Artificial Intelligence in Campaigns and Elections

Feb 1, 2024

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Adam Kuckuk, Policy Analyst
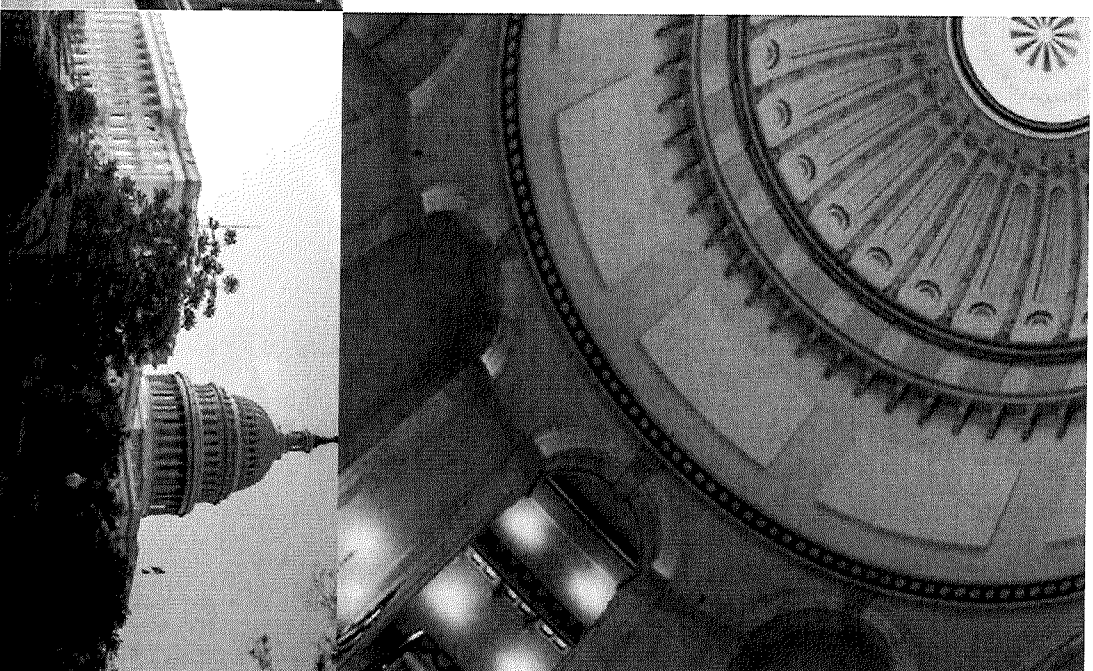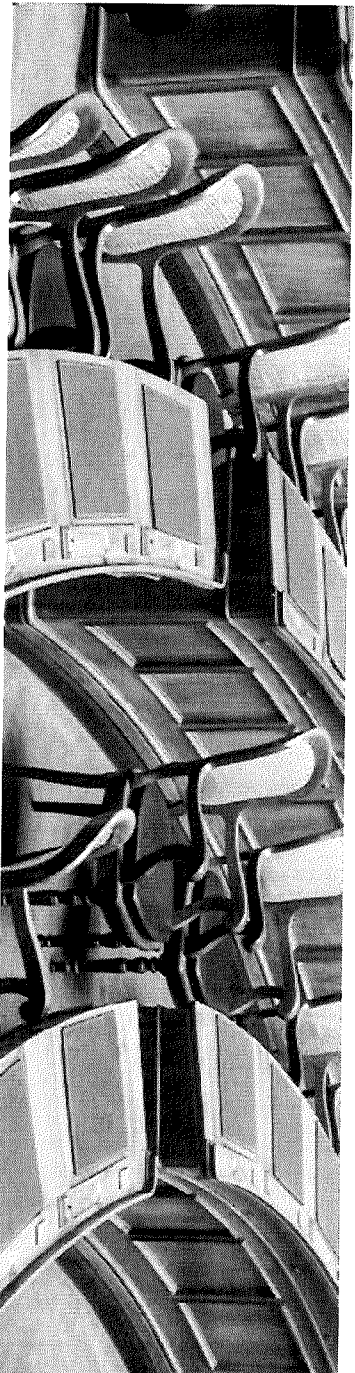
How NCSL Strengthens Legislatures

Policy Research

NCSL provides trusted, nonpartisan policy research and analysis
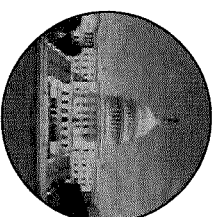
Connections

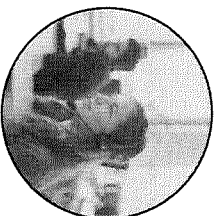NCSL links legislators and staff with each other and with experts

Training

NCSL delivers training tailored specifically for legislators and staff

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State Voices in D.C.

