

Nonprofits and Elections 2024:

Why and How You Should Engage (and stay nonpartisan)

February 21, 2024



Champions for the public good



Tiffany Gourley Carter

She/Her

Policy Counsel

National Council of Nonprofits

Before We Begin

1. This webinar will be recorded.
2. All participants except speakers are on mute.
3. Participants can use the Q&A to submit questions.

Disclaimer

Some of today's presenters are attorneys.
We are not *your* attorneys.
We are not providing legal advice.

*This webinar is provided for informational purposes only and is neither intended to be nor should be construed as legal, accounting, tax, or financial advice.

*Please consult a professional (your attorney, accountant, tax advisor) for the latest and most applicable information for your situation.

Resources

- Recording of the Webinar
- Copy of Slides
- Links to Official IRS Guidance
- Trusted Resources
 - Ballotpedia
 - Bolder Advocacy
 - National Council of Nonprofits
 - Nonprofit VOTE
 - More



Agenda

1. Elections Overview
2. Nonprofit Nonpartisanship as a Core Value
3. Nonprofits are Trusted Conveners
4. Permitted Nonpartisan Get Out The Vote Activities
5. Q&A

1

Elections Overview



Ben Williams

He/Him

Assoc. Dir. Elections & Redistricting

National Conference of State Legislatures



2024 Election Preview

Ben Williams

Associate Director, Elections & Redistricting

February 21, 2024



- Democrats flipped Virginia House
- Republicans flipped Louisiana Governor
- Abortion continues to be major issue post-*Dobbs*
- Democrats continue overperforming in off-cycle elections...so long as the area isn't deep-red



Key Points: 2023 Elections

2024 State & Federal Elections

The biggest of our lifetimes....again!



Big, Not Biggest

5,793 seats up in 2024
Fewer seats up than 2022



Issue Overload

Inflation, Middle East, Ukraine,
Abortion...



Biden – Trump, Round Two?

Rematch would be first since 1956





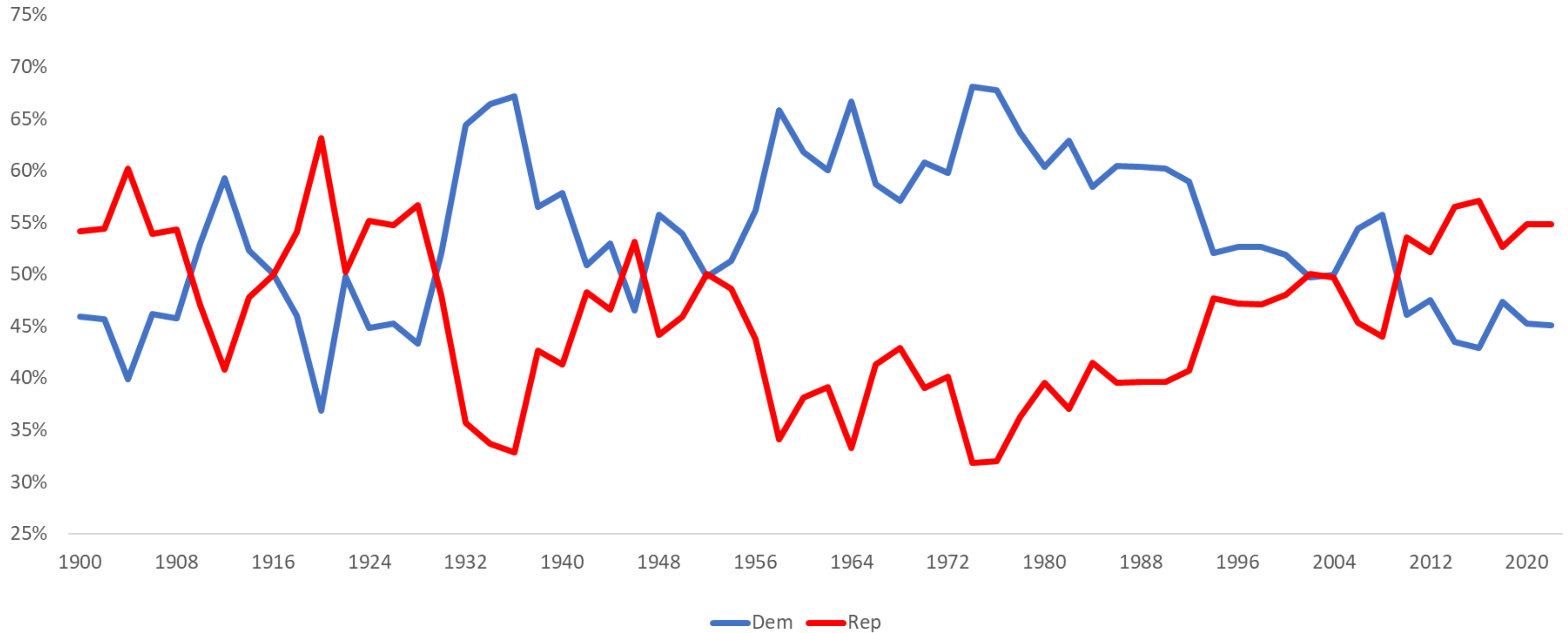
But First, A
Look at How We
Got Here

**SOB
THE
BIG
SORT**

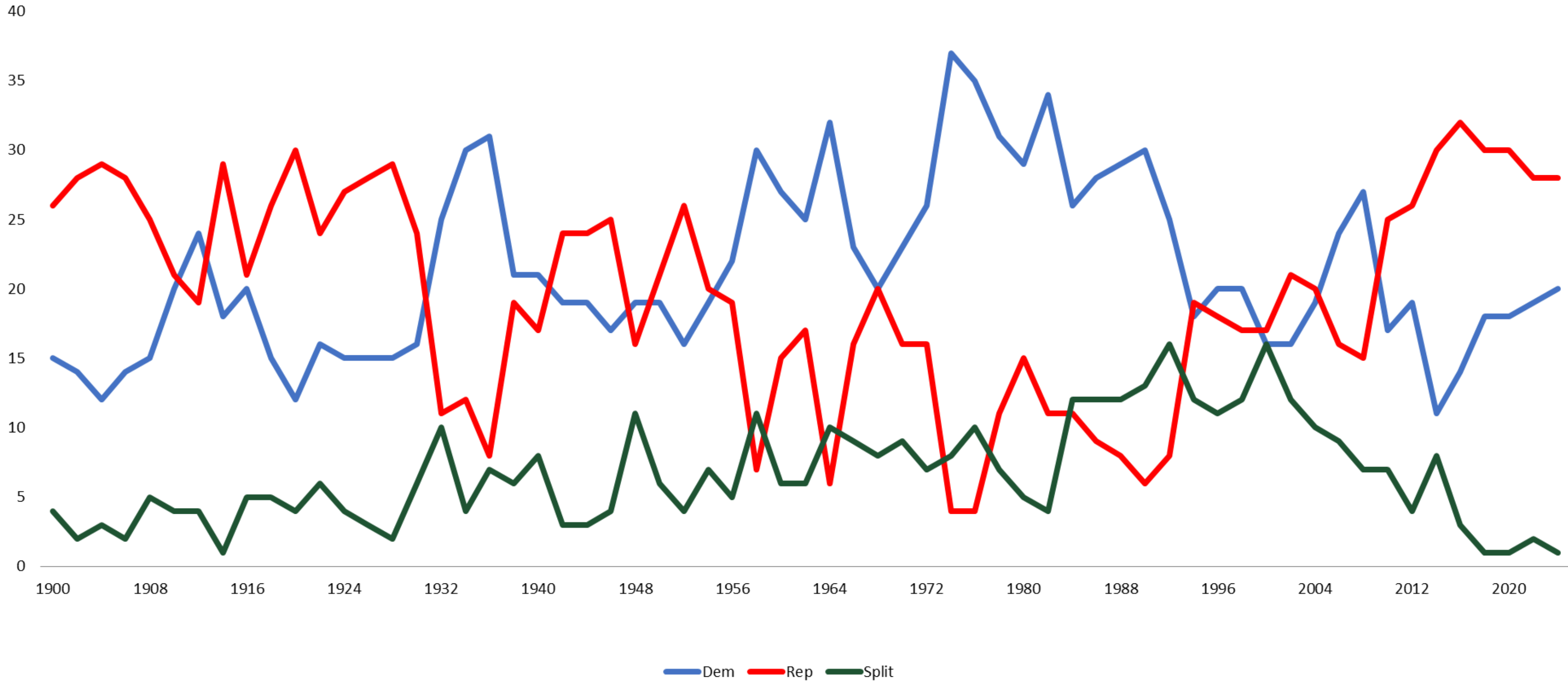
**WHY THE
CLUSTERING OF
LIKE-MINDED
AMERICA IS
TEARING US APART
WITH A NEW AFTERWORD**



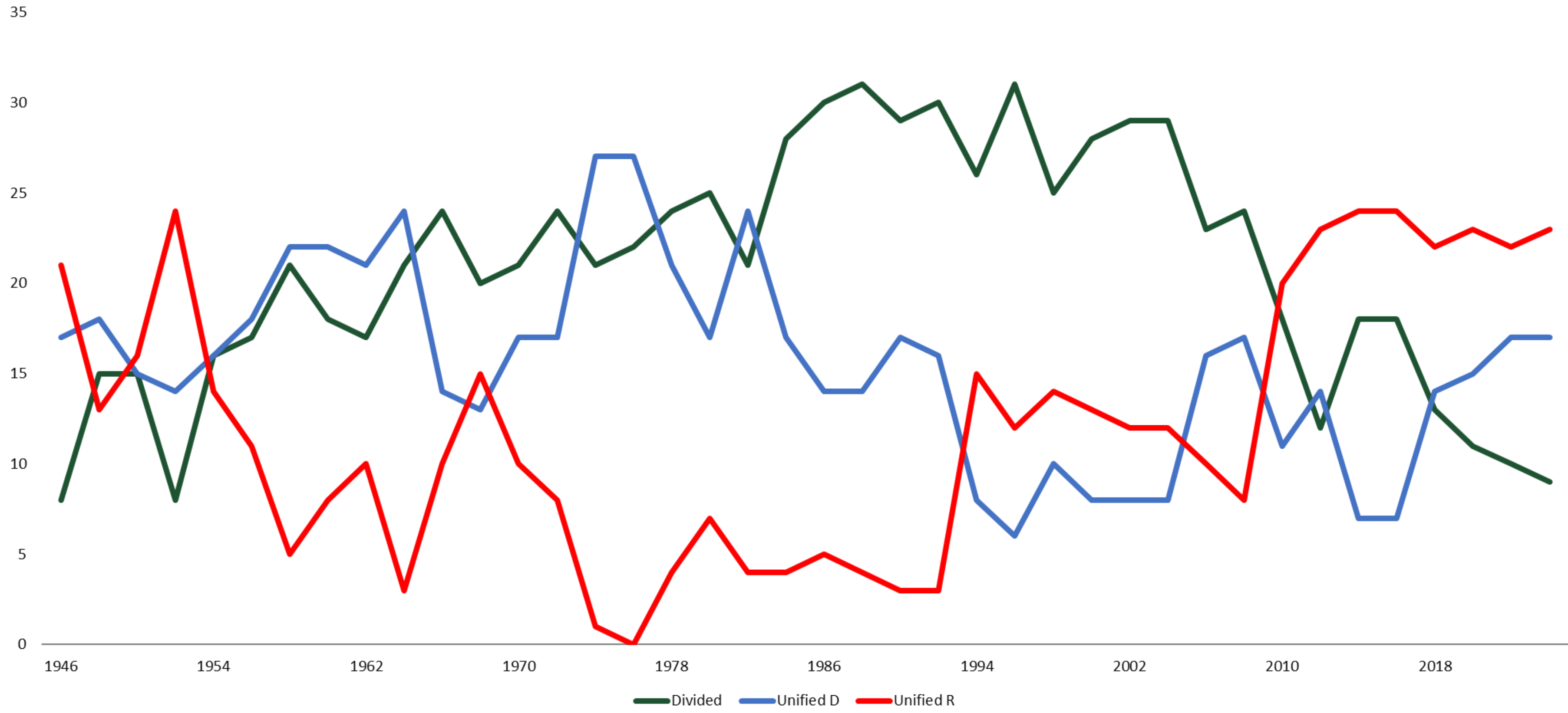
Legislative Seats Held by Party, 1900 - Present



