



Legislative Oversight of Emergency Executive Powers

Washington Senate Committee on State
Government and Elections

Nov. 16, 2021



Strengthening the legislative institution

How NCSL Strengthens Legislatures



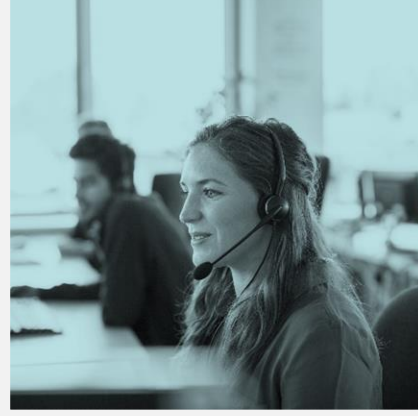
Policy Research

NCSL provides trusted, nonpartisan policy research and analysis



Connections

NCSL links legislators and staff with each other and with experts



Training

NCSL delivers training tailored specifically for legislators and staff



State Voice in D.C.

NCSL represents and advocates on behalf of states on Capitol Hill



Meetings

NCSL meetings facilitate information exchange and policy discussions

Agenda

I. Balance of Powers 2020-2021

- Declaration/Duration of State of Emergency
- Authority to Meet in Special Session

II. Legislative Actions in 2020

- State examples

III. Legislative Actions in 2021

- State examples

IV. Other Types of Legislative Oversight



Legislative Oversight of Emergency Executive Powers

How legislatures are rebalancing emergency response authority

Executive Emergency Powers and Legislative Oversight

Authorization for State of Emergency

- Governors authorized to declare in all 50 states
- Executive powers expand under a state of emergency, including ability to suspend, create new laws during the emergency.
- Guidance on limits in federal law, state constitution and laws, emergency mgmt. acts

Authorization for Executive Orders

- Governors authorized to issue in all 50 states
- Authority is implied or found in constitution, statute, common law or case law

Legislative Oversight of State of Emergency, Executive Orders

- Authority to terminate state of emergency or emergency orders
- Ability to call itself into special session
- Review of emergency spending and executive orders

