NCSL

National Overview of Election Policy Trends

February 9, 2023

Wendy Underhill, Director, Elections & Redistricting

- The nation's bipartisan organization serving legislators and legislative staff across the 50 states and U.S. territories

- Services include:
  - Policy Research
  - Training
  - Connections
  - State Voice in D.C.
  - Meetings

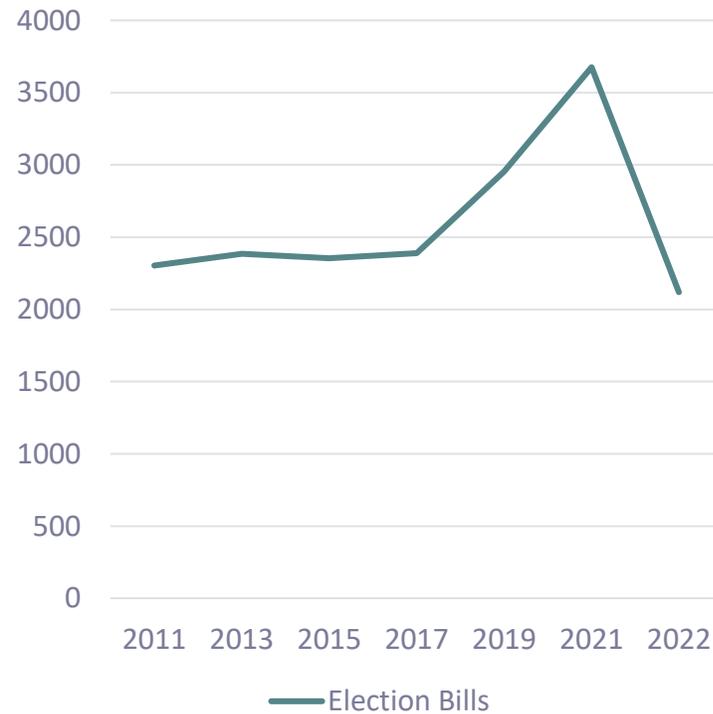# Who is NCSL?

NCSL

Today's Agenda

1. **The past: 2022 enactments**

2. Current topics
   - List maintenance
   - Post-election audits
   - Voting technology
   - Non-citizens and voting
   - Election security

