

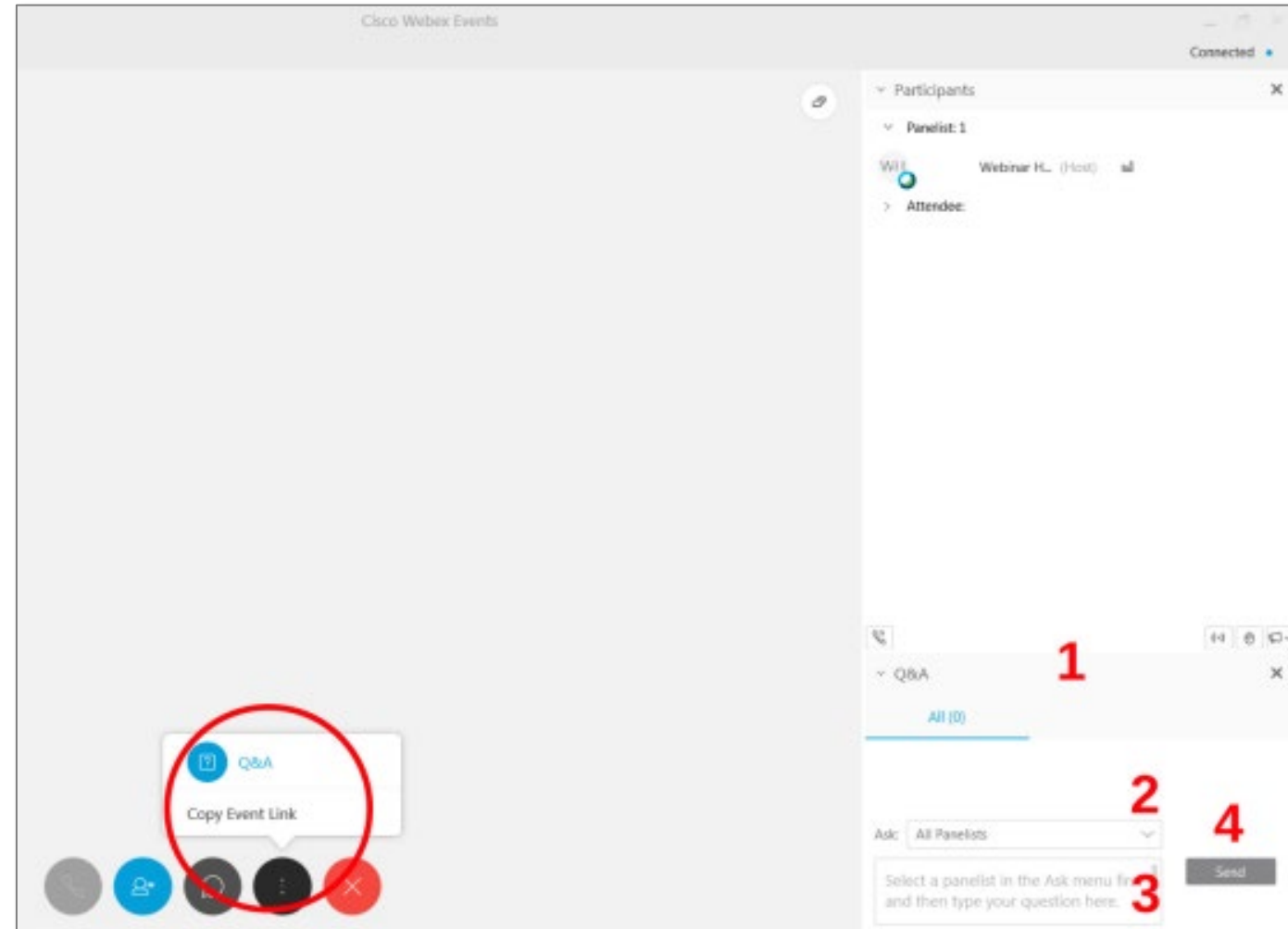
Election 2020: Public Health Legal Reforms and Projections

November 16, 2020 | 2:00 – 3:00 PM ET

Co-sponsored by:

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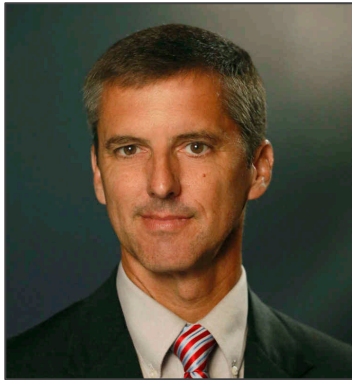
Moderator/Presenter



Leila Barraza, Senior Consultant, Network for Public Health Law – Western Region Office; Associate Professor, Zuckerman College of Public Health

- J.D., Arizona State University – Sandra Day O'Connor College of Law
- M.P.H., University of Arizona – Zuckerman College of Public Health

Presenter



James G. Hodge, Jr., Director, Network for Public Health Law – Western Region Office; Peter Kiewit Foundation Professor of Law, Arizona State University

- J.D., Northern Kentucky University – Salmon P. Chase College of Law
- LL.M., Georgetown University

Presenter



Jennifer Piatt, Senior Attorney, Network for Public Health Law – Western Region Office; Research Scholar, ASU Center for Public Health Law & Policy

- J.D., Arizona State University – Sandra Day O'Connor College of Law

Presenter



Sarah Somers, Managing Attorney, Network for Public Health Law – Southeastern Region Office and National Health Law Program

- J.D., University of Michigan
- M.P.H., University of North Carolina – Gillings School of Public Health

