



The Our American States podcast—produced by the National Conference of State Legislatures—is where you hear compelling conversations that tell the story of America’s state legislatures, the people in them, and the policies, process and politics that shape them.

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### **COVID-19: Campaigning and Voting Amid a Pandemic | May 18, 2020 | OAS Episode 95**

Hello and welcome to “Our American States,” a podcast from the National Conference of State Legislatures. On this podcast, we’re all about legislatures: the people in them, the policies, process and politics that shape them. I’m your host, Ed Smith. Thanks for joining us.

This podcast is one in a series NCSL is producing to focus on how states are taking action in response to the coronavirus pandemic. You can find links to podcasts, webinars and other resources at [www.ncsl.org/coronavirus](http://www.ncsl.org/coronavirus).

Elections in the age of the pandemic are getting a lot of attention lately, with much of the talk focusing on mail-in balloting for November. But there is a lot more than mail-in ballots to discuss including election administration, cybersecurity, campaigns amid a pandemic, misinformation, turnout, and more. And oh yeah, there are 6,000 state legislators on the ballot this fall.

Here to help us sort this out is Wendy Underhill, director of NCSL’s elections program, and someone who has forgotten more about elections than I’ll ever know. Wendy, welcome back to “Our American States.”

Wendy: Well, I’m glad to be here with you. I just wish we could be together and not you in your house and me in my house.

Ed: That is the fate we’re all living with right now, isn’t it? So, let’s get started to talk about election administration and how the system of elections in this country is bearing up under the strain of the pandemic.

*Time Marker (TM): 01:39*

Ed: Can you explain to us some of the issues election administrators are dealing with during this period?

Wendy: Well, absolutely, Ed. The first I want to say though is that we don’t have one system; we have 50 systems because each state sets its own parameters and laws regarding how elections are going to be run, which means that state legislators are in charge of election policy in the states.

But then there are, of course, some commonalities. When the pandemic really took hold, shortly after Super Tuesday, it became clear that doing in-person voting was going to be possibly a problem with stay-at-home orders, that kind of thing. So, states had to respond kind of quickly.

And the first thing they did was postpone elections, primary elections this is, and then the second thing they did was really double down on all kinds of safety features for being able to run polling operations in a safe and secure kind of way.

And then the next thing after that kind of crisis came through for primaries, then the next thing was to figure out if they want to have more people voting by mail, which would mean fewer people in the polling place, and what does that mean in each state. It can be a little bit different in each state depending on what their current laws are, but a lot of states did adjust by providing an easier way to get an absentee ballot, maybe creating an online portal for requesting one, for changing what are the requirements for getting one, and for even mailing out absentee ballots to all the voters.

So, states were pretty quick on this. Some of it was policy related; some of it was administrative changes. But it did feel as though boom, the pandemic hit right when most states were starting to run their presidential primaries, but even more importantly their state primaries.

*TM: 03:20*

Ed: So, let's talk a little bit about cybersecurity and disinformation. Now, they are both in the cyber world, I guess, but they are two different things. Can you break that down for us?

Wendy: Well sure. And both have been a concern for the last several years in regard to elections, and frankly to all government and business operations.

So, on the cybersecurity side, the question is primarily whether the election systems are strong enough to repel any intrusions. Can any of the bad actors out there get into the voter registration system or into the voting system? And I'll tell you that the voter registration system would be a problem because if bad actors got in there and messed with things, then you could have chaos on Election Day, and states have done a huge amount in the last several years to up their game you might say.

On the voting itself side, it looks like it's much harder to have any mischief on that side because there is not as much Internet connectivity with voting itself as with voter registration.

So, I will just say a huge amount of effort at the federal level and the state level and the local level has gone into hardening these systems.

But you also asked about the disinformation side and that is much harder to set a policy on. How do you set a policy that says: We won't allow any inaccurate and misleading information to be disseminated. It's out there, it's on social media and everywhere else. What I'm thinking on that is what we can do about that is, as individual people, get a little smarter about what are we reading and whether we trust it or not, look for the sources, and we need to kind of all take a little refresher course on digital literacy.

I'm thinking that NCSL is likely to have something up for legislators and legislative staff soon that is not just for themselves, but that they could share with constituents, on just a few tips on how to be a good news consumer or good opinion consumer as they get closer to the election. But it really is sort of: we've got to crowd source that if we're going to do better than we have.

Ed: Well, that's interesting. There's an awful lot of personal responsibility that I think people need to take related to Covid-19 in terms of not spreading it and trying to keep themselves safe, so maybe they need to take a similar approach to information about the election and make sure they're exercising some discrimination in terms of what they're reading and what they're believing.

Wendy: I like that parallel.

*TM: 05:43*

Ed: So, let's not forget why we're here. There's a presidential election and there are elections for Congress. But, we're interested in how state legislative races are shaping up. Can you break that down for us, how many people are running, that sort of thing?

