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0575 Legislative Emergency Epidemic Response Committee



**Report to the
Colorado General Assembly**

**Legislative Emergency Epidemic
Response Committee**

*Prepared by
The Colorado Legislative Council
Research Publication No. 575
June 2008*

Legislative Emergency Epidemic Response Committee

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Senator Mike Kopp
Mr. Michael Adams
Ms. Marilyn Eddins
Ms. Debbie Haskins
Mr. John Ziegler

Representative David Balmer
Representative Claire Levy
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June 2008

To Whom It May Concern:

Submitted herewith is the final report of the Legislative Emergency Epidemic Response Committee. This committee was created pursuant to Senate Bill 07-229 and is required to submit its final report to the Speaker of the House of Representatives, the President of the Senate, the Executive Director of the Department of Public Health and Environment, the Governor's Disaster Emergency Council, the Director of the Division of Emergency Management in the Department of Local Affairs, and the Governor's Expert Emergency Epidemic Response Committee no later than July 1, 2008. The purpose of the committee is to develop a plan for the response by, and continuation of operations of, the General Assembly and the legislative service agencies in the event of an emergency epidemic.

Respectfully Submitted,

Senator Bob Hagedorn

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This report is also available on line at:

http://www.state.co.us/gov_dir/leg_dir/lcsstaff/committee.htm

Executive Summary

Committee Charge

Senate Bill 07-229 established the Legislative Emergency Epidemic Response Committee to "develop a plan for the response by, and the continuation of operations of, the General Assembly and the legislative branch in the event of an epidemic emergency".

The bill created an eleven-member legislative committee comprised of two members of the Senate, two members of the House, and seven members representing the legislative staff service agencies.

The authorizing legislation directs the committee to develop and submit the plan to the Speaker of the House of Representatives, the President of the Senate, the Governor, the Executive Director of the Department of Public Health and Environment (CDPHE), the Governor's Disaster Emergency Council, the Director of the Division of Emergency Management in the Department of Local Affairs, and the Governor's Expert Emergency Epidemic Response Committee (GEERC) no later than July 1, 2008. In addition, the committee shall meet at least annually to review and amend the plan as necessary and shall provide any updated plan to the persons or entities listed above.

In the event of an emergency epidemic that the governor declares to be a disaster emergency, the legislative committee shall convene as rapidly and as often as necessary to advise the Speaker of the House of Representatives, the President of the Senate, and the legislative service agencies regarding reasonable and appropriate measures to be taken by the General Assembly and the legislative service agencies to respond to the emergency epidemic and to protect public health. The legislative committee shall communicate, cooperate, and seek advice from the Disaster Emergency Council, the Division, the CDPHE, and the GEEERC in responding to the emergency epidemic.

Committee Activities

The Legislative Emergency Epidemic Response Committee met five times in 2008. The focus of the committee's activity fell into four general categories: fact finding and collection of information about the state's existing structure for emergency epidemic response planning; examination of other states' activities in emergency response planning, specifically in the area of pandemic events; a review of Colorado's legislative environment in terms of constitutional, statutory, and requirements by rule that govern legislative operations; and a proposed legislative continuity of operations plan, including interactions with executive branch departments and agencies. Among the groups providing testimony and background information were:

- Office of Legislative Legal Services;
- National Conference of State Legislatures;
- CDPHE, Pandemic Preparation Annex;
- CDPHE, Division of Emergency Services; and
- Office of the Governor.

Committee Recommendations

As a result of committee discussion and deliberation, four resolutions are recommended for consideration in the 2009 session.

Senate Resolution A — Authority of the President of the Senate to Address Matters Not Covered by the Senate Rules. This resolution provides the Senate President with the same power currently held by the Speaker of the House to exercise authority over any matter not covered specifically by the Senate rules. These matters shall be governed by the decision of the President, subject to the right of appeal by any member as provided in these rules.

Senate Resolution B — Line of Succession for the Secretary of the Senate. This resolution provides for the line of succession in the event of the death, resignation, disability, or absence from the state of the Secretary of the Senate. The resolution provides for the appointment of the assistant to the secretary as acting secretary until a new secretary can be appointed or until the secretary is able to return. The order of succession in the Senate after the assistant secretary is the docket clerk and the calendar clerk.

House Resolution C — Line of Succession for the Chief Clerk of the House of Representatives. Resolution C provides for the line of succession in the event of the death, resignation, disability, or absence from the state of the Chief Clerk of the House of Representatives. The resolution provides for the appointment of the assistant to the chief clerk as acting chief clerk until a new chief clerk can be appointed or until the chief clerk is able to return. The order of succession in the House after the assistant chief clerk is the journal clerk, the reading/docket clerk, and the bill status clerk.