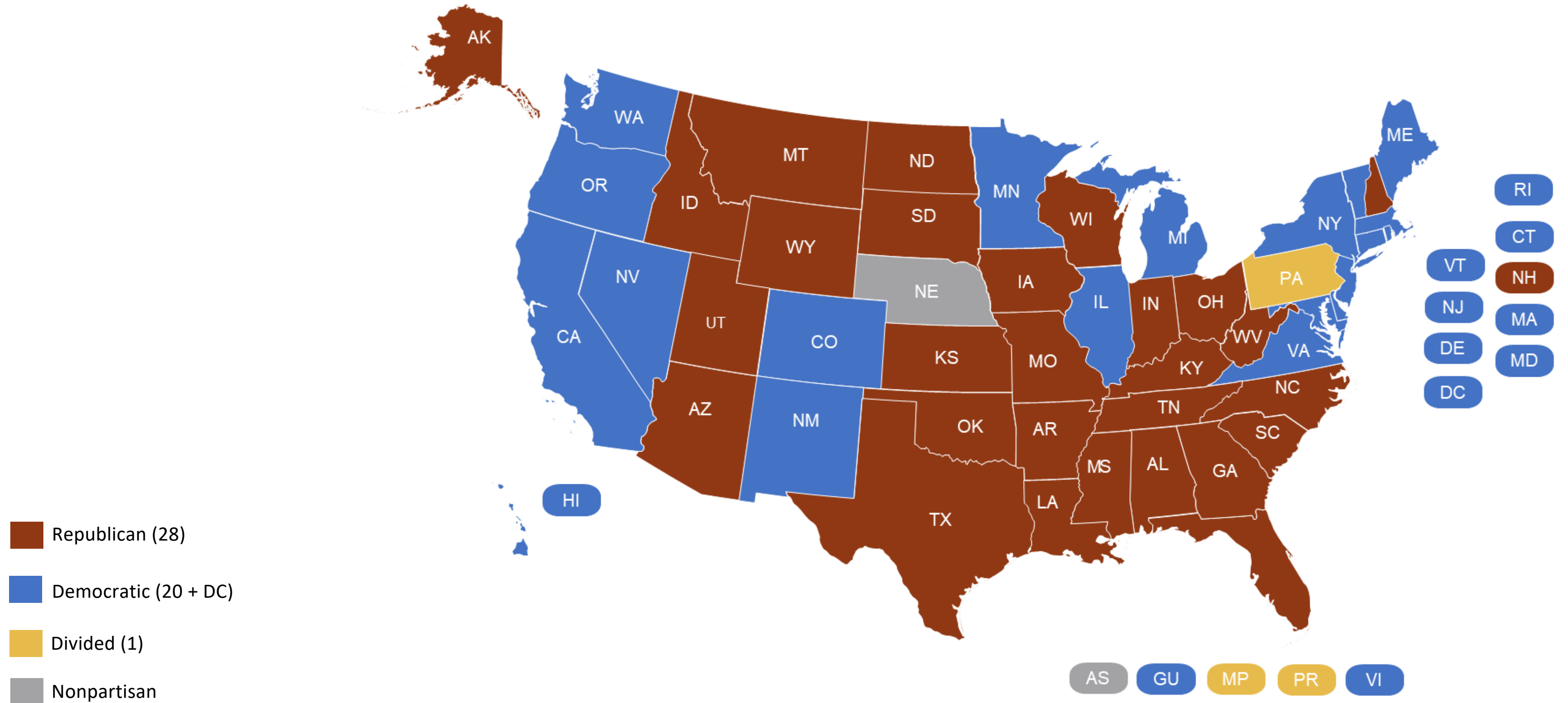
Partisan Control of State Legislatures, 1900 – Present



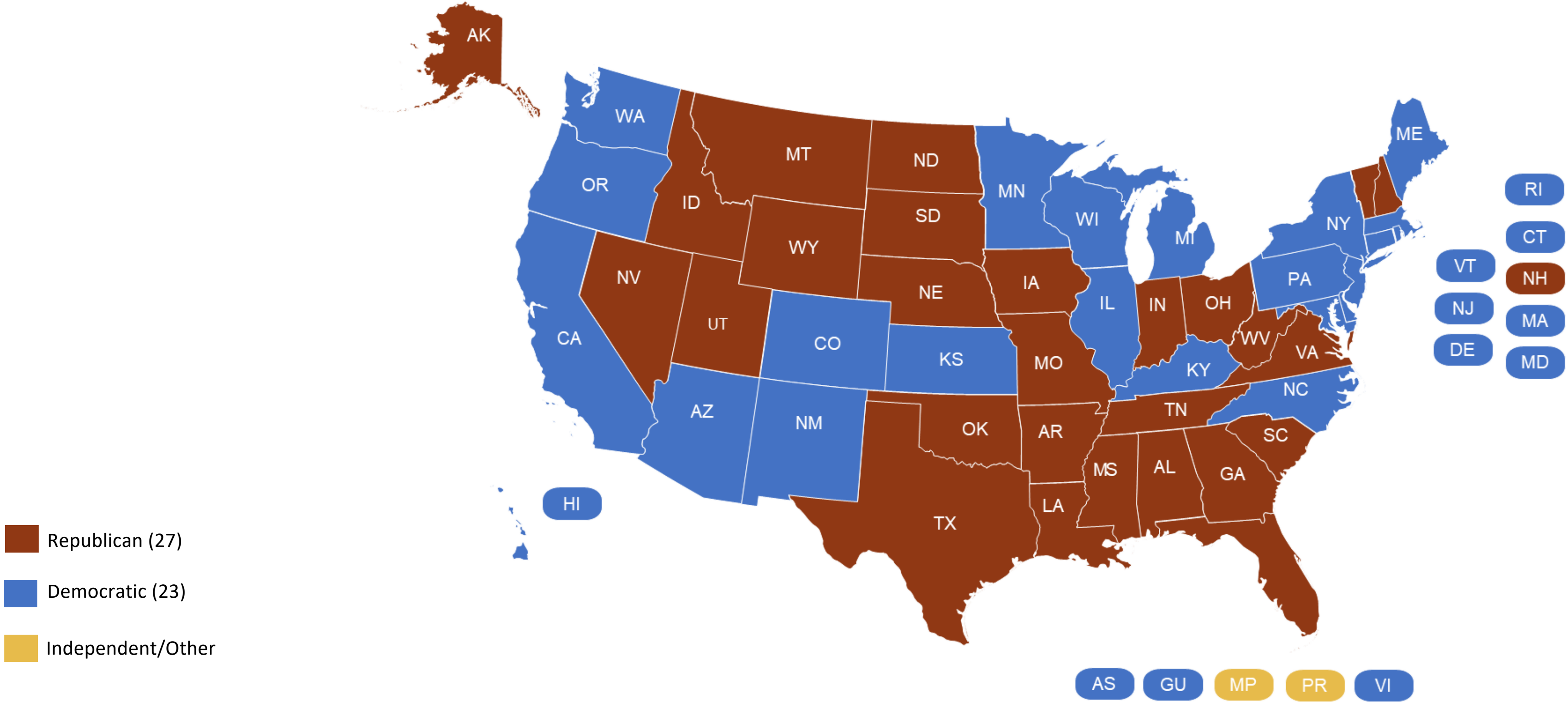
Unified and Divided Government: Postwar Era



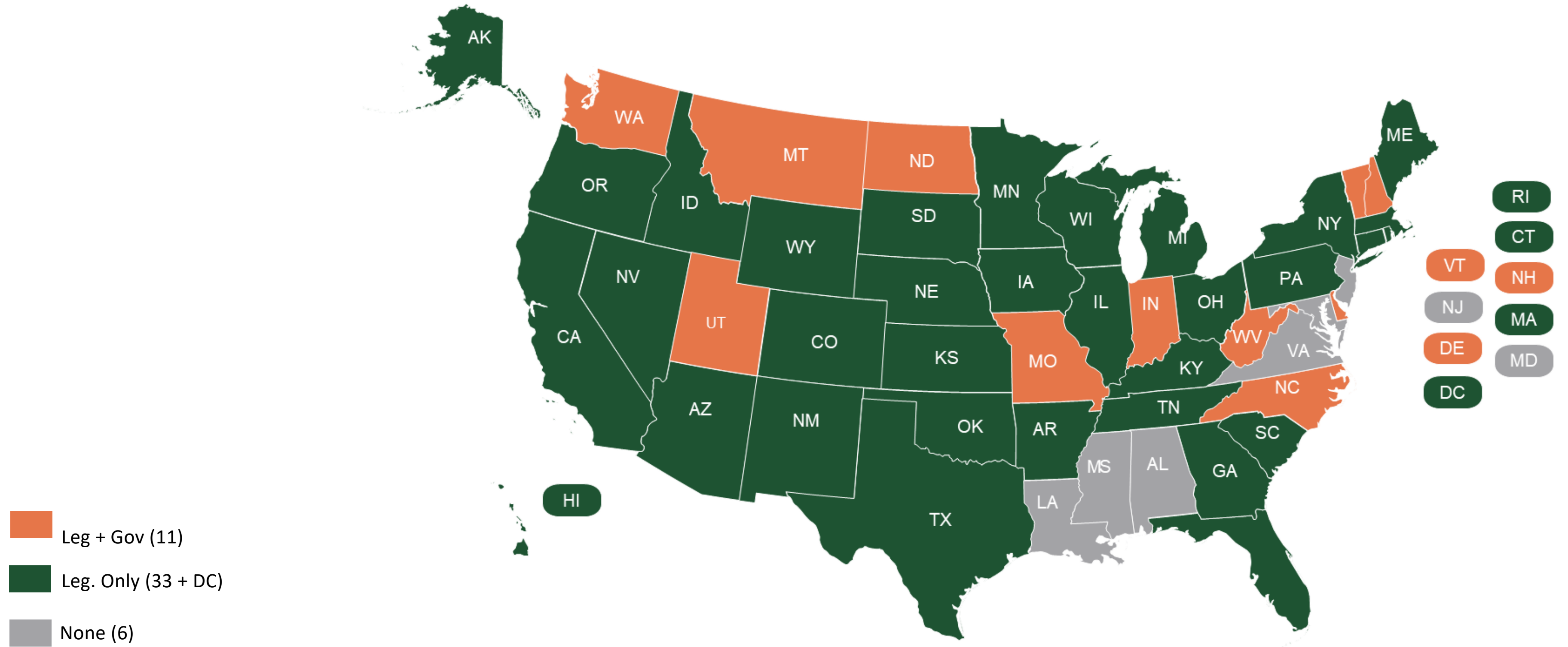
Current Partisan Composition: Legislatures