Election 2020: Public Health Legal Reforms and Projections

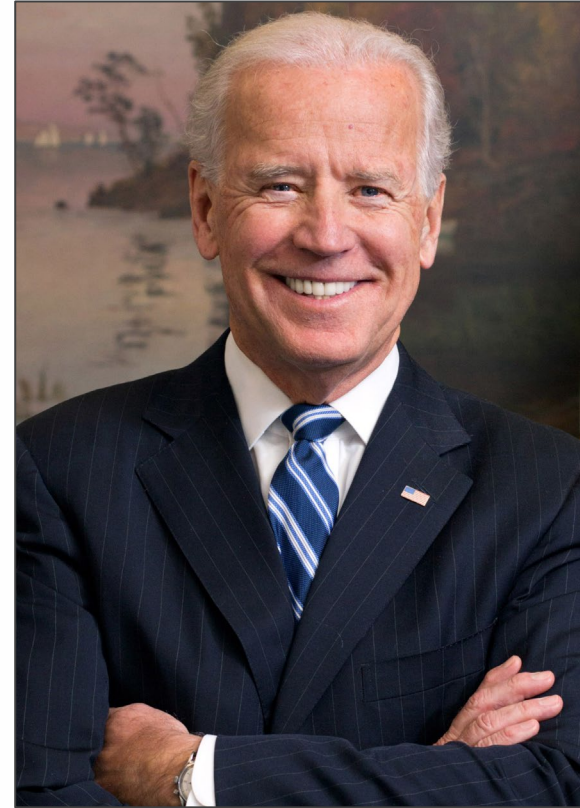
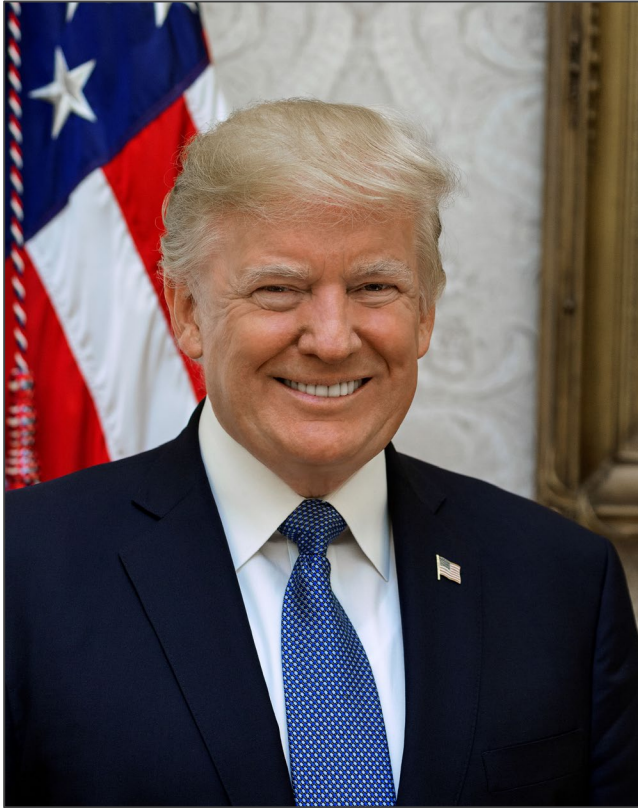
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Primary Objectives

- ▶ Post-Election Results
- ▶ Core Public Health Issues
 - ▶ Challenges & Objectives
 - ▶ Law & Policy Responses
- ▶ Questions & Comments
- ▶ **Disclaimer** - information provided during this session does not constitute legal advice nor is intended to promote specific legal or policy positions.

