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The Forum for America's Ideas

A National Perspective on Election Laws



*Wendy Underhill, National Conference of State Legislatures
October 18, 2018*



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What Does NCSL's Elections Team Do?

- Works for you
- Answers questions on **Elections, Redistricting and Campaign Finance**
- Publishes The Canvass (**please subscribe!**) and keeps a **Redistricting Listserv**
- Tracks legislation





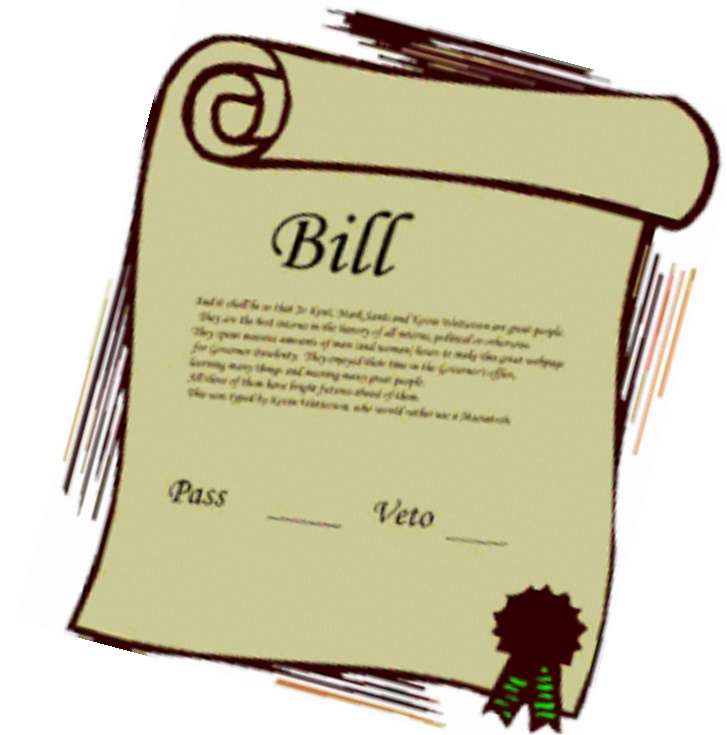
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2017 – 2018 Election Legislation

- Introduced: over 2500 bills in 48 states
- Enacted: 338 bills in 45 states
- Vetoed: 26 bills in 10 states





