

Summary of Recommendations

The Legislative Emergency Epidemic Response Committee has developed the following recommendations for the continuity of operations of the General Assembly and the Legislative Department in the event of a pandemic occurrence in Colorado. It is important to note that the response plan differs in some attributes based on whether the legislature is in session or is out of session at the time that an emergency disaster declaration is issued. It is also useful to note that the plan may change depending upon a number of variables, such as length and severity of the epidemic and subsequent disruptions to basic services and social infrastructure. The Legislative Continuity of Operations Plan for Pandemic Events (L-COOP) is based on the following assumptions

L-COOP Assumptions

- 1) The General Assembly would continue to meet at the State Capitol and would not relocate to a pre-designated alternative site, unless the Capitol was declared uninhabitable by the CDPHE. The constitution restricts moving *the seat of government* from the City and County of Denver without a vote of the people. The constitutional requirement can clearly be met by finding an alternative location for the General Assembly to meet within the borders of the City and County of Denver. Alternative sites could include the Colorado Convention Center, the Auraria campus, or the Denver International Airport. The committee considered the question of whether the General Assembly could meet somewhere outside of the City and County of Denver and still comply with the constitution. The "seat of government" for purposes of this constitutional provision is *all* three branches of government. However, if the General Assembly wants to err on the side of caution, carefully crafted legislation could be enacted that permits relocating the General Assembly to a temporary location outside the City and County of Denver during an emergency situation to address immediate needs during a pandemic and that states that this action is not being done to change the seat of government within the meaning of Article VIII, Section 2 or 3. The committee concluded that a reasonable reading of the constitution is that it does not prohibit a temporary relocation of the General Assembly outside of Denver during a pandemic or emergency situation. Therefore, the committee has not included a draft of such legislation in this report.
- 2) The option of a virtual electronic session was dismissed by the committee because of the cost of running a virtual session, the potential logistical difficulties in running a virtual session, and the time it might take to develop a plan for such occurrences.
- 3) Because of the social distancing aspects of addressing a pandemic, the committee found that moving the entire General Assembly from Denver to another city in the state was not the recommended course of action. The committee's recommendation is to structure the modified legislative session using the State Capitol as a primary venue, unless such a course of action is declared unsafe and an alternative site is needed.
- 4) The length of the legislative session may need to be adjusted in the event of a pandemic occurrence. While the state constitution limits the length of the session to 120 calendar days, the joint rules operate to make every day count towards the 120 days, including the weekends. Depending on the timing of the pandemic, the General Assembly may wish to amend the joint rule to provide for 120 calendar days during a pandemic; the joint rule does not come into play if the General Assembly meets in a special session during the legislative interim.
- 5) The committee does not support lifting restrictions of electronic participation by legislators

in committee meetings through telephone or other electronic connection. The protection of the integrity of the legislative process is considered paramount. While these rules could be suspended during a pandemic or amended to allow for electronic participation during a pandemic, the committee views this as a "last resort" in the event that the severity of the pandemic precluded any other form of participation.

6) While the General Assembly should have a plan in place to meet if a pandemic emergency occurs, because of the expected absenteeism and the risk of further spreading the disease, one of the first questions to be resolved by the Executive Committee and the Governor is whether there is truly a reason for the General Assembly to meet and when it is safe to assemble in public during a legislative session.

L-COOP Planning

Much of the planning for the Legislative Continuity of Operations Plan may be conducted well in advance of a pandemic event. The General Assembly may want to consider having a petition or individual petitions prepared to call itself into special session in the event of a pandemic. However, it may be less complicated to draw up a plan with the Office of the Governor to call the General Assembly into special session for purposes of starting the pandemic response plan. The critical question that will have to be addressed by the Governor and the legislative leadership is whether the General Assembly needs to meet and if it does, how can the timing of the legislative session be made to coincide with the least risk to members, staff, and the general public. The two scenarios detailed below are contingent upon whether the General Assembly is in or out of session at the time of a disaster emergency declaration.

Scenario I: General Assembly in Session at the time of a Disaster Emergency Declaration

If the General Assembly is in session at the time of notification of the governor's declaration of a disaster emergency, the following protocols would ensue.

- 1) The Executive Committee of the Legislative Council shall meet and set forth the following:
 - A. The list of items or topics on which members of the General Assembly may submit requests for bills to address the particular disaster emergency and the prioritization of any pending legislation that the Executive Committee deems necessary to enact prior to adjournment or recess of the regular session.
 - B. The Executive Committee shall determine which budgetary issues still need to be addressed and identify the critical responsibilities of the General Assembly in light of the declared emergency. Among the legislative items to be considered are:
 - the revenue resolution specified in Section 24-75-201.3, C.R.S.;
 - the State Education Fund resolution specified in Section 22-55-104, C.R.S.;
 - the annual general appropriation bill;
 - the annual legislative appropriation bill;
 - any supplemental appropriation bills;