Election 2020: Presidential Race



Election 2020: Presidential Race

Joe Biden



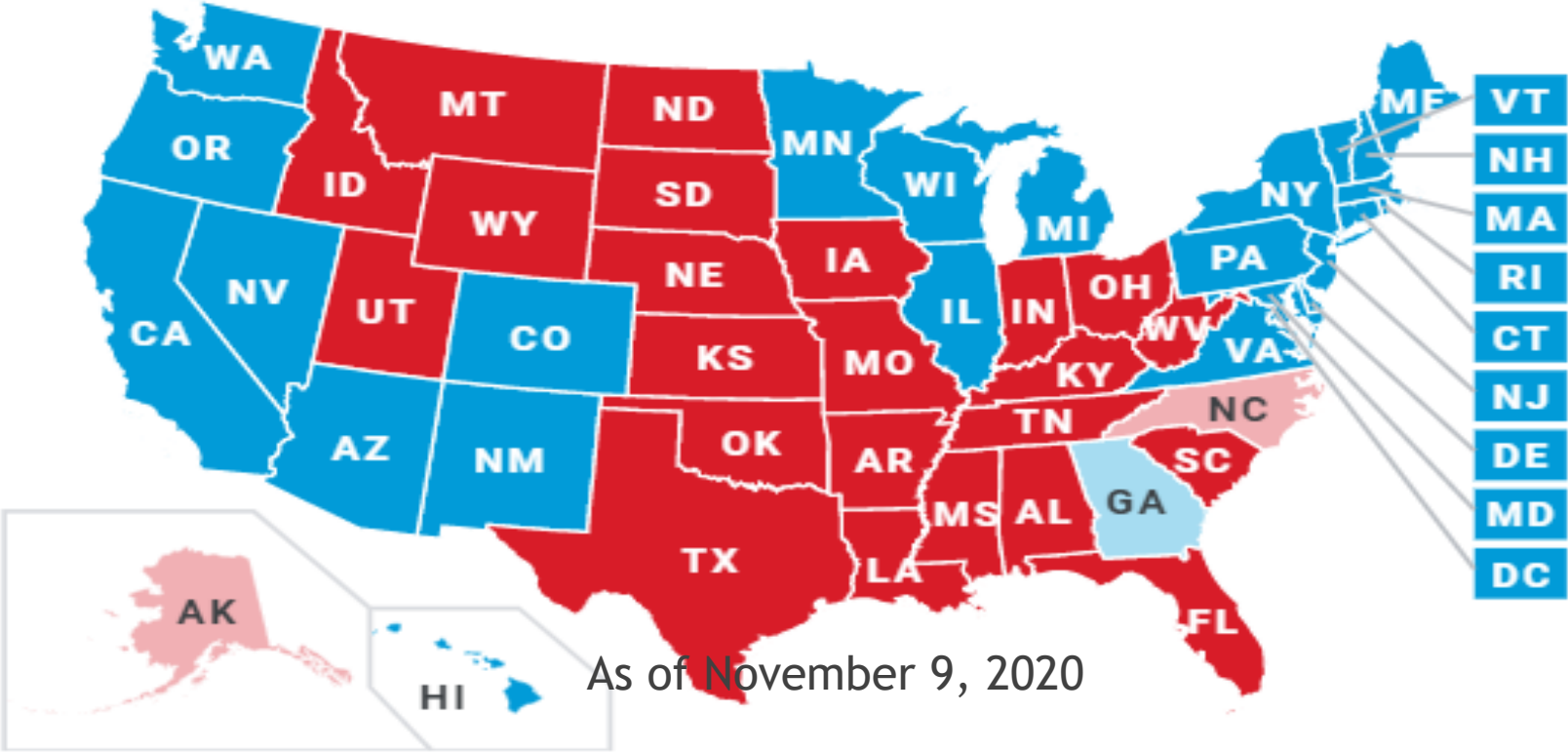
290

Donald Trump



214

270 to win



As of November 9, 2020

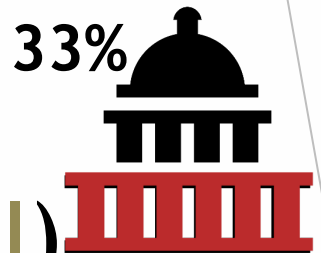
Election 2020 - Beyond the White House

Federal Elections



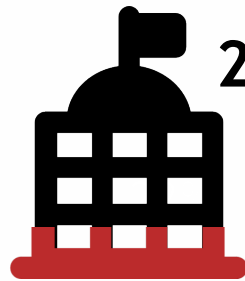
100% U.S. House of Representatives
(218 D / 202 R)

U.S. Senate
(46 D / 50 R / 2 I)



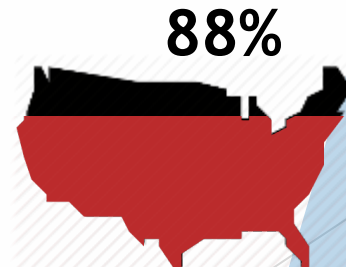
33%

State Elections



22% Gubernatorial
(23 D / 26 R / 1 I)