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Today's plan

1. Voting Itself
2. Voter Registration
3. Election Security
4. Redistricting



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VOTING ITSELF



States that Ask for a Physical ID



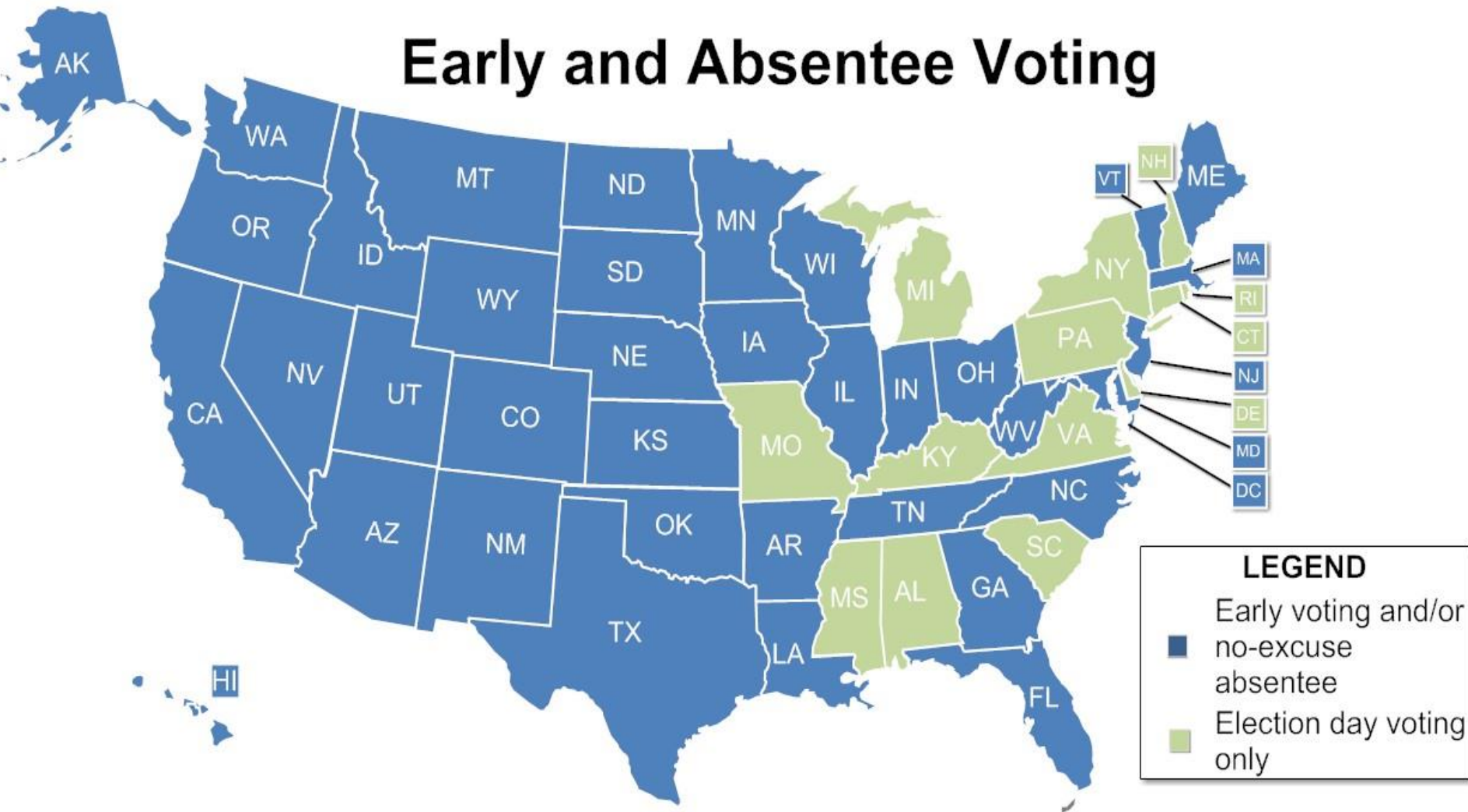


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Early and Absentee Voting



LEGEND

- Dark Blue: Early voting and/or no-excuse absentee
- Light Green: Election day voting only

