

NASBA

108th Annual Meeting

Dana Point, California October 25-28, 2015

Bills on the Watch List

John Johnson

Director of Legislative and Governmental Affairs, NASBA

Legislative Support

Bills on the Legislative Watch List

NASBA

108th Annual Meeting

October 28, 2015

*John W. Johnson, Director
Legislative and
Governmental Affairs*

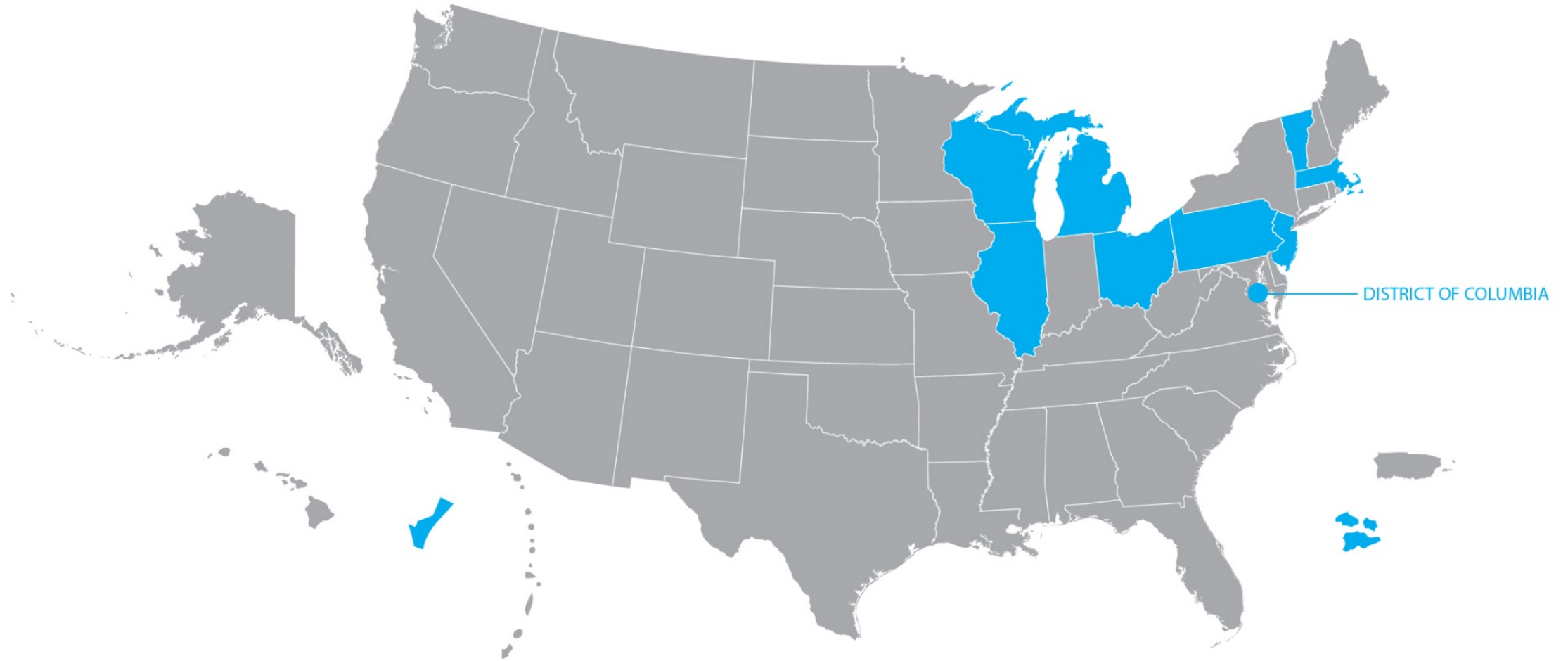
jjohnson@nasba.org

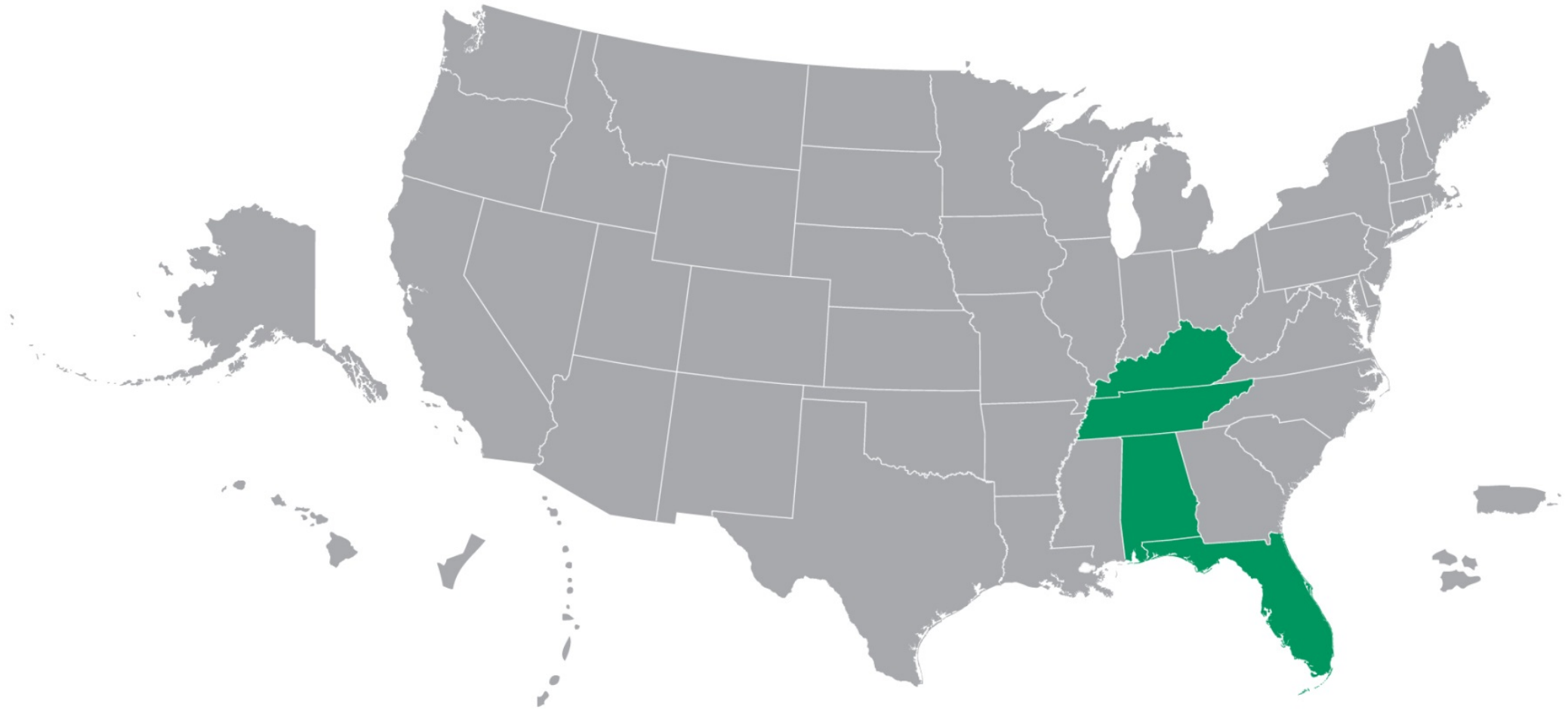
(615) 880-4232 (Office)