House Joint Resolution D — Provision of the Joint Rules of the Senate and the House of Representatives of the Colorado General Assembly for Use in the Event of Declared Disaster Emergency. The resolution adds a new Joint Rule 43 detailing the rules of procedure for both houses during a declared disaster emergency. The joint resolution stipulates that the new rule shall apply if the governor issues an executive order that declares a state of disaster emergency caused by a public health emergency. The rule would apply to either a regular session or special session in addition to any other applicable House, Senate, or joint rules. The following rules are predicated upon the governor's notification of a declared disaster emergency.

- 1) If the General Assembly is in regular session, the Executive Committee of the Legislative Council shall meet and set forth in writing 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. The Executive Committee shall determine what 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 act;
 - the 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.
- 2) A limit on the number of bill requests that a member of the House or Senate may request and introduce.
 - 3) A deadline schedule, including the dates when the General Assembly shall convene or resume meeting.
 - 4) If necessary, the President and the Speaker or their designees shall activate the critical information call tree of the General Assembly.
 - 5) 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 may make arrangements to have the General Assembly meet on a temporary basis at an alternate location within or outside the City and County of Denver.
 - 6) Upon convening of the General Assembly, the House and Senate shall adopt by simple majority vote the rules of the House and the Senate and the joint rules as temporary rules.
 - 7) New, smaller committees of reference shall be appointed by resolution to serve during the period of the disaster emergency for both the House and the Senate. The committees shall be in existence only during the period of the declared disaster emergency.
 - 8) Nothing in this rule changes the constitutional requirements for the number of legislators required to pass a bill by majority vote.
 - 9) Currently, the joint rules provide that the 120 days of the legislative session shall be counted as consecutive days. Under the emergency resolution the number of working days shall be counted as 120 separate calendar days during a declared disaster emergency instead of 120 consecutive days.
 - 10) The Secretary of the Senate 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 the joint rules.

- 11) 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 House or the joint rules.

Recommendation to Executive Committee

In addition, the committee recommends that the Executive Committee consider whether a bill should be enacted to address a method for filling legislative vacancies during a pandemic.

Committee Charge

The Legislative Emergency Epidemic Response Committee was established by Senate Bill 07-229 to "develop a plan for the response by, and the continuation of operations of, the General Assembly and the legislative branch in the event of an epidemic emergency." The legislative declaration expressed the urgency of this situation by stating that "in the event of an emergency epidemic in the state, the General Assembly must be prepared to respond to the emergency and have a plan for ensuring the continuation of its operations in order to assist in the protection of the health, safety, and welfare of the public."

The bill created an eleven-member legislative committee comprised of four members of the General Assembly and seven members of the legislative staff. The committee consisted of the following members:

Senator Bob Hagedorn

Senator Mike Kopp

Representative David Balmer

Representative Claire Levy

Mr. Michael Adams, Director, Legislative Information Services

Mr. Dan Chapman, Assistant Director, Legislative Council Staff

Ms. Marilyn Eddins, Chief Clerk of the House

Ms. Karen Goldman, Secretary of the Senate

Ms. Debbie Haskins, Senior Attorney, Office of Legislative Legal Services

Ms. Dianne Ray, Deputy Auditor, Office of the State Auditor

Mr. John Ziegler, Staff Director, Joint Budget Committee

In addition to its statutory charge, the committee is authorized to convene, in the event of an emergency epidemic that the governor declares to be a disaster emergency, as rapidly and as often as necessary to advise the Speaker of the House of Representatives, the President of the Senate, and the legislative service agencies regarding reasonable and appropriate measures to be taken by the General Assembly and the legislative service agencies to respond to the emergency epidemic and protect public health. The legislative committee shall communicate, cooperate, and seek advice from the Governor's Disaster Emergency Council, the Division of Emergency Management in the Department of Local Affairs, the Department of Public Health and Environment, and the Governor's Expert Emergency Epidemic Response Committee.

Committee Activities

The Legislative Emergency Epidemic Response Committee met four times during 2008. The focus of the committee's activity fell into four general categories: fact finding and collection of information about the state's existing structure of emergency epidemic response planning; examination of other states' activities in emergency response planning, specifically in the area of pandemic events; a review of Colorado's legislative environment in terms of constitutional, statutory, and requirements by rule that govern legislative operations; and a proposed legislative continuity of operations plan, including interactions with executive branch departments and agencies.