Wendy: Absolutely. That is the big news for NCSL. We want to know who will win each of the 7,383 seats in the nation. I will say that 6,000 of those will be up for election this November. So, the even-numbered years are when most of our members are elected, and who wins or loses those individual seats, of course, determines which party will hold the reins in the states.

That's always important, but this year it's sort of doubly important because whoever is in charge of the legislature will be primarily in charge of redistricting, which is coming up in 2021 and into 2022. What that means is that there are some states where a commission does the redistricting, but in most states, that's still a legislative function. So, committees are being formed to get the Census data and begin to think about how they're going to redraw the maps for congressional districts and for state legislative districts.

And, of course, that sets the stage for the elections for the next ten years. So, all I can say is that 2020 is sort of a super election year because you've got the president on the ballot, and then you've got who is going to be redistricting on the ballot too, so super great.

I don't know if you want the forecast on how that's going to go. I don't really feel like that's a good idea at this point because everything is so extraordinary this year. How can you make predictions on virtually anything? But, I can tell you that right at the moment, Republicans control 59 of the 98 partisan chambers, and Democrats control 39.

So, will there be some shift? That is yet to be seen.

*TM: 07:26*

Ed: Let me ask you a nuts-and-bolts question since you brought up redistricting. I think most people have read that the Census Bureau is having to adjust its collection of information, and that, of course, affects information on reapportionment and redistricting.

What do you know about that? Is that going to have a substantial effect on the cycle or the timing for redistricting, or will things ultimately end up operating on about the same schedule?

Wendy: That depends on which state you're talking about. If you're New Jersey or Virginia, with the delay in the release of Census data, they will be hard-pressed to run their legislative elections in 2021, which is their normal schedule, with new data. And those states haven't figured out how they're going to do this yet.

They can potentially pull it off. They could potentially run the elections on the old maps for another year. They could ask a court to change the date of the election. I mean, who knows? Those two states are working hard to figure it out.

Then there's another dozen or more states where the deadlines that are built into their state constitutions are going to make it really hard to get the job accomplished on time, and it's hard to change a state constitution. So, those folks have some concerns.

And then a number of states are just going to have a compressed schedule and what we may easily find is that at the very beginning of the legislative sessions in 2022, that may be the first bill that gets taken up in a number of states, so that they can get those maps finalized and then have candidates know what districts they can run from, and election officials can figure out which voters get which ballots with which races on them.

There's a whole cascade of things that come after the maps are finalized. So, let's say it's a monkey wrench and you could say it could be hair-on-fire for some places, but let's say it's at least a monkey wrench for all the states.

Ed: Okay, well, we'll stay tuned on that one. Of course, there's more detail there than I had any idea, so thanks for breaking that down.

*TM: 09:25*

Ed: Let's turn to another topic: ballot measures. It's got to be pretty tough to get signatures for a ballot initiative at this point, so for citizen initiatives. So, for those states where there is that sort of thing, how is that going to affect statewide ballot measures this fall?

Wendy: You're right. Here's another place where the pandemic is having its way. In the 24 states where citizens can choose to take forward a policy idea and get it on the ballot for the citizens to vote on, they need to get a huge number of signatures; it depends, of course, on which state. And they can't very easily be standing out in front of a grocery store collecting signatures at this point. And so, they're a little bit stymied.

And I think that the end result of that is going to be that there will be fewer of those citizens initiatives and that the proportion of legislatively referred ballot measures will be that much higher.

Already, about two-thirds of the measures that citizens vote on every year do come to them from the legislature, and only one-third comes through that citizens process. So, the legislative process still remains the same.

So, I don't know what this is going to mean for the issues that usually are the big-ticket items. Marijuana is often big; healthcare-related things; tax things; redistricting; voting rights – those are all things that often show up on ballots. And it's a little too early to know, even in a normal year, how that's running. But my guess is that we'll have 50% or fewer of the normal number of those kinds of citizens initiatives this year.

*TM: 10:55*

Ed: The big topic of discussion, of course, around elections has been Election Day itself in November. We've seen states talking about mail-in ballots, early voting, steps to ensure people can vote safely, the possible effect on turnout.

Can you walk us through that and everything from: Can the election be delayed to what kind of turnout we're probably going to have?

Wendy: I think the idea of the election being delayed is in the .001 percent category. So, let's just work with we're going to have an election on November 3<sup>rd</sup> this year. What will be different this year is that instead of 30% of the people broadly across the nation turning in ballots through the mail, or dropping off a ballot that they voted on at home, that could hit 50% or even higher.

I've heard one expert say that she expects it will be as high as 70%. So, what this means is that most states, virtually all states will be running some kind of a polling place operation for people who can't vote an absentee ballot, but that all states will also be seeing an increase in the number of people who are asking for an absentee ballot.