Current Partisan Composition: Governors



State Races Next Year



Competitive Chambers to Watch



Currently Held by Democrats (12)

- Delaware House & Senate
- Maine House & Senate
- Michigan House & Senate
- Minnesota House
- Nevada House & Senate
- Oregon House & Senate
- Pennsylvania House

Currently Held by Republicans (11)

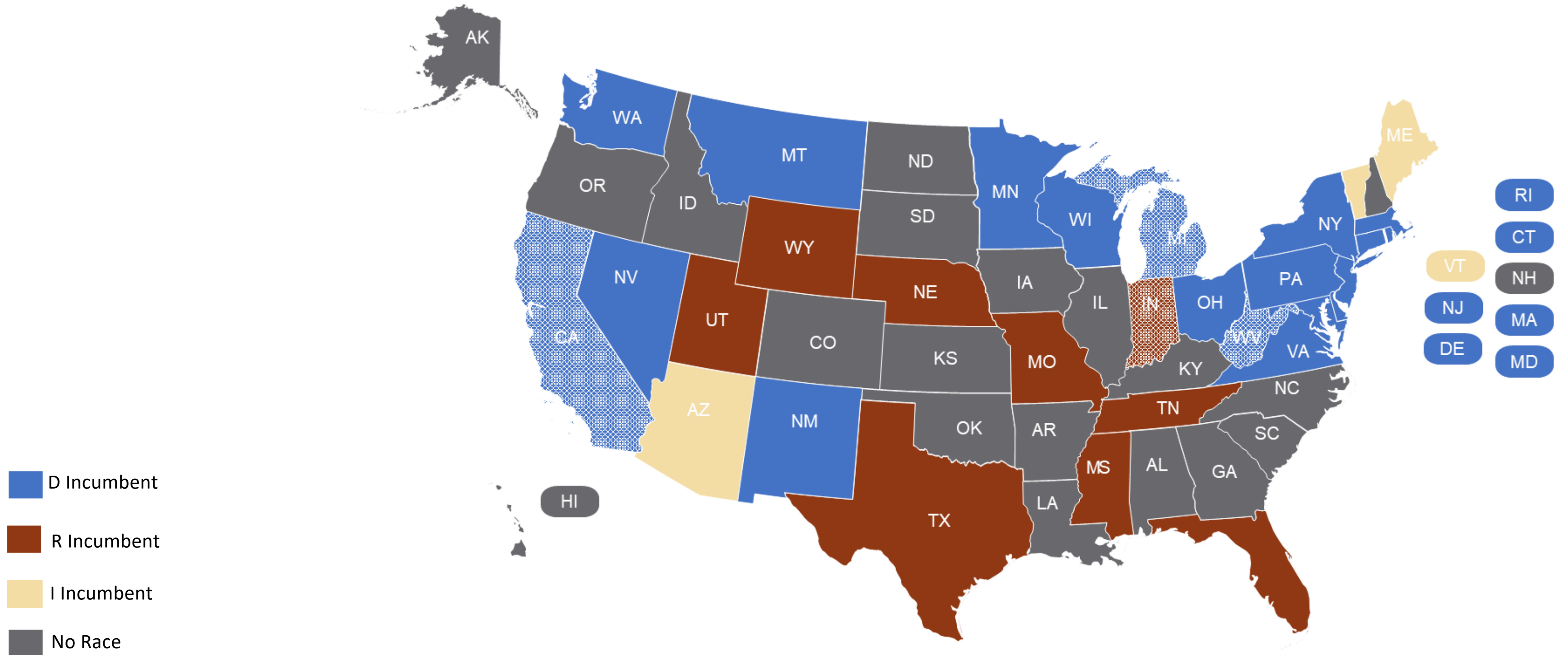
- Alaska House & Senate*
- Arizona House & Senate
- Georgia House & Senate
- Pennsylvania Senate
- New Hampshire House & Senate
- Wisconsin House & Senate**





Pivoting to Federal Races...

2024 Senate Map



Cook Political Report Ratings

Only 10 of 34 races are competitive

Favoring Democrats

MD

MI

NV

PA

WI

Toss Up

AZ

MT

OH

Favoring Republicans

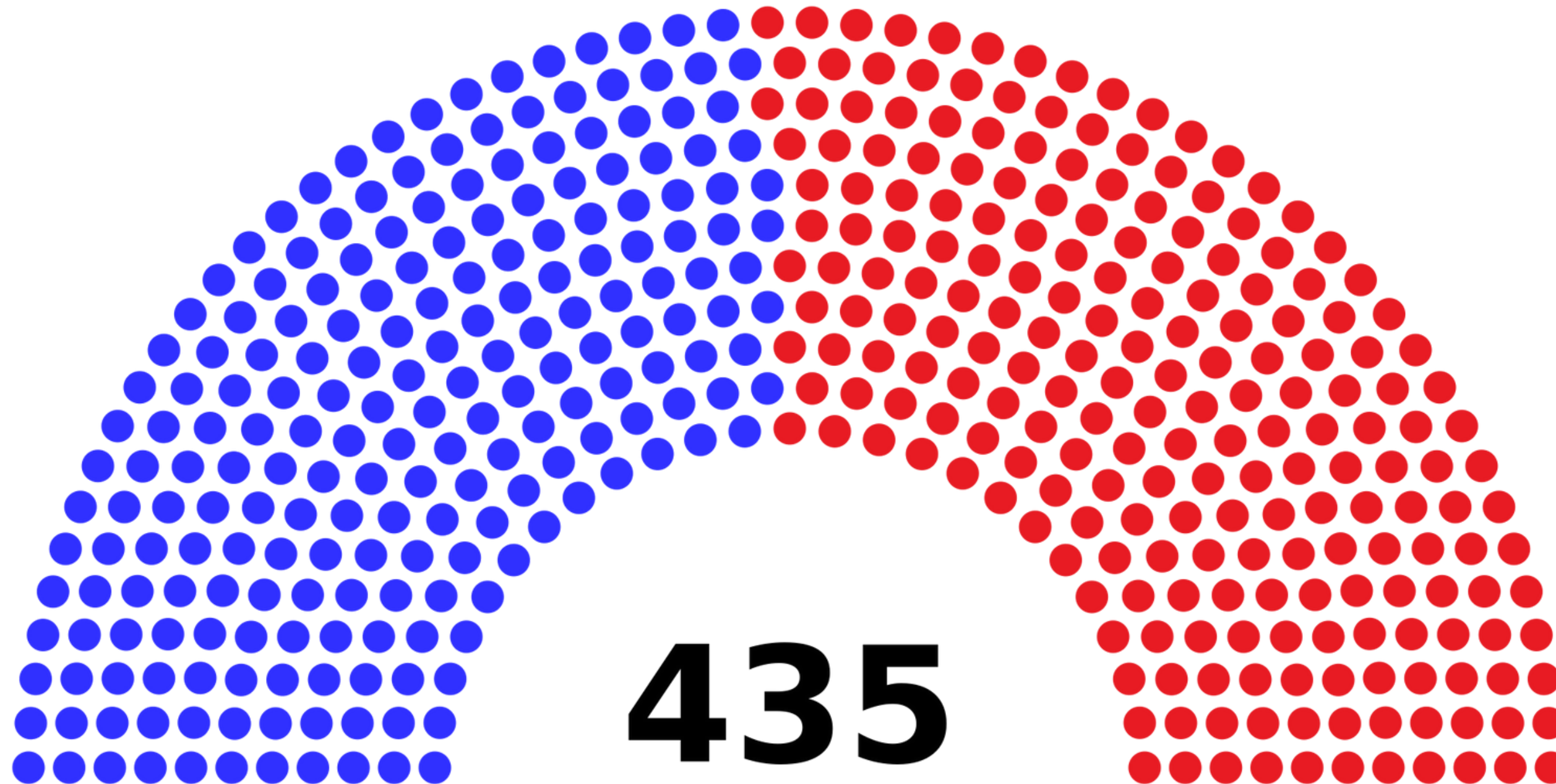
FL

TX



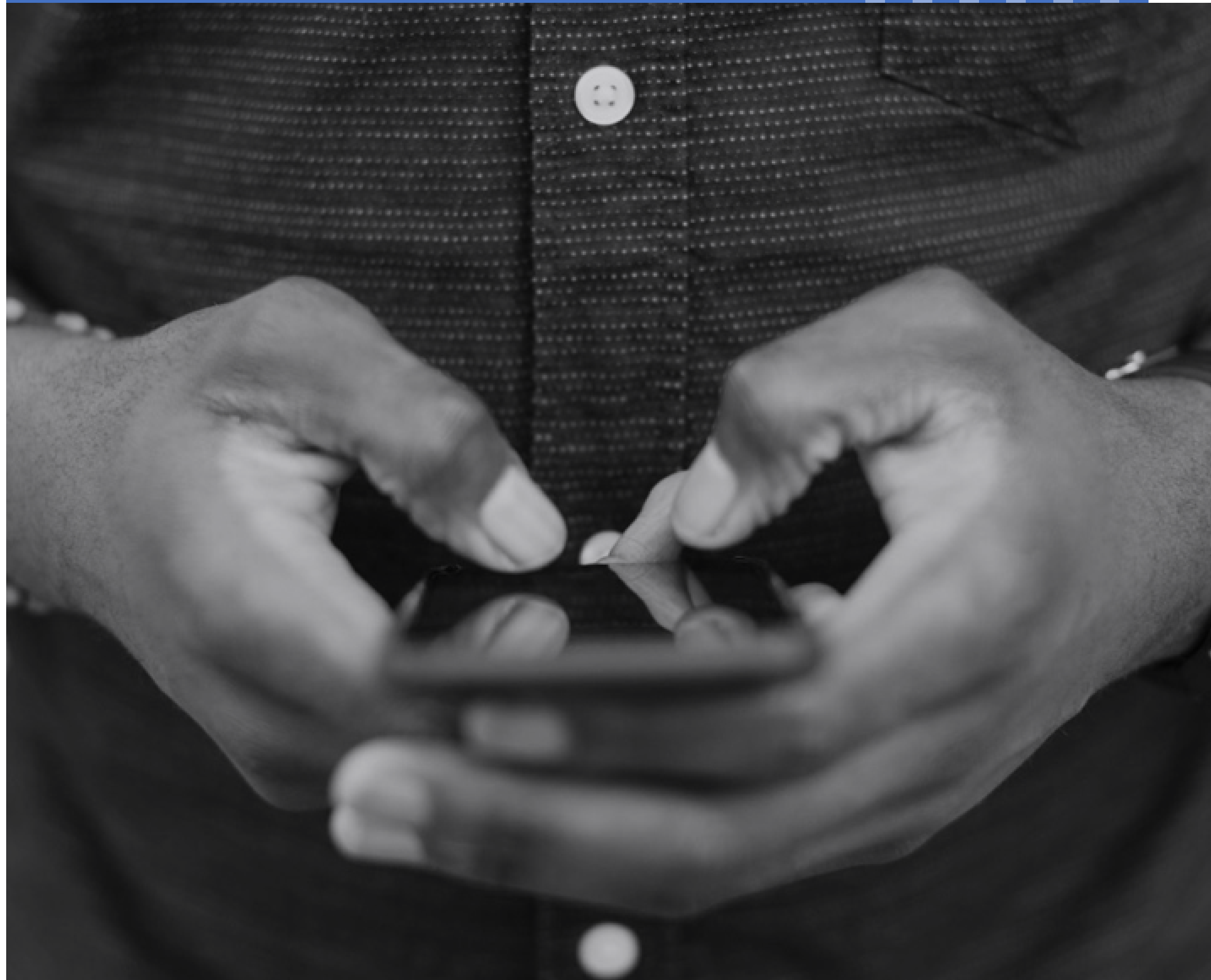
The House is Very, Very Close

118th Congress: 219 R, 213 D



Stay Connected

- [Subscribe](#) to policy newsletters
- [Read](#) State Legislatures magazine
- [Listen](#) to an NCSL podcast
- [Watch](#) recorded policy webinars and training sessions
- [Attend](#) a meeting or training
- [Follow](#) @NCSLorg on social media



Reach Out Anytime!