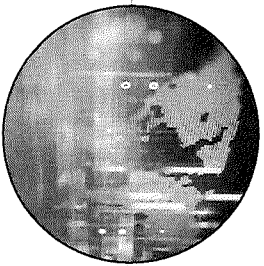NCSL represents and advocates on behalf of states on Capitol Hill

Meetings

NCSL meetings facilitate information exchange and policy discussions
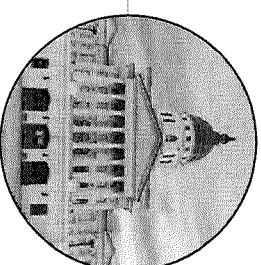
Testimony Agenda

Disinformation

- Disinformation landscape
- How AI differs

What is a deepfake?

- Machine learning
- How it is used

Legislative Action

- State legislation
- Other approaches
- Federal legislation

Disinformation and change in campaigns

- **The election of 1800**
  - Supported by Thomas Jefferson, political journalist James Callender attacked John Adams stating he wanted to crown himself king and start war with France

- **Elections have adjusted to new technologies before**
  - TV and radio ads
  - Internet

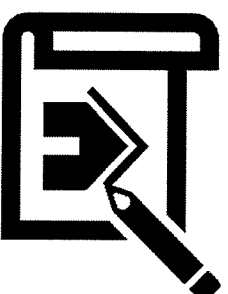- **Disinformation spreads quicker today due to the internet and phones**

How AI differs
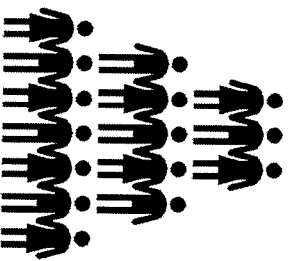
- Widely accessible through ChatGPT or Midjourney
- Little skill needed
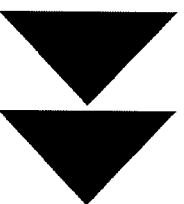
- Faster to use than Photoshop

- Highly realistic
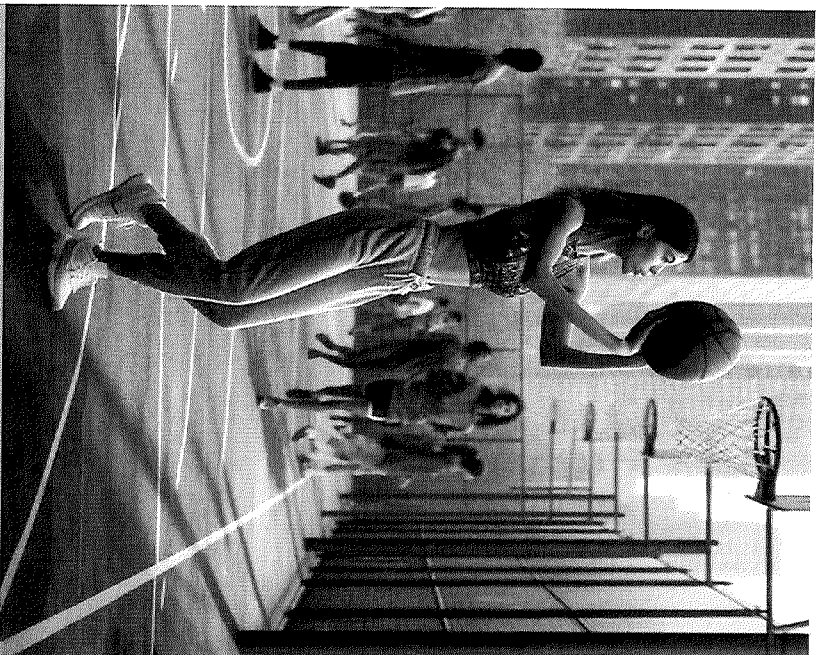
- 58% think AI will increase misinformation[1]

[1]UChicago Harris/AP-NORC poll

What are deepfakes and how are they created?

