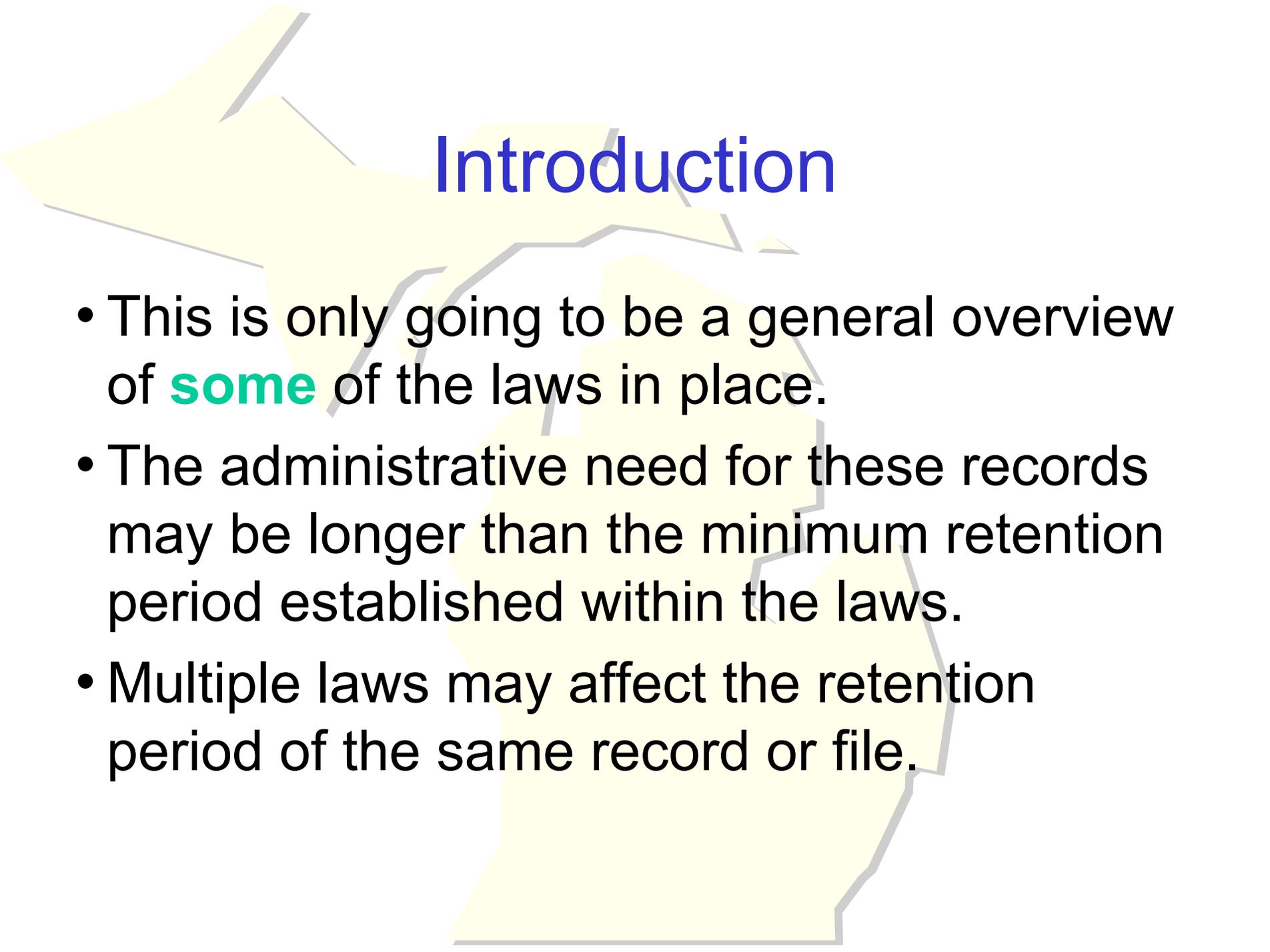


Employee Record Retention

Jeff Baldwin

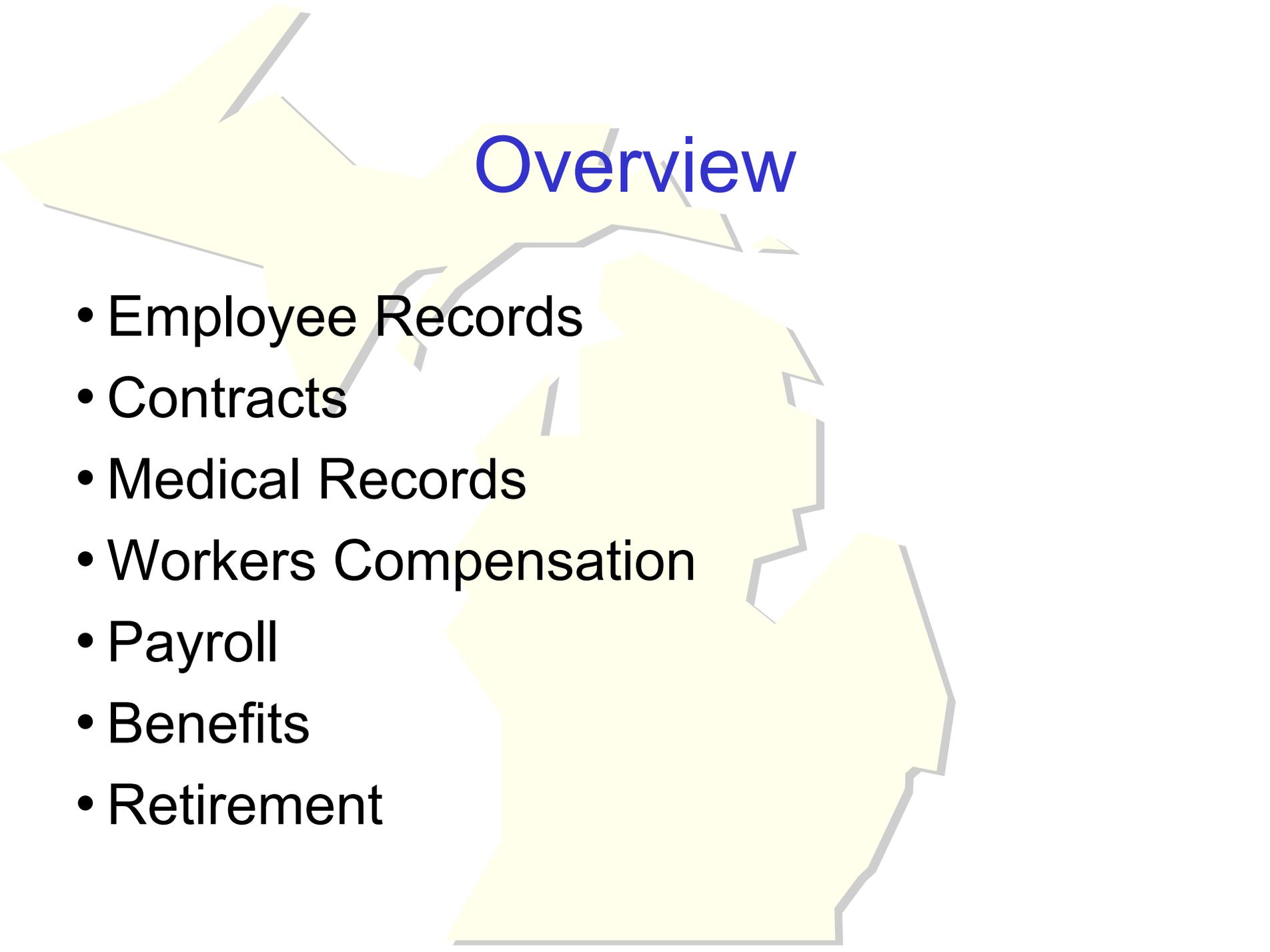
Department of History, Arts & Libraries

Records Management Services



Introduction

- This is only going to be a general overview of **some** of the laws in place.
- The administrative need for these records may be longer than the minimum retention period established within the laws.
- Multiple laws may affect the retention period of the same record or file.



