

What's on the ballot in 2018? What do these proposals do?

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GCSI Client Election Briefing

Eric Lupher, President

Citizens Research Council

- Founded in 1916
- Statewide
- Non-partisan
- Private not-for-profit
- Promotes sound policy for state and local governments through factual research – accurate, independent and objective
- Relies on charitable contributions from Michigan foundations, businesses, and individuals
- *www.crcmich.org*

Eric Lupher, President



- 31+ years at the Citizens Research Council of Michigan
- Generalist
 - Taxation
 - Constitutional Issues
 - Intergovernmental Finance
- Local government
 - Finance
 - Organization
 - Charter Issues
 - Consolidation

One Voter-Circulated Statutory Initiative

Legalized Marijuana

Indirect Statutory Initiative

- Authorized by Article II, Section 9 of 1963 Michigan Constitution
- Each of proposals is submitted to the legislature
 - If legislature chooses not to act on the proposal
- Submitted to the voters
 - Approval would make it law
 - Not subject to gubernatorial veto
 - Amending an initiated law requires another vote of the people or a $\frac{3}{4}$ vote of the members elected to and serving in each house of the legislature

Proposal 1 – Marijuana Legalization

- Petitions circulated by The Coalition to Regulate Marijuana Like Alcohol
- Different than the medical marijuana law



Details of the Proposal

- The Michigan Regulation and Taxation of Marihuana Act would
 - Allow individuals 21 and older to possess and use marijuana and products containing marijuana, as well as to grow and store marijuana in their residence
 - Prohibit use of marijuana in certain circumstances, such as while operating a motor vehicle or on school property
 - Allow employers to enforce workplace marijuana policies
 - Allow property owners to prohibit use on their property

Details of the Proposal (pt. 2)

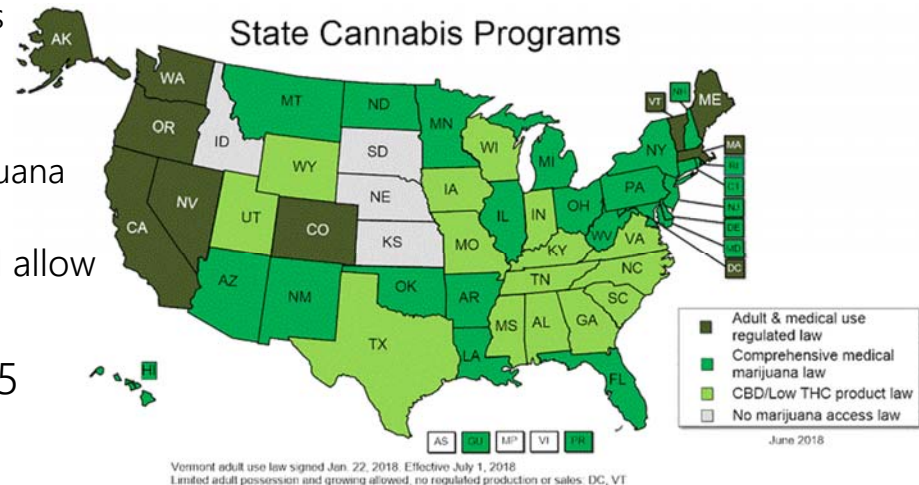
- The Michigan Regulation and Taxation of Marihuana Act would
 - Allow municipalities to prohibit or limit the number of marijuana businesses within municipal boundaries
 - Regulate growing, processing, transporting, and selling marijuana and products containing marijuana
 - Allow commercial sale of marijuana and products containing marijuana subject to taxation

Taxation of Legalized Marijuana

- Sales Tax plus Excise Tax on marijuana retailers and microbusinesses
 - 6% state sales tax
 - 10% excise tax
- Revenues deposited into Marijuana Regulation Fund
 - Implementation, administration, and enforcement of the act
 - Until 2022, or for at least 2 years, \$20M annual for research on efficacy of marijuana in treating the medical conditions of armed services veterans and preventing veteran suicide
- Unexpended balances allocated to
 - 15% to municipalities in which retail store or microbusiness is located
 - 15% to counties in which retail store or microbusiness is located
 - 35% to School Aid Fund
 - 35% to Michigan Transportation Fund