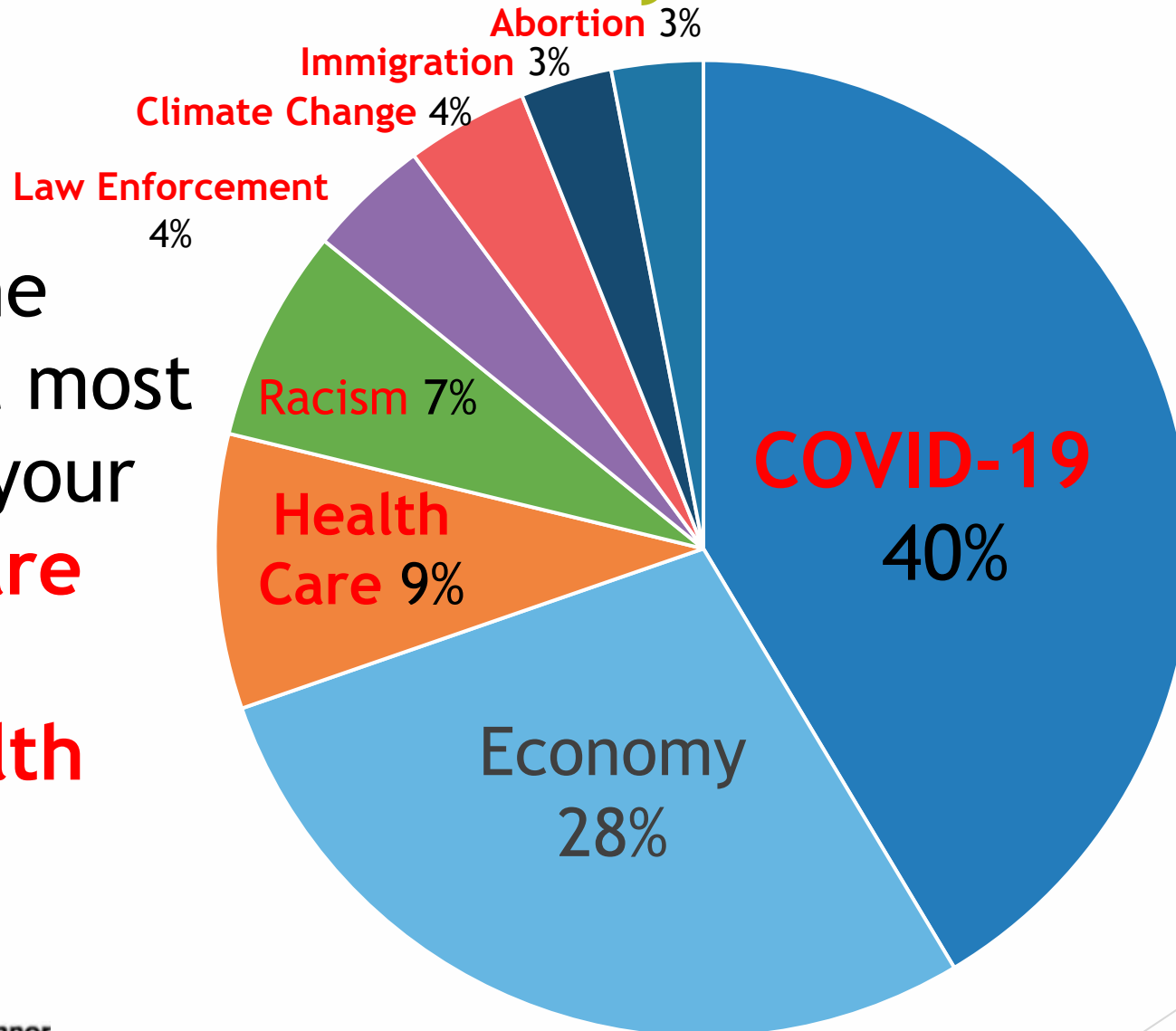
State Legislatures
44 States



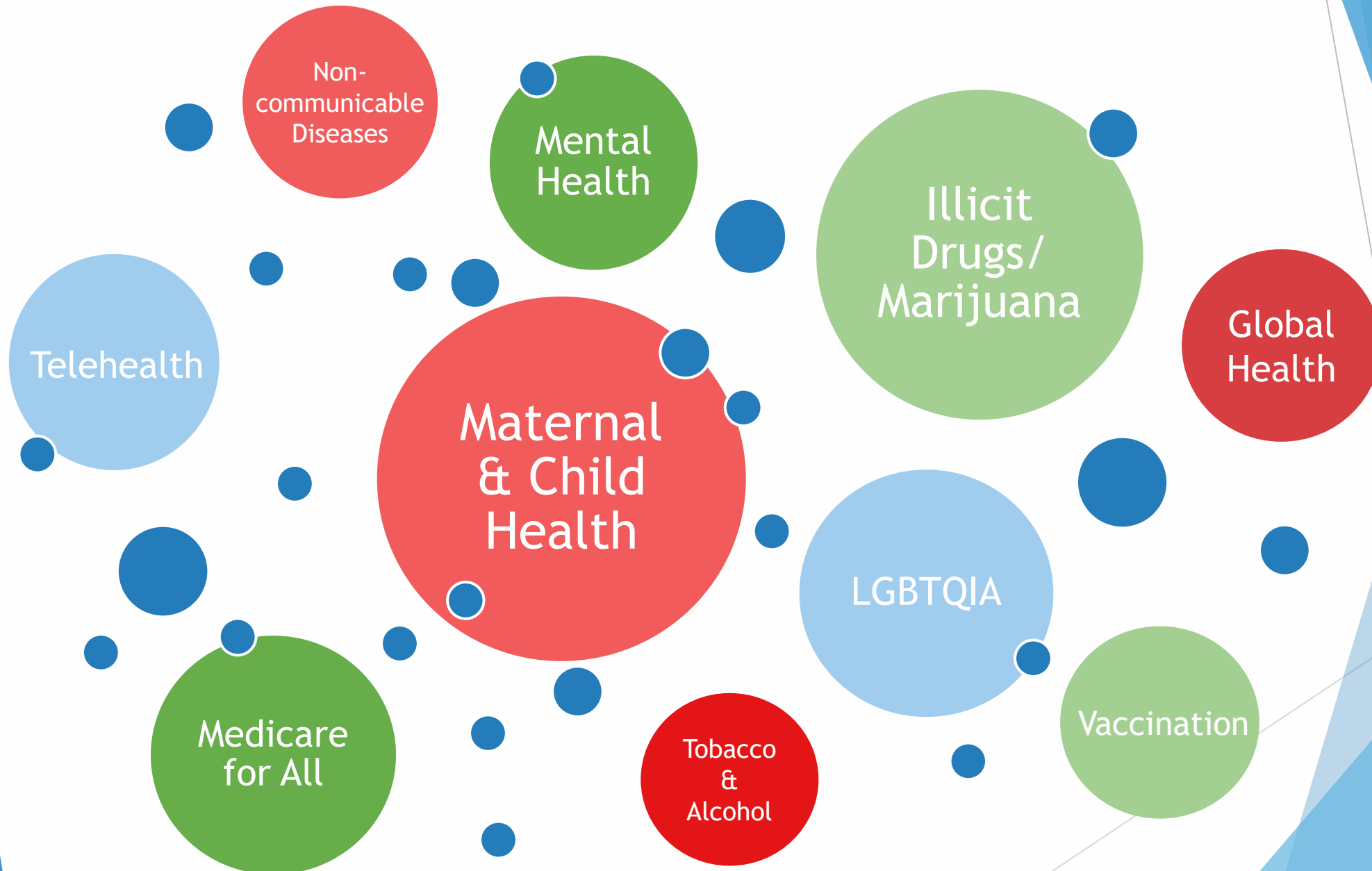
88%

How America Voted – Key Priorities

What are the factors that most influenced your vote? **70% are core public health/health care issues**



Array of Public Health Law & Policy Issues

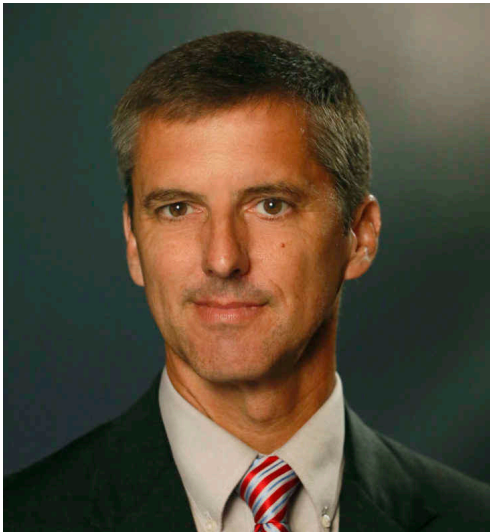


Select Core Public Health Law & Policy Issues

1. COVID-19 Pandemic Response Efforts
2. Revitalizing Public Health Services
3. Gun Violence Prevention
4. Abortion & Reproductive Health
5. Climate Change
6. Health Equity & Justice
7. Affordable Care Act
8. Medicaid