Overview

- Employee Records
- Contracts
- Medical Records
- Workers Compensation
- Payroll
- Benefits
- Retirement

Job Applications – 1 year

- Title VII of the Civil Rights Act of 1964
- American with Disabilities Act of 1990
 - Both require employers to retain all hiring records, including application files, for 1 year from the date the records were made or the personnel action was taken, whichever is later.
- The Age Discrimination in Employment Act
 - Includes all the above plus inquiries and resumes.

Personnel Files

- Civil Rights Act of 1964
- Americans with Disabilities Act of 1990
- Age Discrimination in Employment Act
 - All three laws state that records relating to employee promotion, demotion, layoffs, recalls, discharges or selection for training must be retained for 1 year from the date of the personnel action.

Personnel Files (Cont.)

- The Equal Pay Act of 1963
 - Job descriptions, 2 years
- Family and Medical Leave Act
 - Leaves of absence records, 3 years
- Employee Polygraph Protection Act
 - Must retain the test results and the reasons for administering the test for 3 years

Personnel Files (Cont.)

- Bullard-Plawecki Employee Right to Know Act, P.A. 397 of 1978
 - Allows employees access to their personnel files.
 - Specifies what not to keep in personnel file.
 - Specifies actions to follow if a employee is being investigated for criminal activity.

Immigration and Naturalization Employment Eligibility Verification Form I-9

- Requires all U.S. employers to complete and maintain for each employee hired after Nov. 6, 1986
- Immigration and Nationality Act of 1952
 - Must be maintained for 3 years from date of hire or 1 year following termination, whichever is longer.
- Must be available for inspection within 3 days from when they are requested.

Employee Contracts

- The Fair Labor Standards Act of 1938
- The National Labor Relations Act
 - Both specify a 3 year retention period following termination for employee contracts, including collective bargaining agreements.

Employee Medical Records

- Employers can maintain medical histories, test results and other medical information about employees, but such records must be filed separately from personnel records.
- Records related to workers employed for less than 1 year need not be retained, if they are provided to the worker upon termination of employment.

Employee Medical Records (Cont.)

- Retain medical records for 30 years following termination.
- Employee testing for controlled substances or alcohol, should be retained for 1 to 5 years, as defined in 49 CFR 382.401.
- Medical records related to exposure to toxic substances or harmful physical agents should be retained for 30 years.

Employee Medical Records (Cont.)