- **States use different terms when referring to AI**
  - Deepfakes, synthetic media, deceptive media, doctored media, etc.

- **Deepfakes create realistic images or audio of things that never happened**

- **"Generative Adversarial Networks" (GAN) do the work**

How deepfakes have been used in campaigns

ARTIFICIAL INTELLIGENCE / TECH / POLICY

DeSantis attack ad uses fake AI images of Trump embracing Fauci

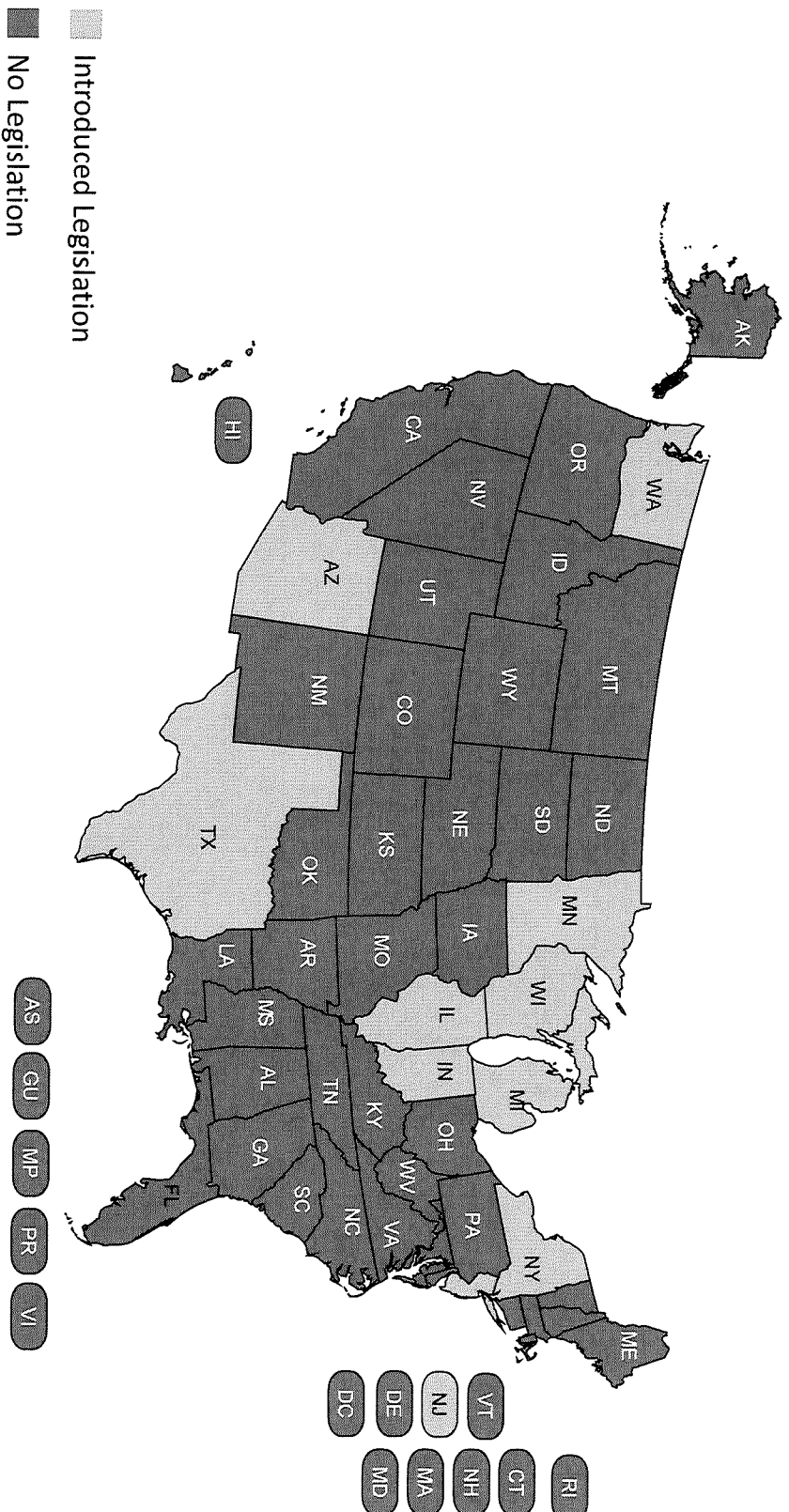## Fake Biden robocall telling Democrats not to vote is likely an AI-generated deepfake

The state's attorney general's office said the call was probably an effort at voter suppression ahead of Tuesday's primary.