Ben Williams

Associate Director

Elections and Redistricting

Email

ben.williams@ncsl.org

Office Phone

303.856.1648

Cell Phone

720.713.0358

2

Nonprofit Nonpartisanship as a Core Value



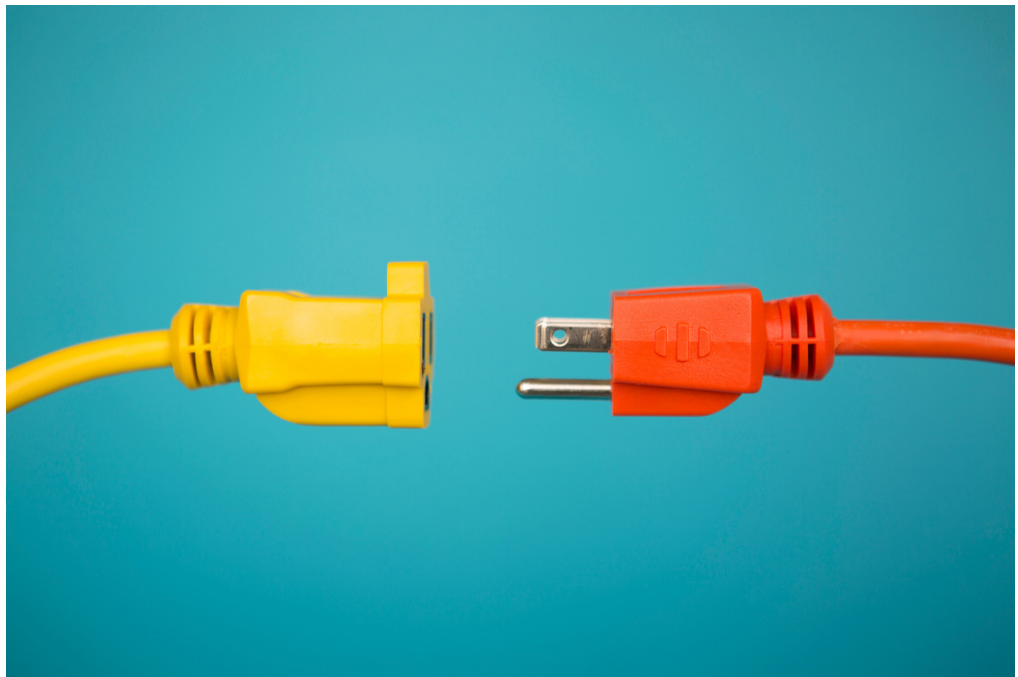
Tim Delaney

He/Him

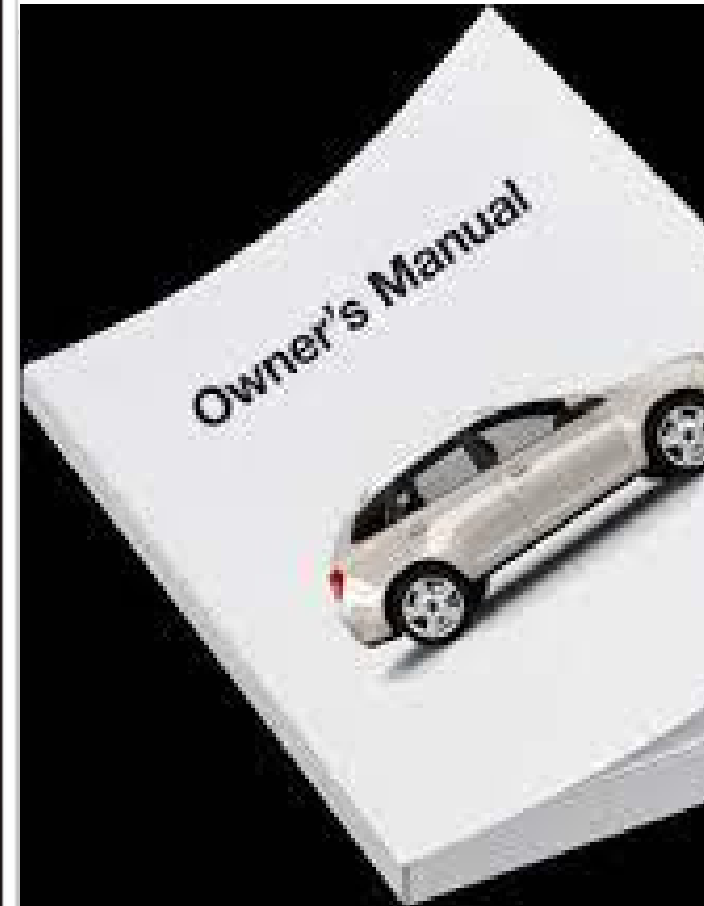
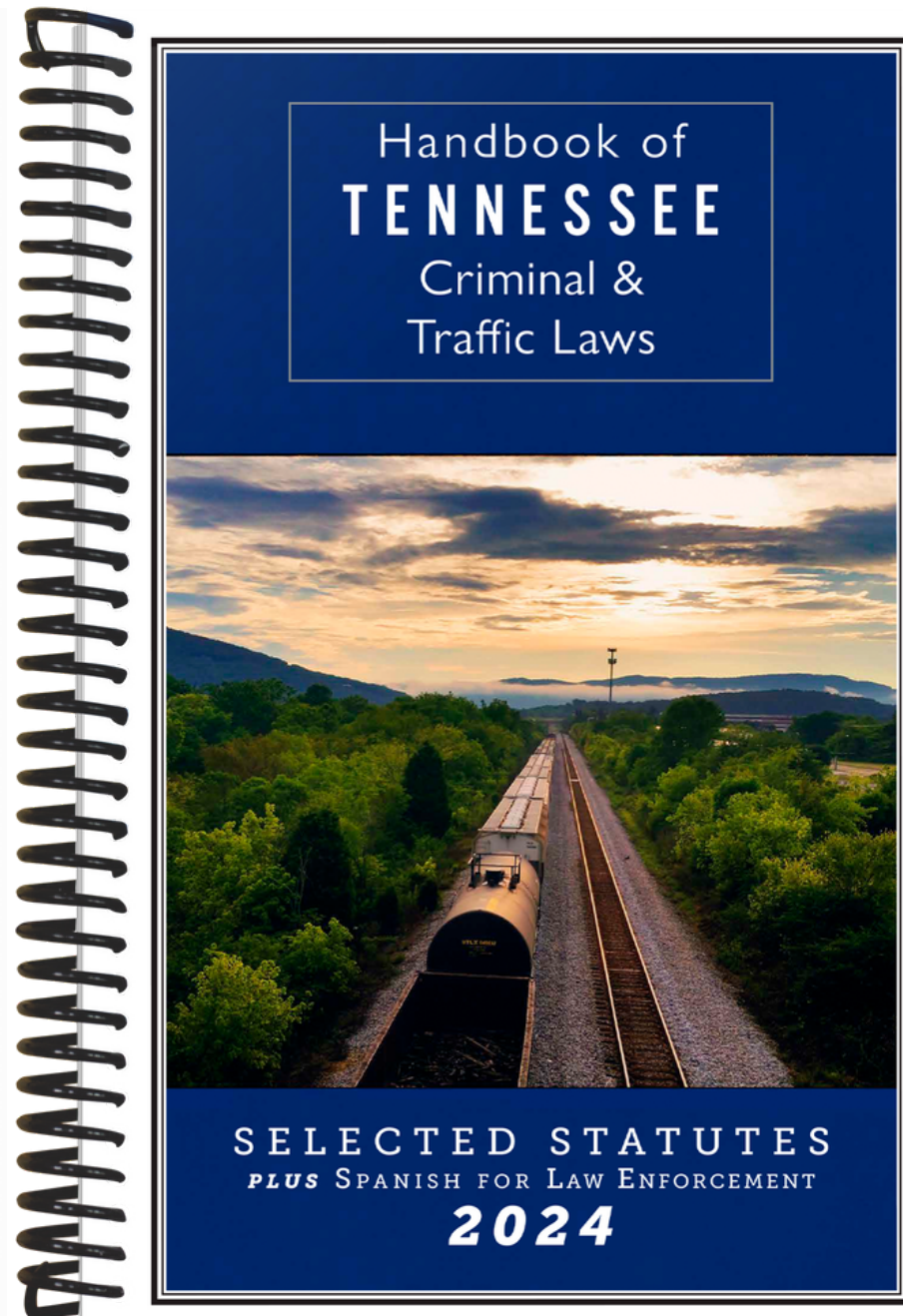
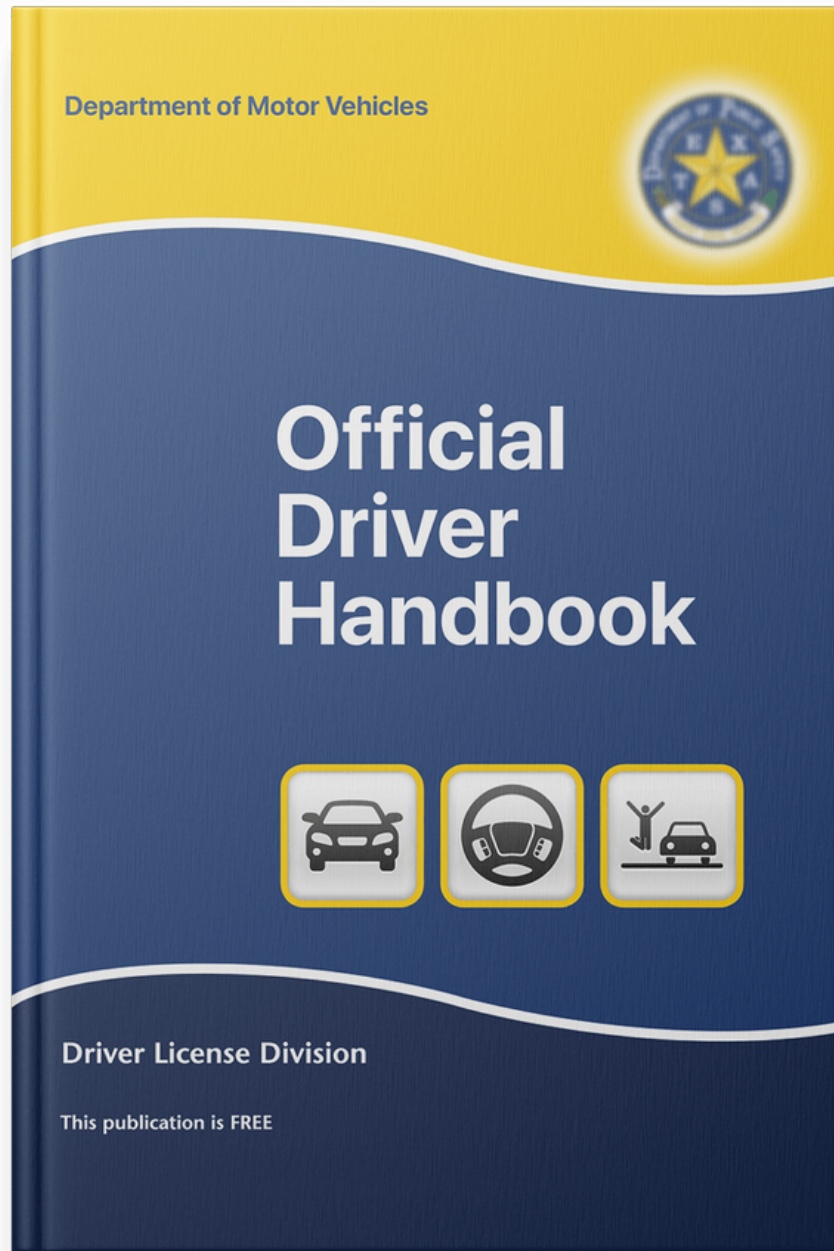
President & CEO

National Council of Nonprofits

Before we dive into the details ...