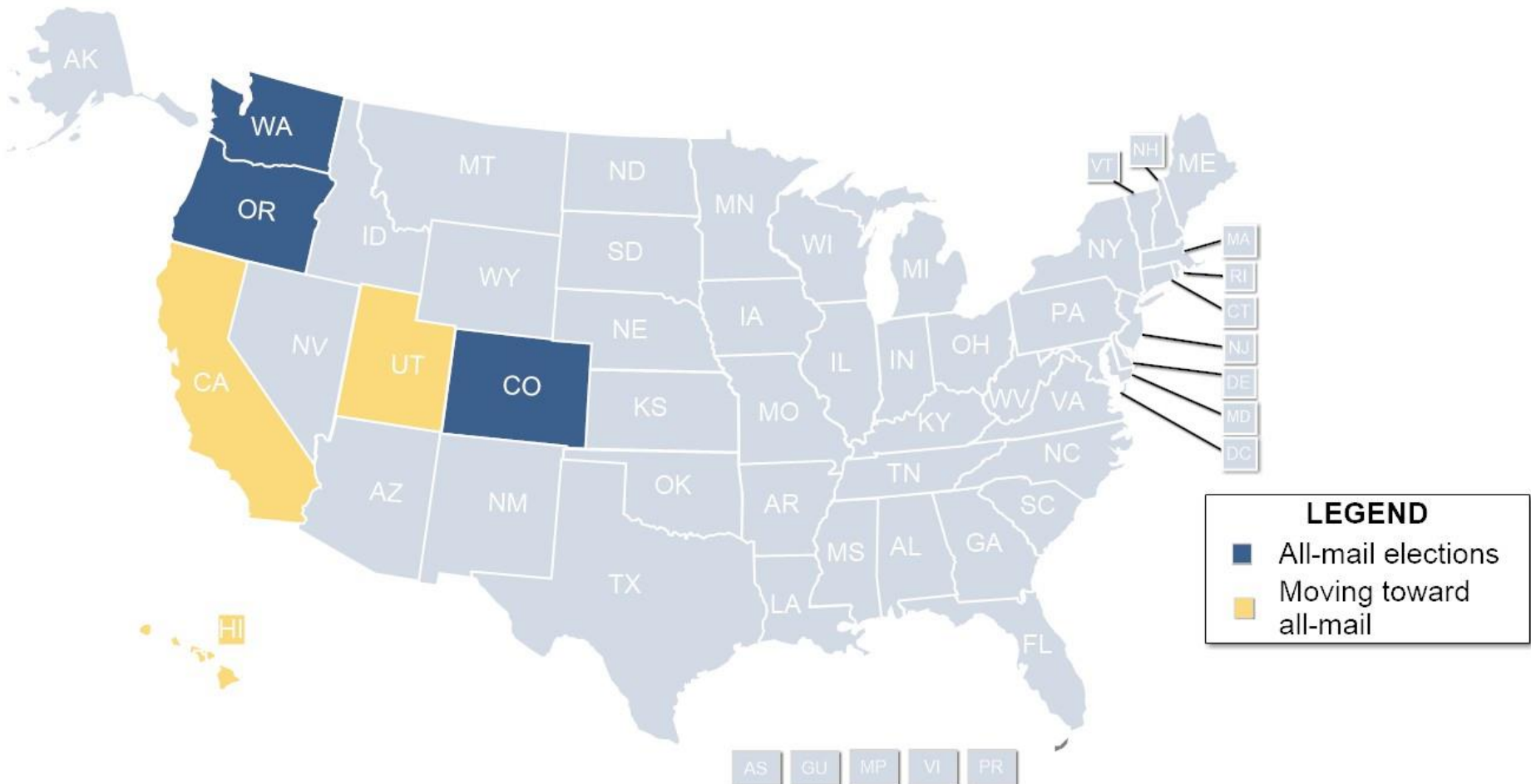


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All-mail Elections





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Vote Centers



13 states allow counties to use vote centers on Election Day. NM is among them.