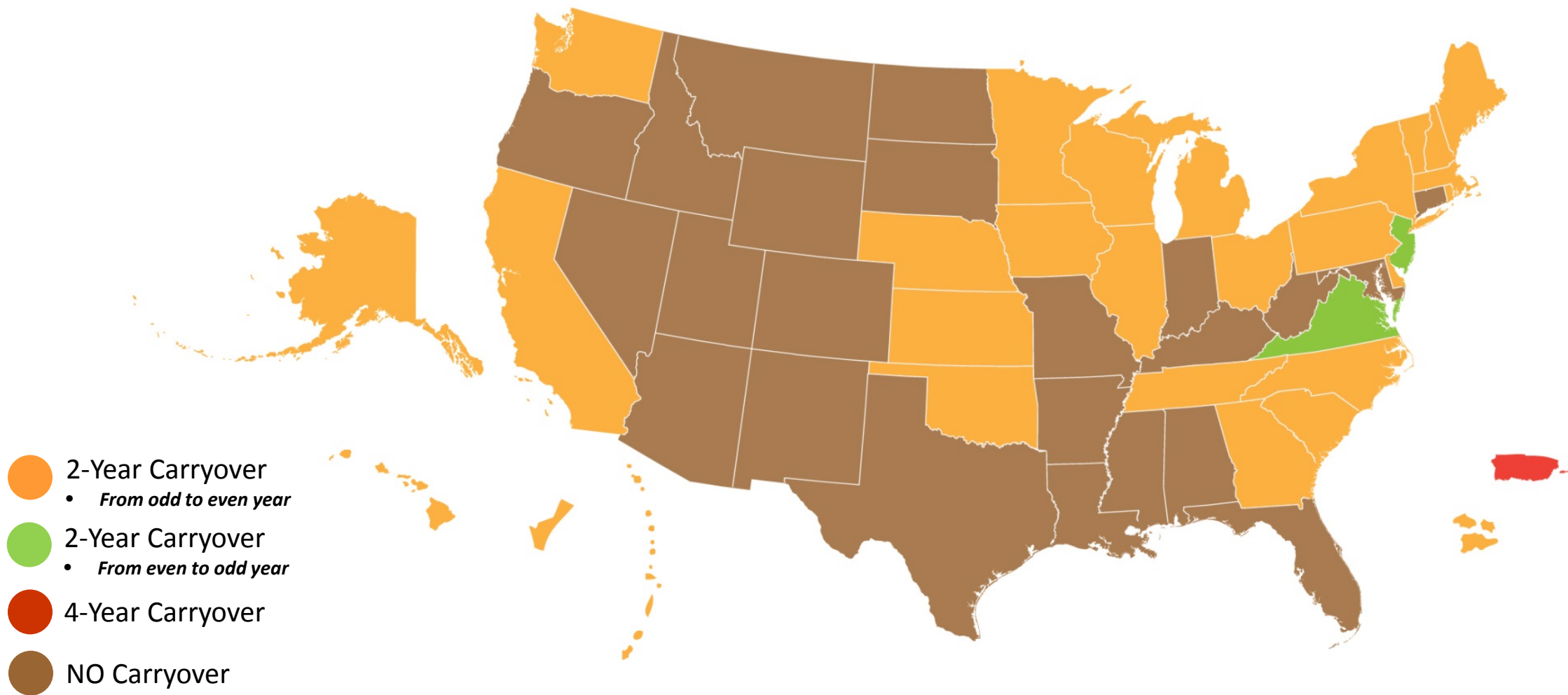
(615) 934-6510 (Mobile)



Legislatures that Meet Throughout the Year



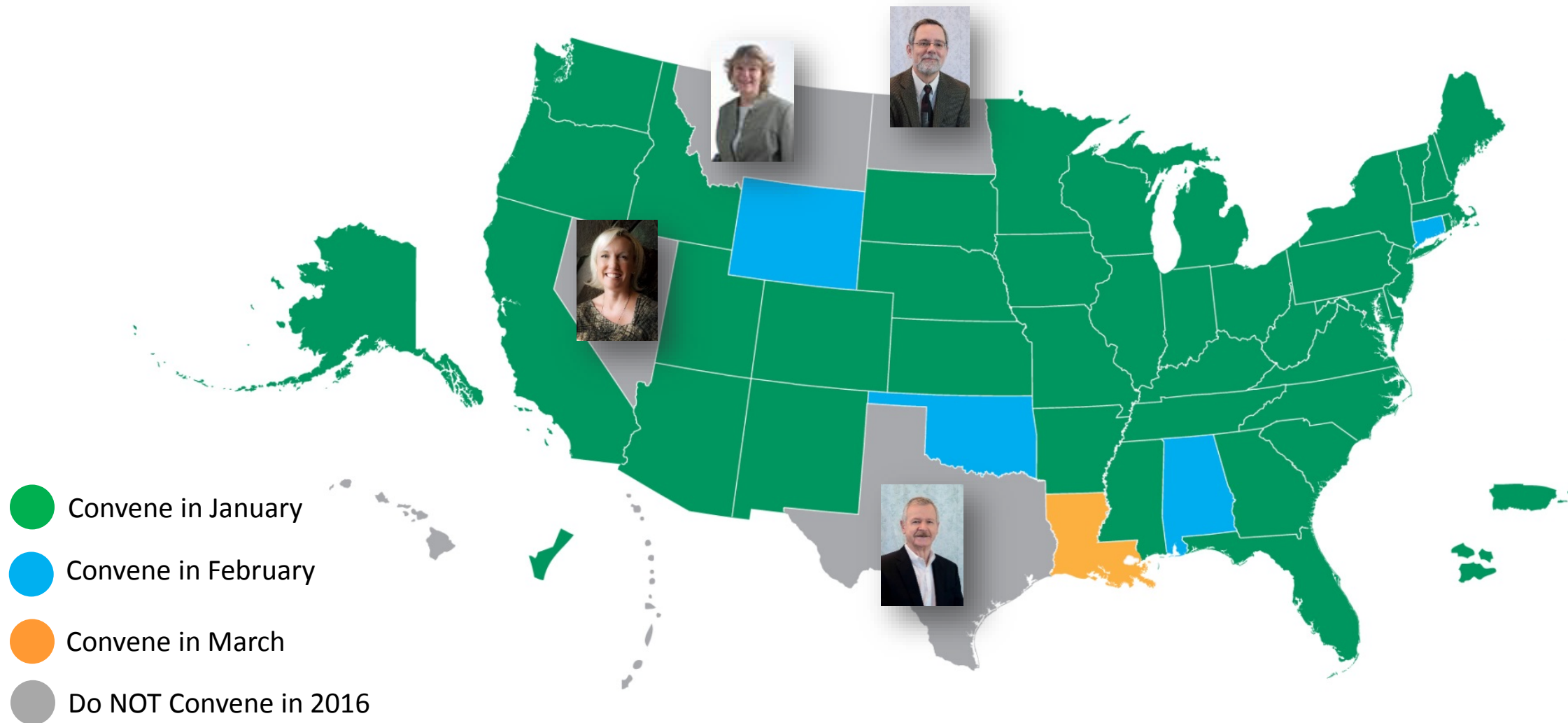




2015-16

Direct Impact Carryover Legislation

2015 Direct Impact Bills		310
Less: Signed Into Law		(90)
Non-Carryover Jurisdiction Bills	(62)	
New Jersey & Virginia Bills		(16)
Carryover Jurisdictions Bills Failed	<u>(41)</u>	
Legislation Carried Over to 2016	101	



About ALEC

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- [Frequently Asked Questions](#)

The American Legislative Exchange Council works to advance limited government, free markets and federalism at the state level through a nonpartisan public-private partnership of America's state legislators, members of the private sector and the general public.



