



Connecting People to Policy

**COVID-19: LEGISLATIVE SESSION OPERATIONS
AND PROTOCOLS IN OTHER STATES**

PREVALENCE OF REGULAR OR SPECIAL SESSIONS SINCE MARCH 2020

- **Twenty-two states** convened a special session during the pandemic and **twenty-two additional states** held portions of their regular sessions at some point during the same period.
- Only **three states** held no regular or special session in 2020. In addition, **three states** adjourned their regular sessions just prior to the March 13, 2020, proclamation declaring a national emergency concerning COVID-19, and these states have not subsequently held a special session.
- Among our neighboring 11 western states, only Montana has not had a regular or special session since the proclamation was made.
 - Western states include: AK, AZ, CA, CO, HI, ID, MT, NM, OR, UT, and WY.

IN-PERSON PUBLIC ACCESS

- In most of our neighboring states, in-person access to the legislative building by members of the public was limited.
- Overwhelmingly, access to legislative buildings and capitol grounds was limited to legislators and certain legislative staff.
- Although closed to the public, Alaska and Utah made some exceptions for credentialed members of the media.
- Arizona, Colorado, and Idaho are the only western states that allowed for in-person public access to the Legislature.

PARAMETERS FOR IN-PERSON PUBLIC ACCESS

- Arizona: Public access was limited to maintain social distancing. In addition, masks and temperature checks before entry into the building were required.
- Colorado: Public seating was limited in the gallery only. There was no limit to the number of public participants permitted in the building, provided that social distancing was possible. Members of the public were subject to temperature checks. Completing a medical screening questionnaire was voluntary, and those who were screened were provided a wristband. Those who refused to participate in health screenings were not prevented from accessing the building. Masks were required for members of the public.

PARAMETERS FOR IN-PERSON PUBLIC ACCESS

- Idaho: Members of the public had unlimited access to the building; however, seating and access were reduced in most committee rooms. Signs encouraged the public to wear masks; however, there was no enforced requirement to do so.

PUBLIC PARTICIPATION IN A REMOTE SESSION

Nationally, at least 30 states held remote or partially remote committee hearings. The public was able to participate in several ways, including:

- Providing live testimony via video or telephone during the hearing;
 - Some states required individuals who wished to testify to sign up via electronic sign-in sheets.
- Submitting comments through an online comment or testimony submission form;
- Emailing comments and testimony to published committee or individual legislator email addresses;
- Establishing remote testimony stations in public spaces throughout the state;
- Holding virtual public listening sessions prior to session or during session; and
- Broadcasting hearings through livestream, webcasting, and other methods.

CONSTITUTIONAL REQUIREMENTS

Some state constitutions include requirements regarding where a legislative session must be held. Among western states:

- AK, AZ, and MT do not appear to have any requirements regarding where sessions must be held.
- CA, CO, HI, ID, NM, OR, UT, and WY require sessions to be held at the capitol or in the seat of state government, and most allow for sessions to be held temporarily at another location under certain extraordinary circumstances, such as war, a catastrophic or natural disaster, or if the capitol is declared unsafe.

LEGISLATOR IN-PERSON OR REMOTE PARTICIPATION

- In western states:
 - In-person participation was required in AK and ID.
 - Remote participation was permitted in HI, MT, OR, and UT.
 - Under certain circumstances, remote participation was permitted in AZ, CA, CO, and NM.

LEGISLATOR PARTICIPATION

Criteria for remote legislator participation in legislative floor sessions:

- Arizona: Once a quorum in the building is established, members are able to participate remotely.
- California: Provided there was a quorum on the floor, senators were allowed to participate in floor debate by Zoom and assembly members were able to vote by proxy.
- Colorado: Legislation passed during the 2020 session authorizing the president and the speaker, in consultation with the majority and minority leader in their respective house, to authorize remote participation if certain public health disaster emergency conditions are met and they find that holding in-person legislative proceedings poses an increased health risk to the members or to the public. Authority for remote participation only remains in effect as long as the declared emergency continues.

LEGISLATOR PARTICIPATION

- New Mexico: Legislation passed authorizing remote participation in committee hearings or floor sessions during the first 2020 special session. Members of the House were authorized to participate electronically or telephonically, and members of the Senate were able to participate from their capitol offices.
- Nationally, at least 23 states held remote or partially remote floor sessions.
 - Certain states allowed for both remote debate and voting, and others limited remote participation to one part of the floor process.
 - Various states allowed for proxy voting.
 - Some required legislators to participate from their capitol offices.
 - A few states required a quorum on the floor or in the building, and others participated remotely.
 - A few states authorized remote or proxy voting in specific circumstances.