Interstate Comparison

- Marijuana legal in 9 states + DC
 - North Dakota's Measure 3 would legalize marijuana
 - Vermont enacted law through statutory process
- Medical marijuana is legal in 22 states
 - Oklahoma legalized medical use June 26, 2018
 - Missouri has 3 initiatives to allow medical marijuana on November ballot
 - Utah's Proposal 2 on November ballot would allow medical marijuana
- CBD/Low THC products are permitted in 15 states
- Only 4 states do not have laws authorizing possession and use of marijuana or marijuana byproducts



Legalized Marijuana – Consideration #1

Have prohibition and criminalization of marijuana been effective?

- Early arguments favoring prohibition invoked anti-immigrant sentiments and exaggeration of potential harms from marijuana
- In 2016, more people were arrested for marijuana possession than for all violent crimes combined
 - The odds of arrest and incarceration are greater for black individuals, suggesting a potential social justice issue
- Use among adults is increasing
 - Ends the need for people to 'bend the facts' to qualify for a medical marijuana card

Legalized Marijuana – Consideration #2

Are the proposed tax and regulatory structures adequate?

- Regulating production and distribution of marijuana products creates greater safety and security for consumers
 - Greater certainty of how potent are the drugs
 - Transactions made in the open
- Michigan's tax rate would be low relative to other states
 - Washington has the highest rate of taxation: a 37% excise tax
- Tax revenues would not fund public health or marijuana-related treatments and interventions
 - Tobacco taxes dedicated in part to Medicaid, indigent health care, Healthy Michigan Fund, Health and Safety Fund

Legalized Marijuana – Consideration #3

What are the implications for public health and safety?

- Marijuana is neither as dangerous as critics assert nor as benign as proponents claim, indicating a public knowledge gap
- Marijuana use increases risk of motor vehicle accidents
 - Enforcement of Operating While Intoxicated (OWI)/Operating With the Presence of Drugs (OWPD) laws is hindered by the lack of good tests
- Evidence does not suggest marijuana is a “gateway drug”
- Marijuana abuse and dependence are serious public health concerns
- Current evidence suggests frequent marijuana use is associated with:
 - Cognitive impairment (learning, memory, and attention)
 - A variety of mental health conditions and suicide

First of Two Proposed Constitutional Amendments

Proposal 2 – Voters Not Politicians

How Redistricting Currently Works

- 1963 Michigan Constitution created independent commission
 - 4 Republican members and 4 Democratic members
 - Ineffective in 1971 and 1981
- Michigan Supreme Court invalidated constitutional provisions in 1982
 - Inconsistent with one-man-one-vote requirements in U.S. Constitution
- Responsibility handed to Michigan Legislature
 - Only binding criteria are federal (equal population, Voting Rights Act)
 - Unitary control of House and Senate by Republican Party have allowed the state to be Gerrymandered
 - *Quantifying the Level of Gerrymandering in Michigan* (June 2018)
<https://crcmich.org/quantifying-the-level-of-gerrymandering-in-michigan/>
 - Freedom of Information Act does not extend to legislative branch

Proposal 2 creates new process modeled on other states

- Follows examples of other states
 - Arizona
 - Citizens initiative in 2000
 - 5 members (2 Rs, 2 Ds, 1 unaffiliated)
 - California
 - Citizens initiative in 2008 for legislative redistricting, amended in 2010 for congressional redistricting
 - 14 members (5 Rs, 5 Ds, 4 unaffiliated)



Proposal 2 – Redistricting Reform (Voters Not Politicians)

- Michigan would have a 13-member commission
 - 4 Republican
 - 4 Democrat
 - 5 Independent
- Selection Process
 - Applications mailed and available for interested applicants
 - Random selection of 3 applicant pools (200 potential commissioners)
 - Preemptory challenges by legislative leaders (5 each/20 in total)
 - Commissioners randomly selected from 180 remaining applicants



Redistricting proposal goes into great detail

- Assigns responsibilities to Secretary of State to randomly select commissioners and facilitate the commission's work
 - Mailing and receiving applications
 - Secretary of the commission
- Creates a funding stream for the commission's operations and commissioners' compensation
 - 25% of GF/GP Budget for Department of State (~\$4.6 million annually)
 - Commissioners salaries = 25% of governor's salary (~\$40,000)
 - Additional expenses – SoS staff, travel costs, facility costs, consultants, legal costs, mapping software, etc.