Core Public Health Law & Policy Issues

1. COVID-19 Pandemic Response Efforts
2. Revitalizing Public Health Services
3. Gun Violence Prevention



**James G. Hodge, Jr.,
J.D., LL.M.**

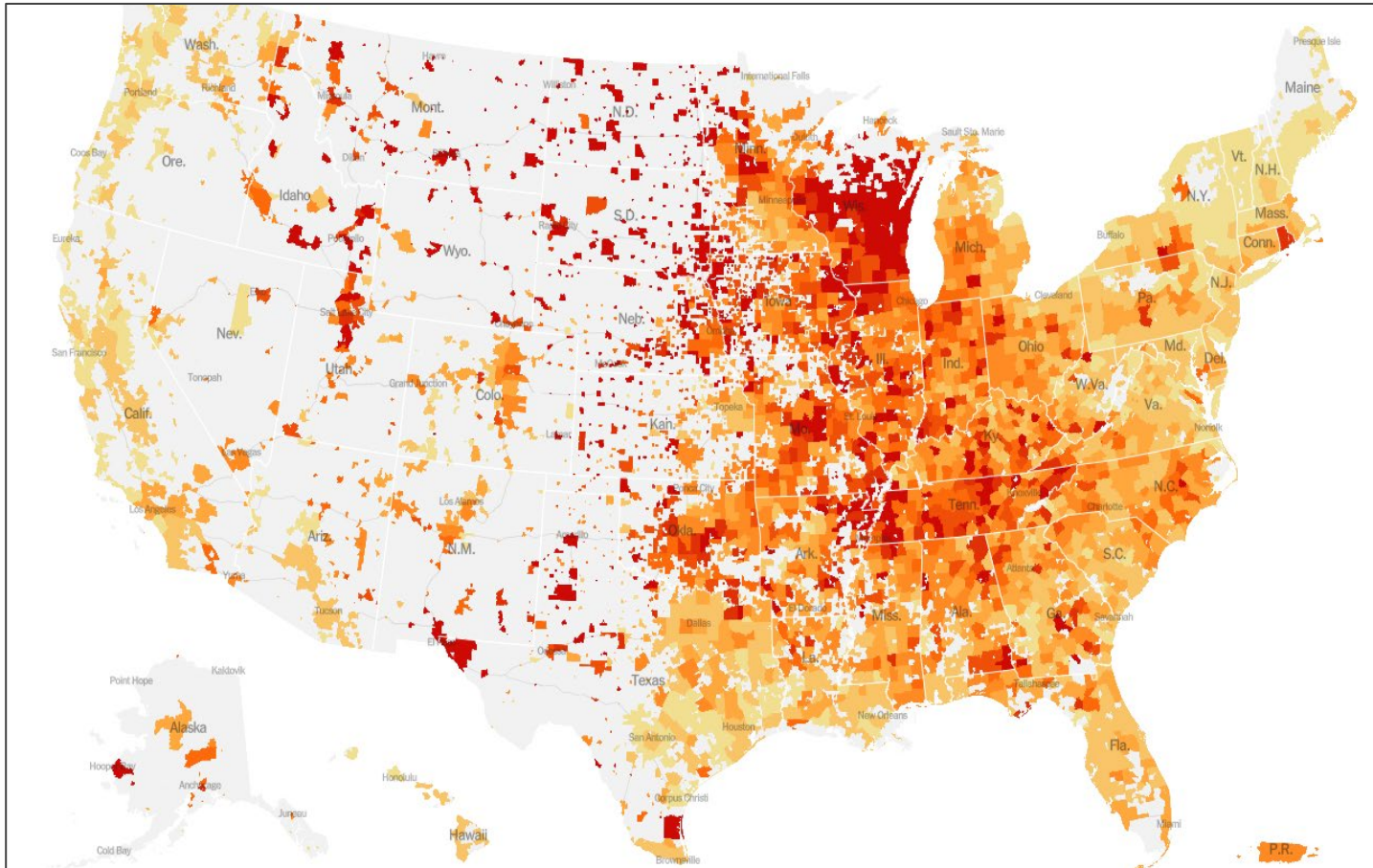
Director, Network for Public Health Law -
Western Region Office; Peter Kiewit
Foundation Professor of Law, Arizona State
University

COVID-19 Pandemic Efforts - Challenges

Global Cases 52.9 million | **Deaths:** 1.3 million

U.S. Cases 10.6 million | **Deaths:** 242,436

U.S. Stats 20% all cases | 19% all deaths



COVID-19 Pandemic Efforts - Responses

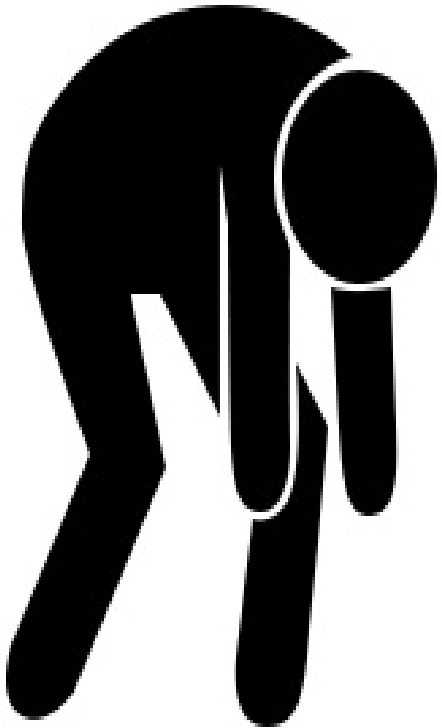
Reinstitution of public health “best practices” grounded in law, science & global commitments