3. The future: possible topics
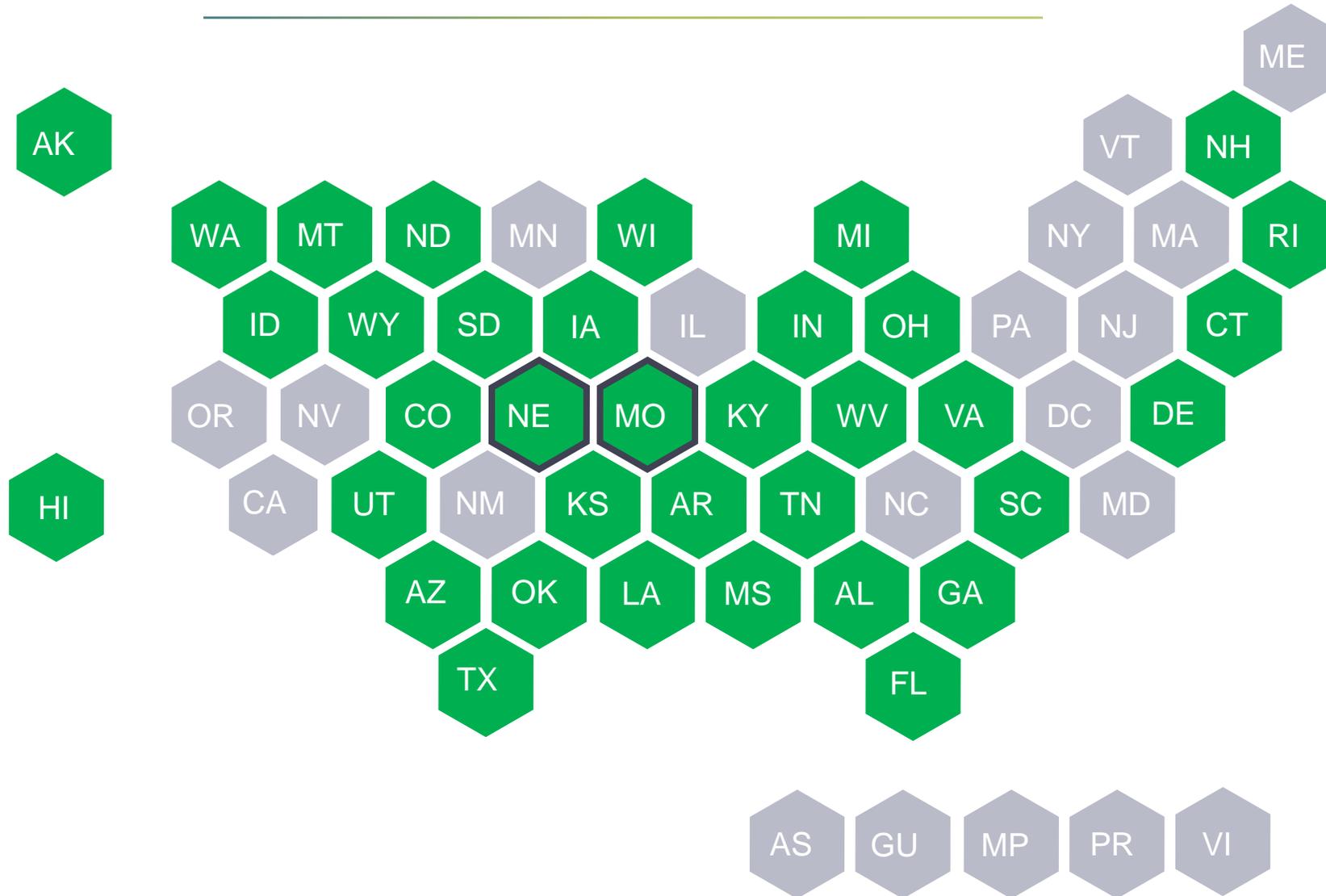
Election Legislation (By the Numbers)

Voter ID Laws

FL: Free IDs for those with financial hardship