Guiding Criteria in Constitution

- Defines criteria to be incorporated in designing maps (in order of priority)
 - Equal population
 - Geographically contiguous
 - Reflecting diverse population and communities of interest – NEW
 - Shall not provide disproportionate advantage to a political party – NEW
 - Shall not favor or disfavor an incumbent official or a candidate – NEW
 - Shall reflect consideration of county, city, and township boundaries
 - Shall be reasonably compact

More Redistricting Detail

- Establishes procedures by which the commission will receive input from citizens, share its work product
 - At least 10 hearings across the state
 - All communications and work product subject to Freedom of Information Act
- Establishes procedures by which the commission will adopt congressional and legislative maps
 - Majority vote, including
 - At least two commissioners who affiliate with each political party
 - At least two commissioners who do not affiliate with a political part
 - Rank order voting
 - Still must have buy-in from each group
 - Random selection

Proposal 2 - Considerations

- Michigan only state without valid redistricting provisions in state constitution
- Transparency and imposition against bias
vs
- Accountability and efficiency

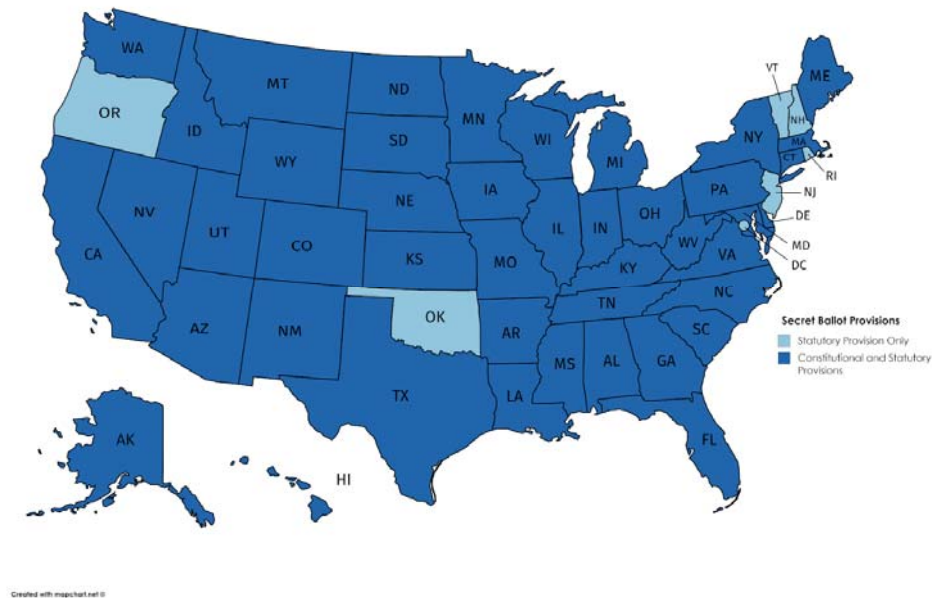
Second of Two Proposed Constitutional Amendments

Proposal 3 – Promote the Vote

Proposal 3 – Voting Rights (Promote the Vote)

- Amend Article II (elections), Section 4 of Michigan Constitution
 - Protect the right to a secret ballot
 - Ensure military service members and overseas voters get their ballots in time for their votes to count
 - Provide voters with the option to vote straight party
 - Automatically register citizens to vote at the Secretary of State's office unless the citizen declines
 - Allow a citizen to register to vote anytime with proof of residency
 - Provide all registered voters access to an absentee ballot for any reason
 - Ensure the accuracy and integrity of elections by auditing election results