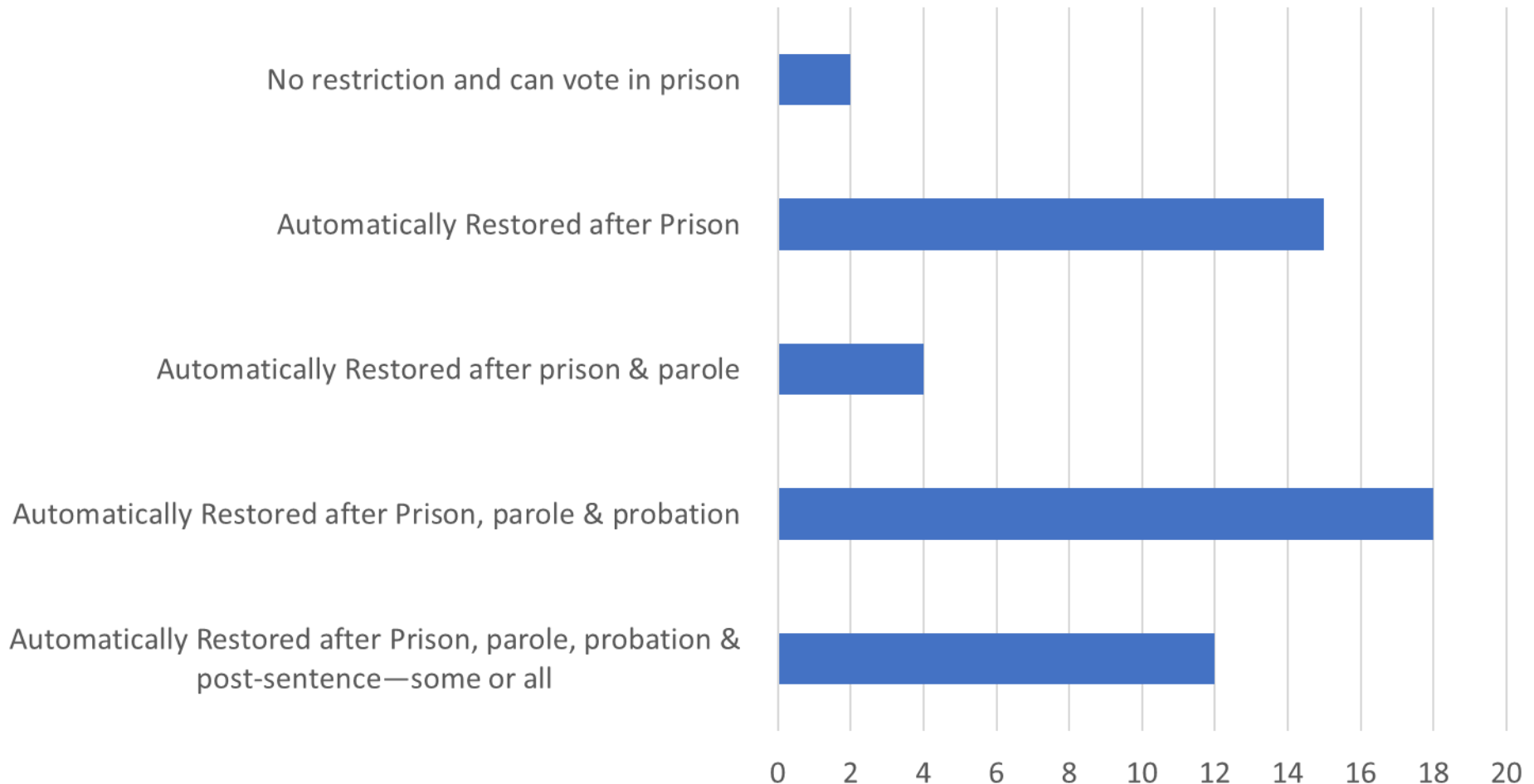


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Restoring Voting for Ex-Felons





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VOTER REGISTRATION



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Voter Registration for Teens



17 states plus DC allow 16- or 17-year-olds to preregister. NM is among them.

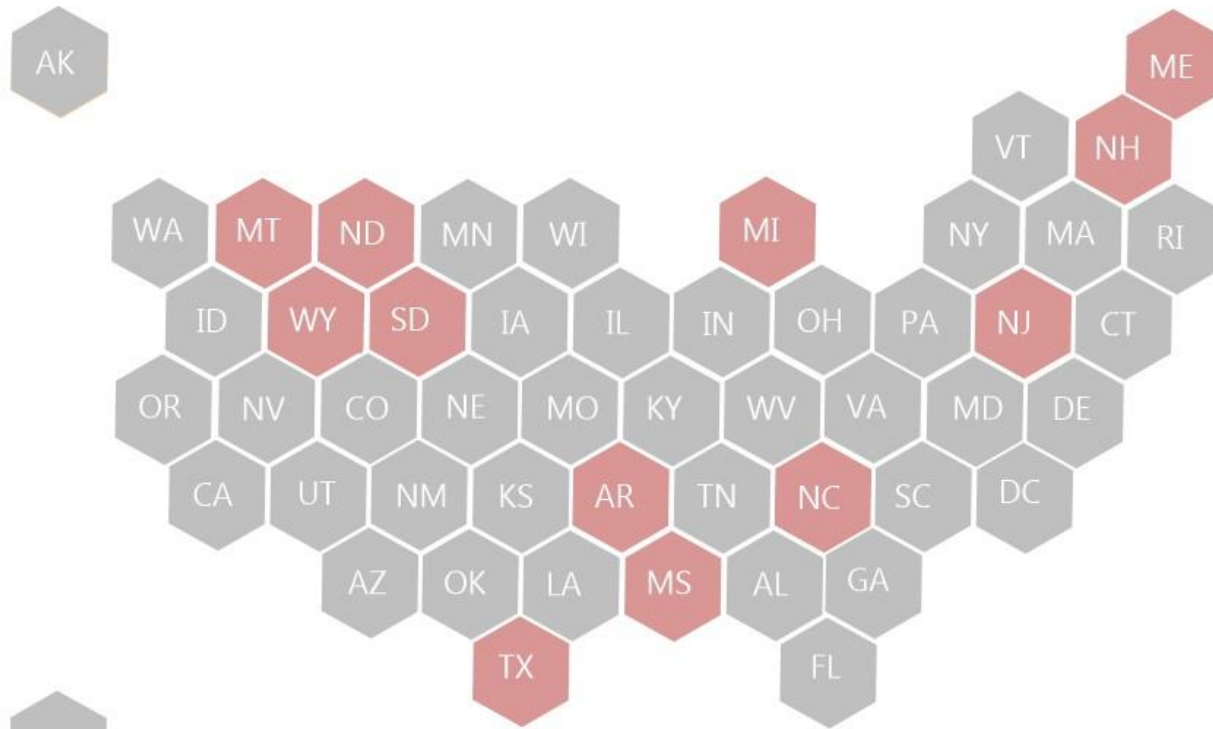


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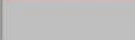
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States *Without* Online Registration



