NCSL COVID-19 WEBINAR SERIES

Continuity of Government and Elections

MARCH 25, 2020
The National Conference of State Legislatures is the country’s most trusted bipartisan organization serving legislators and staff. We promote policy innovation, create opportunities for lawmakers to share knowledge and ensure state legislatures have a strong, cohesive voice in the federal system. We do this because we believe in the importance of the legislative institution and know when states are strong, our nation is strong.
Information on state policies and responses related to continuity of government, education, fiscal, elections, criminal justice and more.

Go to ncsl.org
Continuity of Government

The Census and Elections
States in session in 2020

- By mid-March, some legislatures were already done with annual sessions (NM, WV) or were due to wrap up (5, UT, WY, WA, VA, IN).

Others:
- Cut session short (Maryland)
- Suspended or postponed (not sine die) (24 as of March 24)
- Drafted emergency legislation and budgets
As of March 24, 2020, **at least 26 legislatures** have postponed their legislative session.

- Alabama, Arizona, California, Colorado, Connecticut, Delaware, Georgia, Guam, Hawaii, Illinois, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Nebraska, New Hampshire, New York, Oklahoma, Rhode Island, South Carolina, Tennessee, Vermont, Virgin Islands and Wisconsin

- Three additional chambers have also postponed their legislative session.
  - Missouri Senate, New Jersey Assembly and Ohio House

- **12 legislatures adjourned sine die**
  - Florida, Idaho, Indiana, Maine, Maryland, New Mexico, Oregon, Utah, Virginia, Washington, West Virginia and Wyoming

- **4 states not in session in 2020**
  - Montana, Nevada, North Dakota, Texas
LEGISLATIVE SESSIONS AND COVID-19 MAPPED

- Organizational Session
- Adjourned Sine Die
- Not Yet Convened
- In Special Session
- In Session
- In Regular/Special Session
- Adjourned, Suspended or Postponed Related to COVID-19
COVID-19 IMPACT

- Postponed or canceled session to pick up whenever threat is over.
  - Colorado is poised to pick back up with session at the end of the month.
  - Many legislatures are waiting until mid-April or later to start back up.

- Special or extraordinary sessions may be coming later this spring.
  - Legislatures in 36 states are able to call themselves. (Governors are allowed to call a special session in all states and in 14 states ONLY the governor can call one.)
  - Georgia actually convened a one-day session in mid-March as the COVID-19 crisis began to unfold.

- Committee meetings
  - Example: Oregon is already holding virtual committee hearings to discuss what issues would be taken up in a special session and how it would operate.
  - Example: North Carolina committee created to respond to COVID-19 crisis will meet before legislature adjourns.
  - Example: New Jersey: committees meeting and accepting written/electronic comments only from the public
What is remote participation?

- Participation by a citizen who wants to testify to a committee but who cannot be *physically* present at the committee meeting.
- Participation by a legislator who cannot be *physically* present at a committee meeting or a chamber’s floor session.
REMOTE PARTICIPATION RAISES ISSUES THAT MAY BE...

1. Logistical – examples include platforms, server bandwidth; software licenses; hardware available; security

2. Legal – Will your state’s constitutional provisions, statutes, caselaw, AG opinions, etc. help (or hinder)—such as ones relating to:
   - Establish the seat of government?
   - Require the legislature to meet at the seat of government?
   - Allow the seat of government to be moved?
   - Require floor sessions of the Senate or House to be open?
   - Require committee meetings to be open?
   - Require a notice for floor sessions or committee meetings?
   - Require the “place” for the meeting to be included in a notice?
   - Require a member to be present to vote?
WHAT’S BEEN DONE?

- **Colorado**: In 2010, the Colorado General Assembly submitted, and the voters approved, a constitutional amendment that allows the seat of government to be moved. The legislature also adopted a joint rule, setting out procedure during a declared disaster emergency.

- **Oregon**: In 2012, Oregon voters approved a constitutional amendment relating to catastrophic disaster. The amendment defined catastrophic disaster and grants additional powers to the governor and legislature. The approved amendment is set forth in Article 10-A of the Oregon Constitution. The language authorizing participation in session by electronic or other means is in Section 5.

- **Wisconsin**: Wisconsin’s constitution contains a continuity of civil government provision, which permits the legislature to “(2) adopt such other measures as may be necessary and proper for attaining the objectives of this section.” Wisconsin Statute 13.42 outlines virtual meetings of the legislature and legislative committees in an emergency.
WHAT’S BEING DONE?

Over the past two weeks, the following chambers/legislatures have taken action to allow remote participation:

- Arizona House
- California Senate
- Both chambers in Connecticut
- New Jersey Legislature
- Pennsylvania Senate and House
- Oklahoma House
- Utah Legislature
- D.C. Council
It’s the End of the World as we Know it and I Feel Fine…
In preparing for battle I have always found that plans are useless, but planning is indispensable.
If you can keep your head when all about you are losing theirs and blaming it on you…

A person is smart…
Communication during a crisis is everything.
Lesson 1: Invest in people and I.T.
Lesson 2:
The Legislature isn’t a building
Resilience
What Staff Need

- Communication
- Flexibility
- Connection
- Resources
COVID-19: THE CENSUS AND ELECTIONS

WEDNESDAY MARCH 25, 2020
2:00 PM ET / 1:00 PM CT / NOON MT / 11:00 AM PT
The Census Bureau...

- says filling out the form online is the healthiest option
- has delayed some operations
- plans to deliver data on time
Emergency Powers and Elections

- Can delay an election
- Can relocate polling places
- Can relocate polling places and delay an election
ELECTION EMERGENCY POWERS AND COVID-19

- New York’s state primary was 9/11/01—and the legislature immediately passed the Emergency Primary Election Rescheduling Act of 2001.


- Florida’s laws covers canceling, relocating and requiring emergency guidelines.
Election Delays Due to COVID-19

- Delaying primaries
- Delaying municipal elections
IS “ABSENTEE VOTING FOR ALL” THE SOLUTION?

- **Turnout**: Likely increases (but not for all groups—think Native Americans)
- **Security**: May exchange some kinds of security concerns for others, depending on protocols
- **Costs**: In the long run, maybe lower (but shifting has a big price tag)
- **Voters’ Perspective**: Once they try it, they like it—but they have to learn the ropes
- **Administrators’ Perspectives**: Takes care of some issues (poll workers) & creates others (uncertainty)
A FEW THOUGHTS FOR NOVEMBER’S ELECTION

- Likely far fewer citizens’ initiatives
- The campaign season will move earlier in the calendar as more people vote before Election Day
- Turnout: Up? Down? Upside down?
- It’s a fool’s errand to guess the issues (besides that the virus and the economy may be front and center)
Questions?

Wendy Underhill
Wendy.underhill@ncsl.org
Questions and Answers

Please type your questions into the chat box in the lower left-hand corner of your screen.