Know the rules, be safe



Sec. 501(c)(3) “organized and operated exclusively for” certain purposes, plus ...



“**no part** of the net earnings of which inures to the benefit of any private shareholder or individual,”



“**no substantial part** of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)),”



“does **not** participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.”



Sec. 501(c)(3) “organized and operated exclusively for” certain purposes, plus ...



“**no part** of the net earnings of which **inures to the benefit of any** private shareholder or individual,”

BUT, it is **legal** to pay an individual “reasonable compensation”



“**no substantial part of the activities** of which is carrying on propaganda, or otherwise attempting, **to influence legislation** (except as otherwise provided in subsection (h)),”

BUT, it is **legal** to (1) **do less** than a substantial amount of its activities attempting to influence legislation, (2) influence **non-legislative** policy, and (3) **take the 501(h) election** to lobby.



“does **not participate in**, or intervene in (including the publishing or distributing of statements), **any political campaign on behalf of (or in opposition to) any candidate for public office.**”

BUT, it is **legal** to participate in elections **in nonpartisan ways if** (1) **not campaigning for or against candidates**, or (2) campaign is **not about candidates for public office – such as ballot measures.**



Section 501(c)(3) organizations may “not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.”

“the Johnson Amendment”



**Senate Minority Leader
Johnson proposed it in 1954**



**President Eisenhower
signed in into law in 1954**



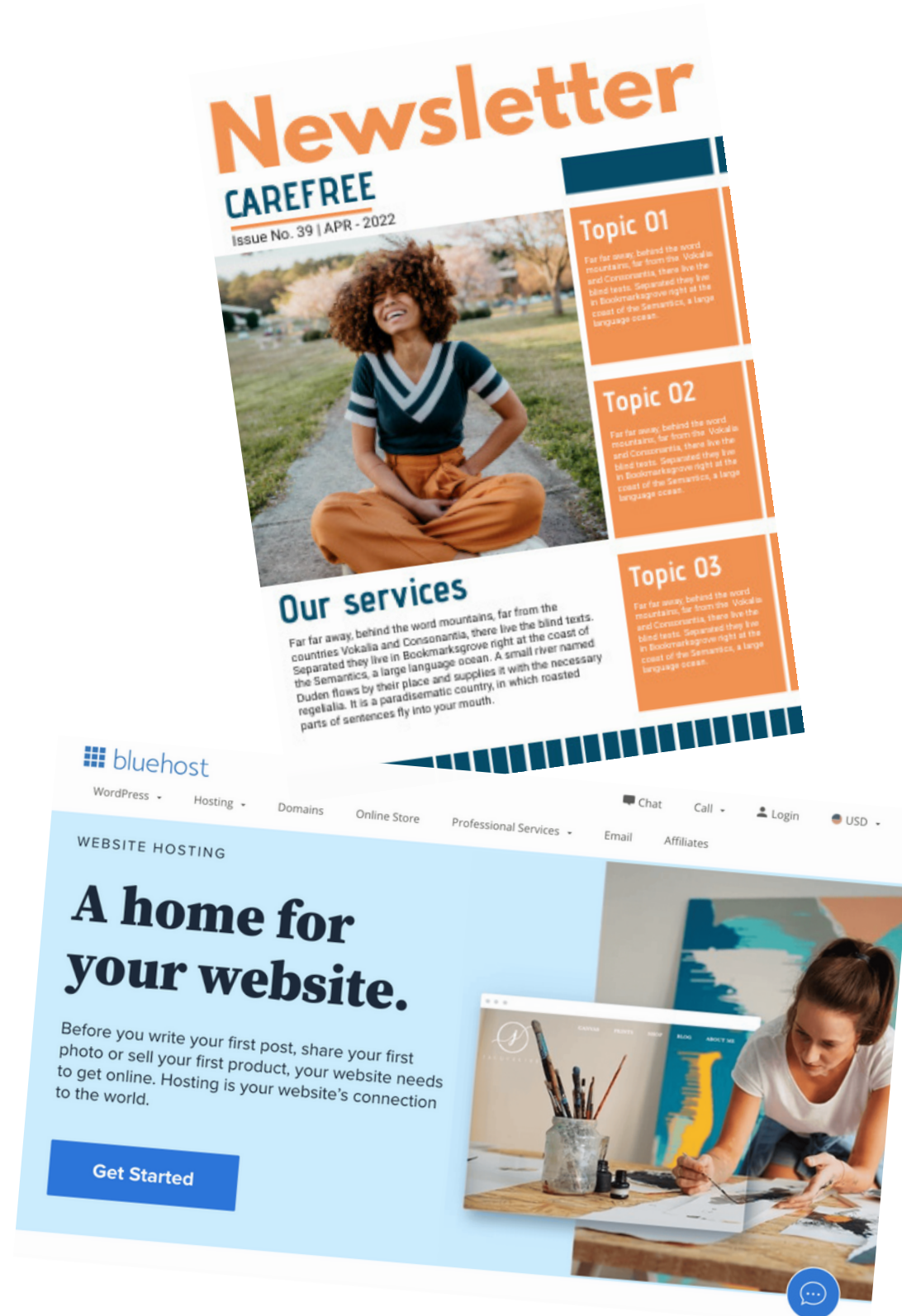
**President Reagan signed
amendment into law in 1987**

Section 501(c)(3) organizations may **“not participate in, or intervene in** (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.”

501(c)(3) organizations may **“not participate or intervene in ...**



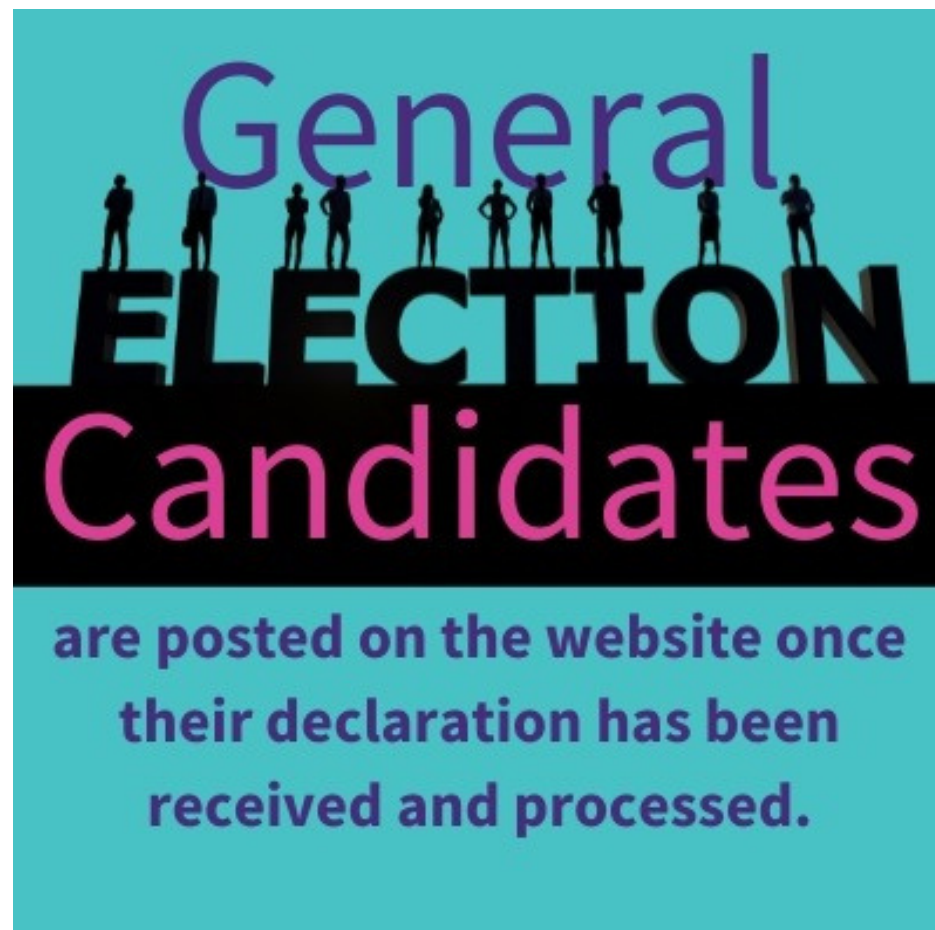
Section 501(c)(3) organizations may “not participate in, or intervene in **(including the publishing or distributing of statements)**, any political campaign on behalf of (or in opposition to) any candidate for public office.”



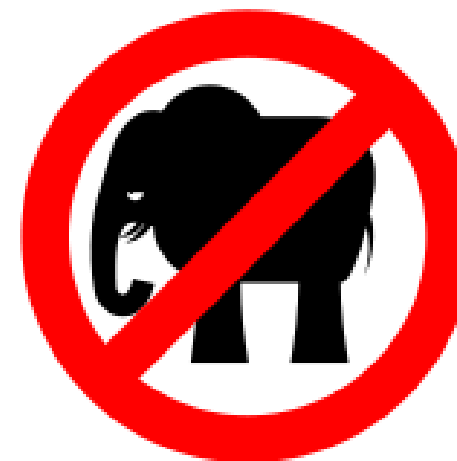
... including [not] publishing or distributing statements...



Section 501(c)(3) organizations may “not participate in, or intervene in (including the publishing or distributing of statements), any **political campaign on behalf of (or in opposition to) any candidate for public office.**”



... on behalf of (or opposition to) any candidate for public office.”