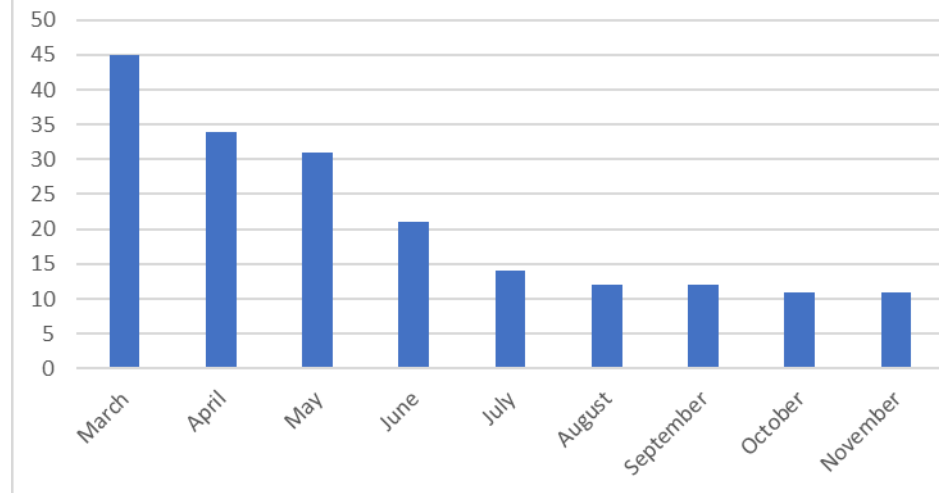
COVID-19 and 2020 Legislative sessions

New reported cases by day in the United States



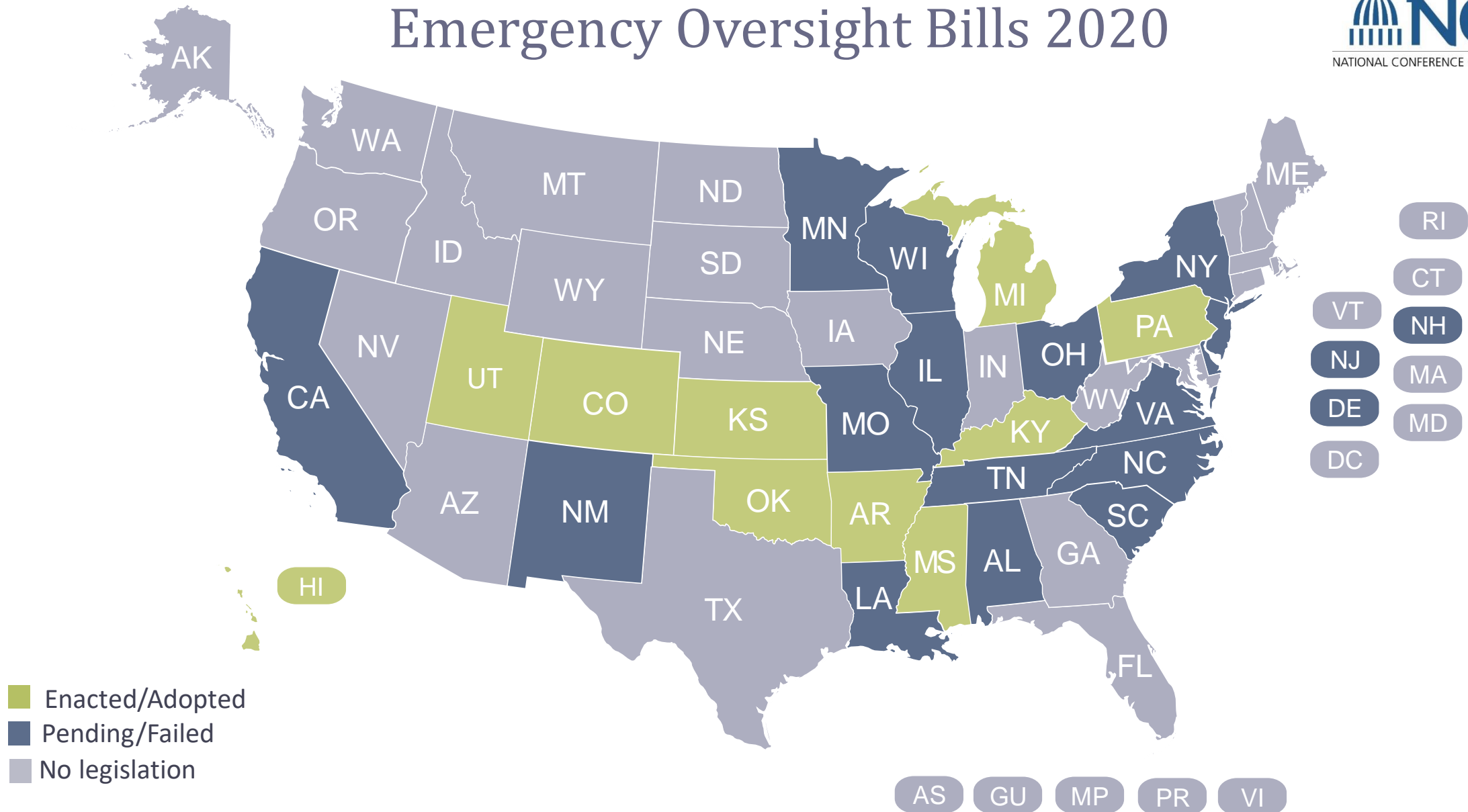