The Occupational Licensing Relief and Job Creation Act

Search in Model Policies:

Search Model Policies... 

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The Occupational Licensing Relief and Job Creation Act

Summary

Occupational licensing increases unemployment by about 1%, raises prices by about 15%, and offers no incremental consumer protection over a competitive market. This Act ensures that an individual may pursue lawful occupation free from unnecessary occupational regulations, and protects against the use of occupational regulations to reduce competition and increase prices to consumers. When enacting future occupational regulations, this Act requires state legislatures to find real harm, and select the least-restrictive regulation to address that harm. The Act also protects entrepreneurs by shifting the burden to the government to show in court and administrative hearings that it is enforcing occupational laws for health-and-safety reasons, and not solely as a barrier to entry.

Model Policy

{Title, enacting clause, etc.}

Section 1. {Purpose}

This Act's purpose is to:

(A) Ensure that an individual may pursue a lawful occupation free from unnecessary occupational regulations, and

(B) Protect against the misuse of occupational regulations to reduce competition and increase prices to consumers.

Section 2. {Definitions} The following definitions apply in this Act:

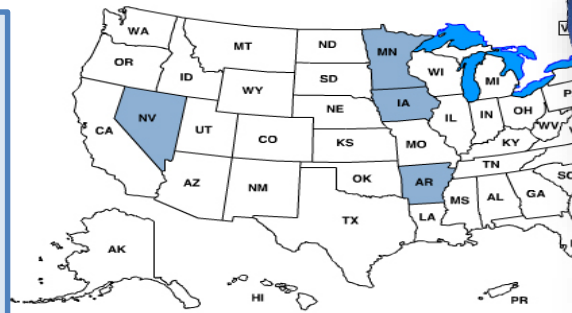
(A) "Business license" means a permit, registration, certification, franchise or other approval required by law for a sole proprietorship, partnership or corporate entity to do business.

(B) "Certification" is a voluntary program in which the government grants nontransferable recognition to an individual who meets personal qualifications established by a legislative body. Upon approval, the individual may use "certified" as a designated title or as part of a designated title. A non-certified individual may also perform the lawful occupation for compensation but may not use the title "certified." "Certification" is not intended to be synonymous with an "occupational license" in this Act or to prohibit the use of private certification.

A Bill For An Act To Establish A Right To Engage In A Lawful Occupation Free From Substantial Burdens Imposed By Occupational Regulations Unless Certain Conditions Are Met And Providing Remedies.



NASBA | Legislative Tracking System



Right To Engage In Lawful Occupation

TO STIMULATE JOB CREATION AND ECONOMIC DEVELOPMENT WHILE PRESERVING HEALTH AND SAFETY STANDARDS.



Revises Provisions Governing Professional Licensing.

[G HEALTH AND SAFETY STANDARDS.](#)

5/2015; Status, Text 02/03/2015; Status 01/27/2015; New 01/26/2015

[AND SAFETY STA](#)

The Occupational Licensing Relief and Job Creation Act

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The Occupational Licensing Relief and Job Creation Act

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Threats

-Undermine Boards Authority

-Add a new layer of review

-Threaten “Substantial Equivalency”

-Undermine Peer Review & CPE

STATE ♦ BOARD ♦ REPORT

A Digest of Current Developments Affecting State Accountancy Regulation

Volume XLIV, Number 3

March 2015

PCC Comes Up for Review

The Private Company Council (PCC), established in May 2012, is approaching the three-year mark when the overall assessment of its operations is to be performed. To assist the Board of Trustees of the Financial Accounting Foundation (FAF) in determining if the PCC is fulfilling its mission, a request for comment from stakeholders has been issued with a comment deadline of May 11, 2015. NASBA will be submitting its comments to the FAF.

FAF Chairman Jeffrey J. Diermeier stated: "Going forward, the PCC will need to balance the demands of its role as an advisory body to the FASB with its responsibility to identify and help resolve private company financial accounting and reporting issues that arise in current GAAP. We are seeking stakeholder input to help determine whether the identified improvements will help the PCC achieve this balance."

Among the possible improvements on which the Trustees are



Court Rules Against Dental Board

The US Supreme Court on February 25 released its long awaited ruling in *Federal Trade Commission v. N.C. State Board of Dental Examiners* underscoring the need for States to exercise active supervision of a board if it delegates its regulatory authority to active market participants (see *sbr* 7/13). The six to three opinion, written by Justice Anthony Kennedy, had Justices Samuel Alito, Antonin Scalia and Clarence Thomas dissenting. The case involved the NC



NASBA

LEGISLATIVE ALERT

US SUPREME COURT ISSUES DECISION IN
ANTITRUST CASE INVOLVING
STATE LICENSING BOARD

Dear Board of Accountancy Presidents, Chairs and Executive Directors,

We have preliminarily reviewed the Supreme Court's decision with NASBA's outside legal counsel, Noel Allen. The following is a general assessment of the case's potential implications for Member Boards. Obviously, the decision left some important questions unanswered, but we wanted to give you our perspective since some of the reported initial responses to the case might be confusing or cause undue concern.

Overview



NEWSROOM

ALL NEWS

PRESS RELEASES

EXECUTIVE ORDERS

PROCLAMATIONS

STATEMENTS

SPEECHES

MEDIA CLIPS

Search by Keyword

ARCHIVES

2015

- September
- August
- July
- June
- May
- April
- March

EXECUTIVE ORDER NUMBER 7

JUNE 23, 2015 | EXECUTIVE ORDERS



WHEREAS, in *North Carolina State Board of Dental Examiners v. FTC*, the United States Supreme Court held that state licensing boards do not enjoy automatic immunity from antitrust claims if a controlling number of the decision makers are "active market participants in the occupation the board regulates." In such circumstances, the regulators will only be immune from antitrust claims if the "challenged restraint" is clearly and affirmatively expressed as state policy and the board is actively supervised by the State;

WHEREAS, according to the United States Supreme Court, active state supervision requires substantive review of the purported anti-competitive action, veto and modification power over a board or commission decision, and more than mere potential supervision;

WHEREAS, the "state supervision must be specific and bona fide[.]" or in other words, state rubber-stamping of a regulatory board's actions is inadequate to trigger state action immunity;

WHEREAS, in order to comply with the mandate of the United States Supreme Court's decision, there is a need for the State of Alabama to put into place active state supervision of boards and commissions' rule-making and certain licensing actions to ensure that the rulemaking or board actions do not result in anti-competitive conduct without a significant and corresponding state interest; and

WHEREAS, no state legislation is currently in place that provides a mechanism for the required active state supervision.

NOW, THEREFORE, based upon these considerations, and for other good and valid reasons related thereto, I, Robert Bentley, Governor of the State of Alabama, by virtue of the authority vested in me by the Constitution and laws of the State of Alabama, do hereby establish a voluntary program for those Alabama boards and commissions controlled by active market participants to comply with existing law requiring active state supervision as a condition of state action immunity.