And, of course, we don't know what the pandemic will look like at that point. Maybe things will have died out and we'll return to a more normal process, but judging by where we are right now, I think we can say for certain that there will be a big increase in the number of people who are voting absentee.

Well, each state has its rules on how that can work. They are having to adjust. For instance, instead of having polling place people where you walk in and say hello and they check your name on a list, and that's a one-day job for a whole army of people, the states will be looking for people who can work for two, three or four weeks before and after the election to process all of the ballots that are going out, the ballots that are coming back, and then doing the counting for those.

So, your operation shifts quite dramatically from a one-day, huge event to a several-week process. So, that's a pretty big deal.

And there are technology questions involved with how this works and then there is also the way that the candidates, and that would be our members, adjust. If people are voting a week or two, or even three weeks before Election Day, then a candidate has to get their information out that much farther in advance.

So, no longer will it make sense to have that weekend before Election Day blitz. Just as the voting will be over an extended period, the campaigning will also be over an extended period. At least, that's what my crystal ball says.

*TM: 13:26*

Ed: Well, let me ask you about that campaigning; we're talking about Election Day coming up. Rallies, shaking hands, town halls, that kind of thing, those are pretty tough to do right now. So, what does that look like? We've seen an awful lot of Zoom presentations lately, but that's not a super exciting thing to see during a campaign.

Wendy: You're absolutely right. We may be learning to vote at home and candidates are learning to run from home. So, that may change. I mean, again, we just don't know how much the pandemic will be affecting everyday life and campaigning as a part of it.

One thing I forgot to mention is that the candidates, at this very point, while we know that things are still rough in a number of states, are trying to gather the signatures that they need. And so, that's making it a little bit harder right now for anyone who is still getting on the primary ballot for later on this year.

But, I'm going to say that politicians tend to be really creative people, and if anybody can figure out how to get the word out, it will be people who would like to serve in public office. They tend to be outgoing; they tend to be technically with it. We're all getting sort of an education this year on how to manage all of our devices and all of our platforms.

So, I think that's more of a question for a reporter to kind of follow as we go through and get some good ideas, which I bet will stay with us for all the years yet to come, even after the pandemic has long settled down.

*TM: 14:54*

Ed: The state legislatures, of course, have been challenged in terms of meeting and taking action and that sort of thing because of the pandemic, but have any states taken action relative to elections in terms of changing the procedures or anything of that sort? Or has that just been kind of dead in the water because of the pandemic?

Wendy: Well, that's an excellent question. There have been all of these changes to increasing the amount of applications for absentee ballots that are being sent out, but many of those things have come through executive orders or through secretaries of state doing what was already do within their purview.

But there have been some states, indeed, where there the legislature has taken the lead on this, and Pennsylvania comes to mind with delaying its election and permitting absentee ballot applications to be sent out.

So, I think that what we're going to find is that legislatures, those that are still in, are going to be, in fact, looking at this. They're going to want to be thinking about: How will the elections be run? And we could easily see some more bills that have Covid and elections in the title.

There have been some already, and more yet to come, I'm fairly sure, for those states that are still working on it or coming back into session.

*TM: 15:58*

Ed: As we move to wrap up, Wendy, is there anything else you'd like to share with the legislators and legislative staff who are listening?

Wendy: Well, Ed, it feels to me as though I'm always talking about how significant these elections are in regard to the pandemic. But if I could just come back around to say that the health of our nation and the economic health of our nation are even more important than the precise way we're going to vote.

Yes, I spend my time thinking about how the elections will be run, but there are folks out there who are sick and there are folks out there who are without jobs, so I just want to say those are the priority items right now.

And then the last thing I'd offer is that NCSL staff, whatever our topics might be, have been working really hard on preparing materials on how Covid is affecting every policy area, and the reason we do this is so that we can share it with our members and, to some extent, with the public too.

So, I just ask that people feel free to be in touch. That's how we know we're doing our job. And we're doing it virtually just like candidates have to go out there and do their work virtually. So, I'm just offering that I'd love to be in touch.

Ed: Well, Wendy, I can tell you that in doing this series of coronavirus podcasts, I have heard from people around the country and almost without fail, people have mentioned the great resources that NCSL has made available, and made them available very quickly. So, let me second that.

So, thanks so much for taking the time to go through this and I'm looking forward to doing another podcast with you just before the election when we can do a little bit more of the traditional handicapping of the race and how things are shaping up.

But until then, please stay safe and we'll talk soon.

Wendy: Alright, thank you so much, Ed. It was wonderful to talk to you.

Ed: And that concludes this edition of our podcast. We encourage you to review and rate our episodes on iTunes, Google Play or Spotify. You may also go to Google Play, iTunes or Spotify to have these episodes downloaded directly to your mobile device when a new episode is ready. For the National Conference of State Legislatures, this is Ed Smith. Thanks for listening and being part of "Our American States."

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