Emergency Epidemic Response Planning in Colorado

A pandemic is defined as a global disease outbreak. Pandemic flu occurs when a new influenza virus emerges for which people have little or no immunity and for which there is no vaccine. The United States has experienced three pandemic flu events in the twentieth century (1918, 1957, and 1968). The committee learned that the course of pandemic most commonly involves an incubation period of one to four days (average: two days) and viral shedding and transmission of the disease will be greatest during the first two days of illness. Children usually shed more virus and cause more transmission and, on average, infected persons will transmit infection to approximately two other people. The course of the pandemic may occur in waves, with each wave lasting two to three months. The full duration of a pandemic, like the one that occurred in this country in 1918, may be as long as 12 to 18 months. The CDPHE projects that the economic and social impacts of a pandemic would be widespread, ranging from social distancing (cancellation of social events, school closures, etc.) to disrupted services and supply chains, as well as high workforce absenteeism (possibly up to 40 percent). Implications for mortuary services and an electronic death reporting system have also been taken into consideration. CDPHE officials indicated that the best common sense response to a pandemic is social distancing, where persons are at least six feet apart, masks are used, frequent hand washing is encouraged, and meetings are banned or curtailed. The World Health Organization (WHO) has identified six stages of pandemic for federal government response, the latter stages of which require a significant curtailment of everyday activities.

The committee used its initial meetings to collect information about the existing structure of emergency planning for Colorado state government. Testimony was presented by the CDPHE including: Dr. Ned Calonge, Chief Medical Officer; Ms. Diana Herrero, Pandemic Preparation Manager; and Mr. Chris Lindley, Director of Emergency Services. The committee was apprised of the existence of the draft executive orders developed by the Governor's Expert Emergency Epidemic Response Committee (GEEERC) to respond to a pandemic influenza event. It should be noted that these emergency orders are not in effect now; they would have to be signed by the governor at the time of the emergency to go into effect. The initiating event in any event of emergency epidemic caused by bioterrorism, pandemic influenza, or novel and highly fatal infectious agents or biological toxins is the governor's declaration of a state of disaster emergency, which in turn activates the Colorado Emergency Operations Plan. In the event of an outbreak of pandemic flu, the operational functions of the emergency plan are coordinated between the CDPHE Pandemic Annex and the GEEERC.

Other States' Activities in Emergency Planning

The National Conference of State Legislatures (NCSL) provided extensive background information on the activities of other states in emergency planning, including planning for pandemic events. Ms. Kae Warnock, Policy Specialist, and Ms. Brenda Erickson, Program Principal, provided testimony on four key factors for maintaining continuity of the legislature during a pandemic event:

- lines of succession for legislative members or redefining a quorum in an emergency;
- a plan for maintaining contact with legislative members and staff during the crisis (blast e-mail, blast phone messages, phone tree, etc.);
- the ability to change the seat of government; and
- protection of the public records of the legislature necessary to ensure continuity of the government.

Each of these factors is directed toward the ability of the legislature to conduct business on an "as needed" basis. As an example, the NCSL analysts noted that 36 states and Puerto Rico may change the seat of government either by constitution or by statute. They testified that none of the other states contacted have pursued the concept of a virtual session which would be conducted electronically, largely out of concern for the integrity of the legislative process because a member's physical presence would not be required in casting his or her vote. The cost factor for remote sessions was also a consideration.

The Legislative Environment: Constitutional, Statutory, and Rule Requirements

The committee was presented with information regarding current requirements for legislative sessions that would need to be altered in the event of a pandemic incident. First, members were apprised of the types of measures that the General Assembly needs to act upon on an annual basis. These measures were broken into first priority and second priority categories.

Among the first priority measures were the following:

- the annual revenue resolution which the General Assembly must adopt pursuant to Section 24-75--201.3, C.R.S.;
- the State Education Fund Resolution required under Section 22-55-104, C.R.S.;
- the long appropriation bill;
- the legislative department appropriation bill;
- supplemental appropriation bills; and
- the annual school finance bill.

Examples of second priority measures include the following:

- the water pollution/drinking water projects resolution, pursuant to Section 37-95-107.8, C.R.S. If the General Assembly does not pass this resolution, there could be a potential loss of federal funds;

- the annual rule review bill under which state rules adopted or revised between November 1 and October 1 automatically expire on May 15 unless extended by the General Assembly through this bill;
- various bills each year that extend automatic repeals of programs, sunset agencies, or boards, or extend tax check-offs;
- the annual bill to enact the Colorado Revised Statutes as the Positive and Statutory Law (publication of statutes).

The Office of Legislative Legal Services identified the critical constitutional and statutory provisions and legislative rules that might become potential barriers to meeting at an alternative location or holding a virtual session. The office identified existing laws or rules that impose restrictions governing where the General Assembly meets, the organization of regular sessions, the length of sessions, and electronic participation, all factors which might limit the ability of the General Assembly to meet outside the State Capitol or in a virtual session.

1. Constitutional Provisions Regarding Location

Article VII, Section 2, of the state constitution states that the General Assembly has no power to change or locate the seat of government of the state and that it shall remain at the City and County of Denver. Article VII, Section 3, provides that the location of the seat of government can not be changed except by a two-thirds vote of the qualified electors voting on a question submitted to the voters by the General Assembly.