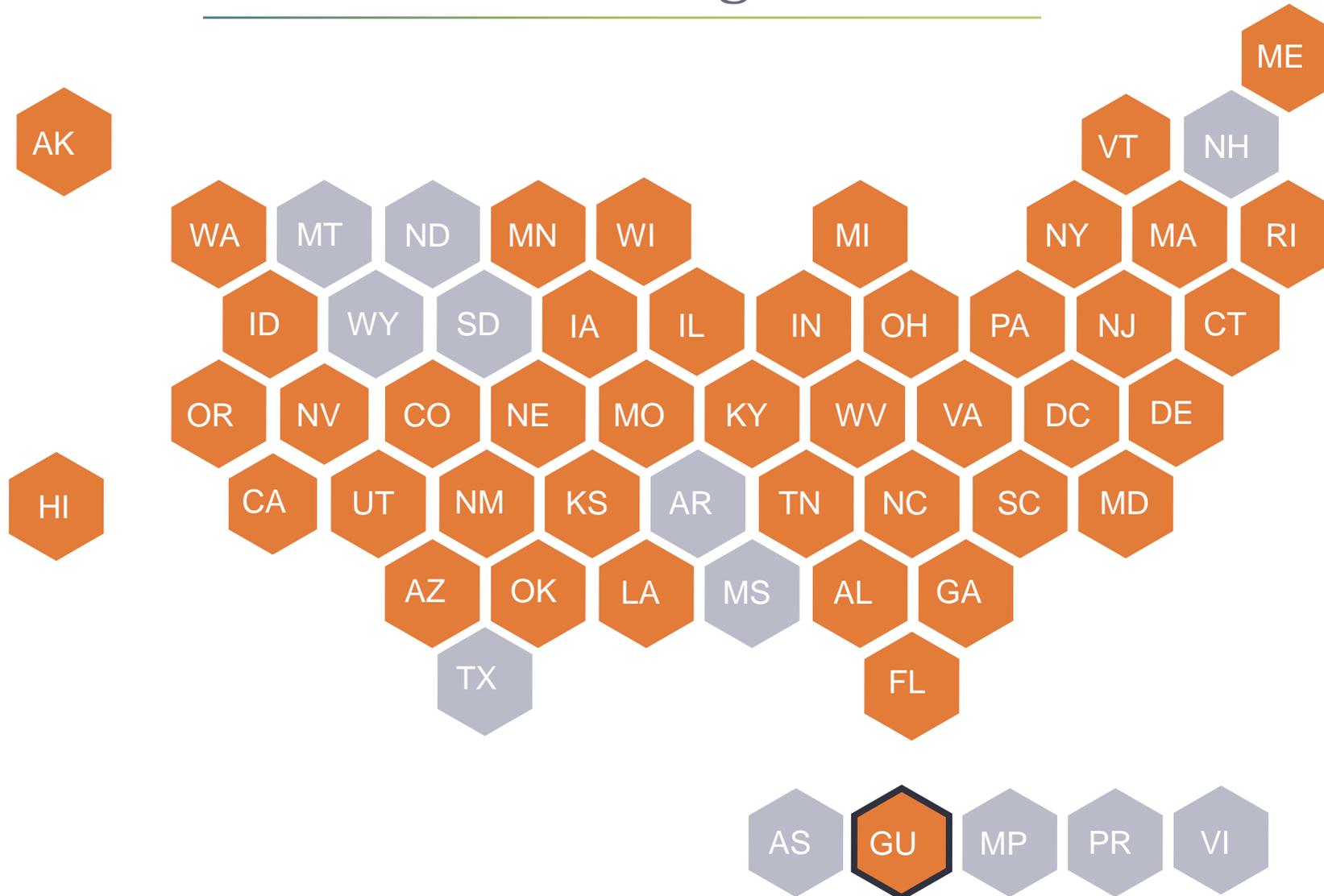ME: Added tribal IDs

NH: Established provisional voting

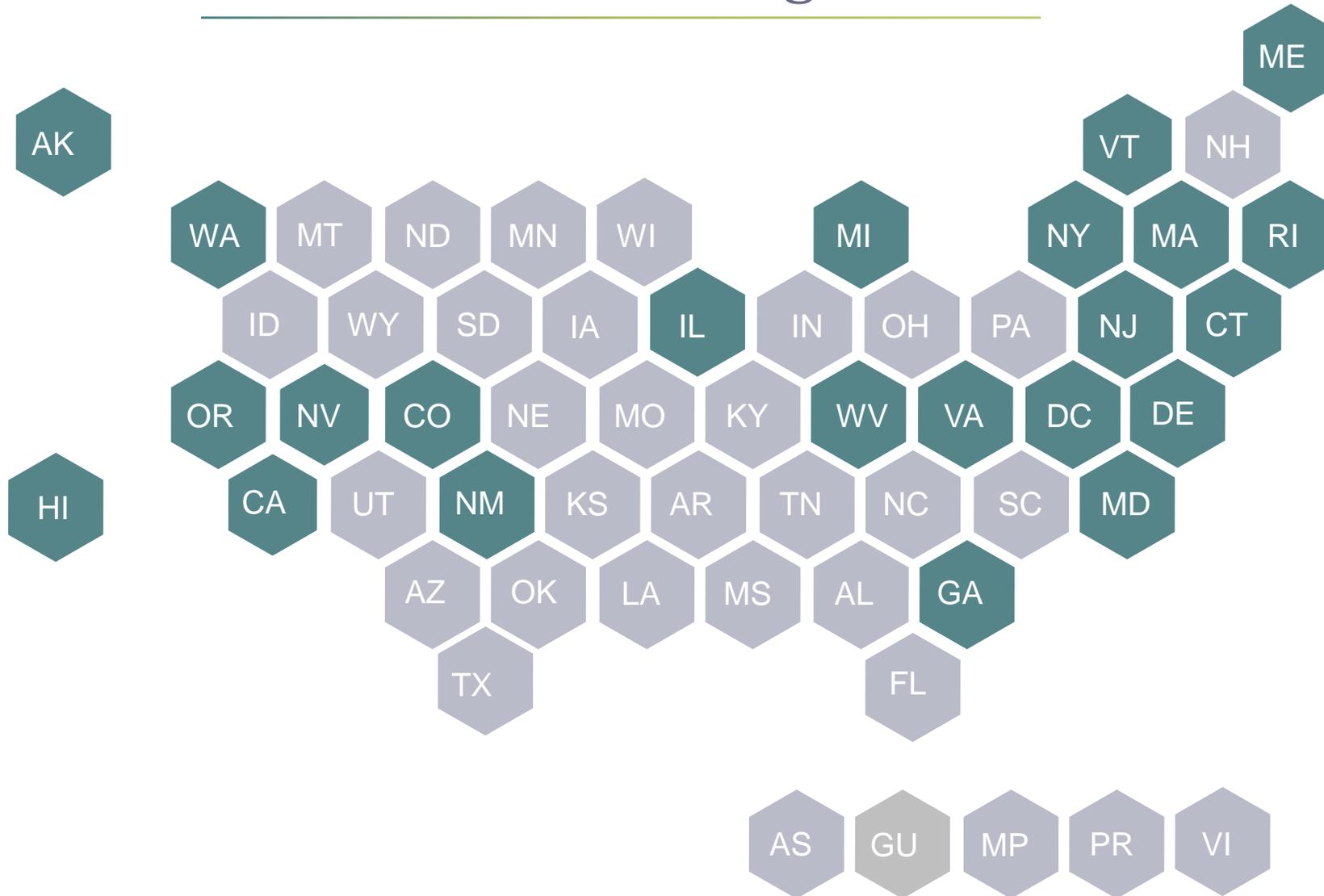UT: Required ID when voting if not provided at registration