Why nonpartisanship **PROTECTS** nonprofits

- **Protects money for mission**



1. Lose \$\$ sent to political campaigns
2. Lose future contributions

- **Protects focus on mission**



1. Board fights re whom to endorse
2. Board fights re who/how much \$\$

- **Protects public trust and donors trust in 501(c)(3) orgs**



Why nonpartisanship PROTECTS democracy

- Prevents another avenue to “dark money”
- Prevents huge tax loophole for wealthy
- Provides refuge from toxic partisanship





Permissible

“Charities are, however, **allowed to conduct nonpartisan activities that educate the public and help them participate in the electoral process.** A charity furthers a valid educational purpose when it offers instruction. **Such instruction can take various forms, including voter education guides, voter registration and get-out-the-vote drives and candidate forums.**”

CANDIDATE CAMPAIGNS – only on a nonpartisan basis



- **Promote/help people register to vote**
 - Easy! Fun! Signs, signup table at office & events
- **Educate voters re the voting process**
 - E.g., when, where, what’s on ballot
- **Distribute nonpartisan voter guides – *from trusted sources***
 - E.g., from state or local governments
- **Encourage people to vote; conduct Get-Out-the-Vote (GOTV) drives**
 - E.g., signs, postcards, emails, phone calls, drive
- **EXTRA CAREFUL** – Host a Candidate Forum
- **EXTRA CAREFUL** – Create a Candidate Questionnaire





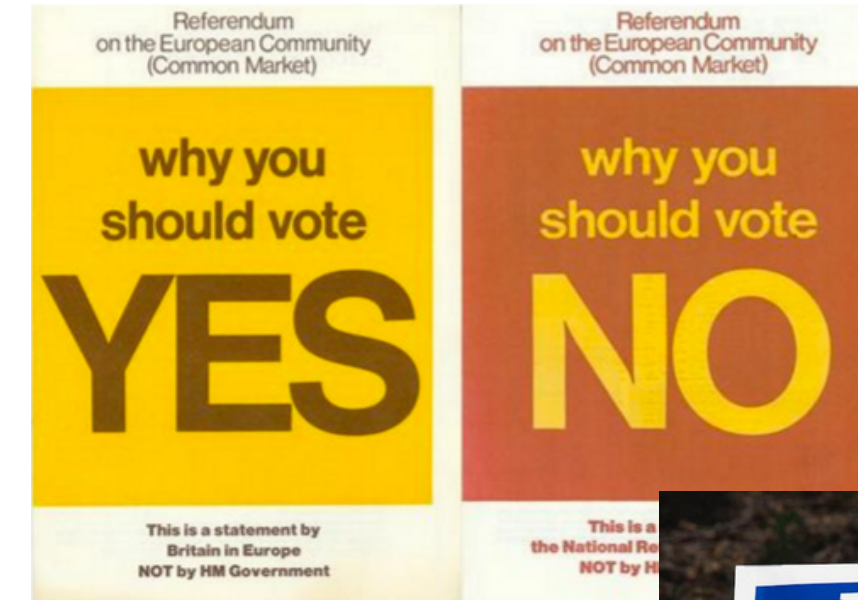
Permissible

“Charities are, however, **allowed to conduct nonpartisan activities that educate the public and help them participate in the electoral process.** A charity furthers a valid educational purpose when it offers instruction. **Such instruction can take various forms, including voter education guides, voter registration and get-out-the-vote drives and candidate forums.**”

BALLOT MEASURES

- **Voters = lawmakers, so = lobbying, not an election for or against candidate for public office**

- **Propositions**



- **Initiatives**

- **Referenda**

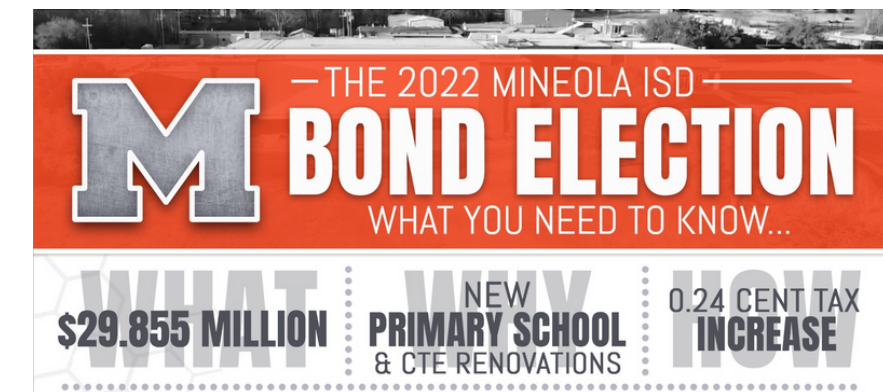
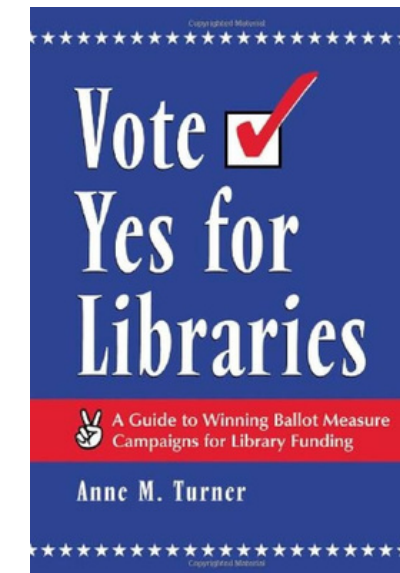


REGULATE MARIJUANA
Like Alcohol

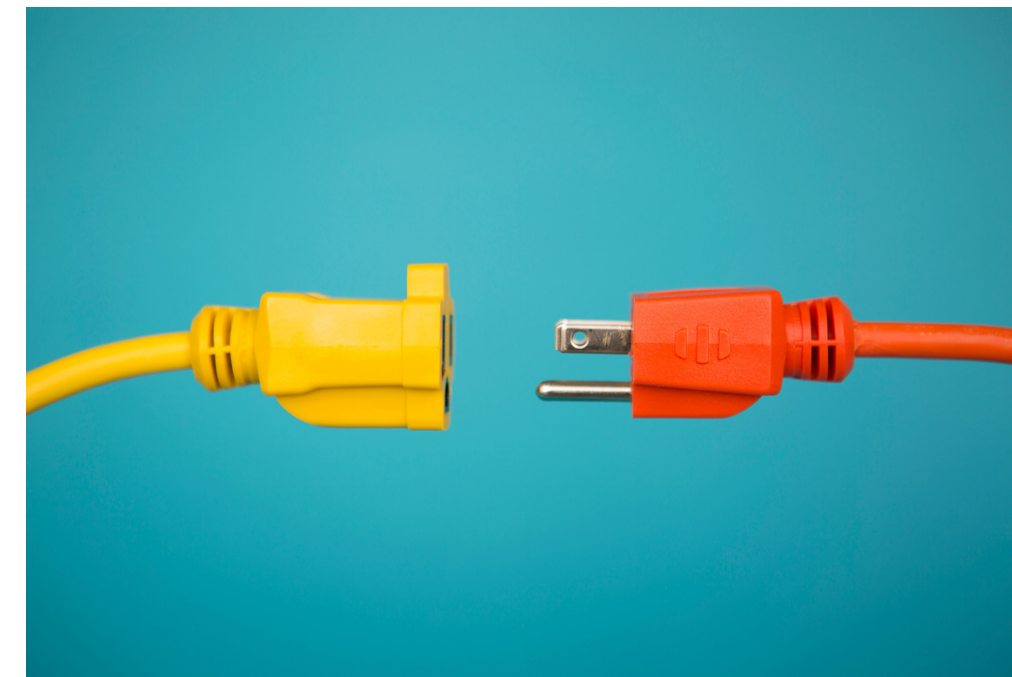


- **Bond Elections**

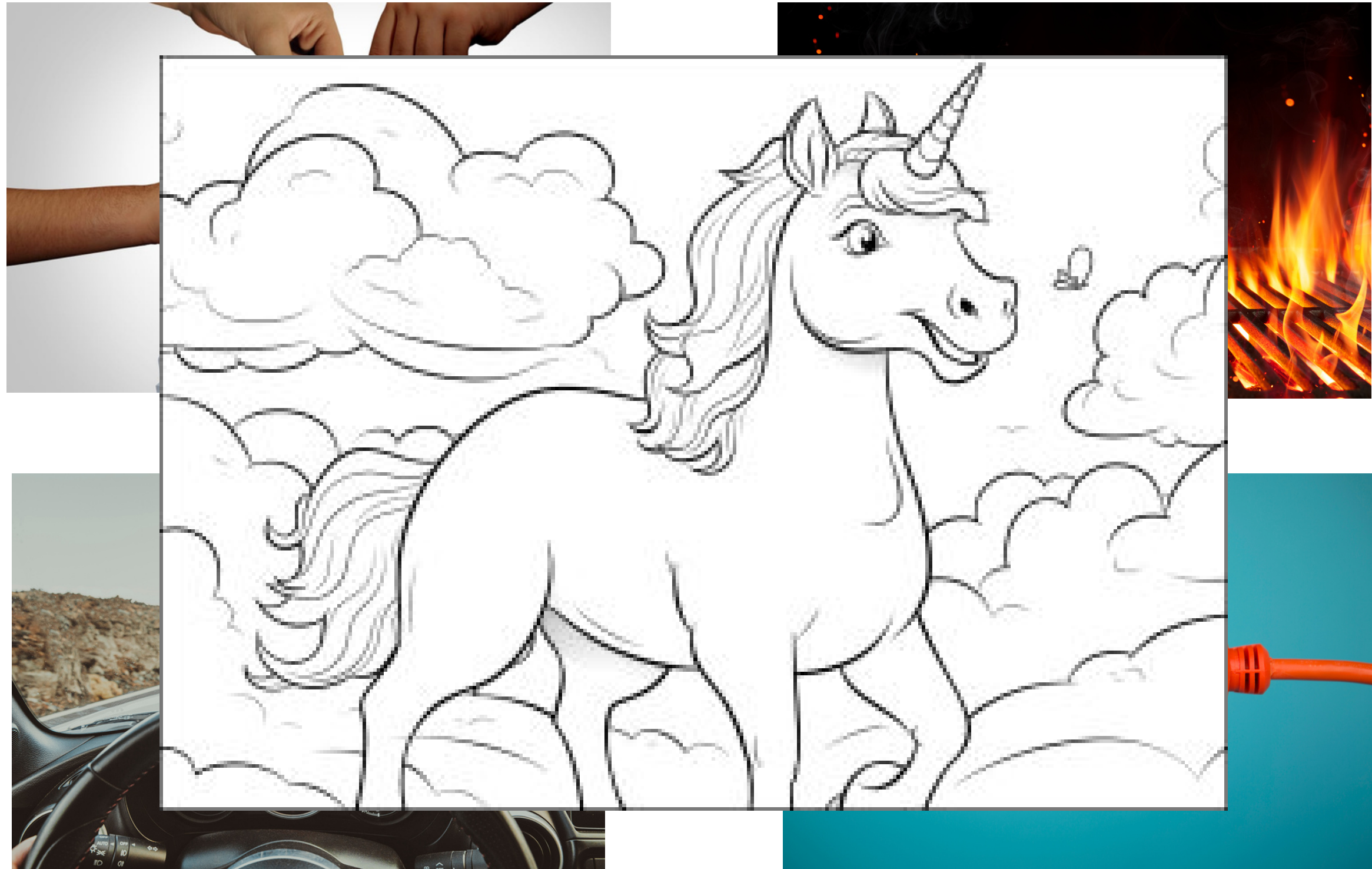
- For schools
- For roads
- For parks
- For libraries
- More



Bottom line ... like everything else, know the rules



Bottom line ... like everything else, know the rules



3

Nonprofits are Trusted Conveners



Liz Moore

She/Her

Executive Director

Montana Nonprofit Association

Nonprofits are Trusted Conveners

Nonprofits are Trusted Conveners

Why are Nonprofits Involved in Elections Anyway

The State of Public Trust

The Rules of Election Activity

Engaging a Standoffish Constituency

Nonprofits and Elections: It's in our DNA

“We are striving to forge our union with purpose. To compose a country committed to all cultures, colors, characters and conditions of man. And so we lift our gaze, not to what stands between us, but what stands before us.”