2. Statutory Provisions on Location and Organization of the General Assembly

Section 2-2-1301, C.R.S., pertains to the organization of the General Assembly in the first regular session of a General Assembly and refers to the members of the House meeting in the hall of the House of Representatives and members of the Senate meeting in the hall of the Senate.

3. Constitutional and Statutory Provisions on When a General Assembly Meets

Article V, Section 7, states that the General Assembly "shall meet in a regular session at 10 a.m. no later than the second Wednesday of January of each year." Under Section 2-2-303.5, C.R.S., the General Assembly, acting by resolution, designates a specific date for the regular session on or after January 1, but prior to the second Wednesday of January. If the General Assembly has not acted to designate a date by resolution, the Executive Committee sets the date between January 1 and the second Wednesday of January.

4. Length of a Session

Article V, Section 7, of the state constitution provides that "regular sessions of the General Assembly shall not exceed one hundred twenty days." Joint Rule 23 (d) specifies that every calendar day shall count towards the 120 days, including the weekends. Joint Rule 23 (d) might limit the General Assembly's ability to recess a regular session and come back before adjourning sine die.

5. Limits on Electronic Participation

House Rule 25 and Senate Rule 22B prohibit participation by legislators in any meeting of a committee of reference through telephone or other electronic connection. Joint Rule 24A also prohibits legislators from participating in any meeting of an interim study committee through telephone or other electronic connection. In order to meet in a virtual session, these rules would either need to be suspended during a pandemic or amended to allow for electronic participation during a pandemic.

Potential Remedies to Existing Restrictions

The committee considered a series of possible remedies for the limitations imposed by existing constitutional, statutory, and rule-based restrictions. It was proposed that the General Assembly, acting through a series of rule changes, could effect sufficient changes to legislative operating procedures to allow for conduct of business under pandemic conditions. In order to conduct business, even under limited conditions, the following rule changes are proposed to be adopted next year:

- Rule 43 of the House of Representatives is amended by the addition of a new subsection providing for issues of succession for the Chief Clerk;
- Rule 13 of the Senate is amended by the addition of a new subsection providing for issues of succession for the Secretary of the Senate;
- Senate Rule 44 is a new rule added to cover matters not covered by the rules and empowering the Senate President to govern any matters not covered by the rules;
- Joint Rule 43 is a new joint rule that creates a series of exceptions to the rules applicable to an emergency situation. The rule shall apply if the governor declares a disaster emergency and the General Assembly meets in either a regular or special session. The rule sets forth a method for adopting the temporary rules by a simple majority vote of the House and the Senate. It also sets forth the operating procedures for committees of reference. In addition, the new joint rule empowers the Secretary of the Senate and the Chief Clerk of the House to implement new or streamlined methods of operations and to suspend requirements set for the rules of either house or the joint rules.

It should be noted that these rule changes do not necessarily contemplate a change of venue from the State Capitol to an alternative venue. Moving the seat of government permanently outside the City and County of Denver would require a change to the constitutional provisions of Article VIII, Section 2 and Section 3. It is important to note that the constitution prohibits moving the *seat of government* from the City and County of Denver, not moving the General Assembly. Thus, the Office of Legislative Legal Services has advised that the constitution would not be violated by having the General Assembly meet in a temporary meeting location outside the City and County of Denver. (For further discussion of these alternatives, see Continuity of Operations Plan, Part I.)

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.

Resource Materials

Meeting summaries are prepared for each meeting of the committee and contain all handouts provided to the committee. The summary of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-2055). The listing below contains the dates of committee meetings and the topics discussed at those meetings. Meeting summaries are also available on our website at:

http://www.state.co.us/gov_dir/leg_dir/lcsstaff/committee.htm

Meeting Date and Topics Discussed

February 8, 2008

- ◆ Overview of committee charge and background information of pandemic flu events in the United States
- ◆ Presentation by the Department of Public Health and Environment (CDPHE) on state plans for the continuation of operations of government during a pandemic event
- ◆ Presentation by the Office of Legislative Legal Services on constitutional, statutory, and legislative rules that affect the General Assembly's ability to respond in emergency situations
- ◆ Proposed committee action plan

February 29, 2008

- ◆ Presentation by Pandemic Preparedness Manager, CDPHE, on elements of CDPHE pandemic flu planning and the structure and function of the Governor's Expert Emergency Epidemic Response Committee (GEERC)
- ◆ Presentation by Legislative Council Staff continuity of government operations planning in other states
- ◆ Discussion by Office of Legislative Legal Services (OLLS) staff on measures that the General Assembly needs to pass annually and further discussion of legal and rule-based barriers to a legislative response to pandemic events

March 14, 2008

- ◆ National Conference of State Legislatures (NCSL) presentation on other states' efforts in developing continuity of operations plans
- ◆ Continuing discussion with OLLS on changes needed to rules and statutes affecting the General Assembly's response to a declaration of disaster emergency
- ◆ Decision tree exercise facilitated by Legislative Information Services staff

April 11, 2008

- ◆ Presentation by Office of the Governor and Division of Emergency Services (CDPHE) on executive branch interaction with the legislature before and during a pandemic event
- ◆ Committee discussion of proposed rule and statute changes to permit the General Assembly to function in conjunction with a pandemic event
- ◆ Discussion of committee final report

June 12, 2006

- ◆ Final discussion, revision, and adoption of committee report.

