Phase 2 useful for consumer bill payments:**
  - Utilities
  - Mortgage
  - Credit card payments





# Same-Day ACH

- **Phase 3 – eff. 3/16/2018**
  - ACH credit available at 5:00 pm RDFI local time



# Same-Day ACH

- **5.3 cents per transaction**
  - ODFI pays RDFI
  - Cost can only go down
- **But... what will service provider charge?**



# Same-Day ACH

- **No new transaction codes**
- **Determined by date**
  - Effective date = transaction date = Same-day ACH



# Same-Day ACH

- **Returns**
  - Allowed, not required, next day
  - Settled on next available settlement opportunity



# Questions



# Contact Information

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