Enhanced & aggressive federal responses & coordination to allay national security threats

Increased funding for global & domestic public health interventions & economic impacts

Crafting new alliances with state, tribal & local governments on the frontlines of response efforts

Revitalizing Public Health Services - Challenges



- Substantial new threats
- Chronic funding reductions
- Interjurisdictional battles
- Gross inequities
- **Lower life expectancies**

Revitalizing Public Health - Responses

Quelling the pandemic leads to legal innovations that become models for what works in routine public health & health care services

Re-assessing the constitutional balance between communal protections & individual rights lends to 21st century reconception of public health powers

Addressing specific threats to the public's health – cancer, Alzheimer's, illicit drugs - through revised law & policy interventions via HiAP approaches

Commitment to reducing health disparities through greater focus on the social determinants of health at the “grass root” & other levels

Gun Violence Prevention - Challenges



Gun Violence Prevention - Responses

Banning the
manufacture & sale of
assault weapons +
heavily regulating
weapons already in
circulation

Ending online purchases
of firearms/ammo &
requiring background
checks for all other sales

Incentivizing states
to enact their own
laws supporting
federal initiatives
consistent with 2nd
Amendment

Empowering police to
effectively enforce gun
violence prevention laws
& reforming their own
practices to limit
unwarranted acts

Core Public Health Law & Policy Issues

4. Abortion & Reproductive Health

5. Climate Change

6. Health Equity & Justice



Jennifer L. Piatt, J.D.

Senior Attorney, Network for Public Health Law - Western Region Office;
Research Scholar, ASU Center for Public Health Law & Policy

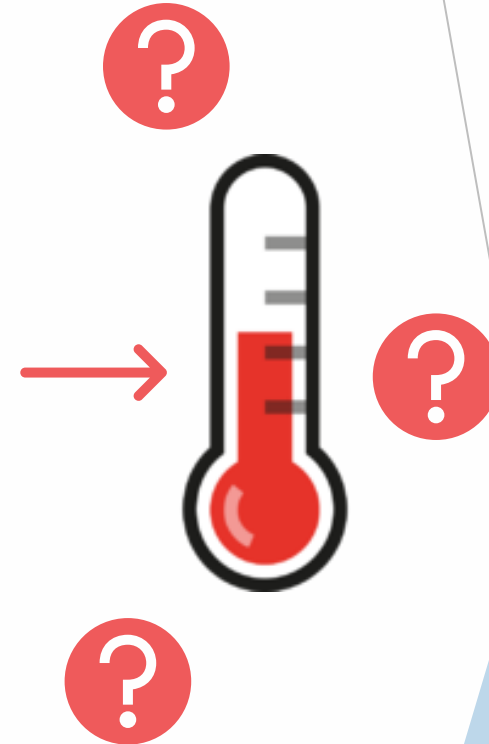
Abortion & Reproductive Health - Challenges



Justice Ruth Bader
Ginsburg



Justice Amy Coney
Barrett



Dobbs v. Jackson Women's Health Organization, et al., petition for cert filed

Abortion & Reproductive Health - Responses

Codifying *Roe v. Wade* & progeny, under threat in the Supreme Court

Ensuring that funding Title X family planning services will no longer be restricted for discussing/referring for abortion

Supporting repeal of the Hyde Amendment, which restricts federal funding for abortion services

Rescinding the “Mexico City Policy,” allowing federal aid to organizations in developing countries who also offer info on abortion services

Climate Change - Challenges



- A divided Congress could delay passage of climate change legislation
- The majority of the cost will fall on a vocal & politically powerful minority opposed to action
- Challenges to regulatory actions could stymie a climate change agenda

Climate Change - Responses

Rejoining the Paris Agreement

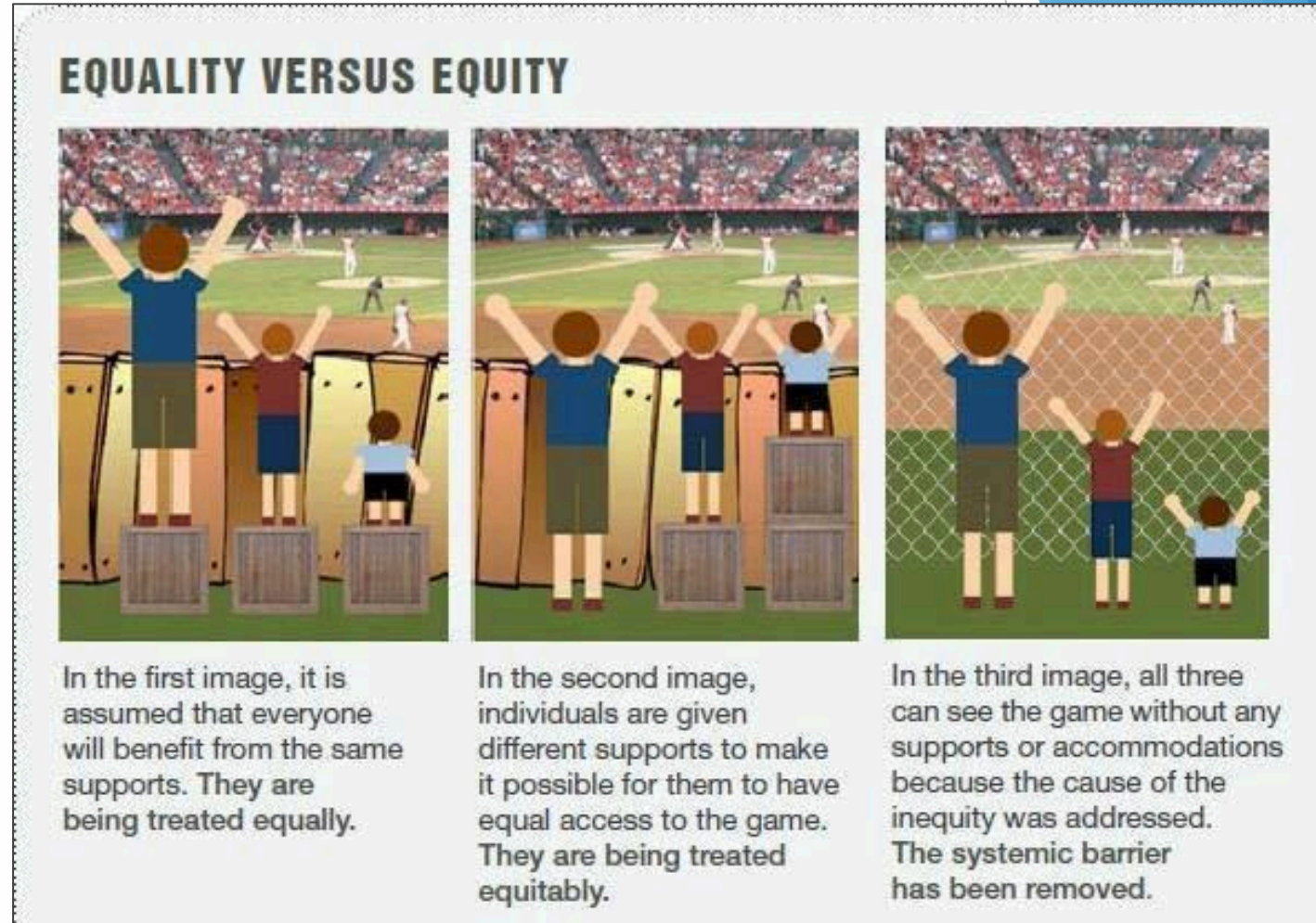
Demanding a worldwide ban on fossil fuel subsidies