Right to a Secret Ballot



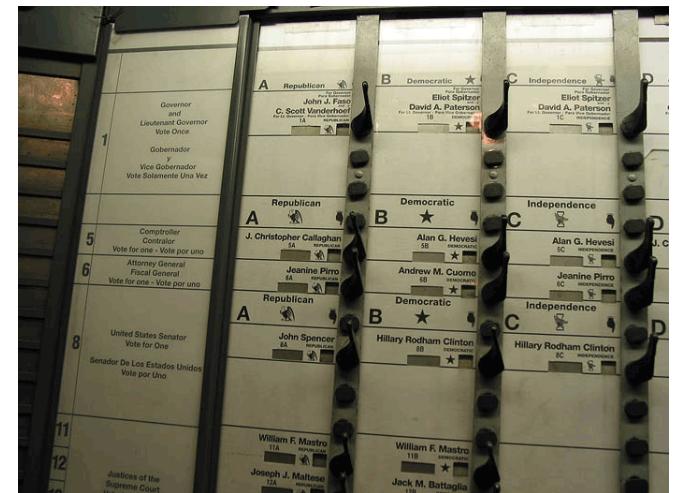
- 50 states and DC protect the secret ballot in some form
 - 44 (including MI (Art. II, Sec. 4)) in their constitutions
 - 6 in at least one statute
- Voters can waive secrecy in other states when they vote using fax, email or Internet
- Provision already in Michigan Constitution

Absentee Ballots in time for votes to count

- Requirements already exist in federal law
- The Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA)
 - Established a set of guidelines for states to follow when providing ballots to those not at home to vote
- Amended in Military and Overseas Voter Empowerment Act of 2009 (MOVE Act)
 - Required states to send out absentee ballots to UOCAVA voters at least 45 days prior to Election Day
- Putting into state constitution will make no functional difference

Straight Party Voting

- 3 sections of general election ballot
 - Partisan (President, Governor, Congress, Legislature, county commissioners, etc.)
 - Non-partisan (judicial, school board, etc.)
 - Ballot questions (initiatives, bond authorization, local millages, etc.)
- SPV permits a single selection to vote the partisan section
- Authorized in Michigan since 1891
- Republican-controlled legislatures have tried to ban
 - 1964 and 2002 – bans on SPV reversed by referendum
 - 2015 – ban on SPV
 - Challenged in court
 - Not available in 2018
- Past analysis shows common use by voters throughout the state voting for both parties