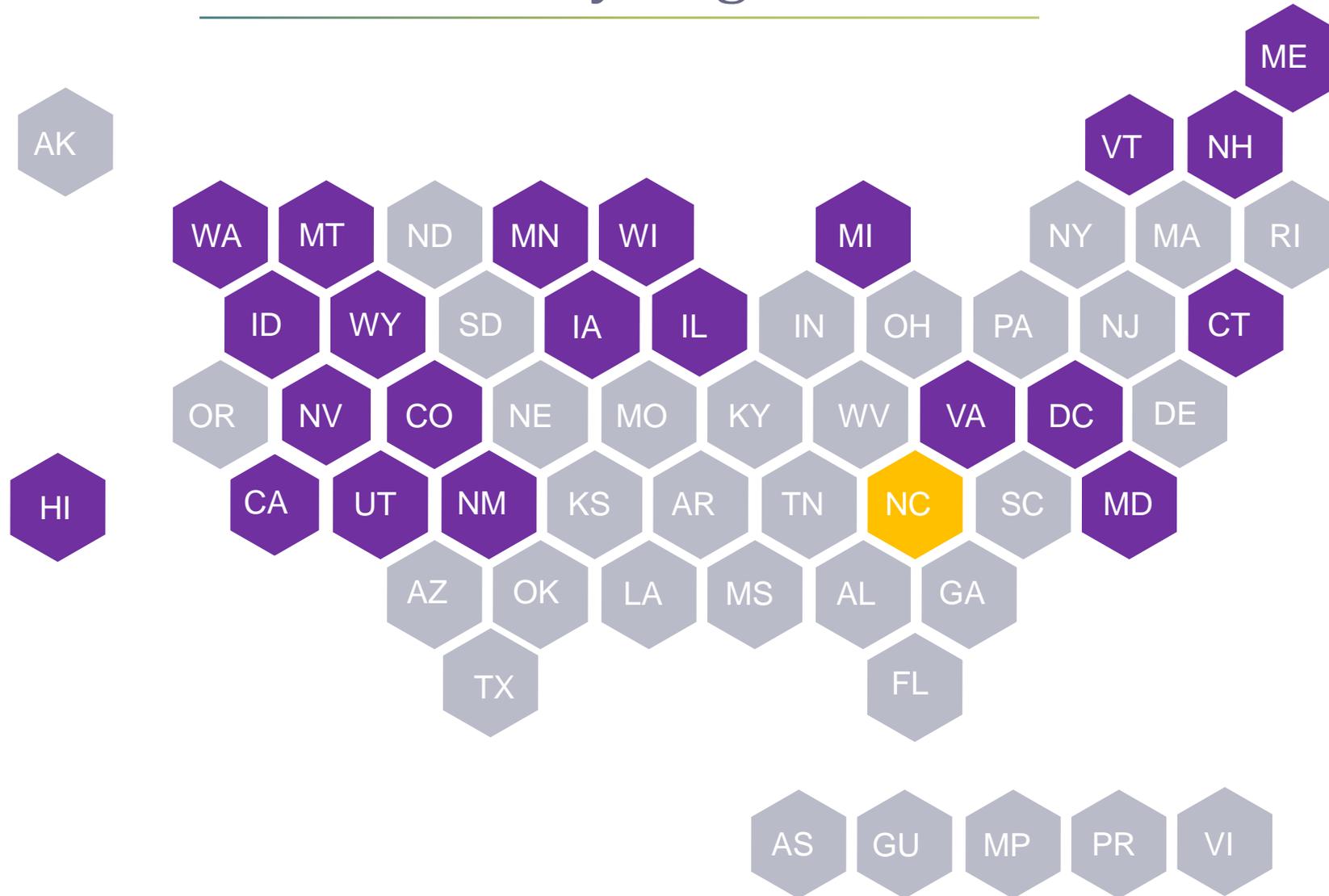# Voter ID 2022 Enactments

For in-person voting

Online Voter Registration

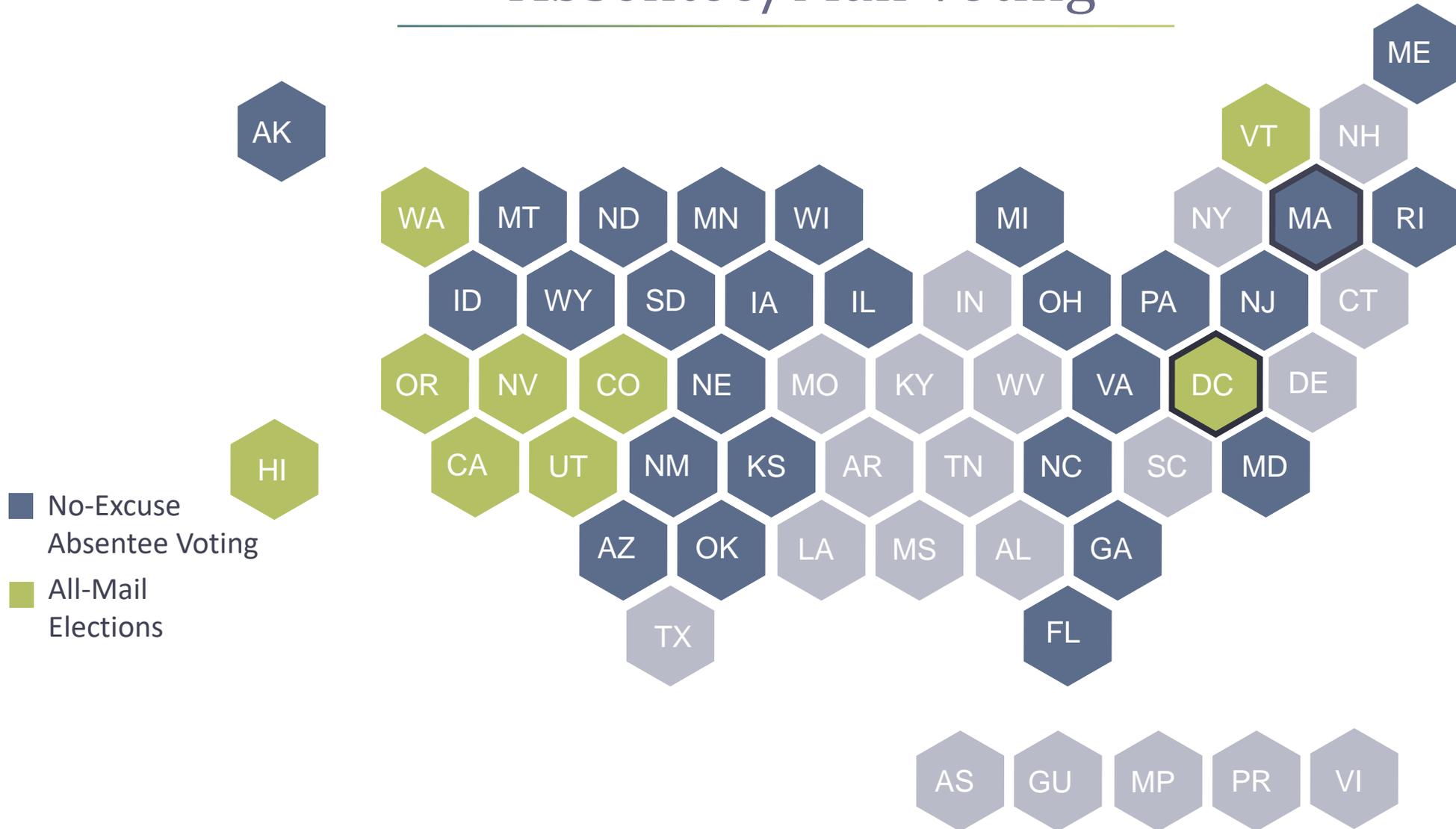# Automated Voter Registration

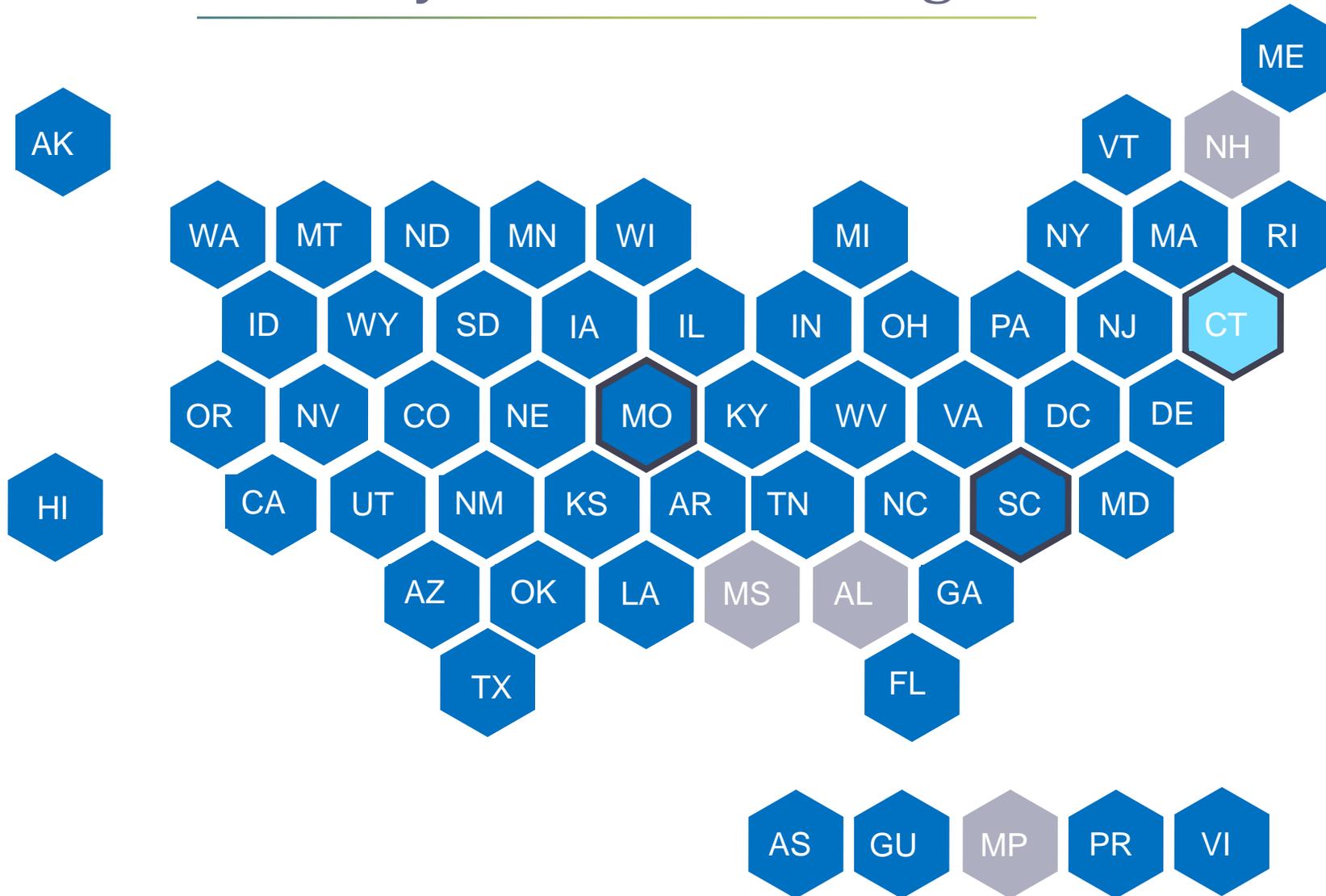# Election Day Registration

Absentee/Mail Voting

Legend:
- No-Excuse Absentee Voting
- All-Mail Elections

Early In-Person Voting

- NJ, RI, SC, WY: Allowed absentee/mail processing to begin sooner