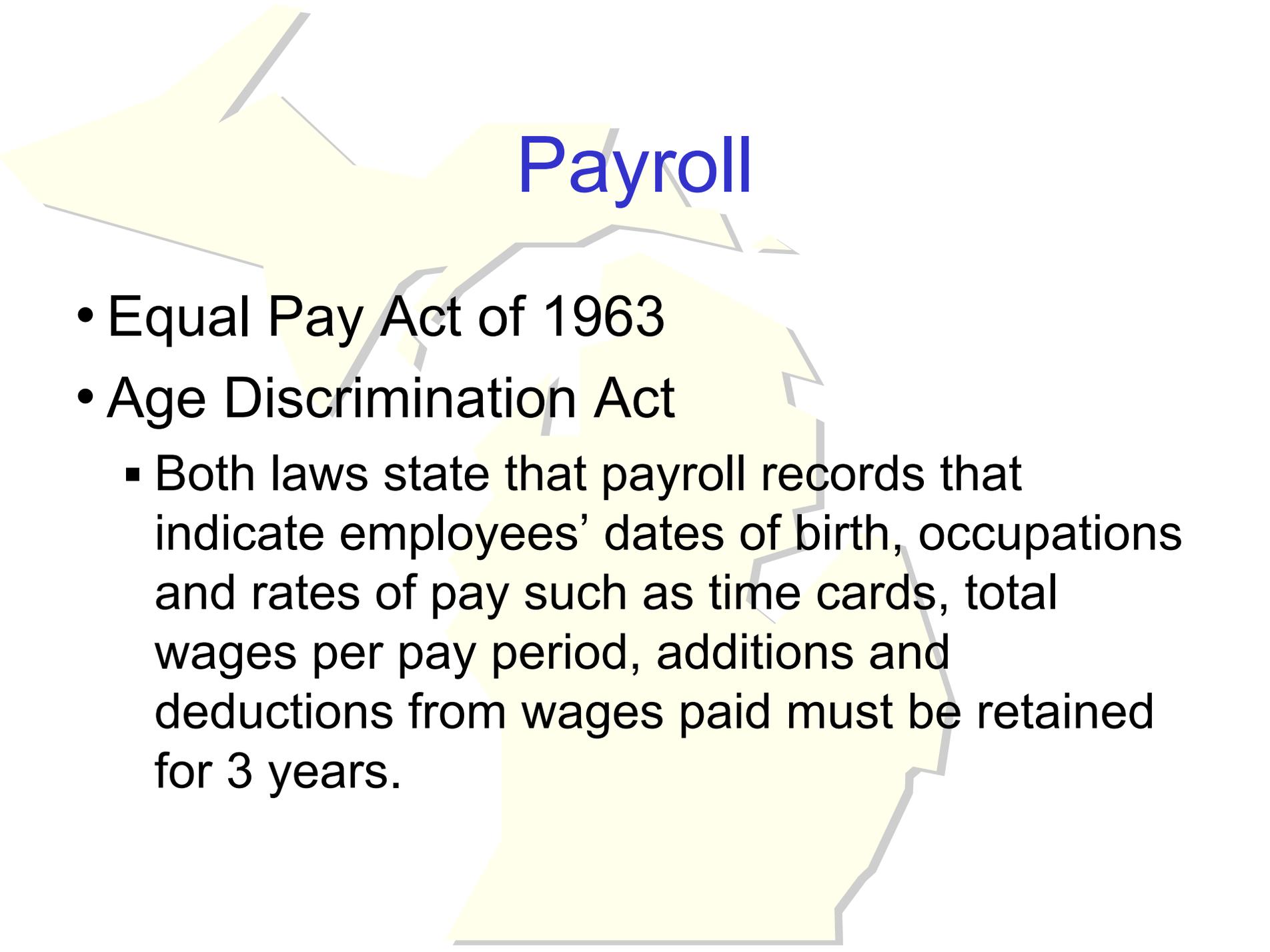
- OSHA
- MIOSHA (300, 300-A & 301)
 - Both laws require that certain records be created. They also require that the records be retained for 5 years following the end of the calendar year that they cover.
 - OSHA accepts MIOSHA forms to meet their requirements.

Employee Medical Records (Cont.)

- MIOSHA
 - Part 470 of the Occupational Health Standards
 - Part 11 of the Safety & Health Standards
- Available at their website:
<http://www.michigan.gov/mioshastandards>

Workers Compensation

- Workers Disability Compensation Act of 1969, P.A. 317 of 1969
 - Allows workers up to 2 years to file a claim.
 - The bureau is required to maintain their files for contested cases for 20 years.
- Workers Compensation website:
 - <http://www.michigan.gov/wca>



Payroll

- Equal Pay Act of 1963
- Age Discrimination Act
 - Both laws state that payroll records that indicate employees' dates of birth, occupations and rates of pay such as time cards, total wages per pay period, additions and deductions from wages paid must be retained for 3 years.

Payroll (Cont.)

- Federal Insurance Contribution Act
- Federal Unemployment Tax Act
 - Both state that records relating to income taxes withheld from the employees' wages, including W-4 withholding forms, must be retained for 4 years from the date the taxes are due or paid.

Payroll (Cont.)

- Just a reminder!
 - As with personnel records, legally mandated retention requirements for payroll records may be shorter than the administrative value of such records.
 - For example, these records may be needed to determine pension eligibility, based upon the employees' length of service and rate of pay.



Employee Benefits

- Pension Plans
- Disability Plans
- Health Insurance Plans

Employee Benefits (Cont.)

- The Employee Retirement Income Security Act of 1974, (ERISA)
 - Defines the responsibilities and record keeping requirements.
 - Employers must maintain sufficient records to determine the benefits due to employees.
 - Law does not specify how long employee benefit files must be kept.

Employee Benefits (Cont.)