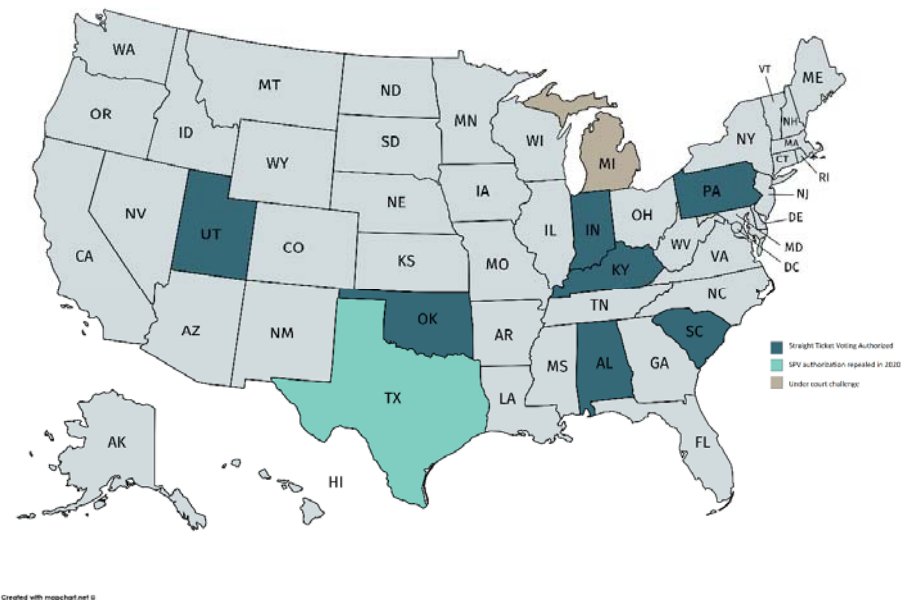


Straight Party Voting Experience in 2000

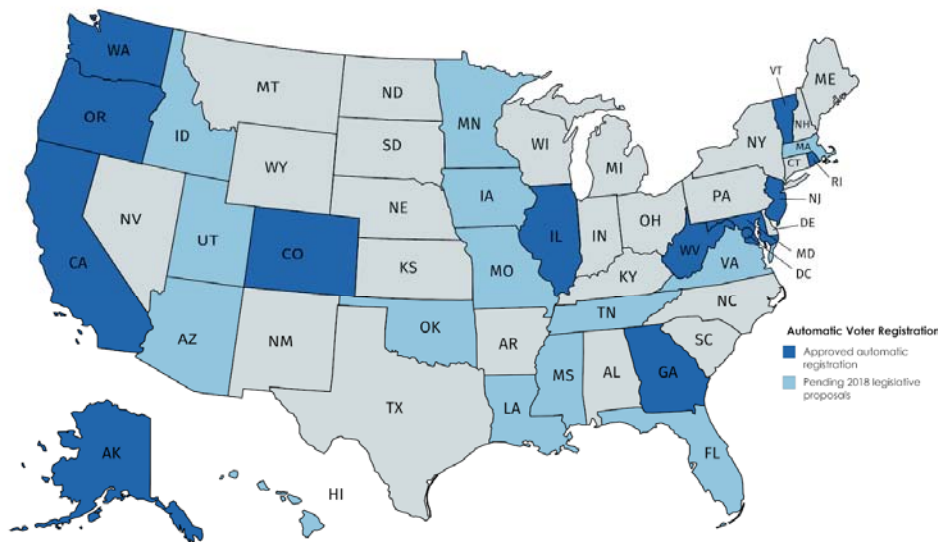
	Total Votes Cast	Straight Ticket Votes		Party Leaning for Those That Voted "Straight-Party"			
		Number	Percent of Total	How Many Republican	Percent Republican	How Many Democrat	Percent Democrat
Detroit	300,478	210,936	70.2%	9,315	4.4%	201,621	95.6%
Grand Rapids	74,645	39,083	52.4%	17,824	45.6%	21,259	54.4%
Farmington Hills	40,699	18,531	45.5%	9,361	50.5%	8,928	48.2%
Marquette	8,066	2,577	31.9%	909	35.3%	1,661	64.5%
Berrien	65,685	34,598	52.7%	19,952	57.7%	14,250	41.2%
Calhoun	54,658	24,324	44.5%	11,265	46.3%	12,696	52.2%
Charlevoix	12,713	4,912	38.6%	2,913	59.3%	1,859	37.8%
Dickinson	12,952	3,712	28.7%	1,465	39.5%	2,172	58.5%
Genesee	194,629	97,232	50.0%	24,852	25.6%	71,041	73.1%
Gogebic	8,491	2,845	33.5%	818	28.8%	1,970	69.2%
Ingham	123,664	45,863	37.1%	17,288	37.7%	27,779	60.6%
Kalamazoo	102,377	45,590	44.5%	23,981	52.6%	20,890	45.8%
Kent	252,455	130,612	51.7%	82,358	63.1%	46,928	35.9%
Lake	4,824	1,575	32.6%	513	32.6%	1,025	65.1%
Livingston	76,084	28,525	37.5%	18,691	65.5%	9,320	32.7%
Midland	39,352	15,237	38.7%	9,403	61.7%	5,598	36.7%
Monroe	62,307	21,094	33.9%	7,956	37.7%	12,840	60.9%
Ottawa	111,460	64,975	58.3%	51,533	79.3%	12,905	19.9%
Presque Isle	7,286	2,089	28.7%	979	46.9%	1,105	52.9%
Sanilac	18,726	8,606	46.0%	5,342	62.1%	3,142	36.5%
Washtenaw	145,974	60,604	41.5%	21,867	36.1%	38,737	63.9%