LEGEND

-  No online voter registration
-  Online voter reg. enacted

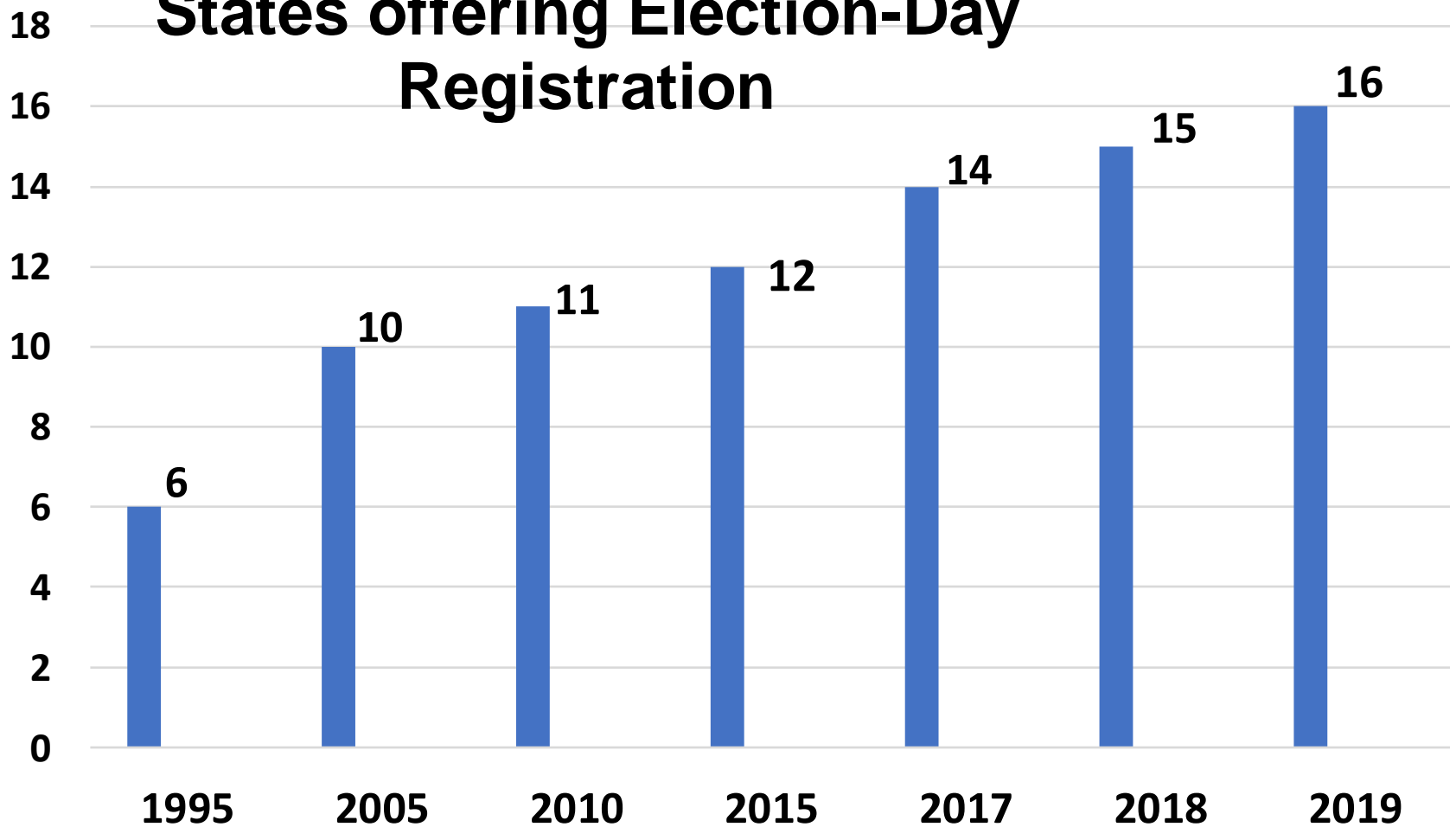


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States offering Election-Day Registration





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Automated Registration (aka Modern Motor Voter)



2018: 13 states plus D.C. have automated the record transfer from DMV to Voter Registration. NCSL does not have NM on this list.



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Interstate Data Matching



*Electronic Registration Information Center (ERIC)
has 25 member-states. NM is among them.*