- Reciprocal Retirement Act, P.A. 88 of 1961
 - Unique to municipalities.
 - Allows carry over of retiree benefits from 1 municipality to the next.
- Need to make sure records are available that document payroll, beneficiaries, etc.
- <http://www.mersofmich.com/>

Employee Benefits (Cont.)

- The Health Insurance Portability and Accountability Act of 1996 (HIPAA), 6 years
 - HIPAA rules do not contain explicit record retention requirements. However, documentation that would be relevant to showing compliance with the rules would include - health plan instructions to providers, software documentation, contracts, and systems processes.
 - Does refer to the retention requirements of the Privacy and Security Rules, § 164.530(j) and § 164.316(b).
 - Website: <http://www.hhs.gov/ocr/hipaa/>

Social Security Act

- Social Security Number Privacy Act, P.A. 454 of 2004
 - Places strict restrictions on how this information can be used and shared.
 - Requires a privacy policy.
 - Prohibits unlawful disclosure.
 - Established penalties.



State Resources

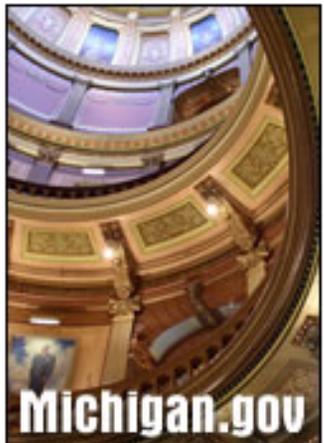
- Visit the State of Michigan web portal
- <http://www.michigan.gov/>



- Michigan Government
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- Education & Children's Services
- Careers, Colleges & Training
- Business & Economic Growth
- Safety & Security
- Travel & Recreation
- About Michigan
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Spotlight



- State Employee Appreciation Week
It is with great pride that I wish you the very best during State of Michigan Employee Appreciation Week, May 1-6, 2006.
- MI Opportunity Partnership Connects 30,000 Workers with Jobs; Program reaches first goal ahead of schedule
- Governor Granholm Highlights Plan to Expand Access to Health Insurance
- Sign Now to Lower Gas Prices!**

RSS

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- How do I? Find an answer...Select a question below. GO
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- Departments/Agencies
- Online Services
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- Governor
 - Lt. Governor
 - First Gentleman
 - State Job Opportunities
 - Michigan eLibrary (MeL)
 - MI Legislature
 - Attorney General
 - Secretary of State
 - MI Courts
 - Michigan Lottery
 - Local Government
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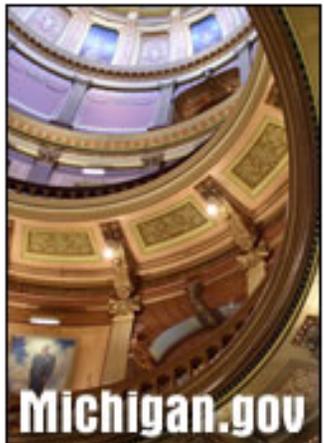
- #### Featured Links
- MI Newswire
 - Buy Michigan First
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- #### Featured Links
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Legislature

- Bills
- Calendars
- Committee Bill Records
- Committee Meetings
- Concurrent Resolutions
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- Legislators
- Public Acts (Signed Bills)
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- Session Schedules
- Basic Legislative Search
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- Laws
 - Freq Requests (alpha)
 - Freq Requests (by topic)
 - Basic MCL Search
 - Advanced MCL Search
 - Public Act MCL Search

Welcome to the Michigan Legislature Website!

A free service of the Michigan Legislative Council, the Michigan House of Representatives, and the Michigan Senate.