Use of Straight Party Voting in Other States

- 8 states allow SPV
 - Texas repealed in 2017, takes effect in 2020
- Authorizing states has been declining
 - Illinois abolished in 1997
 - Wisconsin abolished in 2011



Automatic Voter Registration

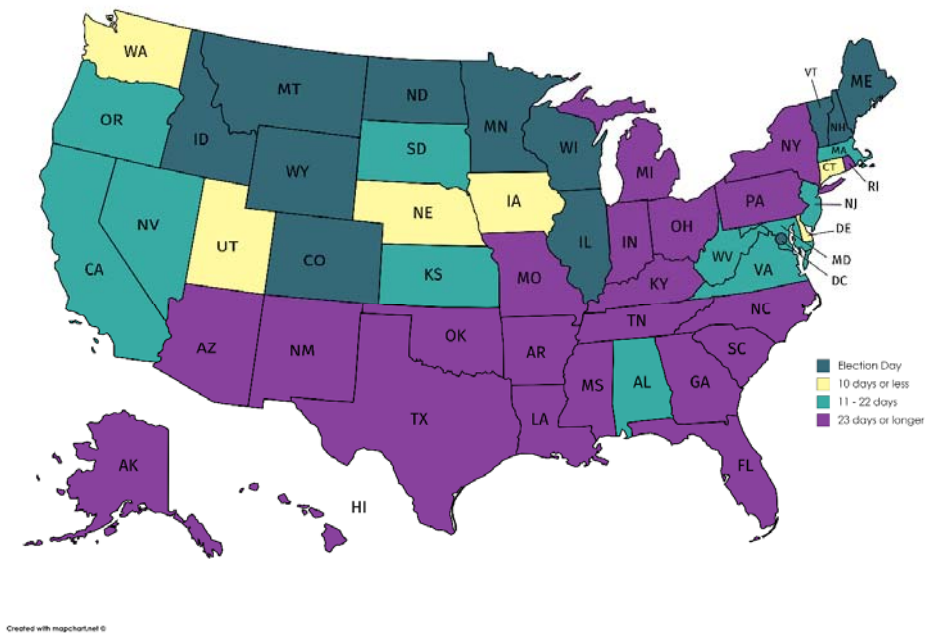


Created with mapshack.net

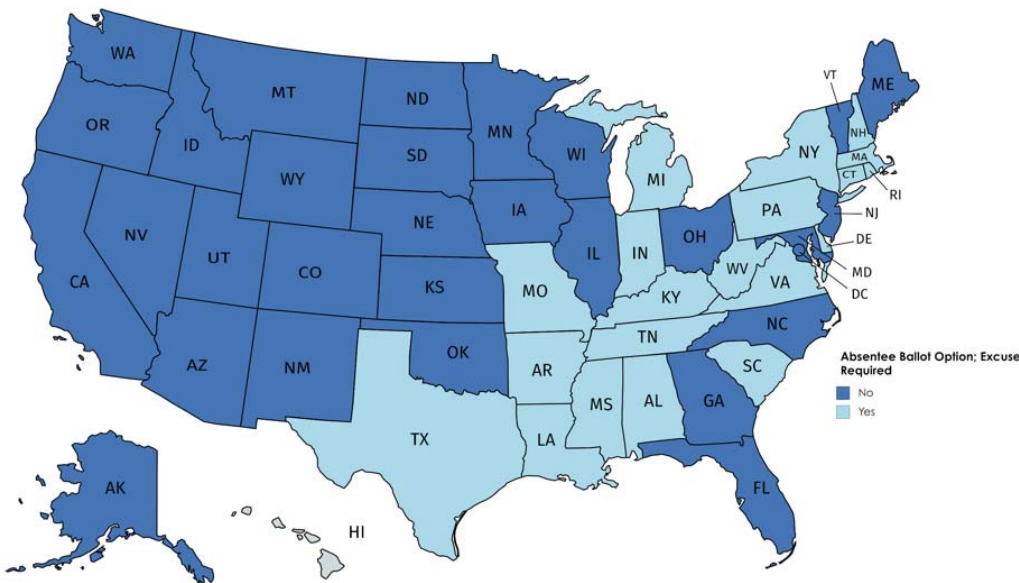
- Registration would occur with interaction with the Secretary of State for license or personal identification card
 - Opportunity to decline registration
- Does not mean more people will exercise their voting rights
 - 2-step process:
 - Registration
 - Voting
- 12 states + DC have adopted automatic voter registration
 - None have placed right in constitution