First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

Senate Resolution B

DRAFT

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LLS NO. R09-##### Drafter Name

SENATE SPONSORSHIP

None

Senate Committees

SENATE RESOLUTION

101 CONCERNING THE LINE OF SUCCESSION FOR THE SECRETARY OF THE
102 SENATE.

1 *Be It Resolved by the Senate of the Sixty-seventh General Assembly*
2 *of the State of Colorado:*

3 That Rule No. 13 of the Rules of the Senate is amended BY THE
4 ADDITION OF A NEW SUBSECTION to read:

5 **13. Secretary and Assistant Secretary**

6 (c) IN THE EVENT OF THE DEATH, RESIGNATION, DISABILITY, OR
7 ABSENCE FROM THE STATE OF THE SECRETARY OF THE SENATE, THE
8 ASSISTANT TO THE SECRETARY, AS ACTING SECRETARY, SHALL
9 EXERCISE ALL THE POWERS AND DUTIES OF THE SECRETARY UNTIL
10 A NEW SECRETARY OF THE SENATE IS SELECTED OR UNTIL THE
11 DISABILITY OR ABSENCE FROM THE STATE OF THE SECRETARY OF
12 THE SENATE IS REMOVED, WHICHEVER SHALL FIRST OCCUR. IN THE
13 EVENT OF THE DEATH, RESIGNATION, DISABILITY, OR ABSENCE
14 FROM THE STATE OF SUCH ASSISTANT TO THE SECRETARY, THEN
15 THE FOLLOWING PERSONS SHALL SUCCEED IN THE FOLLOWING
16 ORDER TO THE OFFICE OF ACTING SECRETARY OF THE SENATE: THE
17 DOCKET CLERK AND THE CALENDAR CLERK.

First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

Senate Resolution C

DRAFT

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LLS NO. R09-####-## Drafter Name

SENATE SPONSORSHIP

None

Senate Committees

SENATE RESOLUTION

101 **CONCERNING THE AUTHORITY OF THE PRESIDENT OF THE SENATE TO**
102 **ADDRESS MATTERS NOT COVERED BY THE SENATE RULES.**

1 *Be It Resolved by the Senate of the Sixty-seventh General Assembly*
2 *of the State of Colorado:*

3 That the Rules of the Senate are amended BY THE ADDITION
4 OF A NEW RULE to read:

5 **44. Matters Not Covered by Rules**

6 (a) ANY MATTER NOT COVERED BY THESE RULES SHALL BE GOVERNED
7 BY THE DECISION OF THE PRESIDENT, SUBJECT TO THE RIGHT OF
8 APPEAL BY ANY MEMBER AS PROVIDED FOR IN THESE RULES.

First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

Attachment D

DRAFT

Temporary storage location: S:\LLS\Staff\Debbie(DFH)\HJRonemergencies.wpd

LLS NO. R09-####.## Drafter Name

HOUSE SPONSORSHIP

None

SENATE SPONSORSHIP

None

House Committees

Senate Committees

HOUSE JOINT RESOLUTION

101 **CONCERNING A PROVISION OF THE JOINT RULES OF THE SENATE AND**
102 **THE HOUSE OF REPRESENTATIVES OF THE COLORADO GENERAL**
103 **ASSEMBLY FOR USE IN THE EVENT OF A DECLARED DISASTER**
104 **EMERGENCY.**

1 *Be It Resolved by the House of Representatives of the*
2 *Sixty-seventh General Assembly of the State of Colorado, the Senate*
3 *concurring herein:*

4 That the Joint Rules of the Senate and the House of Representatives
5 are amended BY THE ADDITION OF A NEW RULE to read:

6 **43. Rules of Procedure During a Declared Disaster Emergency**

7 (a) THIS RULE SHALL APPLY IF THE GOVERNOR, PURSUANT TO THE
8 RELEVANT PORTIONS OF THE "COLORADO DISASTER EMERGENCY
9 ACT OF 1992", PART 21 OF ARTICLE 32 OF TITLE 24, COLORADO

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 REVISED STATUTES, HAS ISSUED AN EXECUTIVE ORDER THAT
2 DECLARES THAT THE STATE OF COLORADO IS IN A STATE OF
3 DISASTER EMERGENCY CAUSED BY A PUBLIC HEALTH EMERGENCY
4 INFECTING OR EXPOSING A GREAT NUMBER OF PEOPLE TO DISEASE,
5 AGENTS, TOXINS, OR OTHER SUCH THREATS AND HAS ACTIVATED
6 THE COLORADO EMERGENCY OPERATIONS PLAN.