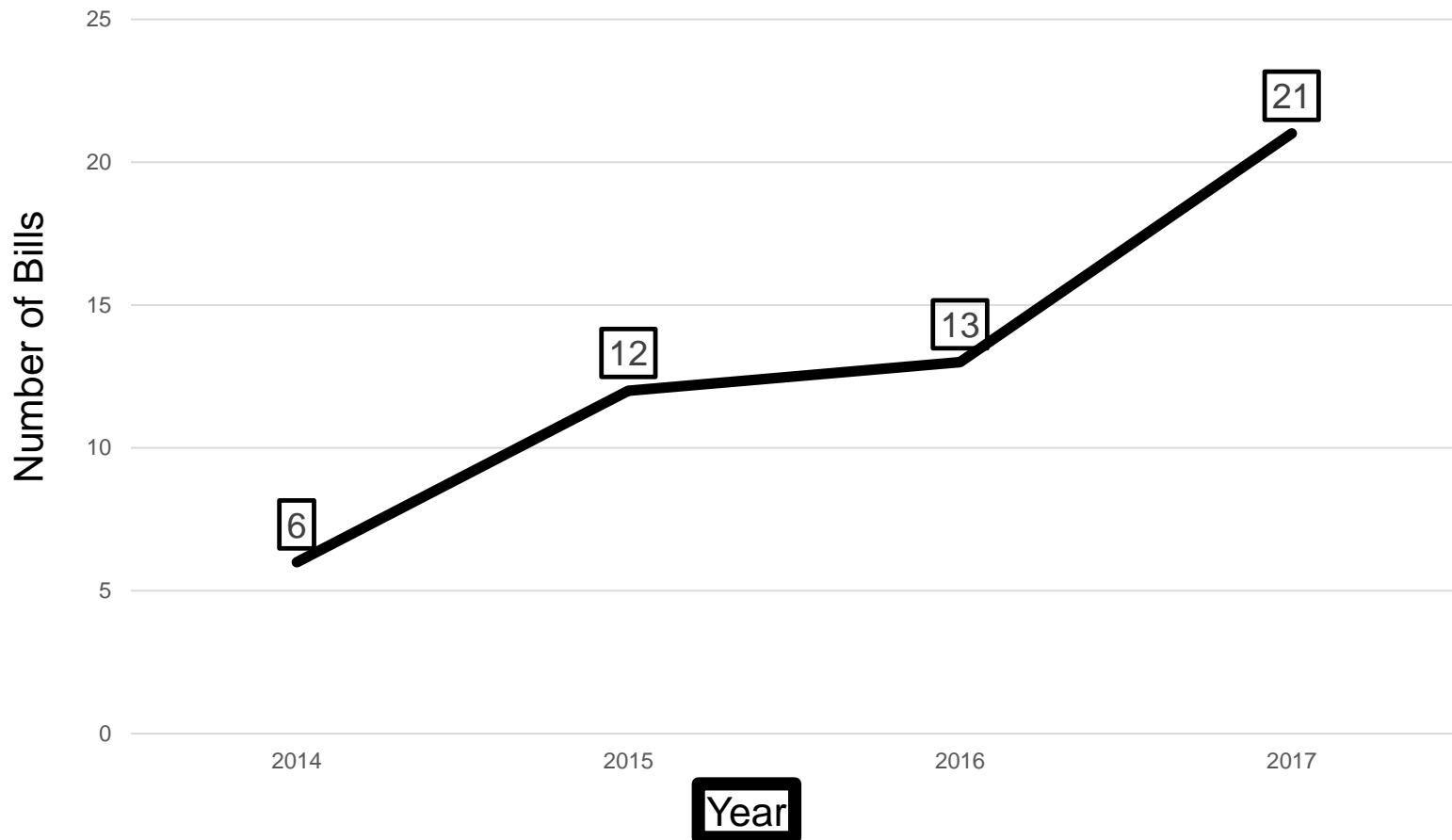


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List Maintenance Bills, 2014-2017





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ELECTION SECURITY



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Three Issues



- Are voter registration rolls safe?
- Is voting itself safe?
- Are bad actors influencing our elections?



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Registration (2016)

- 21 states' voter registration systems were targeted
 - In Illinois, voter records and data were viewed
 - In Arizona, a phishing email used to gain access
- No voter registration data appears to have been altered



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Voting Itself: 2016

- No votes/vote totals were altered
- Voting machines are not connected to the Internet
- A third of voters voted before Election Day
- A very few voters transmitted ballots electronically (as a pdf attached to an email)—some say this is unsafe



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Influencing Elections: 2016

- Disinformation – false and deliberately created to harm
- Misinformation – false, but is not created to cause harm
- Malinformation – based on reality, used to inflict harm





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Potential Malicious Actors

POSSIBLE ACTORS



Nation-State
Actors



Criminals



Black Hat
Hackers



Insiders



Terrorists



Politically
Motivated
Groups

POSSIBLE MOTIVATIONS



Financial
Gain



Retribution
for
Perceived
Grievances



Fame and
Reputation



Sow Social
Division



Foment
Chaos /
Anarchy



Subvert
Political
Opposition



Foreign
Policy /
National
Interests



Undermine
Trust in
Democracy



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Legislation?