Office of Regulatory Oversight created, regulation of boards and agencies, clearly articulated state policy objectives, review by office of board policies

The United States Supreme Court recently ruled in the case of North Carolina State Board of Dental Examiners v

Pending third reading on day 3 Favorable from Finance and Taxation General Fund - 08/03/2015

Profiles



Boards of Accountancy Related Legislation

USER FIELDS

Threats

-Submitted Actions – Not Defined

-Oversight Cost

-No Board Authority to Appeal

BREAKING Interstate ramp closed in Oklahoma City, lanes narrowed

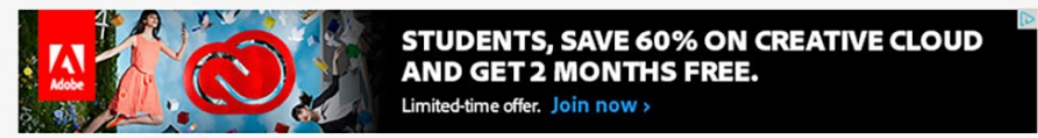
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NEWS POLITICS: HOME NEWS: LOCAL BUSINESS: LOCAL

Court decision sparks request to review make-up of Oklahoma boards

comments

Oklahoma Attorney General Scott Pruitt has been asked to review the make-up of Oklahoma's numerous licensing boards in light of a February U.S. Supreme Court decision that raises questions about whether board members are vulnerable to criminal and civil antitrust actions.

by [Randy Ellis](#) Modified: May 18, 2015 at 5:00 pm • Published: May 17, 2015

Oklahoma Attorney General Scott Pruitt has been asked to review the make-up of Oklahoma's numerous licensing boards to determine whether board members are vulnerable to criminal and civil antitrust actions.

Citing a February U.S. Supreme Court decision, representatives of three consumer organizations sent letters to Pruitt and other state attorneys general. The letters urge them to review state licensing boards that are comprised primarily of participants in the professions and trades regulated by those boards to determine whether they may be at risk of violating antitrust laws.

The Oklahoma Board of Medical Licensure and Supervision, Oklahoma Board of Dentistry, Oklahoma Board of Nursing and Oklahoma State Board of Pharmacy are among numerous state boards that apparently could be impacted by the February U.S. Supreme Court ruling that came in the case of North Carolina State Board of Dental



by Randy Ellis
INVESTIGATIVE REPORTER

For the past 30 years, staff writer Randy Ellis has exposed public corruption and government mismanagement in news articles. Ellis has investigated problems in Oklahoma's higher education institutions and wrote stories that ultimately led to two...

[+ show more](#)



GET THE TICKETS



Mary Fallin
Governor

FILED

JUL 17 2015

OKLAHOMA SECRETARY
OF STATE

EXECUTIVE DEPARTMENT
EXECUTIVE ORDER 2015-33

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to the power and authority vested in me by Section 2 of Article VI of the Oklahoma Constitution, hereby order all state boards who have a majority of members who are participants of markets that are directly or indirectly controlled by the board, to immediately implement and adopt the following procedures.

Attorney General Guidance

Attorney General Scott Pruitt issued a letter to this office on July 6, 2015, recommending



National Association of State Boards of Accountancy

150 Fourth Avenue North ♦ Suite 700 ♦ Nashville, TN 37219-2417 ♦ Tel 615/880-4201 ♦ Fax 615/880-4291 ♦ kbishop@nasba.org

Ken L. Bishop
President & CEO

September 2, 2015

The Honorable Mary C. Fallin
Office of Governor
Oklahoma State Capitol
2300 North Lincoln Boulevard, Room 212
Oklahoma City, OK 73105

Re: Executive Order 2015-33

Dear Governor Fallin:

Founded in 1908, the National Association of State Boards of Accountancy (NASBA) has served as an association dedicated to enhancing the effectiveness and advancing the common interests of the Boards of Accountancy in 55 U.S. states and territories. NASBA helps advance the public protection mandate of these member boards by, among other things, supporting their administration of the Uniform CPA Examination, submitting amicus briefs that reinforce their mission and values, and (along with the American Institute of Certified Public Accountants) developing and maintaining the Uniform Accountancy Act (“UAA”). To that end, the Oklahoma Board of Accountancy has asked us to provide an analysis and response to the recently issued Executive Order 2015-33 (“Executive Order”), which creates an independent state review process for board licensure and prohibition actions.



E. SCOTT PRUITT
ATTORNEY GENERAL

August 17, 2015

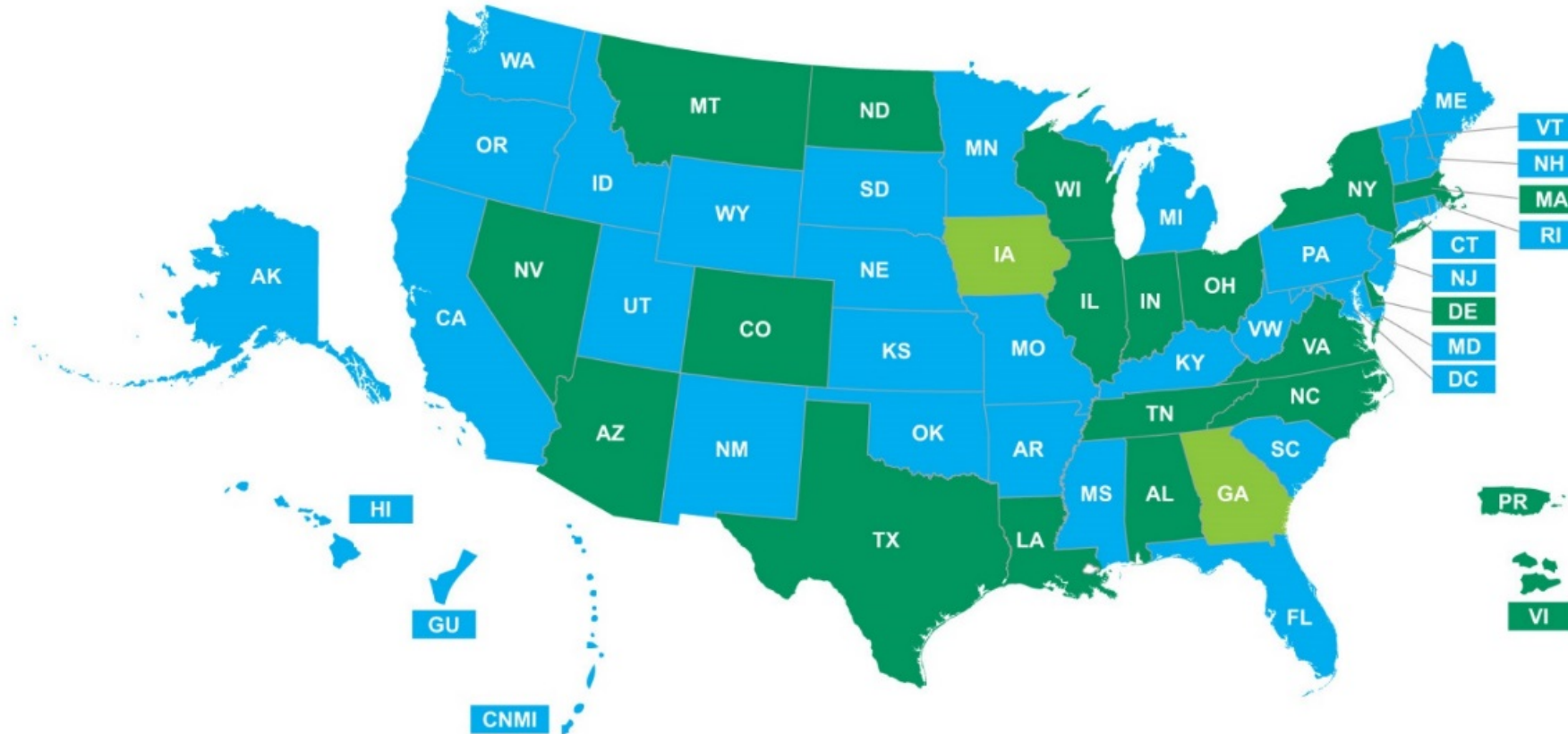
To All Boards and Commissions with Active Market Participant Majorities:

The United States Supreme Court recently decided *North Carolina State Board of Dental Examiners v. Federal Trade Commission*, 135 S.Ct. 1101 (2015). Under the law established by the Court's opinion, a state agency and its board members may be the subject of federal antitrust liability when active market participants make up a majority on the board or commission in charge of the agency and the agency engages in anticompetitive conduct. The Court held that the only way to protect state agencies and their board members in these circumstances and to ensure they have immunity from suit is to see that they operate consistently with state policies through

Other Potential Bills on the Legislative Watch List

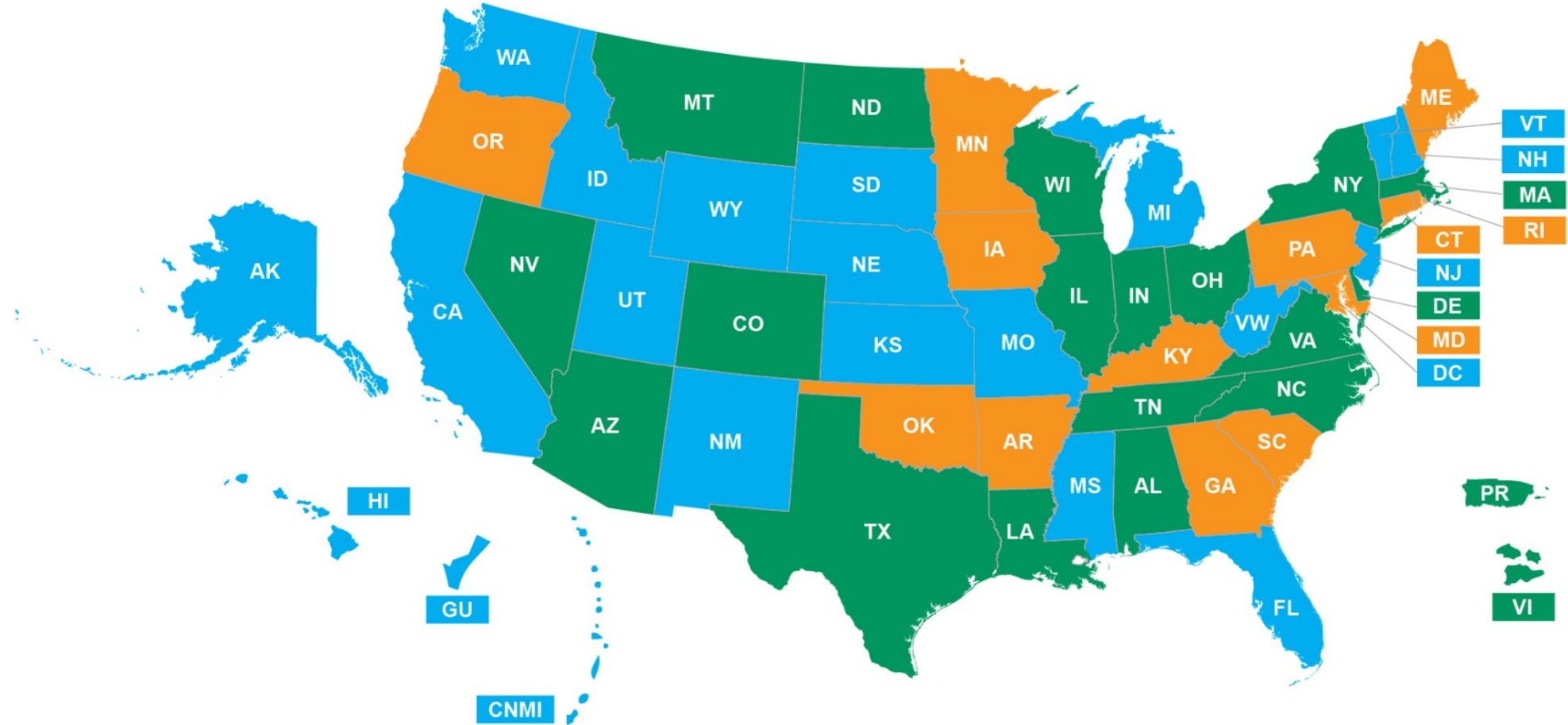
ALEC's Right to Work Legislative Policy and Fallout
from the NC Dental Board Decision --