Legislation on AI in Campaigning - 2023
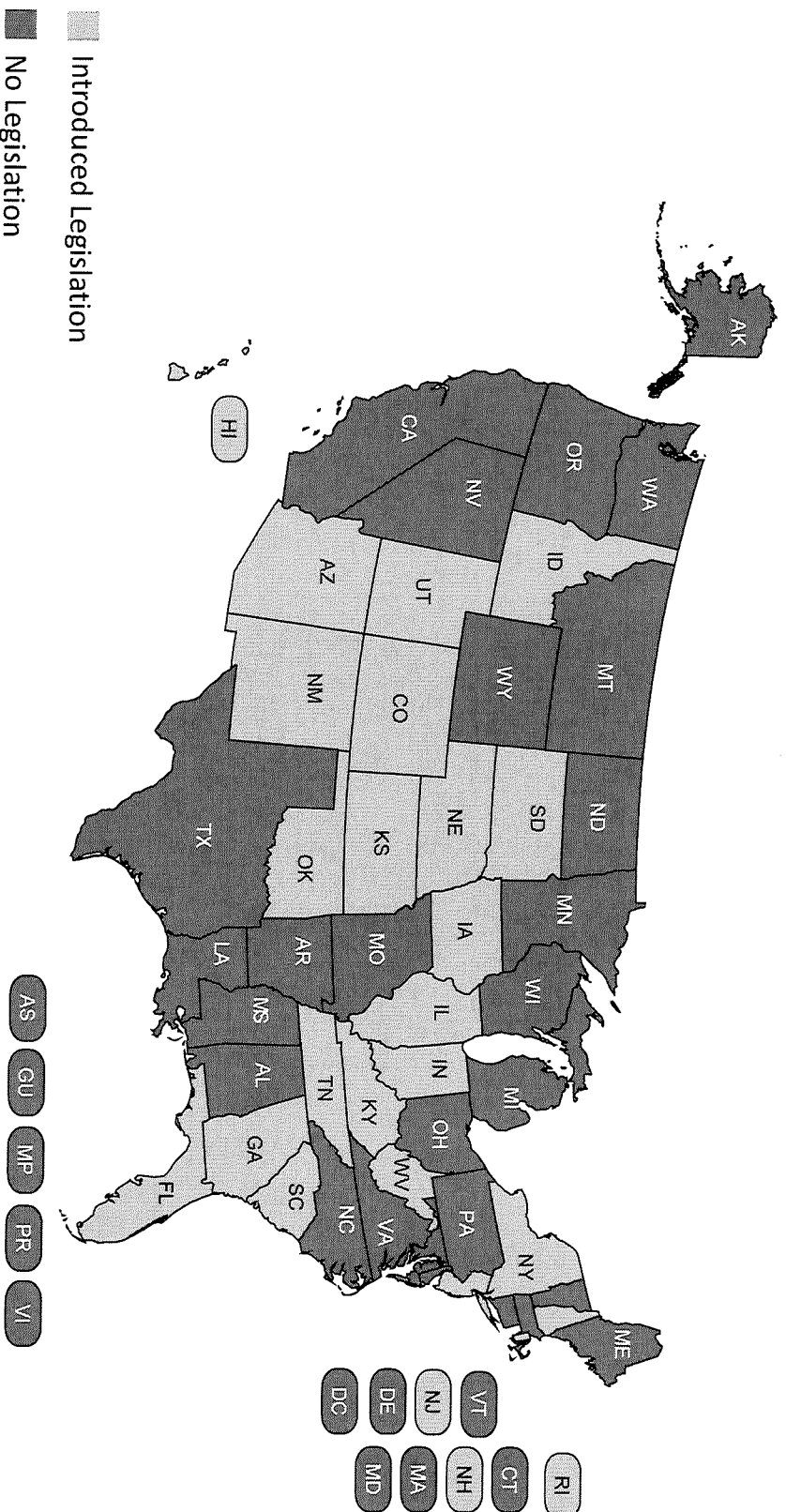

Introduced Legislation

No Legislation

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Legislation on AI in Campaigning - 2024