7 (b) IF THE CONDITIONS DESCRIBED IN SUBSECTION (a) OF THIS RULE
8 ARE MET AND THE GENERAL ASSEMBLY MEETS EITHER IN REGULAR
9 SESSION OR IN A SPECIAL SESSION, HOWEVER CONVENED, THE
10 PROCEDURES SET FORTH IN THIS RULE SHALL BE FOLLOWED IN
11 ADDITION TO ANY APPLICABLE RULES OF THE SENATE OR THE
12 HOUSE OF REPRESENTATIVES OR THE JOINT RULES.

13 (c) AFTER RECEIVING NOTIFICATION FROM THE GOVERNOR THAT THE
14 STATE OF COLORADO IS IN A DECLARED DISASTER EMERGENCY, THE
15 EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL, REFERRED
16 TO IN THIS RULE AS THE "EXECUTIVE COMMITTEE", SHALL MEET AND
17 SET FORTH THE FOLLOWING IN WRITING:

18 (1) IF THE GENERAL ASSEMBLY IS IN REGULAR SESSION, THE
19 LIST OF ITEMS OR TOPICS ON WHICH MEMBERS OF THE
20 GENERAL ASSEMBLY MAY SUBMIT REQUESTS FOR BILLS TO
21 ADDRESS THE PARTICULAR DISASTER EMERGENCY AND THE
22 PRIORITIZATION OF ANY PENDING LEGISLATION RELATING
23 TO THE STATE BUDGET OR TO STATE POLICIES THAT THE
24 EXECUTIVE COMMITTEE DEEMS NECESSARY TO ENACT PRIOR
25 TO ADJOURNMENT OR RECESS OF THE REGULAR SESSION. IN
26 EXERCISING ITS AUTHORITY UNDER THIS SUBSECTION (c),
27 THE EXECUTIVE COMMITTEE SHALL DETERMINE WHAT
28 BUDGETARY ISSUES STILL NEED TO BE ADDRESSED FOR THE
29 CURRENT OR UPCOMING FISCAL YEAR AND IDENTIFY THE
30 CRITICAL RESPONSIBILITIES OF THE GENERAL ASSEMBLY IN
31 LIGHT OF THE DECLARED DISASTER EMERGENCY. THE GOAL
32 OF THE EXECUTIVE COMMITTEE SHALL BE TO REPRIORITIZE
33 THE REMAINING WORK OF THE REGULAR SESSION AND TO
34 ONLY ADDRESS THOSE MISSION-CRITICAL RESPONSIBILITIES
35 PRIOR TO ADJOURNMENT OR RECESS OF THE REGULAR
36 SESSION. FOR PURPOSES OF DETERMINING
37 MISSION-CRITICAL RESPONSIBILITIES, THE EXECUTIVE
38 COMMITTEE SHALL CONSIDER THE STATUS OF THE
39 FOLLOWING:

40 (A) THE REVENUE RESOLUTION SPECIFIED IN
41 SECTION 24-75-201.3, COLORADO REVISED
42 STATUTES;

43 (B) THE STATE EDUCATION FUND RESOLUTION
44 SPECIFIED IN SECTION 22-55-104, COLORADO
45 REVISED STATUTES;

46 (C) THE ANNUAL GENERAL APPROPRIATION ACT;

47 (D) THE LEGISLATIVE APPROPRIATION BILL;