- **Board Funding**
- **Board Consolidation**
- **Board Fund Sweeps**

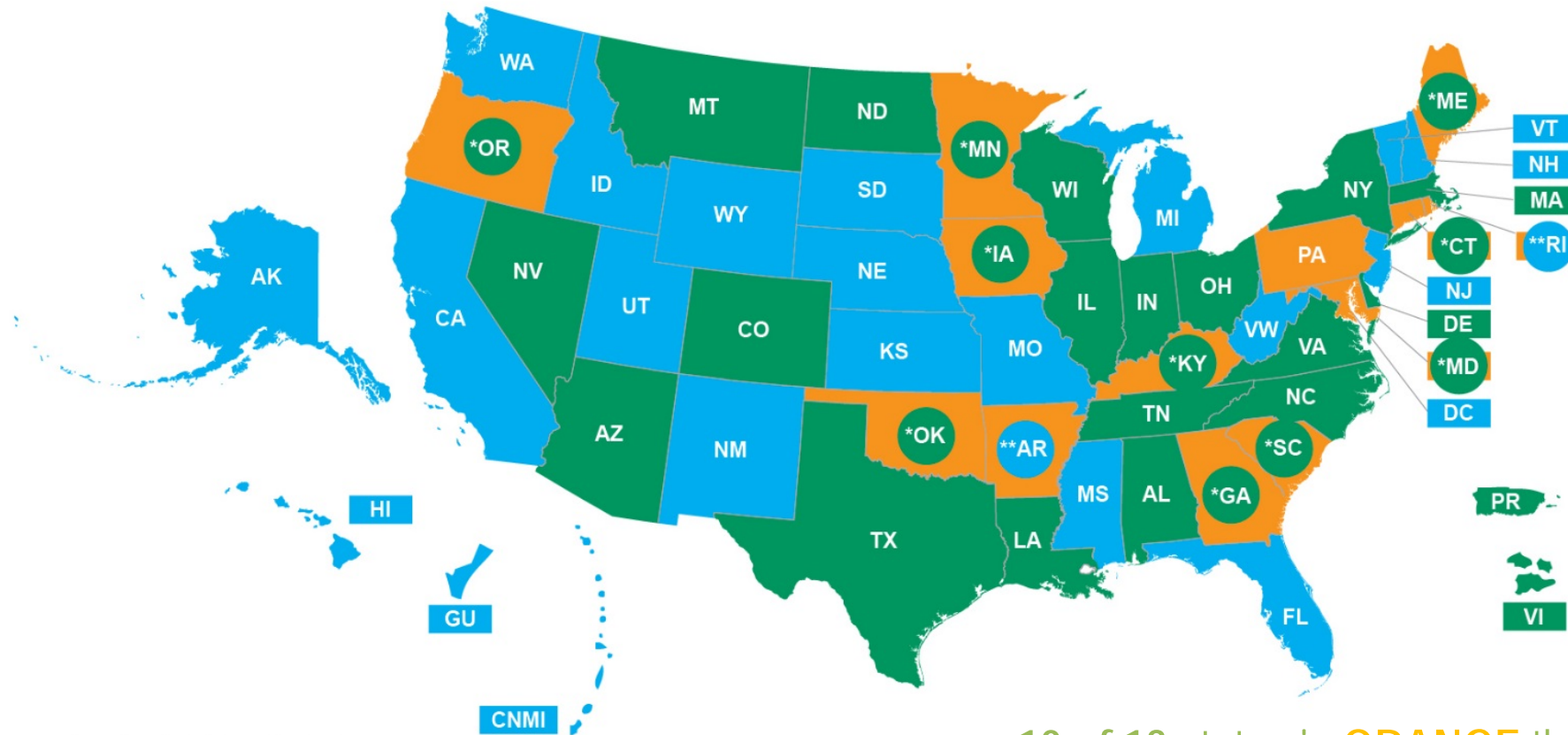


- States that have a comprehensive definition of attest
- States that need conforming changes to their current definition of attest
- States that do not have a comprehensive definition of attest

20 jurisdictions with new definition of attest



- States that have a comprehensive definition of attest
- States that have filed attest legislation in 2015
- States that do not have a comprehensive definition of attest

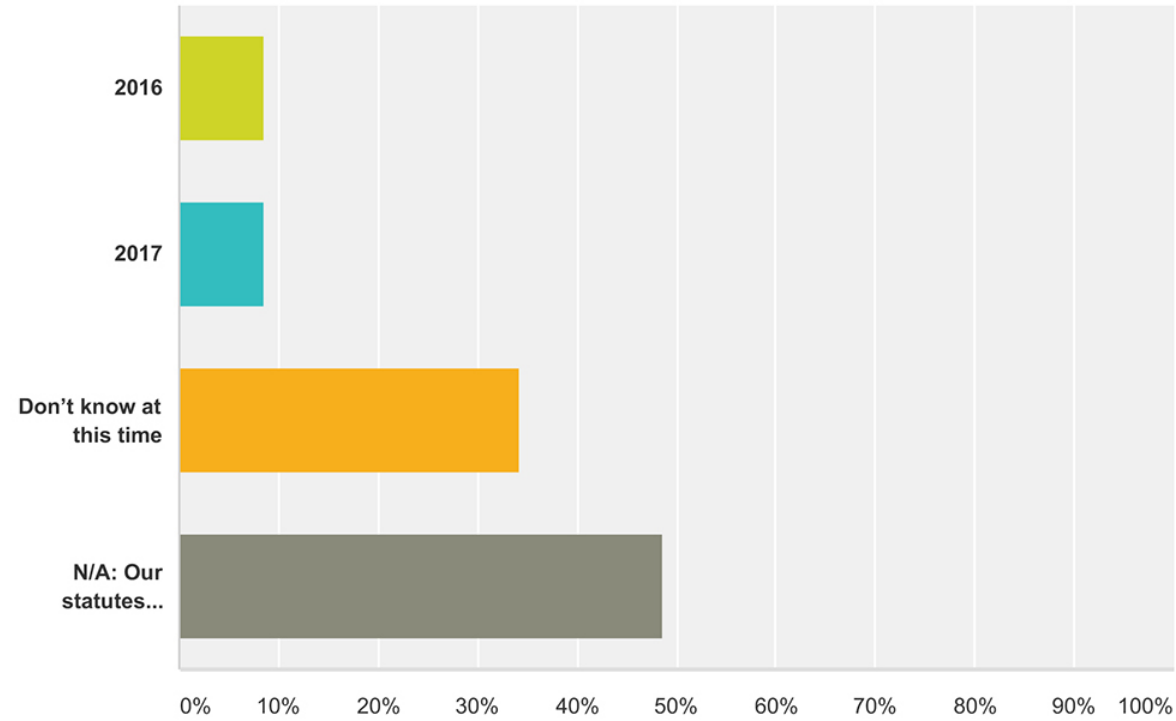


- States that have a comprehensive definition of attest
- States that have filed attest legislation in 2015
- States that do not have a comprehensive definition of attest
 - * Signed into Law
 - ** Failed

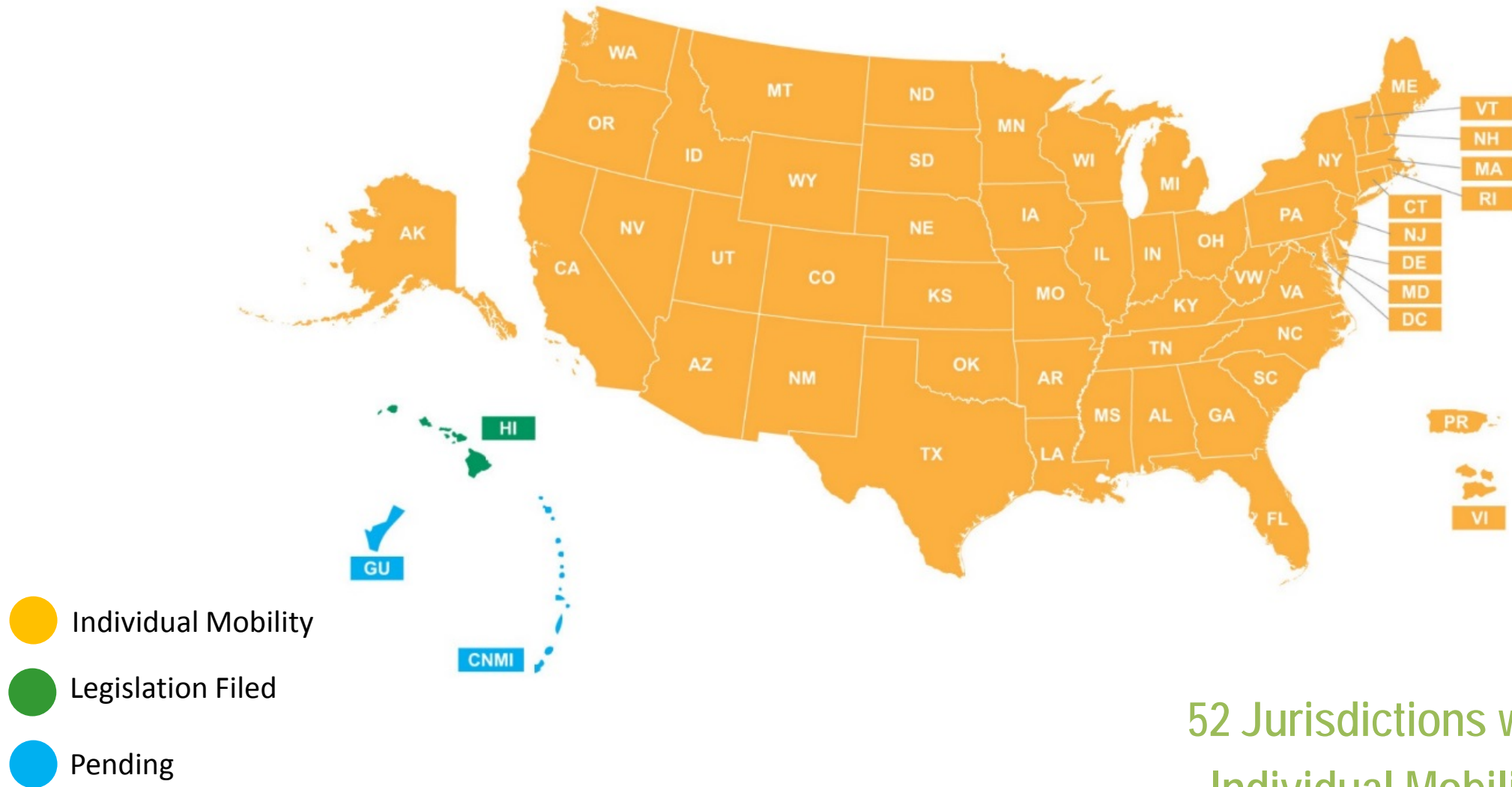
10 of 13 states in **ORANGE** that now have a **GREEN** circle indicate that legislation has been signed into law