Introduced Legislation

No Legislation

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AI Campaign Enactments

State	Statute	Year Enacted
California	Cal. Election Code §20010	2019
Michigan	Mich. Comp. Laws §§168.932f, 169.247	2023
Minnesota	Minn. Stat §609.771	2023
Texas	Tex. Election Code Ann. §255.004	2019
Washington	Wash. Rev. Code §42.62.020	2023

Disclosure Requirement

Prohibition

No Statute

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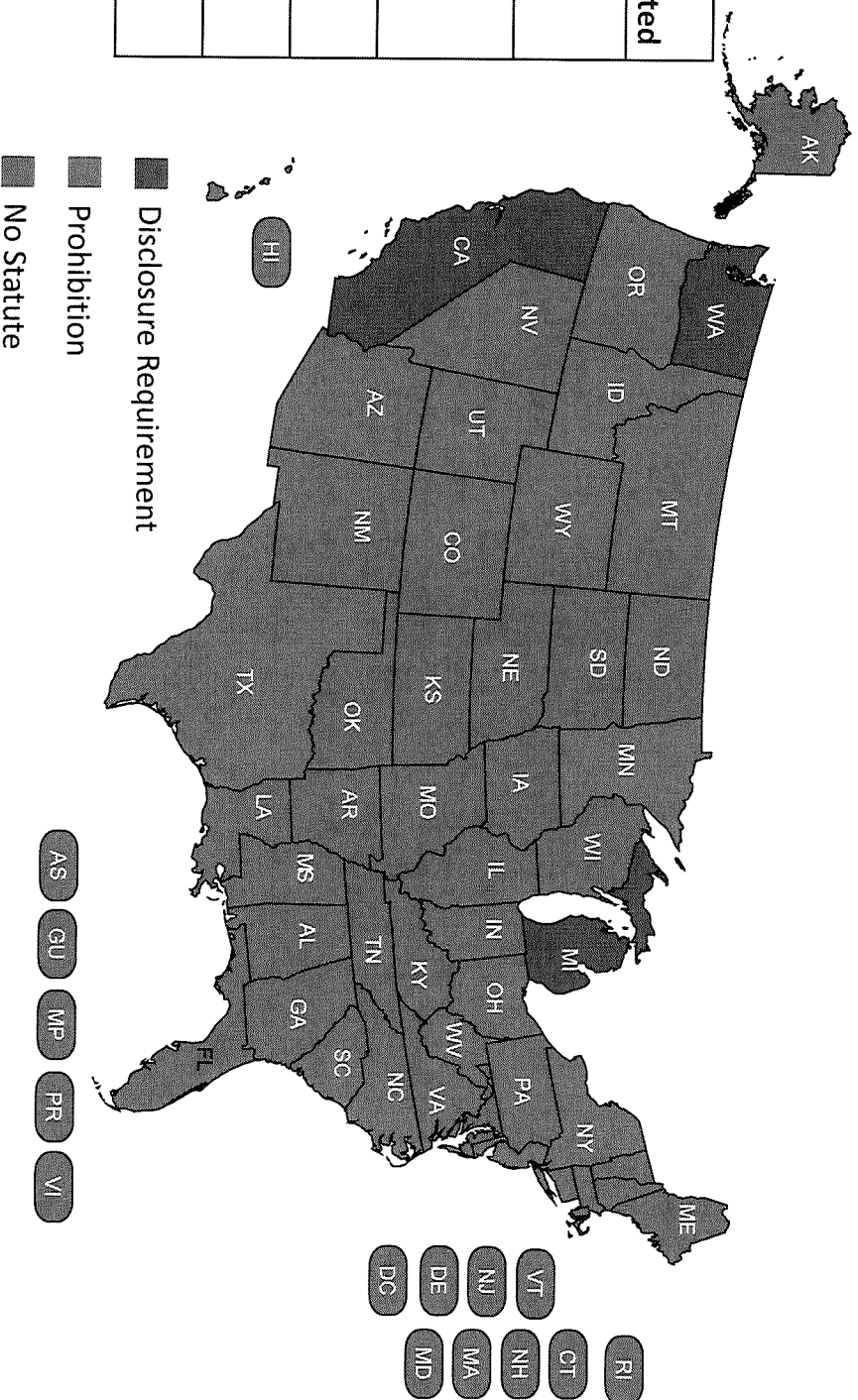
AI prohibition states