- 1 (E) ANY SUPPLEMENTAL APPROPRIATION BILLS;
- 2 (F) THE SCHOOL FINANCE BILL; AND
- 3 (G) ANY OTHER ISSUES THAT, IN THE ESTIMATION
4 OF THE EXECUTIVE COMMITTEE, ARE CRITICAL TO
5 ADDRESS PRIOR TO A RECESS OR ADJOURNMENT OF
6 THE REGULAR SESSION.
- 7 (2) A LIMIT ON THE NUMBER OF BILL REQUESTS THAT A MEMBER
8 OF THE HOUSE OF REPRESENTATIVES AND OF THE SENATE
9 MAY REQUEST AND A LIMIT ON THE NUMBER OF BILLS THAT
10 A MEMBER OF THE HOUSE OF REPRESENTATIVES AND OF THE
11 SENATE MAY INTRODUCE;
- 12 (3) A DEADLINE SCHEDULE INCLUDING THE DATES WHEN THE
13 GENERAL ASSEMBLY SHALL CONVENE OR RESUME MEETING;
- 14 (4) IF NECESSARY, THE PRESIDENT AND THE SPEAKER OR THEIR
15 DESIGNEES SHALL ACTIVATE THE CRITICAL INFORMATION
16 CALL TREE OF THE GENERAL ASSEMBLY;
- 17 (5) IF THE EXECUTIVE COMMITTEE, IN CONSULTATION WITH THE
18 GOVERNOR AND THE REPRESENTATIVES OF THE
19 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT,
20 DETERMINE THAT THERE IS AN INCREASED HEALTH RISK TO
21 THE MEMBERS OF THE GENERAL ASSEMBLY OR TO THE
22 PUBLIC OF MEETING IN THE STATE CAPITOL BUILDING
23 DURING THE DECLARED DISASTER EMERGENCY, THE
24 EXECUTIVE COMMITTEE MAY MAKE OTHER ARRANGEMENTS
25 TO HAVE THE GENERAL ASSEMBLY MEET ON A TEMPORARY
26 BASIS IN ANOTHER LOCATION IN THE CITY AND COUNTY OF
27 DENVER OR, IF AN ALTERNATE LOCATION CANNOT BE FOUND
28 WITHIN THE CITY AND COUNTY OF DENVER, IN ANOTHER
29 LOCATION WITHIN THE STATE.
- 30 (d) UPON CONVENING AS A GENERAL ASSEMBLY AND ASCERTAINING
31 THAT THERE IS A QUORUM TO MEET, THE HOUSE OF
32 REPRESENTATIVES AND THE SENATE SHALL EACH ADOPT BY A
33 SIMPLE MAJORITY VOTE THE RULES OF THE HOUSE OF
34 REPRESENTATIVES AND THE SENATE AND THE JOINT RULES AS THE
35 TEMPORARY RULES.
- 36 (e) (1) NOTWITHSTANDING ANY COMMITTEES OF REFERENCE THAT
37 HAVE BEEN CONSTITUTED FOR A REGULAR SESSION OF THE
38 GENERAL ASSEMBLY PURSUANT TO SENATE RULE NO. 21,
39 NEW COMMITTEES OF REFERENCE SHALL BE APPOINTED BY
40 RESOLUTION TO SERVE DURING THE PERIOD OF THE
41 DISASTER EMERGENCY. THE PARTY REPRESENTATION OF
42 SUCH NEWLY CONSTITUTED COMMITTEES SHALL BE IN
43 PROPORTION, AS NEARLY AS PRACTICABLE, AS DETERMINED
44 BY THE MAJORITY LEADER, TO THE RELATIVE NUMBER OF
45 MEMBERS OF THE TWO MAJOR POLITICAL PARTIES IN THE
46 SENATE. THE MAJORITY LEADER OF THE SENATE SHALL

1 DETERMINE THE MINIMUM NUMBER OF MEMBERS FOR EACH
2 COMMITTEE OF REFERENCE MEETING DURING THE DISASTER
3 EMERGENCY, SHALL DESIGNATE THE NUMBER FROM EACH
4 POLITICAL PARTY, AND SHALL APPOINT THE MAJORITY
5 MEMBERS TO THE COMMITTEES OF REFERENCE. THE
6 MINORITY LEADER SHALL APPOINT THE MINORITY MEMBERS
7 TO SUCH COMMITTEES. THE MAJORITY LEADER AND THE
8 MINORITY LEADER MAY APPOINT ANY SUBSTITUTE MEMBERS
9 AS NECESSARY IN ORDER TO ENSURE THAT EACH COMMITTEE
10 HAS ADEQUATE REPRESENTATION.

11 (2) NOTWITHSTANDING ANY COMMITTEES OF REFERENCE THAT
12 HAVE BEEN CONSTITUTED FOR A REGULAR SESSION OF THE
13 GENERAL ASSEMBLY PURSUANT TO HOUSE RULE NO. 25,
14 NEW COMMITTEES OF REFERENCE SHALL BE APPOINTED BY
15 RESOLUTION TO SERVE DURING THE PERIOD OF THE
16 DISASTER EMERGENCY. THE PARTY REPRESENTATION OF
17 SUCH NEWLY CONSTITUTED COMMITTEES SHALL BE IN
18 PROPORTION, AS NEARLY AS PRACTICABLE, AS DETERMINED
19 BY THE SPEAKER, TO THE RELATIVE NUMBER OF MEMBERS OF
20 THE TWO MAJOR POLITICAL PARTIES IN THE HOUSE OF
21 REPRESENTATIVES. THE SPEAKER SHALL DETERMINE THE
22 MINIMUM NUMBER OF MEMBERS FOR EACH COMMITTEE OF
23 REFERENCE MEETING DURING THE DISASTER EMERGENCY,
24 SHALL DESIGNATE THE NUMBER FROM EACH POLITICAL
25 PARTY, AND SHALL APPOINT THE MAJORITY MEMBERS TO
26 THE COMMITTEES OF REFERENCE. THE MINORITY LEADER
27 SHALL APPOINT THE MINORITY MEMBERS TO SUCH
28 COMMITTEES. THE SPEAKER AND THE MINORITY LEADER
29 MAY APPOINT ANY SUBSTITUTE MEMBERS AS NECESSARY IN
30 ORDER TO ENSURE THAT EACH COMMITTEE HAS ADEQUATE
31 REPRESENTATION.