The 2005-2006 Michigan Manual is now available for purchase. [Find out more.](#)

Legislative Bill Search

Bill Number

 Search

(ex. "4001" or " 4001-4005")

Bill Key Word Search

 Search

(ex. "environment")

Michigan Compiled Laws Search

MCL Section

 Search

(ex. "2.29" or "8.40-8.50")

MCL Key Word Search

 Search

(ex. "tenant")

Related Sites



- Legislature
- Bills
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Search Results

(94 found)

Search Criteria: mclfulltext = Public record

Search within these documents for

Search

Document	Type	Description
Article-IV § 6	Section	Commission on legislative apportionment.
Section 4.14	Section	Secretary of state as secretary of commission; duties; election of chairman or co-chairmen; rules; compensation; expenses.
Section 6.11	Section	Impeachment; duties of secretary; record of proceedings, oaths.
Section 15.232	Section	Definitions.
Section 15.233	Section	Public records; right to inspect, copy, or receive; subscriptions; forwarding requests; file; inspection and examination; memoranda



Navigation

- ← Documents →
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- [Act 442 of 1976](#)
- [Section 15.233](#)

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Section 15.233

FREEDOM OF INFORMATION ACT (EXCERPT) Act 442 of 1976

15.233 Public records; right to inspect, copy, or receive; subscriptions; forwarding requests; file; inspection and examination; memoranda or abstracts; rules; compilation, summary, or report of information; creation of new public record; certified copies.

Sec. 3.

(1) Except as expressly provided in section 13, upon providing a public body's FOIA coordinator with a written request that describes a public record sufficiently to enable the public body to find the public record, a person has a right to inspect, copy, or



Navigation

← Documents →

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[Section 15.233](#)

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Document - Section 15.233

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Document	HTML Version	PDF Version
Section 15.233 Public records; right to inspect, copy, or receive; subscriptions; forwarding requests; file; inspection and examination; memoranda or abstracts; rules; compilation, summary, or report of information; creation of new public record; certified copies.	 3 KB	 3 KB
Download Time for 56K Modem	0.5 seconds	0.5 seconds
	0.0	0.0

FREEDOM OF INFORMATION ACT (EXCERPT)

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(2) A freedom of information act coordinator shall keep a copy of all written requests for public records on file for no less than 1 year.

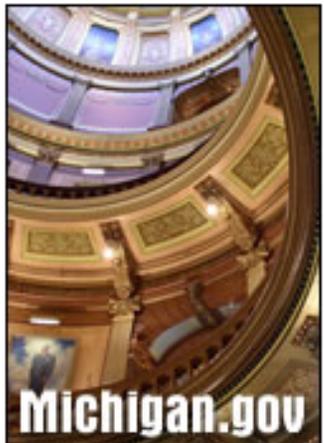
(3) A public body shall furnish a requesting person a reasonable opportunity for inspection and



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History, Arts and Libraries



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Welcome to Records Management Services



Michigan's Records Management Services provides expertise and assistance to state and local government agencies with managing records and information in the most effective, cost efficient, and legally compliant manner.

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- [General Information](#)
Information about the Records Management Services, the analyst services, and records management.
- [Retention and Disposal Schedules](#)
Information about general schedules and agency-specific schedules for state and local government

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- [Services](#)
Information about services provided to state and local government, including microfilming, document imaging and Records Center Operations. 
- [Policies, Standards and Guidelines](#)
Information for state and local government agencies about e-mail retention, microfilming, document imaging record storage and more.

Additional Resources

- [Michigan's Local Government Records are in Danger!](#) 
- [Presentations](#)
Presentations delivered by Records Management Services staff to state and local government employees about a variety of topics.
- [Records Management and State Archives Forms](#)
Records Management and State Archives forms for state and local government.
- [Records Management Application Pilot Project](#)
Information about the State of Michigan Records Management Application Pilot Project, including vendor selection criteria, progress reports and the final report. 



E-file Online! 



A yellow outline map of Washington state is positioned in the background of the slide. The map is semi-transparent and shows the state's geographical shape, including its coastline and major landmasses.

Additional Resources

- <http://www.washingtonwatchdog.org/documents/cfr/index.html>

Code of Federal Regulations

[Title 1: General Provisions](#)

[Title 3: The President](#)

[Title 4: Accounts](#)

[Title 5: Administrative Personnel](#)

[Title 6: Homeland Security](#)

[Title 7: Agriculture](#)

[Title 8: Aliens and Nationality](#)

[Title 9: Animals and Animal Products](#)

[Title 10: Energy](#)