- IN, SC: Added additional ID requirements

- NJ: Created permanent absentee list

- RI, WV: Authorized electronic ballots for some voters

Finetuning Absentee/Mail Voting (2022 Enactments)

Ballot Tracking

o 45 states have some kind of ballot tracking system

o AZ, MI, NY: Authorized ballot tracking systems in 2022
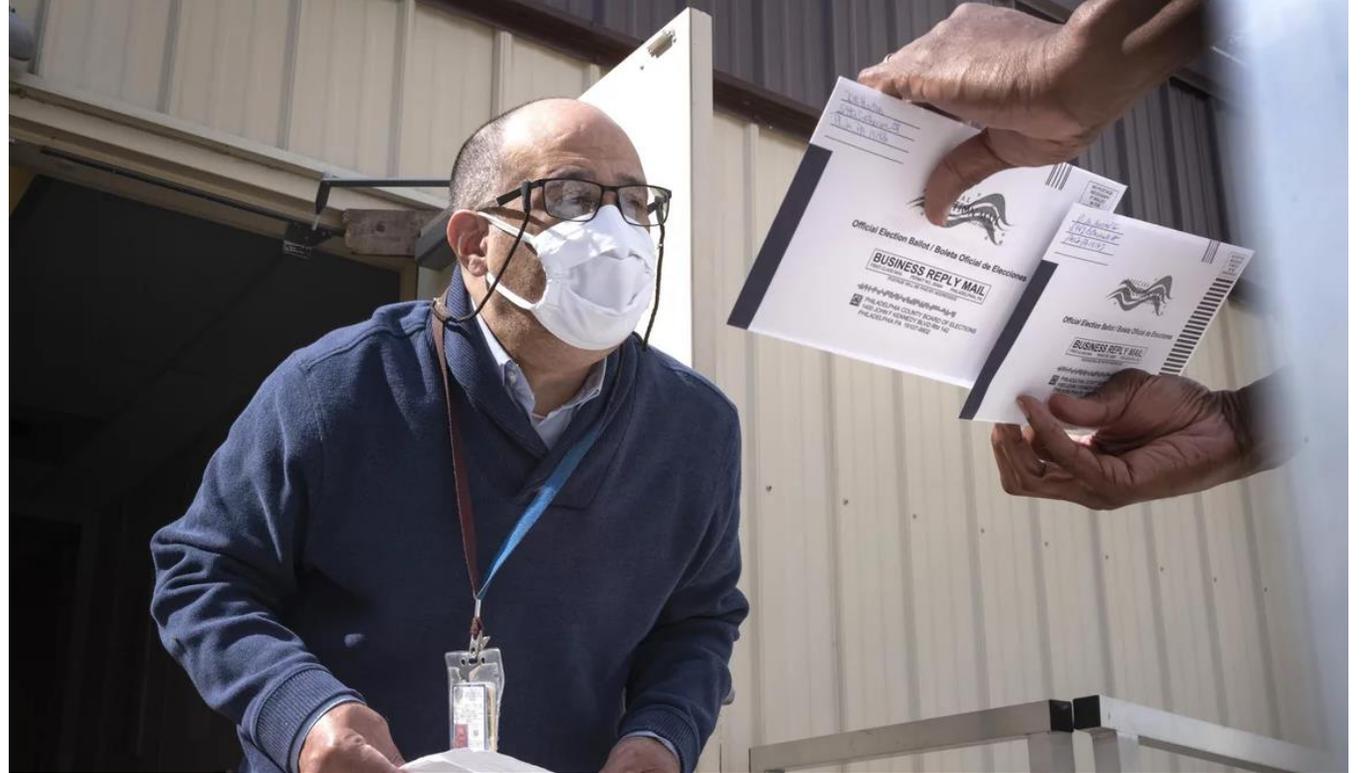
o CO: Prohibited open carry within 100 feet