ADOPTED RULES OF CONDUCT

- Most states did not adopt rules of conduct, but rather issued guidelines or protocols to address conduct in the building.
- New Mexico adopted the most extensive rules to govern conduct in the building for each house. They provided for remote participation, social distancing, personal protective equipment (PPE) to be provided to all members, staff, and employees physically present, roll call for house votes, protocol to be recognized to speak when attending remotely, use of electronic signatures, and the requirement that the presiding officer must recess the meeting if any live audio or video stream is interrupted until it can be returned to functioning.

SOCIAL DISTANCING AND FACE MASK REQUIREMENTS FOR LEGISLATORS AND STAFF

The vast majority of western states required legislative staff to wear masks and practice social distancing. Legislators were encouraged by legislative leadership to do the same. Both were provided certain PPE upon request.

However, several states required and enforced the use of masks and/or social distancing.

- In CA, legislators and staff were required to wear masks and socially distance. These requirements were enforced by the Rules Committee in each house and the Sergeants at Arms.
- In HI, legislators and staff are required to: wear a mask upon entry into the building; submit to thermal camera or forehead temperature screening; and present and wear identification demonstrating authorization to access the building. Individuals who are permitted access are given a daily indicator signifying their authorized entry into the building.

SOCIAL DISTANCING AND FACE MASK REQUIREMENTS FOR LEGISLATORS AND STAFF

- HI continued: Individuals who did not comply with the requirements, registered a certain temperature reading, or exhibited signs of illness, such as a cough, were denied entry into the building. The state capitol access procedures were issued by the comptroller and are enforced by the sheriff's office. In HI, the sheriff's office provides overall security and access to the state capitol, with implementation and enforcement support for screening measures from the sergeant-at-arms offices, and for a time, the Hawaii National Guard. Social distancing measures were taken by legislators and staff; however, no formal policy or rule required it.

COVID-19 TESTING REQUIREMENTS FOR LEGISLATORS AND STAFF

- Most western states did not require COVID-19 testing for legislators or staff. However, several states indicated that they are considering requiring it for legislators and staff who work in the capitol (not remotely) during upcoming 2021 sessions.
- Several states provided legislators and staff with information regarding testing locations throughout the state.
- Colorado and Hawaii offered optional on-site testing to legislators and staff. In Colorado, testing was also open to members of the public. In Hawaii, testing was offered immediately after a legislator tested positive for COVID-19.
- New Mexico required testing for all staff and highly recommended testing for legislators. All of the staff and approximately 90 percent of legislators complied with the testing requirements. Testing was done two to three days before session, once during session, and offered on the last day of session.

PROTOCOL FOR REPORTING POSITIVE TESTS AND CONTACT TRACING PROCEDURES

- Only a few western states have written protocols for reporting positive tests, and most relied on their state or county public health agencies to provide contact tracing.
- California passed [Senate Bill 1159](#), which outlines reporting requirements and actions employees and employers must take if an employee is confirmed to have COVID-19 ([Section 3212.88](#) of the Labor Code).
- In Alaska, if an employee or member is identified as being COVID-19 positive, the capitol is closed for at least 24 hours before performing Centers for Disease Control and Prevention cleaning and disinfecting protocol. In addition, the immediate supervisor and respective presiding officer is notified. Contact tracing is handled by the Alaska Department of Health and Social Services.

PROTOCOL FOR REPORTING POSITIVE TESTS AND CONTACT TRACING PROCEDURES

- The Senate, House of Representatives and the Legislative Reference Bureau in Hawaii noted that each agency has established its own internal protocols governing reporting of positive tests.
- In New Mexico, [SR1](#) of the First Special Session of the 54th Legislature required a senator who tested positive for COVID-19 or has been in personal contact with someone who tested positive to notify his or her respective floor leader or whip. The senator may be excused or shall self-isolate in his or her respective capitol office. The senator self-isolated in the capitol office is considered present for the purpose of a quorum and will be able to debate and vote electronically. The counterpart measure, [HR1](#), was silent on reports of positive testing.

REQUIREMENTS REGARDING MOVEMENT IN THE BUILDING

According to a survey of the western states, the majority used signs to control the flow of foot traffic in stairwells and the number of elevator occupants within the legislative or capitol building.

In addition, in other areas of the building where social distancing was not possible, several used barriers and plexiglass and controlled the direction of traffic.

Finally, communal equipment or practices, such as water fountains, water coolers, coffee pots, and buffet-style meals were removed, inactivated, discouraged, or no longer permitted.

ADDITIONAL RESOURCES

National Conference of State Legislatures Resources:

- Primer on [legislative continuity of government](#), which includes links to new chamber rules and lists the variety of legal considerations that legislative bodies must take into account;
- Examples of [constitutional provisions](#) regarding open legislative floor sessions; and
- Live webcasts or television broadcasts of legislative floor proceedings are available in all [50 state legislatures](#), the District of Columbia, Puerto Rico, and the Virgin Islands.

QUESTIONS?

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