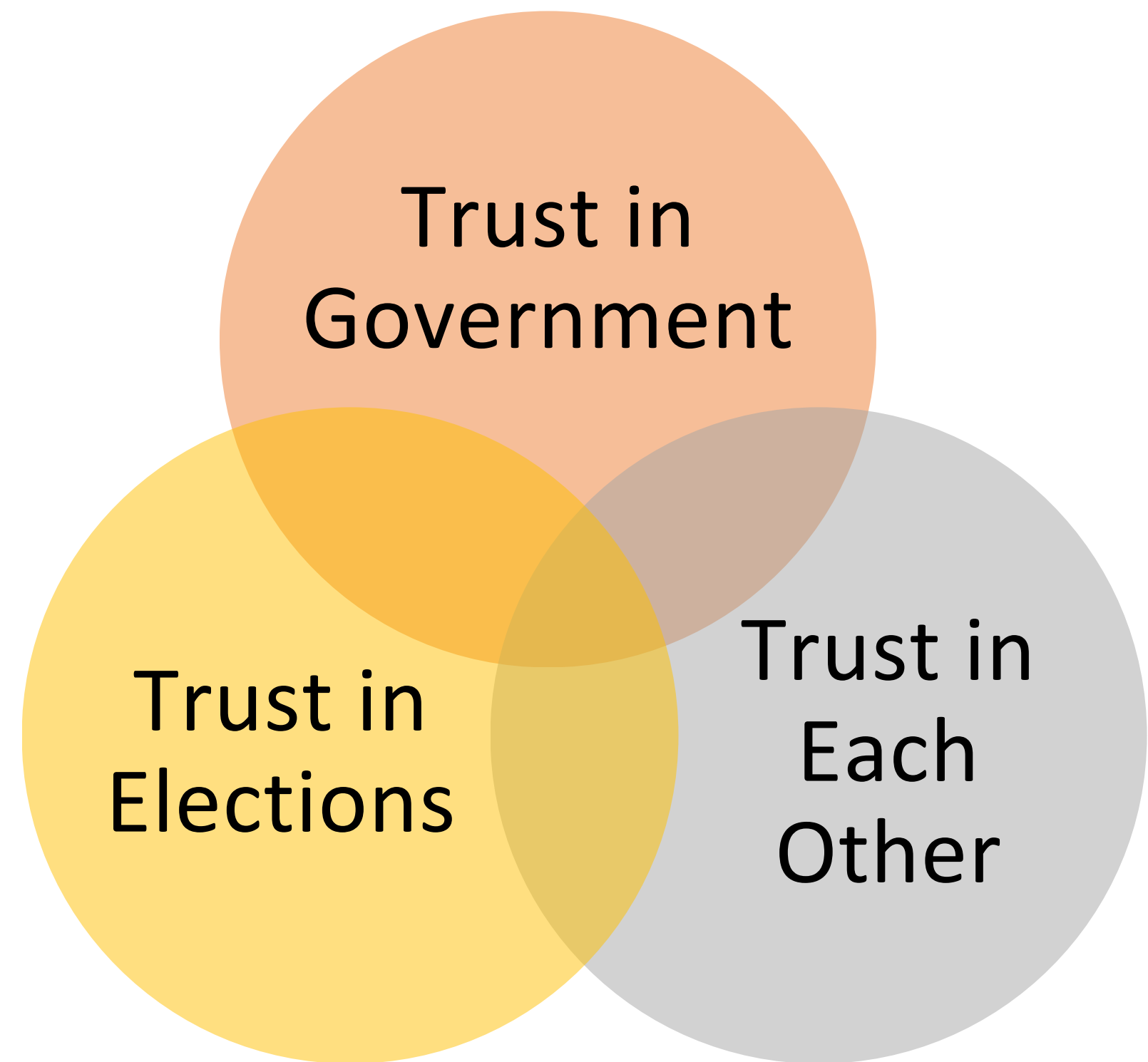
Amanda Gorman



Nonprofits and Elections: Nonprofits Stand for the Good

“It all comes down to
trust.”

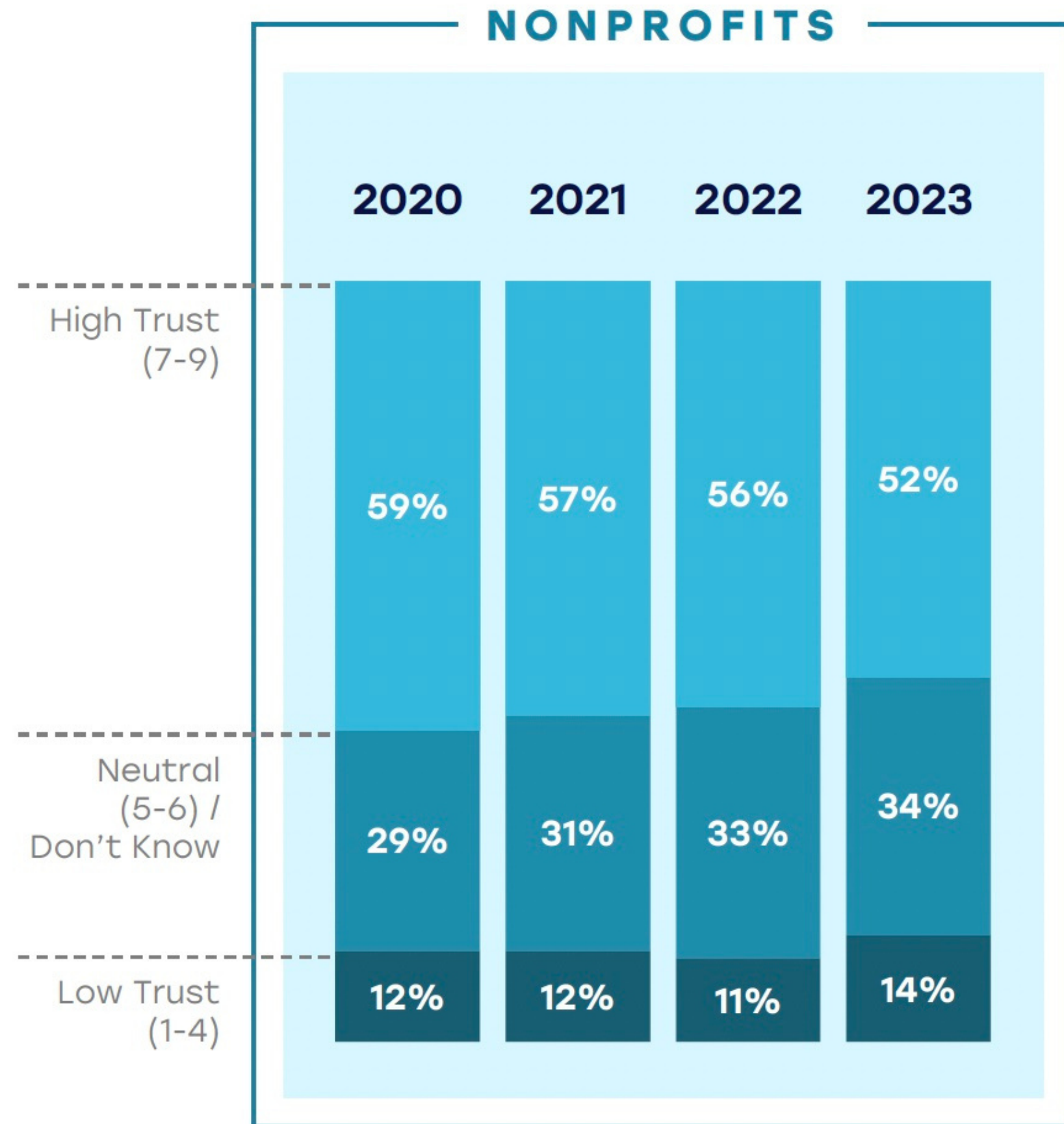
Frank Sonnenberg



Trust in Nonprofits

“Nonprofits are Messy. Not enough money. Too many cooks. An abundance of passion.”

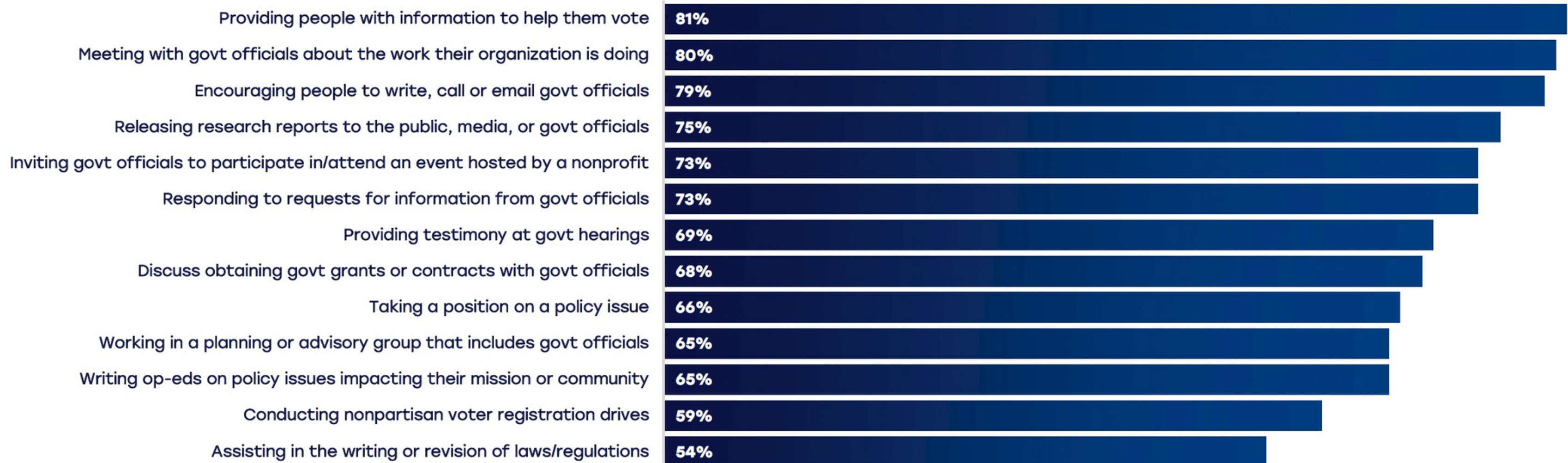
Joan Garry



Despite the effects of polarization, large majorities believe it is appropriate for nonprofits to engage with policymakers and advocate for causes and the communities they serve

'Appropriateness' of Nonprofit Advocacy Activities

Shown: Percent Select – 'Yes, Appropriate'



Q12A: Many nonprofits educate the public and government leaders on a range of issues related to their mission and values. For each type of action below, please tell us whether you think it is appropriate or not appropriate for nonprofits to do this. Base Size n=3000

“Yes, I approve.”

- Providing people with information to help them vote.
- Meeting with govt officials about the work their organization is doing.
- Encouraging people to write, call or email govt officials.
- Writing op-eds on policy issues impacting their mission or community.
- Participate in Get out the Vote Activities.