o MI: Required drop boxes

o MO: Prohibited drop boxes

o UT: 24-hour surveillance

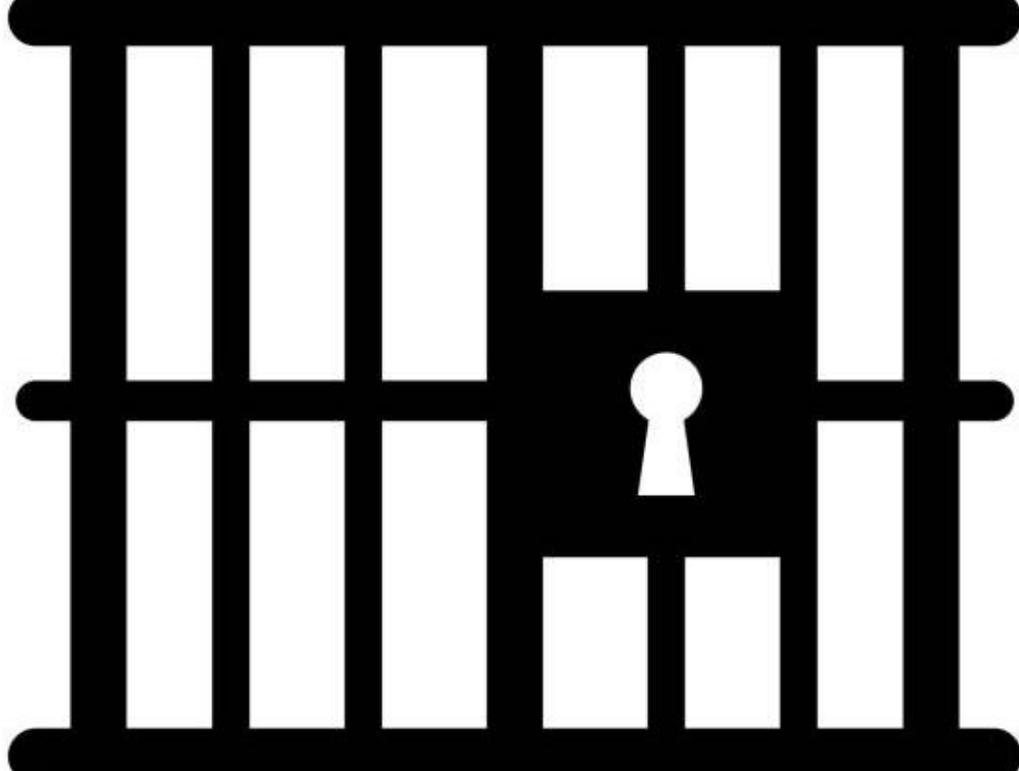o WA: Prohibited electioneering within 25 feet

Ballot Drop Boxes Enactments in 2022

- 24 states allow voters to cure their ballots

- LA: Created ballot cure process in 2022

Ballot Cure Processes

Felon Voting—2022

CA: In exit process, voter registration information is offered

MA: Requires prison staff to assist in voter registration requesting absentee/mail ballot for those are not yet convicted felons but are incarcerated

Private or Charitable Funds in Elections

In 2021: AZ, AR, FL, GA, ID, IN, KS, ND, OH, TN & TX prohibited, limited or regulated the use of private funds in elections

In 2022: AL, KY, MS, MO, OK, PA, SD, UT, VA & WV did the same

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Voter Registration List Maintenance

Foundational – registration was the original way states verified voter status

States must follow federal law

The list is never perfect

o Minors reach 18

o People become citizens

o People pass away

o Voters move and don't update their voter registration or even address with Post Office

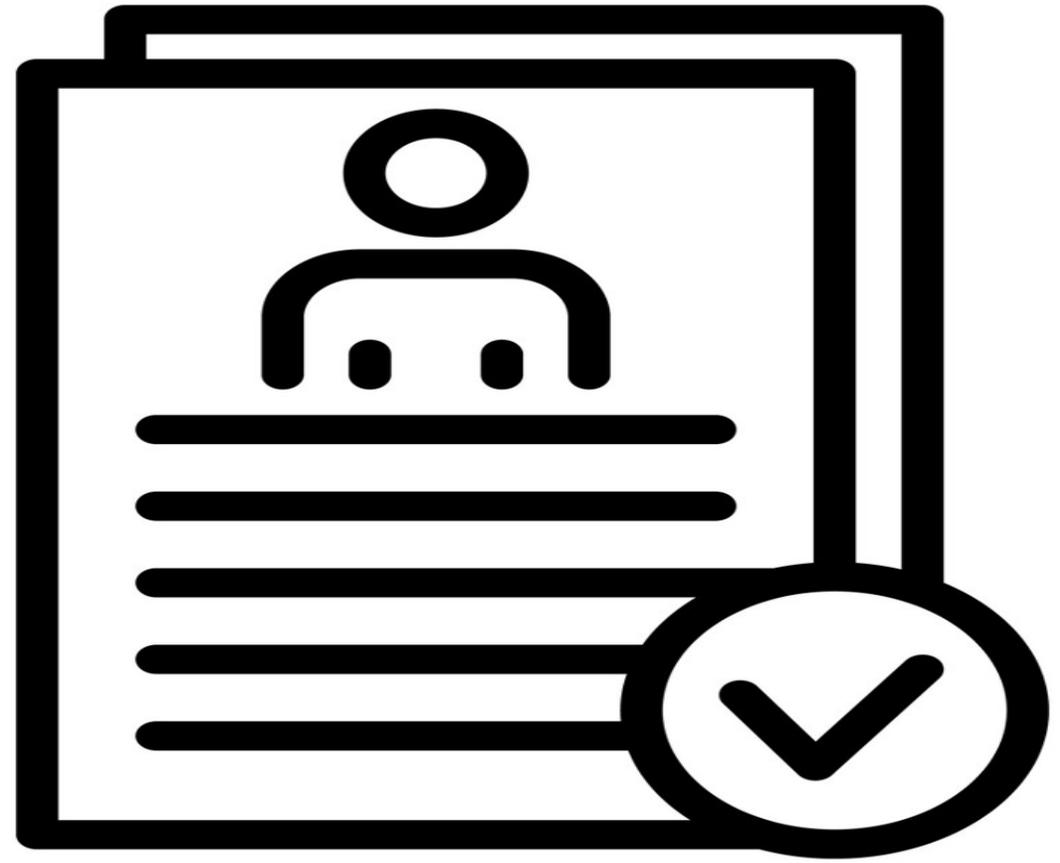# Why Keeping Voter Lists Up-to-Date is Hard

National Voter Registration Act (1993)

o Requires DMV registration option

o Maintenance must be completed 90 days before Election Day

o Sets standards for voter registration deadlines and list maintenance

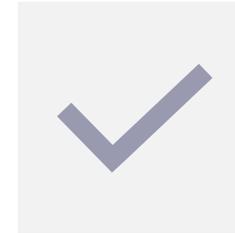Federal Voter List Maintenance Requirements

o Death Records

o Prison Records

o National Change of Address

o ERIC

o Jury Lists

o Voter's Request—of course!