Ensuring EPA & DOJ prosecute pollution cases

Considering climate change in federal permitting & infrastructure investment

Health Equity & Justice - Challenges

- Political pendulum swings both ways
- Senate control of the purse may impact actions taken
- Underrepresentation of affected groups in positions of political power stifles growth



Health Equity & Justice - Responses

Installing appointees
who represent
vulnerable populations
most in need of
improved access

Providing a health
insurance public option
& focusing on reducing
maternal mortality
rates

Doubling investment in
community health
centers & increasing
federal minimum wage
to \$15

Rescinding executive
order banning implicit
bias training

Core Public Health Law & Policy Issues

7. Affordable Care Act

8. Medicaid



Sarah Somers, J.D., M.P.H.

Managing Attorney, Network for Public
Health Law - Southeastern Region
Office and National Health Law
Program

Affordable Care Act - Challenges



Affordable Care Act - Responses

The Court
One major threat:

U.S. Supreme Court:
California v. Texas

The Executive Branch
Champion not foe:

Promotion & support
New regulations & guidance
Support from the Justice
Department

Congress
Status quo?

Senate - GOP
House - DEM

States
Status quo:

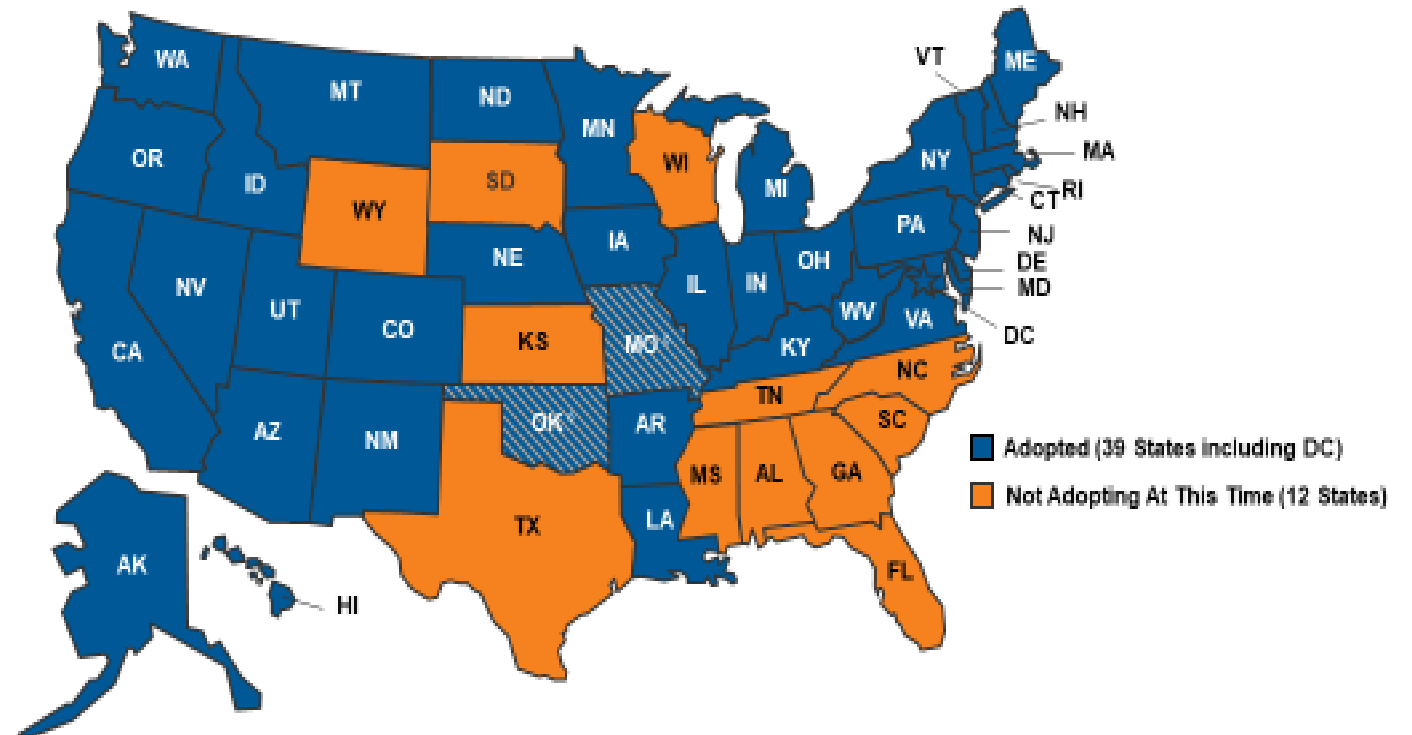
Governors: status quo
State Houses: GOP, mostly
status quo