Minnesota and Texas

- Prohibit the dissemination (or entering into an agreement to disseminate) deepfakes with the intent to injure a candidate or influence an election

- Prohibited a certain number of days prior to an election
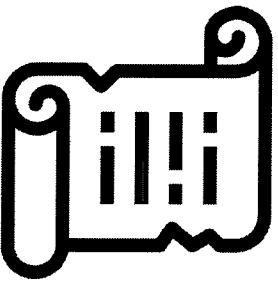
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AI disclosure requirement states

- **California, Michigan and Washington**
  - Disclosure must be as large as the average size of other text on screen
  - Must appear for the duration of the video
  - If audio, must be stated at the beginning and end

Other approaches states can consider

- **Review current statutes**
  - Wisconsin 1973 statute states: No person may knowingly make or publish, or cause to be made or published, a false representation

- **Require information in metadata**
  - Colorado HB 1147 (2024): Requires the metadata to include the disclosure statement, the identity of the tool used to create the deepfake, and the date and time the deepfake was created.

  (Metadata describes behind-the-scenes data, e.g. data owner, data type, file creation date, who last modified the data and when.)
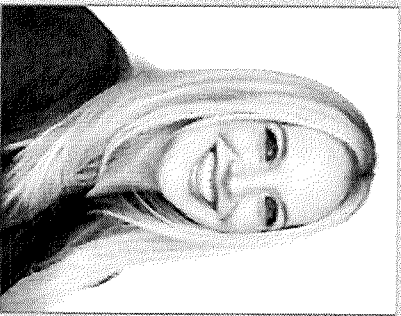
Federal Legislation - 2023

H.R. 4611

Candidate Voice Fraud Protection Act
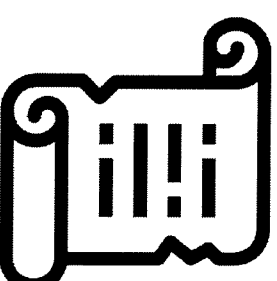
S. 2770

Protect Elections from Deceptive AI Act

Your connection to NCSL

ANNE TEIGEN

NCSL is your organization, and I am your go-to anytime you need assistance navigating our research, services or training.
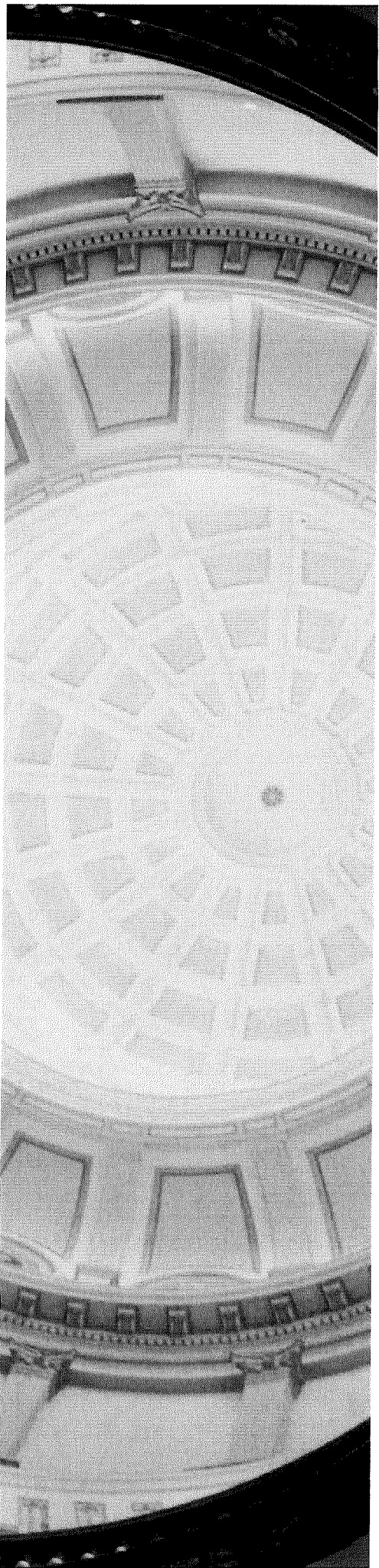
I will be in Topeka visiting your beautiful capitol building on Monday February 5th and Tuesday February 6th.

Please email me, call, or text while I am in town.

Anne.Teigen@ncsl.org   Cell Phone: 303-815-8269.

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Thank you for having us today!

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