Source: New York Times

No of states in regular session



Source: NCSL

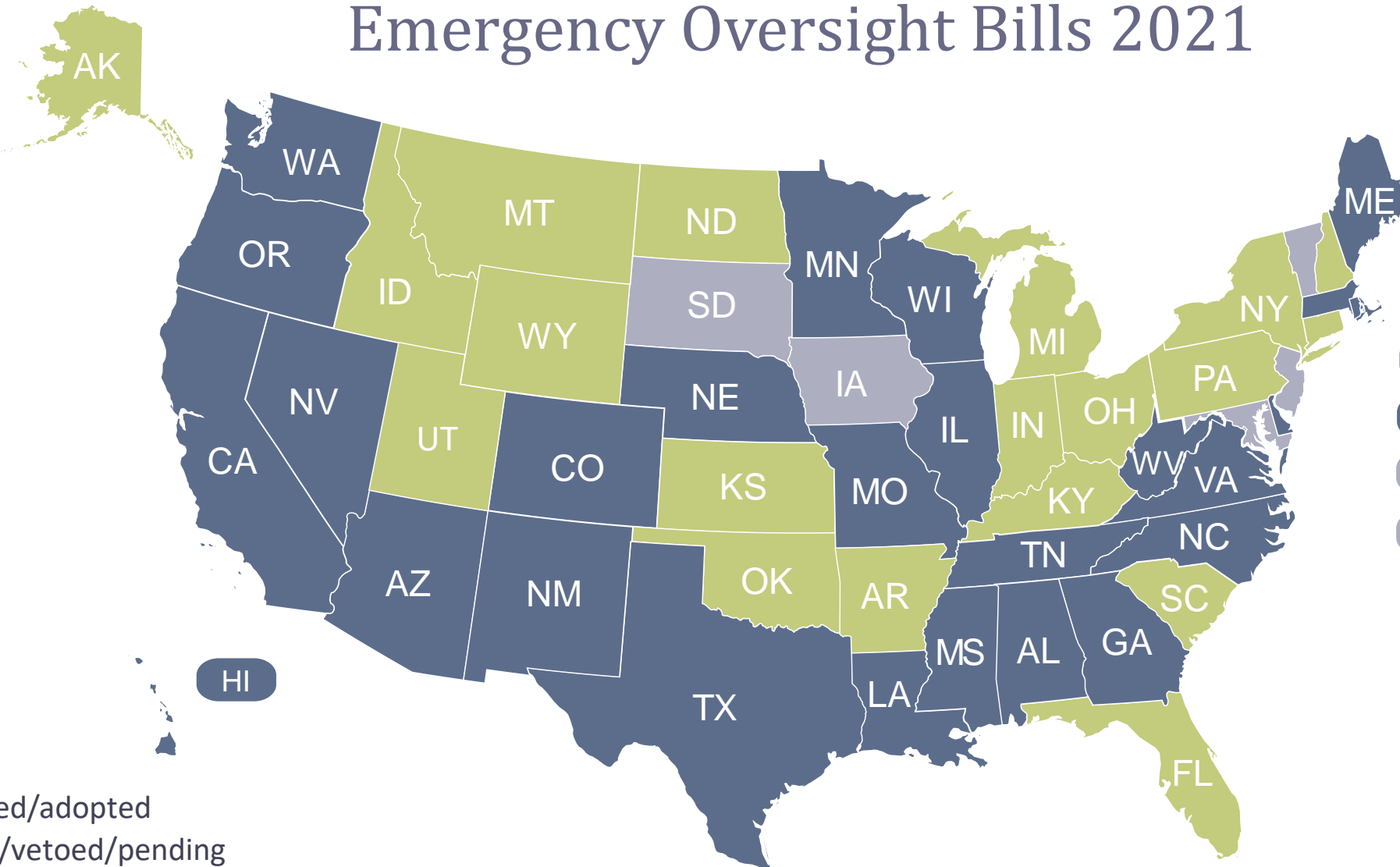
Emergency Oversight Bills 2020