Data Sources to Check

Legislative Options for List Maintenance

Require activities more frequently

Compare data with other sources, states

Require regular reports to legislature

Create online removal tool for voters

"A systematic, independent and documented process for obtaining audit evidence and evaluating the evidence objectively to determine the extent to which the audit criteria are fulfilled."

Election Auditing: Key Issues and Perspectives, MIT Election Data and Science Lab and MIT/Cal Tech Voting Technology Project
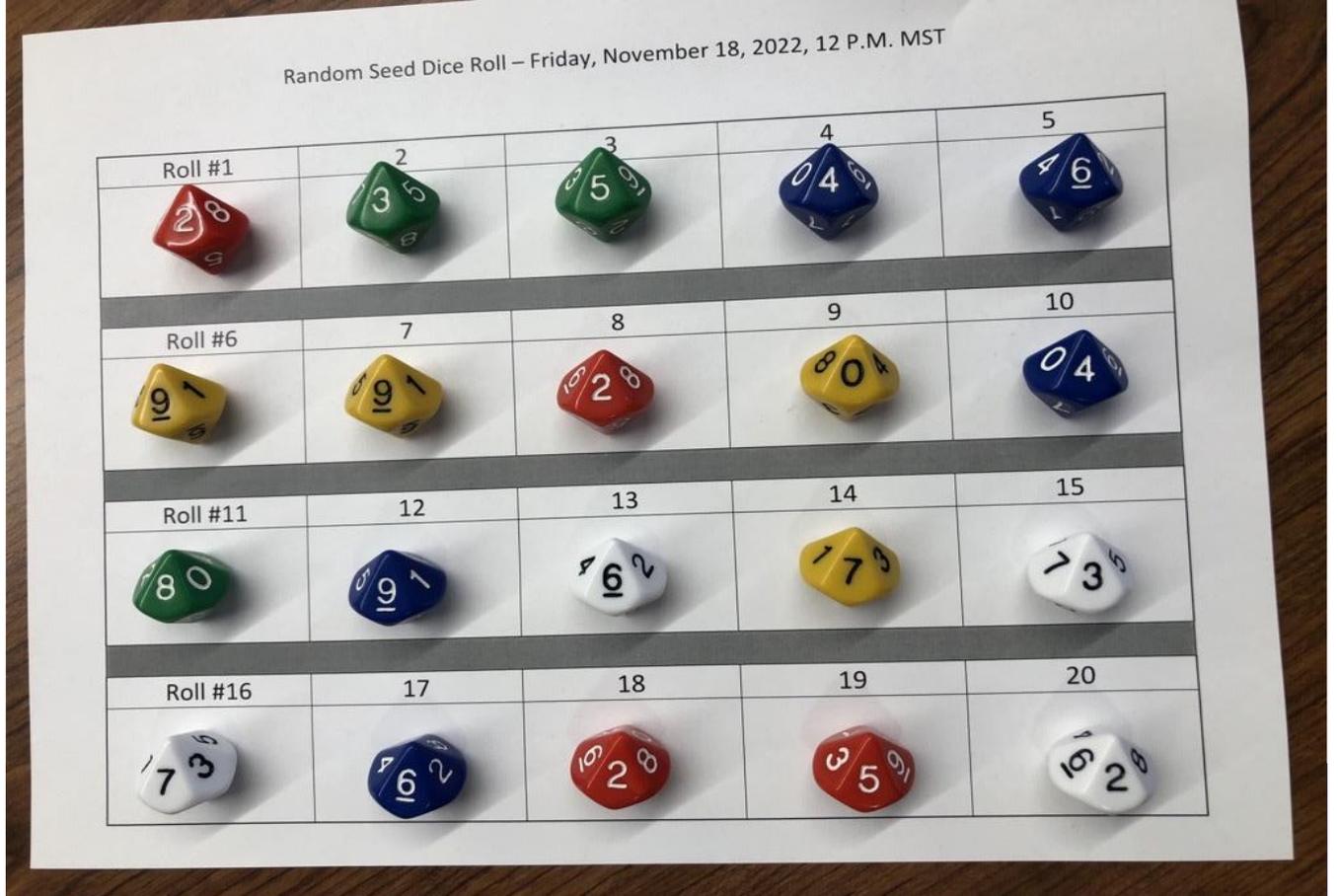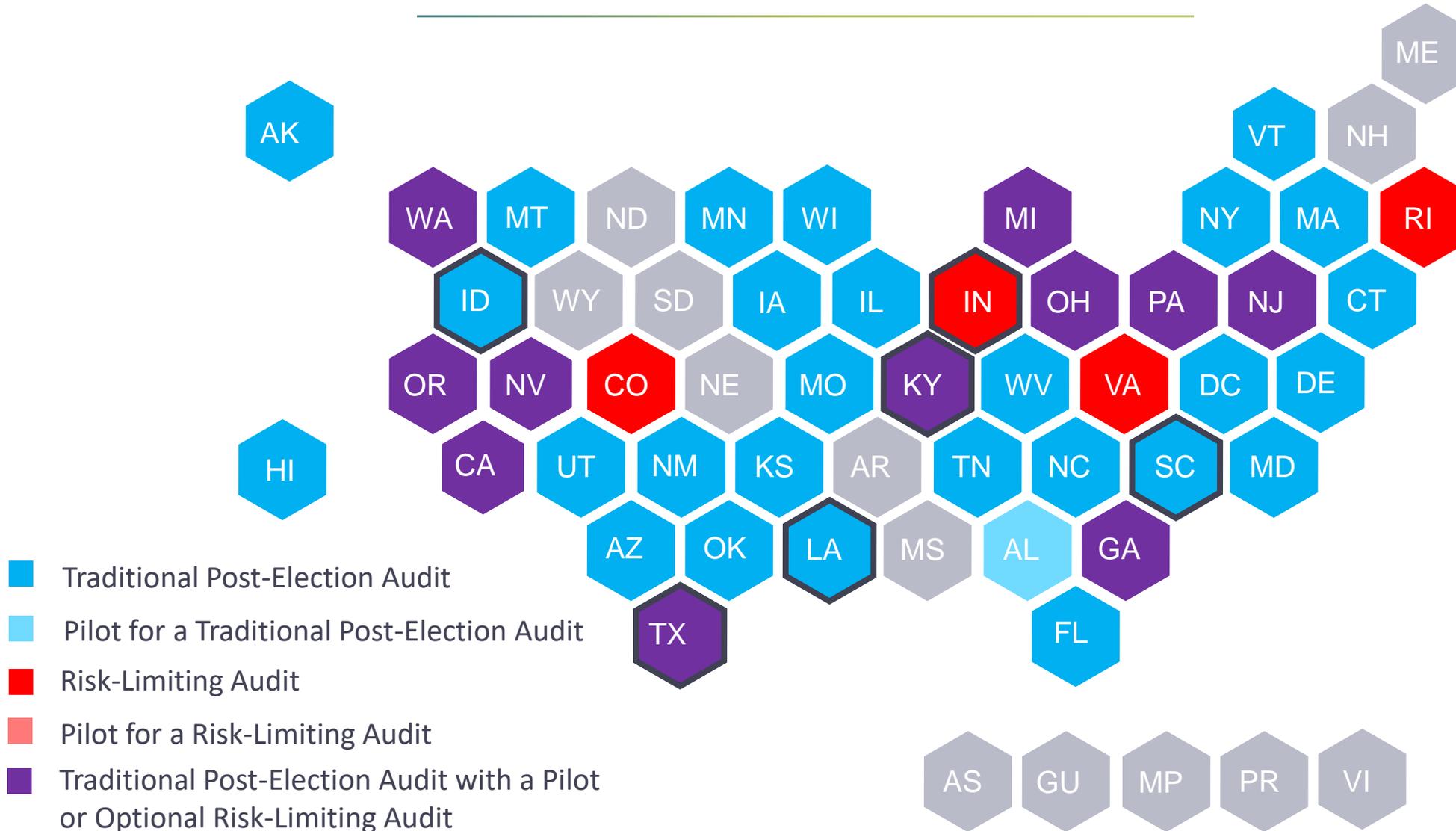
Post-Election Audits