Medicaid - Challenges



Photo Credit: Market Watch

Status of State Medicaid Expansion Decisions



NOTES: Current status for each state is based on KFF tracking and analysis of state activity. †Expansion is adopted but not yet implemented in MO and OK. (See link below for additional state-specific notes).

SOURCE: "Status of State Action on the Medicaid Expansion Decision," KFF State Health Facts, updated November 2, 2020. <https://www.kff.org/health-reform/state-indicator/state-activity-around-expanding-medicaid-under-the-affordable-care-act/>

Medicaid - Responses

The Court

Moderate threat:

U.S. Supreme Court:
California v. Texas

The Executive Branch

A new direction:

Reversal on work requirements &
block grants
Delivery system innovation

Congress

Disappointment but disaster
averted:

Entitlement to benefits intact
Improvements stalled?

States

A mixed bag:

Mostly the same political
composition
Budget crises impending
Ballot initiatives

Questions & Comments

Special thanks to **Hanna Reinke, Emily Carey & Erica N. White**, Senior Legal Researchers, ASU Sandra Day O'Connor College of Law, for their research & design contributions.

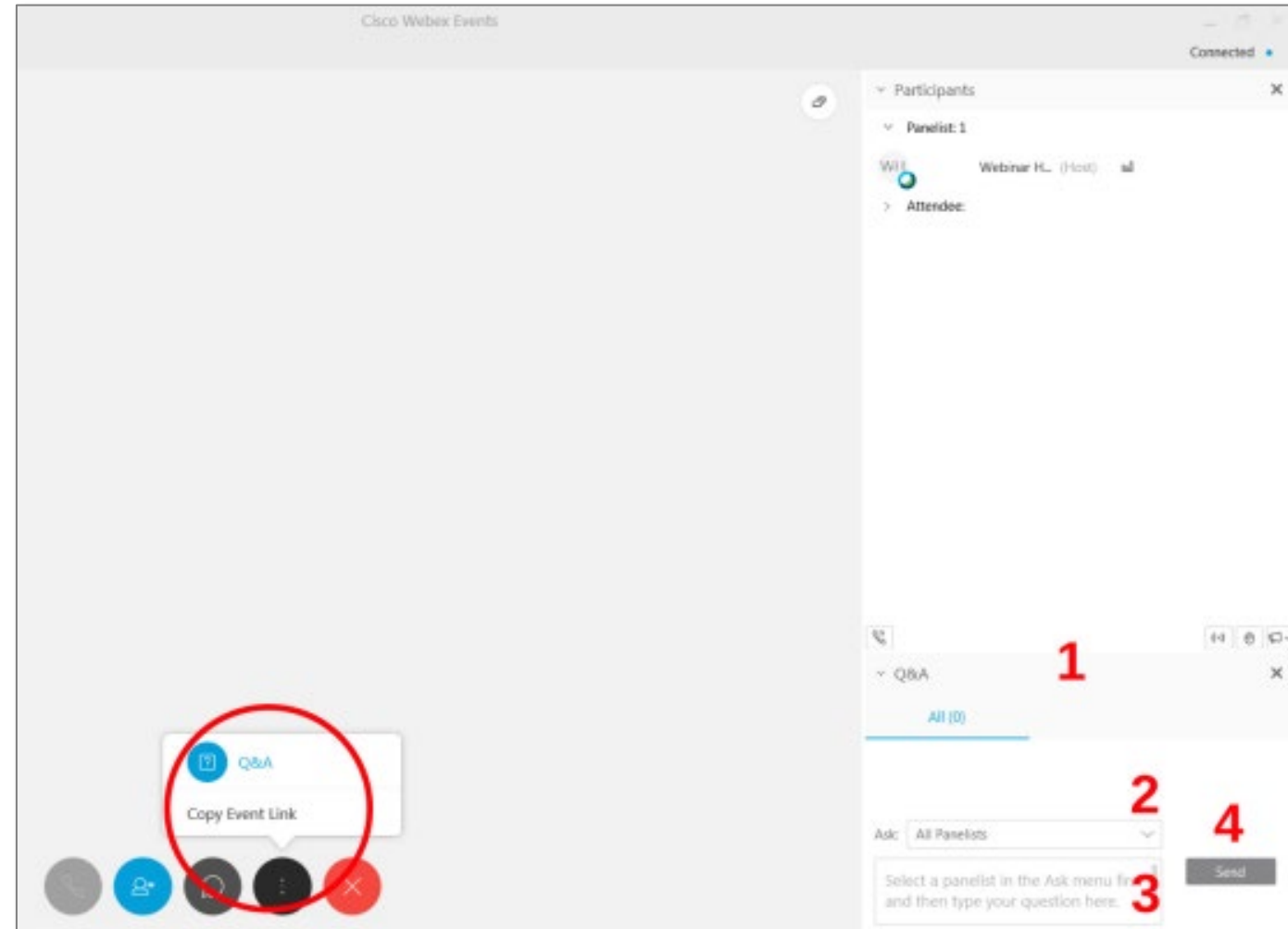


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