32 (3) THE COMMITTEES APPOINTED PURSUANT TO PARAGRAPHS
33 (1) AND (2) OF THIS SUBSECTION (e) SHALL ONLY BE IN
34 EXISTENCE DURING THE DECLARED DISASTER EMERGENCY.
35 ONCE THE STATE OF DISASTER EMERGENCY HAS PASSED OR
36 HAS BEEN DEALT WITH TO THE EXTENT THAT EMERGENCY
37 CONDITIONS NO LONGER EXIST PURSUANT TO SECTION
38 24-32-2104 (4), COLORADO REVISED STATUTES, THE
39 COMMITTEES OF REFERENCE IN EXISTENCE PRIOR TO THE
40 DISASTER EMERGENCY SHALL BE RESTORED.

41 (f) NOTHING IN THIS RULE SHALL BE INTERPRETED AS CHANGING THE
42 CONSTITUTIONAL REQUIREMENTS FOR THE NUMBER OF
43 LEGISLATORS REQUIRED TO PASS A BILL BY MAJORITY VOTE IN
44 EITHER THE HOUSE OF REPRESENTATIVES OR THE SENATE.

45 (g) NOTWITHSTANDING THE PROVISIONS OF JOINT RULE NO. 23 (d) OF
46 THE JOINT RULES OF THE SENATE AND THE HOUSE OF
47 REPRESENTATIVES REGARDING COUNTING LEGISLATIVE DAYS OF A
48 REGULAR SESSION AS CONSECUTIVE DAYS, THE MAXIMUM OF ONE
49 HUNDRED TWENTY CALENDAR DAYS PRESCRIBED BY SECTION 7 OF
50 ARTICLE V OF THE STATE CONSTITUTION SHALL BE COUNTED AS

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ONE HUNDRED TWENTY SEPARATE WORKING CALENDAR DAYS IF THE GOVERNOR HAS DECLARED A STATE OF DISASTER EMERGENCY DUE TO A PUBLIC HEALTH EMERGENCY PURSUANT TO SECTION 24-32-2104, COLORADO REVISED STATUTES. ONCE THE DISASTER EMERGENCY IS OVER, THE HOUSE OF REPRESENTATIVES AND THE SENATE SHALL RESUME FOLLOWING JOINT RULE NO. 23 (d) DURING REGULAR SESSIONS.

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(h) (1) IN ADDITION TO ALL OF THE POWERS, DUTIES, AND RESPONSIBILITIES SET FORTH IN SENATE RULE NO. 13 AND IN ANY OTHER SENATE RULE, THE SECRETARY OF THE SENATE SHALL HAVE ADDITIONAL POWERS AND AUTHORITY, AS THE SECRETARY DEEMS NECESSARY, IN A DECLARED DISASTER EMERGENCY TO IMPLEMENT NEW OR STREAMLINED METHODS OF OPERATIONS AND MAY SUSPEND REQUIREMENTS SET FORTH IN THE RULES OF THE SENATE AND THE JOINT RULES IN ORDER TO PRESERVE THE RESOURCES OF THE SENATE AND FUNCTION EFFECTIVELY DURING THE DISASTER EMERGENCY.

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(2) IN ADDITION TO ALL OF THE POWERS, DUTIES, AND RESPONSIBILITIES SET FORTH IN HOUSE RULE NO. 43 AND IN ANY OTHER HOUSE RULE, THE CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES SHALL HAVE ADDITIONAL POWERS AND AUTHORITY, AS THE CHIEF CLERK DEEMS NECESSARY, IN A DECLARED DISASTER EMERGENCY TO IMPLEMENT NEW OR STREAMLINED METHODS OF OPERATIONS AND MAY SUSPEND REQUIREMENTS SET FORTH IN THE RULES OF THE HOUSE OF REPRESENTATIVES AND THE JOINT RULES IN ORDER TO PRESERVE THE RESOURCES OF THE HOUSE OF REPRESENTATIVES AND FUNCTION EFFECTIVELY DURING THE DISASTER EMERGENCY.