Post-Election Audit Types

o Goal: To check paper ballots or records against the results produced by the voting system

o Two main types:
  o Traditional: Set number of ballots audited
  o Risk-limiting: Number of ballots audited is statistically based, dependent on closeness of race

- Audit efficiently—may need fewer ballots to review

- Verifies that equipment counted correctly

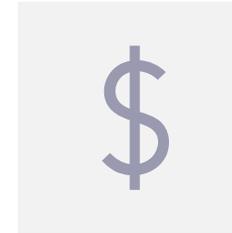- If done before certification, can correct errors in vote tabulation

Random Seed Dice Roll – Friday, November 18, 2022, 12 P.M. MST

Risk-limiting audits

Post-Election Audits

NCSL
NATIONAL CONFERENCE OF STATE LEGISLATURES

Legend:
- Traditional Post-Election Audit
- Pilot for a Traditional Post-Election Audit
- Risk-Limiting Audit
- Pilot for a Risk-Limiting Audit
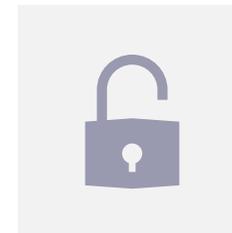- Traditional Post-Election Audit with a Pilot or Optional Risk-Limiting Audit
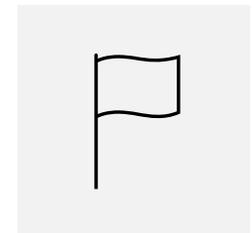
Voting Technology

Funding

Uniformity

Ancillary Tech

Federal certification

o Proof of citizenship for registration requirements

o Confirm what ID used at DMV—birth certificate, naturalization papers

o Checking jury lists, other state lists

o Prohibiting non-citizens voting in local elections

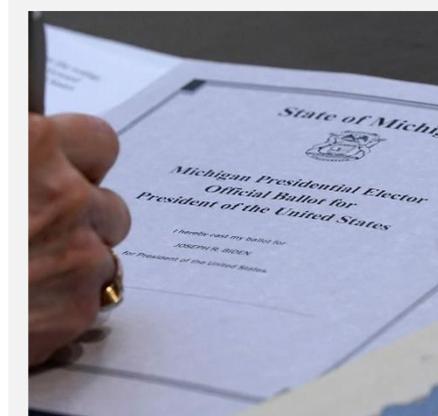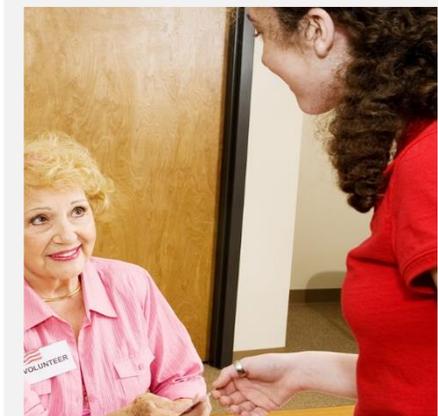Non-citizens

Election Cybersecurity

Legislative Options

o Exempting cybersecurity protocols from FOIA requests

o Require regular cyber reports

o Create "cyber navigators"

o Require "dot.gov" domain names?

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4. Other Election Trends to Watch

Primary Types & Dates

Presidential & State

Poll Workers & Watchers

Training, Qualifications

Presidential Electors

New federal Law

Emergencies

Clarity, Authority

Election Dates

Fewer but larger elections

Questions?

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