What the IRS Says we can't do:

- All section 501(c)(3) organizations are absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office.
- Contributions to political campaign funds or public statements of position (verbal or written) made on behalf of the organization in favor of or in opposition to any candidate for public office clearly violate the prohibition against political campaign activity.
- On the other hand, voter education or registration activities with evidence of bias that (a) would favor one candidate over another; (b) oppose a candidate in some manner; or (c) have the effect of favoring a candidate or group of candidates, will constitute prohibited participation or intervention.

What the IRS Says we can do:

- Certain activities or expenditures may not be prohibited depending on the facts and circumstances. For example, certain voter education activities (including presenting public forums and publishing voter education guides) conducted in a non-partisan manner do not constitute prohibited political campaign activity.
- In addition, other activities intended to encourage people to participate in the electoral process, such as voter registration and get-out-the-vote drives, would not be prohibited political campaign activity if conducted in a non-partisan manner.

PARTISAN (DON'TS)

Show Favoritism

- endorse/oppose a candidate
- rate a candidate on support of an issue (report card, rating card, etc.)
- publicize which candidates share the nonprofit's views
- Say positive/derogatory comments regarding candidate while doing nonprofit business
- ask candidate to pledge support for a cause

Voter Preference

- targeting/registering voters for only one party

PARTISAN (DON'TS) (cont)

No Nonprofit Resources

- may be contributed or spent to endorse/oppose a candidate
- raise \$ for a candidate
- let candidates use office space, equipment, mailing lists, etc.

NONPARTISAN (DO's)

Voter Education

Help new voters understand elections and the voting process

Sponsor nonpartisan candidate forums or debates subject to IRS rules

Distribute nonpartisan questionnaires to candidates

Candidate Engagement

Provide briefings to all candidates on the organization's issues

Broad Voter Participation

Encourage and help people get to the polls on Election Day | Register people to vote

Spend Resources

Activities that do not support a single party | Voter registration | Voter education | Get Out The Vote

So what's next?

Doing the math: there is a trust deficit which likely leads to a cynicism surplus and a civic engagement deficit. How can we do this particular work in ways that fill the trust deficit?

1. Organizations can listen to hear and understand “the other.” And this means a much larger group than we might be imagining.
2. Prioritize an organizational culture that prioritizes relationships grounded more in authenticity than agenda.
3. Put a commitment to news accuracy into your communications agenda and make sure your constituents know 1)it's a priority and 2) how you achieve it.
4. Teach what social media is best/not best for.

5. Create an organizational culture where diversity of thought is safe, including political thought if that's expressed overtly or in nuance in your workplace.
6. Be a watchdog and advocate for representative participation in elections.
7. Bring people together – isolation breeds mistrust. Connection builds empathy.
8. Practice examining issues factually from multiple perspectives without having to land on one right answer.
9. Actively practice civil dialogue: Gracious Space, Teaching Tolerance
10. Notice the degree to which your partners and close colleagues are most like you in thought. Can you expand the circle?

4

Permitted Nonpartisan Get Out The Vote Activities



Gwen Stemberge

She/Her

Training and Partnerships Coordinator

Nonprofit VOTE

Voter Engagement



**Gwen Stembridge (she/her),
Education and Partnerships Coordinator**

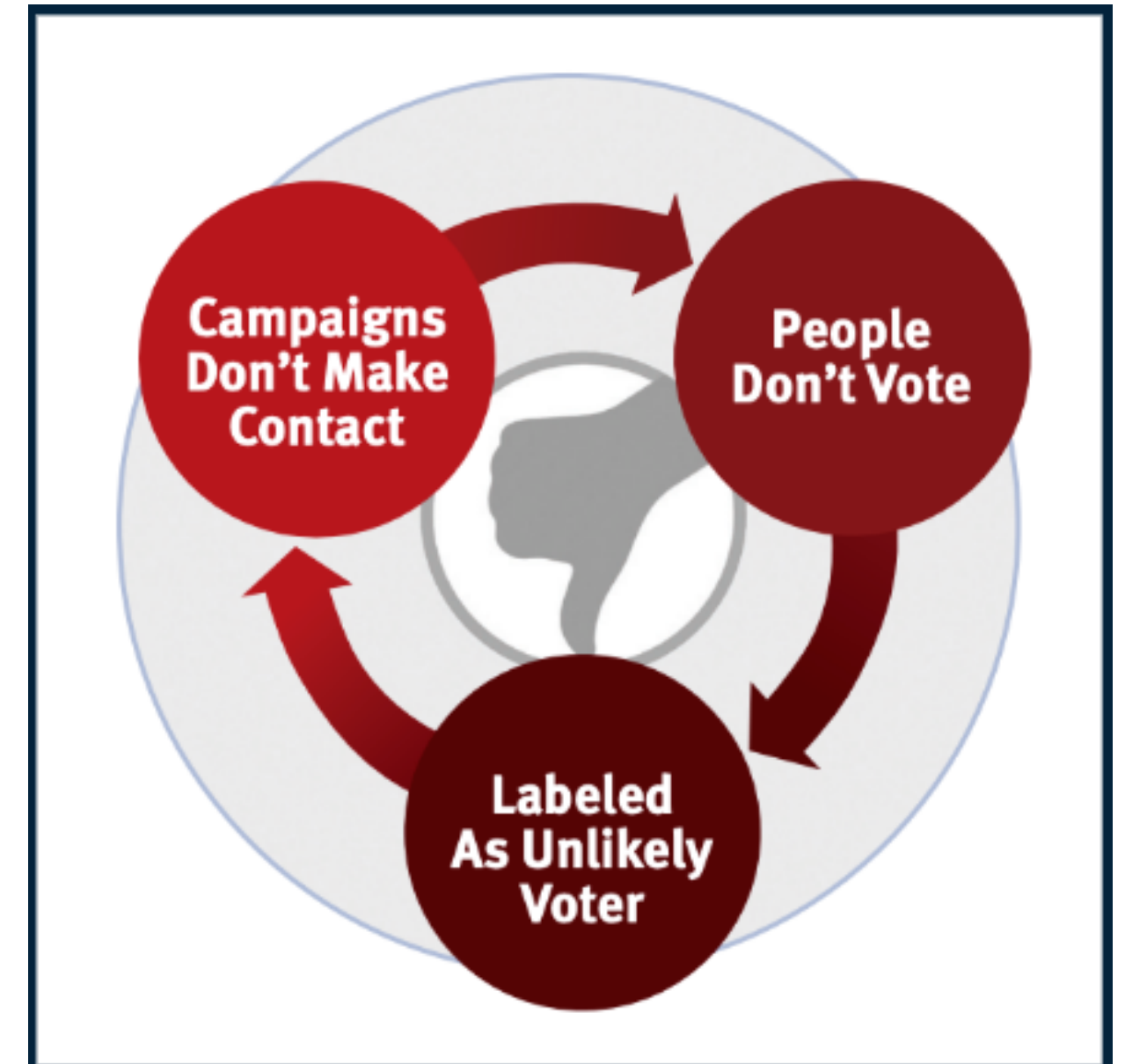
Who is Nonprofit VOTE?

Mission: Nonprofit VOTE equips our nation's nonprofits with nonpartisan tools and resources to help the communities they serve participate in voting and democracy.

Vision: We envision a diverse network of nonprofits across the United States with the skills, resources, and commitment needed to foster a **more inclusive democracy** where all voices are heard, particularly those currently underrepresented in the voting process.

Breaking the Loop that Perpetuates Gaps

- The goal of political campaign is to win an election. As such, they focus their limited resources on engaging “likely” voters. This fuels a negative, self-perpetuating feedback loop.
- We need a new civic ecosystem that engages *all* eligible voters and works toward an inclusive democracy.



Nonprofits Are a Key Part of the Solution

- Nonprofit missions are better aligned to goal to community inclusion
- Mutual interest
- Long-term roots and established relationships
- Trust with community
- Cultural competency
- Data shows it works!



Nonprofit VOTE's Work

Equipping our nation's nonprofits with nonpartisan tools and resources to help the communities they serve participate and vote.

- Free national webinar series
- Tailored support for partner organizations
- Multi-state field program
- Philanthropy for Voter Engagement initiative
- Lead National Voter Registration Day

What a 501c3 Nonprofit Can Do

501(c)(3) organizations may conduct **nonpartisan voter engagement activities** designed to help the public participate in elections:

- Voter Registration
- Voter Education
- Candidate Engagement
- Get Out The Vote (GOTV)



Common Nonpartisan Activities

Tip: Know your state's rules for voter registration drives.



Promote and conduct voter registration

- Announce deadlines
- Provide info on where/when to register
- Host a registration drive on NVRD (National Voter Registration Day)

Educate voters on election participation

- Provide sample ballots and info on where to research candidates
- Hold mock elections so voters can “practice”
- Host a candidate forum (see candidate forum toolkit or consult attorney)

501(c)(3) Organizations MUST Remain Nonpartisan

A 501(c)(3) organization **MAY NOT**:

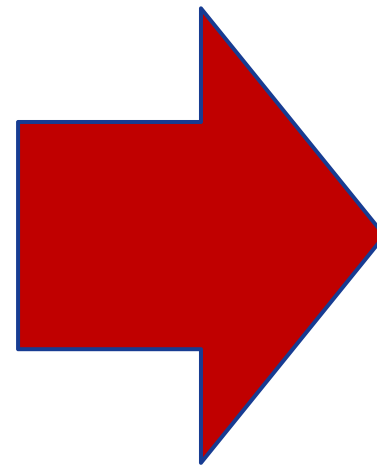
- Endorse or oppose a candidate or political party (either explicitly or implicitly, includes nonpartisan offices)
- Donate money or resources to a candidate or party (like space to hold events or research)
- Conduct any partisan election-related activity (say “no thanks” to political parties)
- Give out prizes/incentives to register or to vote



Nonprofit Staff Members

What:

- Volunteer on campaigns
- Attend political events
- Support a candidate
- Run for office



When:

- Personal time outside work hours
- On vacation
- On personal days
- On unpaid leave

What about Advisory Board members? Okay, if no organizational resources are used, and participation does not imply organizational endorsement for a candidate, campaign, or political party.

Free Tool!

[Staying Nonpartisan: Permissible Election Activities Checklist for 501\(c\)\(3\) organizations](#)



How can Nonprofit VOTE help you?

- Attend our FREE webinar series or watch past webinars on our YouTube
- Sign up for our newsletter at nonprofitvote.org to learn about tools and webinars
- If you are a funder, follow our Philanthropy for Voter Engagement work at philanthropy.nonprofitvote.org
- Visit our Resource Library for tools, templates, checklists, timelines, and printable materials to support your voter engagement work.
www.nonprofitvote.org/resource-library/
- Become a National Voter Registration Day partner at <https://nationalvoterregistrationday.org/>



Additional Resources

- [Working with Candidates Guide](#)
- [Candidate Questionnaires and Voter Guides](#)
- [Webinar: Getting a Head Start Planning Your Voter Outreach for 2024.](#)
 - [Webinar Companion tool](#)



Thank You and Happy Voting!

You can register voters in style with merch from National Voter Registration Day!



Q&A

Thank You

Recording, Slides, and Resources
will be available shortly.

Please contact Tiffany Gourley Carter
(tcarter@councilofnonprofits.org) for any
additional questions and comments