- Much of what can be done is administrative:
 - Building a cyber-culture
 - Upgrading/Fortifying Systems
- Can legislate:
 - Mandate reporting
 - Post-election audits
 - Paper ballots
 - Training requirements
 - Create election task force

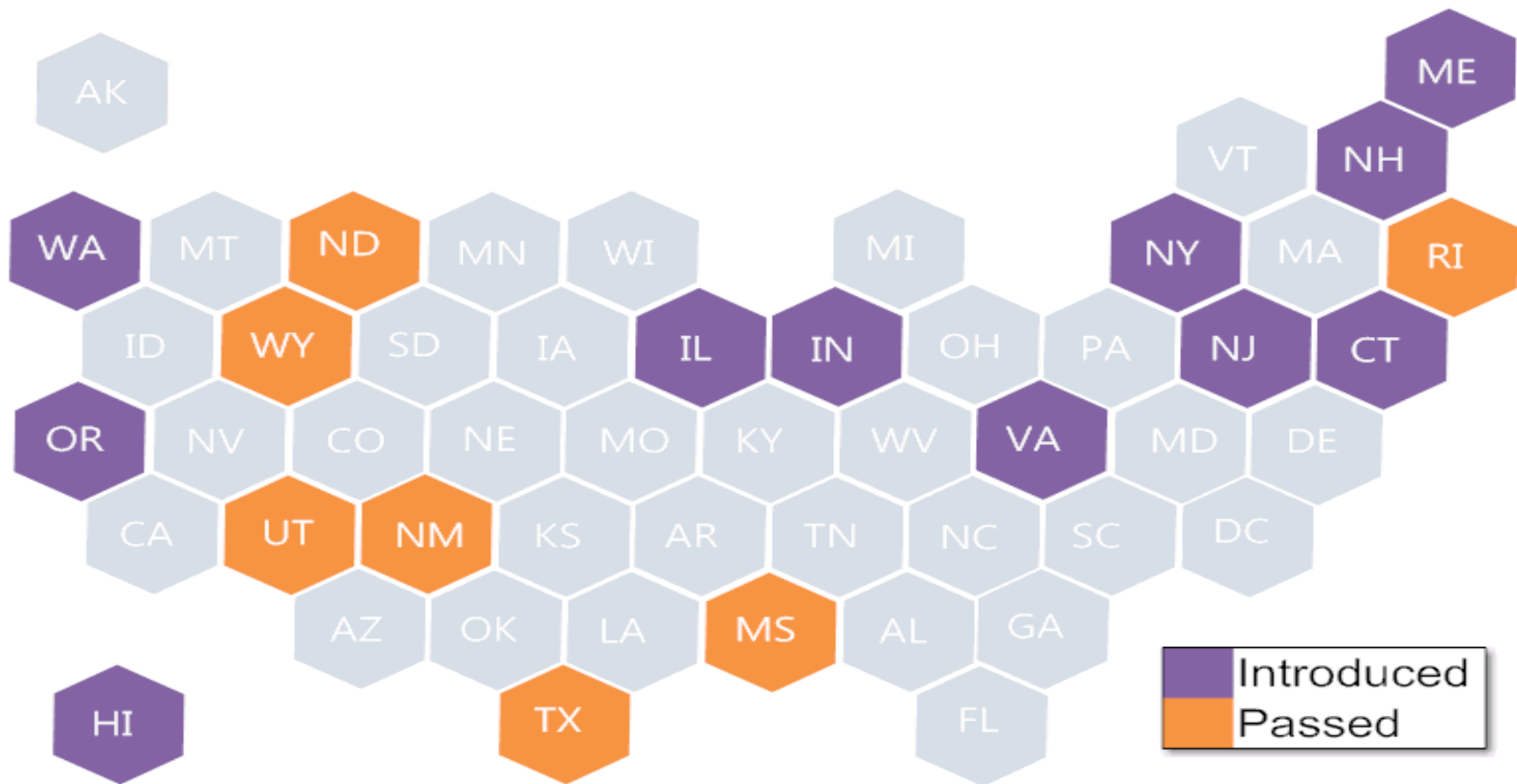


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Recent Task Forces on Elections





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Additional Resource: Election Performance Index, MIT

ELECTION YEARS [?](#)

COMPARE ELECTIONS [?](#)



SELECT STATE

NEW MEXICO [▼](#)

74%

OVERALL EPI AVERAGE
2016 RANK #29

76%

↓ -7%

VOTER REGISTRATION RATE

93%

↓ -3%

DATA COMPLETENESS

4

VOTING INFORMATION
LOOKUP TOOLS AVAILABLE

INDICATORS BY: [Value](#) [Rank](#)