Q3 Does your jurisdiction plan on filing legislation to incorporate the new definition of “attest” in:

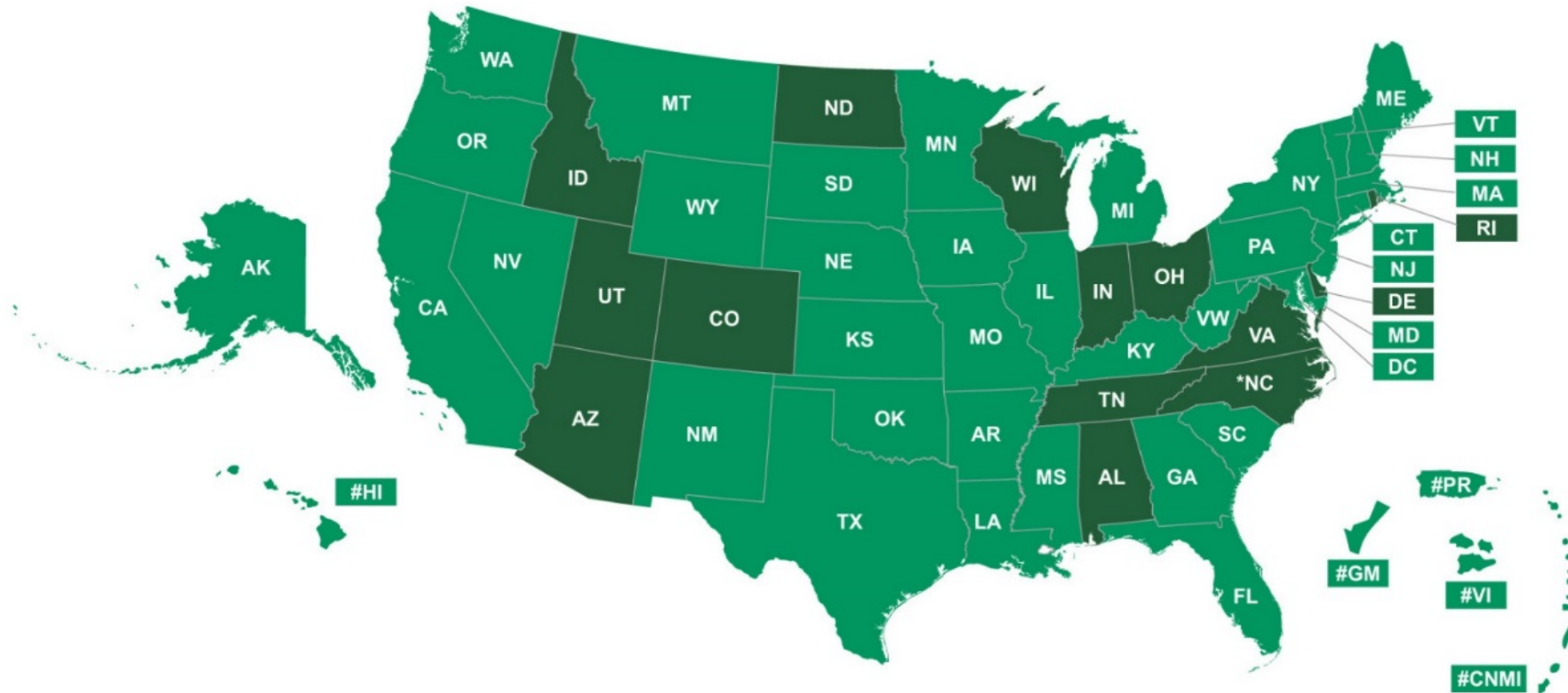
Answered: 35 Skipped: 3




Answer Choices	Responses
2016	8.57% 3
2017	8.57% 3
Don't know at this time	34.29% 12
N/A: Our statutes already include the new definition of "attest"	48.57% 17
Total	35



States Not Requiring Firm Registration Under Mobility



 States Not Requiring Firm Registration Under Mobility

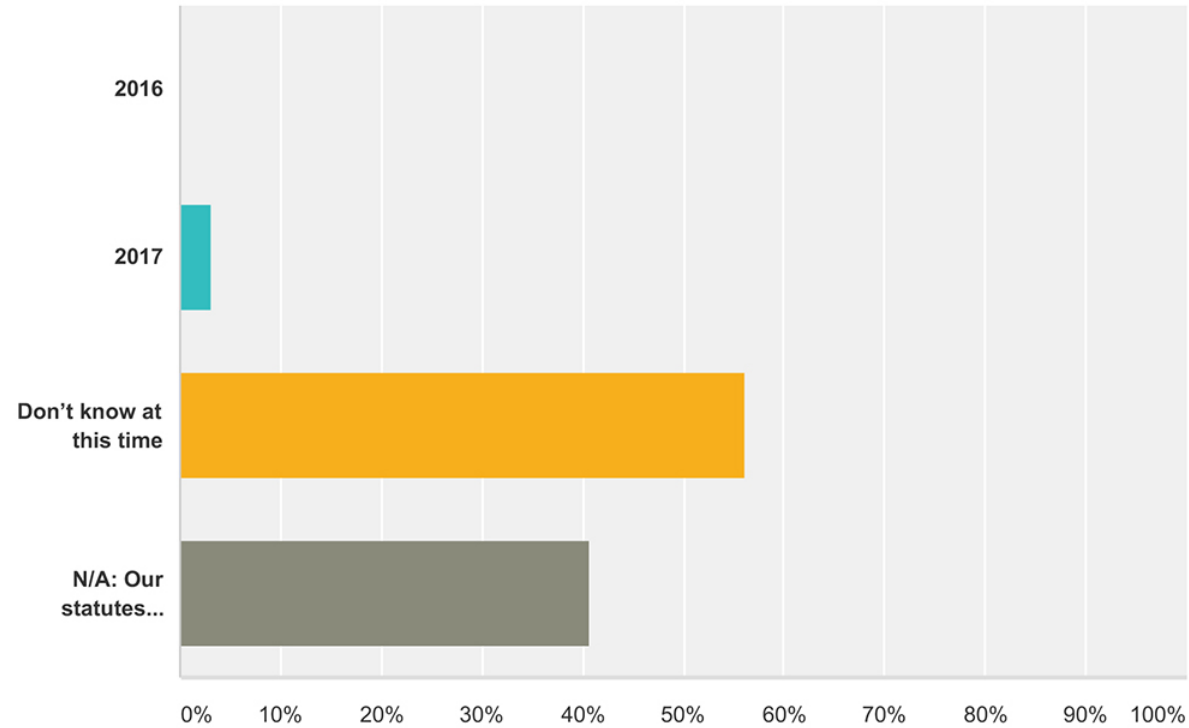
 * NC Does Not Require Firm Registration Under Mobility, But Requires Notice to the Board