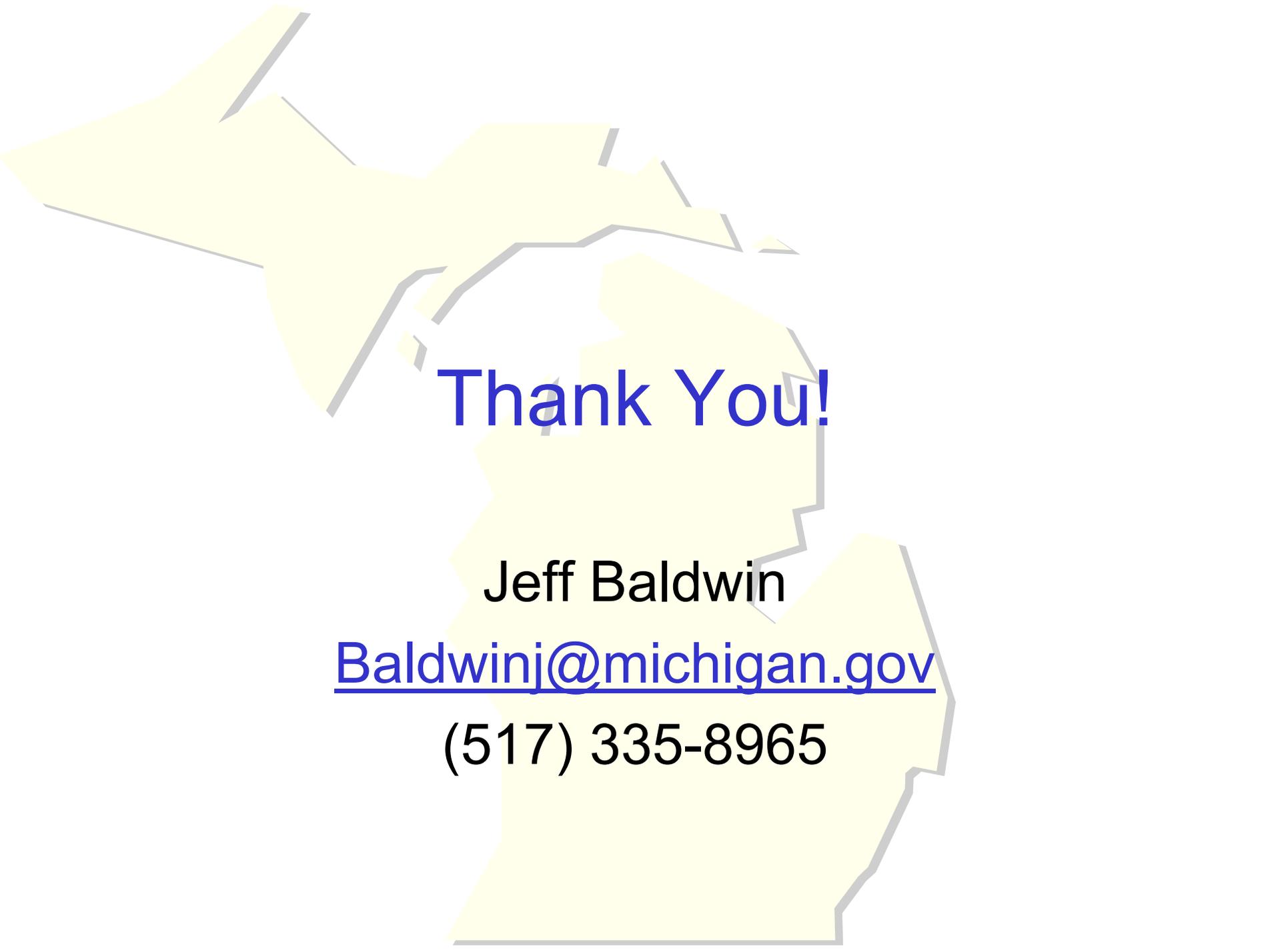
[Title 11: Federal Elections](#)

[Title 12: Banks and Banking](#)

Additional Resources (Cont)



- Michigan Municipal League (MML)
 - General Schedule #8
- Michigan Townships Association (MTA)
 - General Schedule #10



Thank You!

Jeff Baldwin

Baldwinj@michigan.gov

(517) 335-8965