Nationwide average |

Data Completeness 93.05%

Disability- or Illness-related
Voting Problems 14.29%

Mail Ballots Rejected Incomplete Data

Mail Ballots Unreturned 11.85%

STATE VOTING CONDITIONS IN 2016

CHIEF ELECTION OFFICIAL
Brad Winter (Secretary of State)

MAIL VOTING
No-Excuse [i](#)



State	Minimum cybersecurity for voter registration systems	Voter-verified paper audit trail	Post-election audits	Ballot accounting and reconciliation	Paper absentee ballots	Voting machine certification requirements	Pre-election logic and accuracy testing	Grade
New Mexico	Fair	Good	Fair	Fair	Unsatisfactory	Fair	Fair	B
New York	Good	Good	Mixed	Fair	Fair	Fair	Fair	B
North Carolina	Good	Fair	Fair	Fair	Unsatisfactory	Fair	Fair	B
North Dakota	Incomplete	Good	Unsatisfactory	Fair	Unsatisfactory	Fair	Fair	C*
Ohio	Incomplete	Fair	Fair	Unsatisfactory	Fair	Fair	Fair	C/B*
Oklahoma	Incomplete	Good	Unsatisfactory	Unsatisfactory	Unsatisfactory	Fair	Fair	C*
Oregon	Good	Good	Fair	Unsatisfactory	Unsatisfactory	Fair	Fair	B
Pennsylvania	Fair	Unsatisfactory	Unsatisfactory	Unsatisfactory	Fair	Fair	Fair	D
Rhode Island	Good	Good	Good	Unsatisfactory	Unsatisfactory	Fair	Fair	B
South Carolina	Good	Unsatisfactory	Unsatisfactory	Fair	Unsatisfactory	Fair	Fair	D
South Dakota	Incomplete	Good	Unsatisfactory	Fair	Fair	Fair	Fair	C*
Tennessee	Incomplete	Unsatisfactory	Unsatisfactory	Unsatisfactory	Fair	Fair	Unsatisfactory	F/D*
Texas	Mixed	Unsatisfactory	Unsatisfactory	Fair	Unsatisfactory	Fair	Fair	D
Utah	Fair	Fair	Fair	Unsatisfactory	Unsatisfactory	Fair	Fair	C
Vermont	Fair	Good	Unsatisfactory	Fair	Fair	Unsatisfactory	Fair	C
Virginia	Fair	Good	Unsatisfactory	Unsatisfactory	Fair	Fair	Unsatisfactory	C
Washington	Good	Good	Unsatisfactory	Unsatisfactory	Unsatisfactory	Fair	Fair	C



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Center for American Progress Report:

New Mexico received **high scores** for its use of **paper ballots** and **adherence to many cybersecurity best practices**, though the state would do well to require backup paper copies of voter registration lists at polling places using electronic poll books in case problems arise..... Adding to this is the fact that the state allows voters stationed or living overseas to **return voted ballots electronically**, which leaves its elections vulnerable to manipulation... The state did earn points for its **ballot accounting and reconciliation procedures** and for requiring that all voting machines be tested to EAC Voluntary Voting System Guidelines. Additionally, New Mexico requires election officials to carry out **pre-election logic and accuracy testing** on all machines that will be used in an upcoming election.



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REDISTRICTING



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Who Does Redistricting?

- **The legislature:**

 - State Legislative Plans: 37 states

 - Congressional Plans: 43 states

- **Commissions or boards:**

 - State Legislative Plans: 13 states

 - Congressional Plans: 7 states



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Legislative Variations

- 2 states wait until the “3” year
- 4 have odd-year elections
- A dozen redistrict in special sessions
- 4 adjust the “population base”
- 2 bypass the governor
- Some require more than a majority vote
- Various back-up systems



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Iowa is Unique

- Nonpartisan staff draws maps
- Doesn't use political data such as party registration or addresses of candidates
- Legislature votes plan up or down
- Since 1970s, always voted for it



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Commission Variations

- Size
- Who appoints members
- Qualifications for members
- Legislative, Congressional or both?
- What constitutes passage—majority? Bipartisan support required?
- Primary responsibility, advisory or back-up?



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Redistricting Reform Ballot Measures: 2018

Ohio (legislative referral; passed in May)

Colorado (2 legislative referrals)

Michigan citizens' initiative

Missouri citizens' initiative

Utah citizens' initiative



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