 States Requiring Firm Registration Under Mobility

 # CPA Mobility in Progress

Q4 Does your jurisdiction plan on filing legislation to incorporate “firm mobility” in your statutes in:

Answered: 32 Skipped: 6

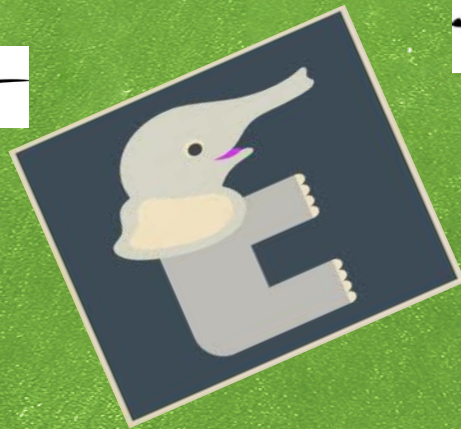
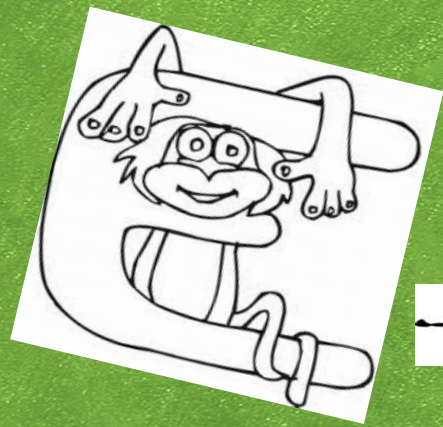


Answer Choices	Responses	
2016	0.00%	0
2017	3.13%	1
Don't know at this time	56.25%	18
N/A: Our statutes already include firm mobility	40.63%	13
Total		32

Executive Director Survey Legislative Watch List

- **Change Work Experience Requirement**
- **Provide Immunity for PROC Members**
- **Licensure for Paid Tax Preparers**
- **Change Course Requirements to sit for CPA Exam**

*“What the legislature
‘giveth’ in one year can be
taken away – or altered-eth
– the next year”*



MEETINGS & EVENTS
INTERNATIONAL
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ACCOUNTANCY

PRODUCTS & SERVICES



MEDIA & RESOURCES



Board Statutes
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Program
Legislative Tracking
Session Snapshot

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Gateway
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ED Login

NASBA Launches Legislative Tracking System

MORE

LATEST NEWS

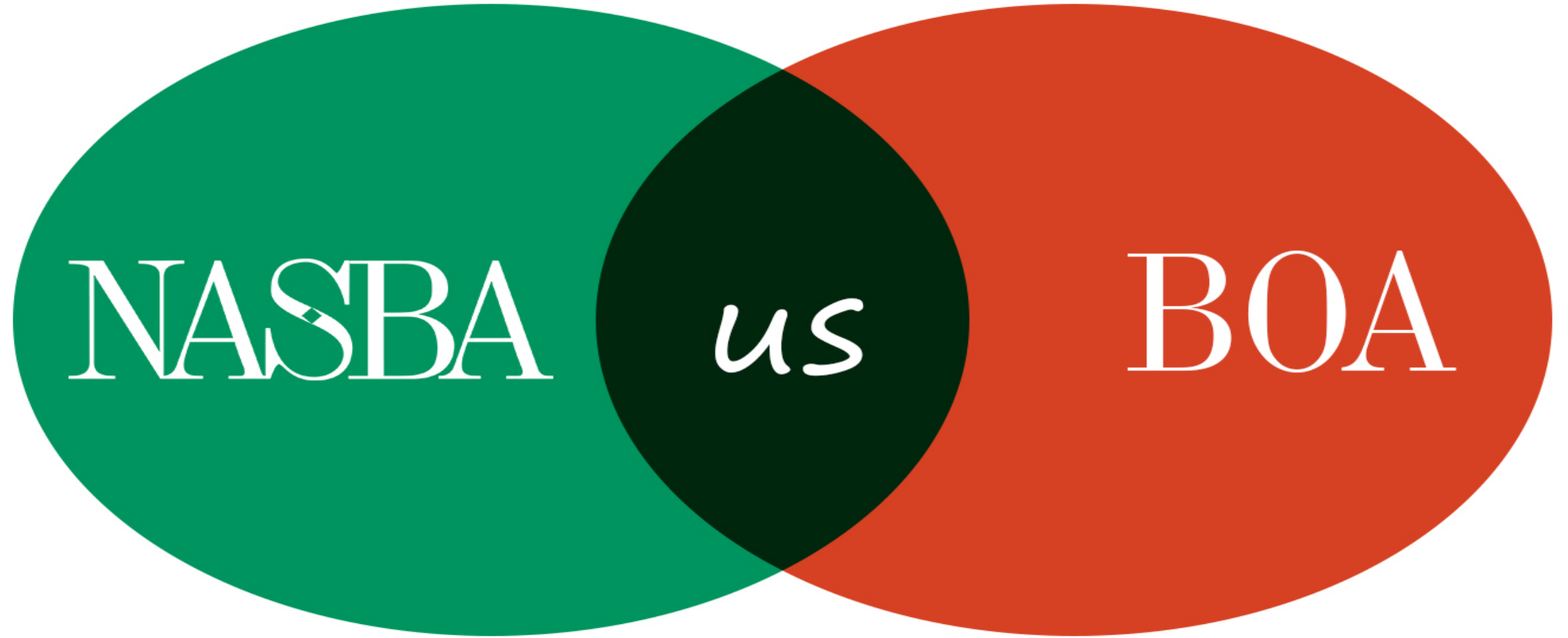
[NASBA Launches Call for Proposals for Accounting Education Research Grants Program](#)
[NASBA Among 2014 Best in Business Finalists](#)
[NASBA Releases 2013 CPA Examination Statistics](#)

EVENTS

[32nd Annual Conference for Executive Directors and Board Staff – March 3-5, 2014](#)
[19th Annual Conference for Board of Accountancy Legal Counsel – March 3-5, 2014](#)
[Eastern Regional Meeting – June 4-6, 2014](#)

BLOGS/FEATURES

[NASBA Chair Johnson Outlines His Initiatives for 2013-14](#)
[NASBA Hosts 100th Annual Meeting](#)
[Getting to Know: Awards Committee](#)



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BOA