- the school finance bill; and
 - any other issues that in the estimation of the Executive Committee are critical to address prior to recess or adjournment.
- C. The Executive Committee shall set a limit on the number of bill requests that the members of the House or Senate may request and introduce.
 - D. The Executive Committee shall adopt a deadline schedule including the dates when the General Assembly shall convene or resume meeting.
 - E. If necessary, the President and the Speaker, or their designees, shall activate the critical information call tree of the General Assembly (if the legislature is in recess or adjourned for more than three days).
- 2) If it is determined that there is an increased health risk to the members of the General Assembly or to the public by meeting in the Capitol Building, the Executive Committee shall make arrangements to have the General Assembly meet on a temporary emergency basis at an alternate location within or outside the City and County of Denver.
 - 3) Upon convening of the General Assembly, the House and Senate shall adopt by a simple majority vote the rules of the House and Senate and the joint rules as temporary rules.
 - 4) New, smaller committees of reference may be appointed by resolution to serve during the period of the disaster emergency in both the House and the Senate. The committees shall be in existence only during the period of the declared disaster emergency.
 - 5) Nothing in the emergency rule shall change the constitutional requirements for the number of legislators required to pass a bill by majority vote.
 - 6) The number of working days shall be counted as 120 separate calendar days as opposed to 120 consecutive days during a declared disaster emergency.
 - 7) The Secretary of the Senate and the Chief Clerk of the House shall have additional powers and authority in a declared disaster emergency to implement new or streamlined methods of operation and may suspend requirements set forth in the rules of the Senate or House and the joint rules.

Scenario II: General Assembly not in Session at the time of a Disaster Emergency Declaration

The primary difference between Scenario I and Scenario II is the use of the critical information call tree of the legislature to notify members of changes to the legislative schedule and the plan for modification of the legislative rules. Scenario II contemplates enough advance notice of a pandemic event to provide a planned response in conjunction with the Office of the Governor and the CDPHE.

L-COOP Implementation

The implementation of the Legislative Continuity of Operation Plan is dependent upon a high degree of cooperation between the executive and legislative branches of government and interagency cooperation among the staff agencies serving the General Assembly. Because of the high profile responsibilities of the Chief Clerk of the House and the Secretary of the Senate, staff cooperation begins with the "new or streamlined methods of operation" developed by these key officials. The current Secretary of the Senate and Chief Clerk of the House have concurred in a "minimalist" approach to any session held as the result of a declared disaster emergency. For example, House and Senate staffing would be reduced to the minimum number of employees needed to conduct the critical and essential business of the respective houses. Most document production would be in electronic format, including the calendars and journals. Front desk staffs would be reduced to essential personnel including the Chief Clerk and Assistant Clerk in the House and the Secretary of the Senate and Assistant Secretary in the Senate, as well as one sergeant-at-arms and one amendment clerk in each house. The enrolling rooms in each House would be reduced to a minimum number. The bill information center and the legislative print shop would be closed. Agencies such as the Legislative Council Staff and Office of Legislative Legal Services would follow suit and reduce the number of committee staff, fiscal analysts, attorneys, and support personnel to staff the reduced number of committees and to draft the reduced number of bills. Legislative financial transactions would be processed by a reduced staff complement in the Legislative Council Staff accounting section. The Joint Budget Committee staff, the Office of the State Auditor, and Legislative Information Services would make similar assessments to determine the minimum number of staff needed to conduct essential business. It should be noted that each individual agency is required to have a continuity of operations plan that will provide staffing guidance in the event of a declared disaster emergency. In addition, practical guidance by the CDPHE would be employed in areas such as use of face masks and hand washing stations and methods of isolating members and staff to the degree possible. The key determinant in implementing the legislative continuity of operations plan would remain the Executive Committee's decision as to whether to call a legislative session, when to call a legislative session, what business to conduct, and how to assure that a majority of members are able to participate effectively.

Conclusion

The Legislative Department is required to have a Continuity of Operation Plan for each individual agency of the General Assembly, including the House and the Senate. L-COOP represents a subset of the larger Continuity of Operations Plan which in turn is a subset of the State of Colorado Emergency Operations Plan. Upon receiving the governor's declaration of a disaster emergency, the Executive Committee of Legislative Council would be responsible for determining whether a legislative session is necessary and, if so, for setting forth the guidelines for implementing such a special session. The first day of such a special session would be devoted to adoption of the temporary rules outlined in the sections above. If the State Capitol were deemed uninhabitable by the CDPHE, it would be the Executive Committee's duty to select an alternative site to convene the General Assembly, either within or without the City and County of Denver. If the disaster emergency declaration is issued during the legislative interim, the Executive Committee would employ the legislative critical information call tree to inform members of the timing and circumstance of a special session. If the declaration is received while the legislative session is underway, the Executive Committee would call for adoption of the temporary rules and, if necessary, adjourn or

recess to a date certain. Depending on the length and extent of the pandemic, further special sessions could be delayed until the pandemic alert is lifted by the CDPHE. Each individual agency of the General Assembly — the House, the Senate, the Legislative Information Services, the Legislative Council Staff, the Joint Budget Committee, the Office of Legislative Legal Services, and the Office of the State Auditor — would be required to implement its own Continuity of Operations Plan to coincide with the L-COOP for the length of the pandemic event. The ultimate goal of the legislative plan would be to carry out the necessary and essential functions of the Legislative Department without imperiling the health or safety of the members and staff of the General Assembly and to ensure safe conditions for public participation in the legislative process. Close cooperation between the executive and legislative branches will be essential to the success of this plan.