Anytime Voter Registration

- Eligible Michigan residents should have a voter registration deadline of 15 days or less
- Federal law establishes a maximum 30-day deadline
 - 11 states + DC have election day registration
 - 6 states have 10 day or less deadlines
 - Several states have 2-3 week deadlines
 - Michigan's current registration deadline is 30 days
 - Among plurality of states



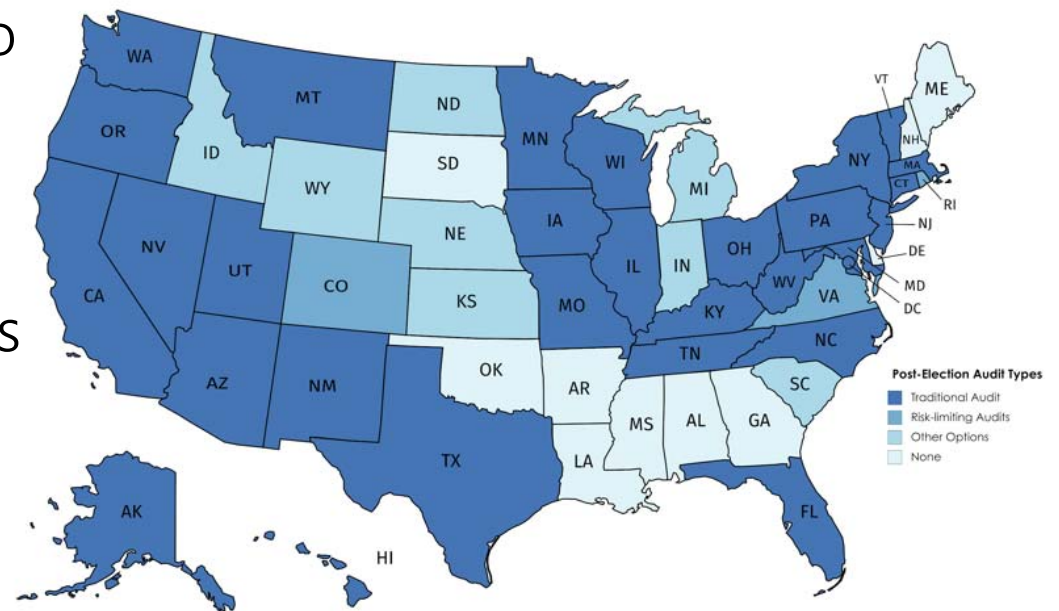
No Reason Absentee Ballot



- Current Michigan law allows only six reasons for obtaining an absentee ballot
- 37 states and DC provide more opportunities to vote before election day
- Increases voter participation

Election Results Audits

- Proposal would create right to election audit
 - Different from recount
- Post 2016 election recount effort showed failings of clerks
- Proposal would require statutory implementation
- Michigan law provides for audits



Proposal 3 Considerations

- Some issues (secret ballot, counting all ballots) as American as motherhood and apple pie
 - Many of the policies are settled and currently contained within statutory law
- Other issues have been the subject of public debate for decades
 - Proposals will make it easier to register, vote, and ensure the integrity of the voting franchise
- Key Issue – whether these policies should be enshrined in the state’s fundamental law – the state constitution
 - More difficult to modify or remove them (can be good or bad)
 - Insulates them from legislative responsibility and discretion

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