Emergency Oversight Bills 2021



NATIONAL CONFERENCE OF STATE LEGISLATURES

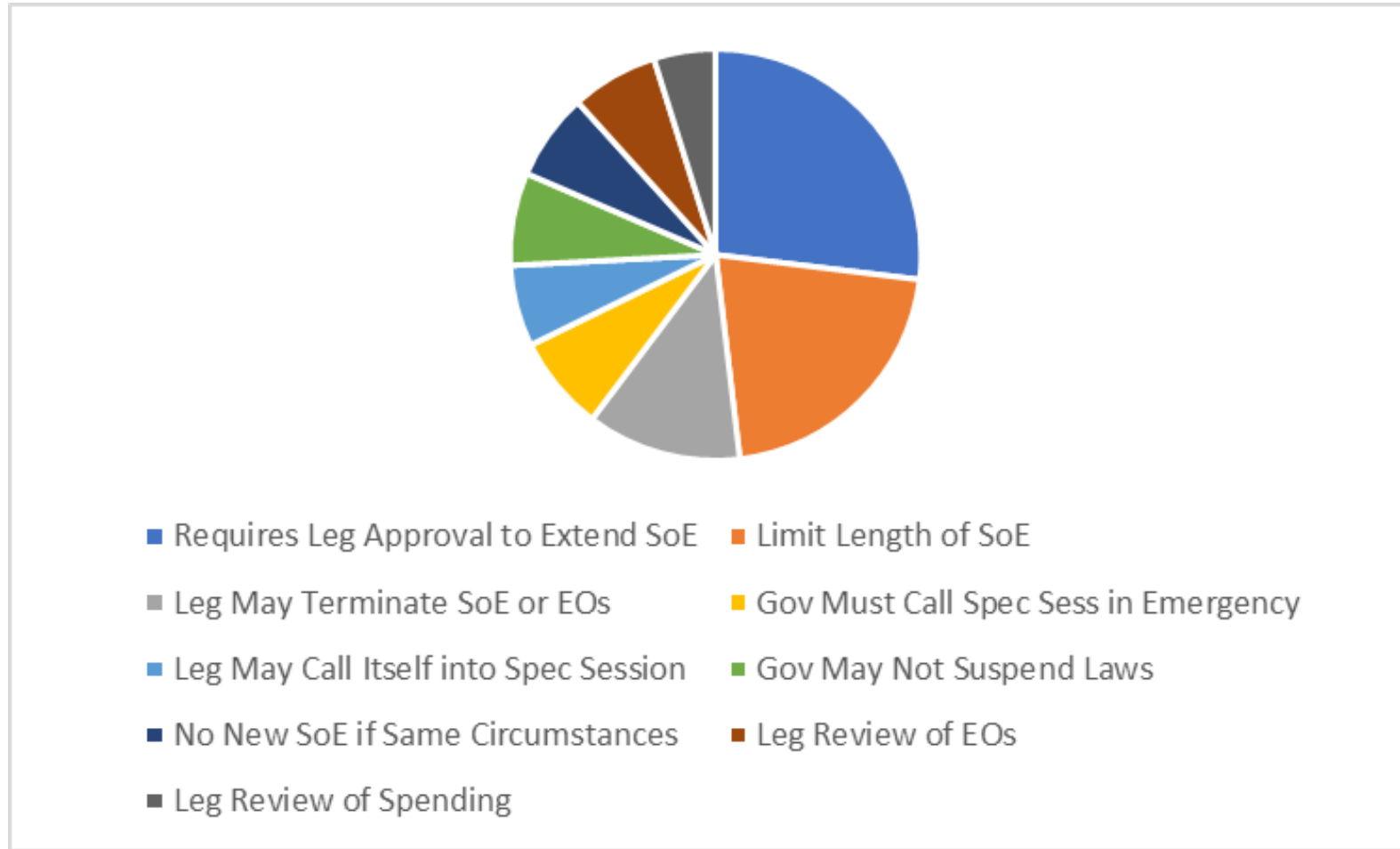


- Enacted/adopted
- Failed/vetoed/pending
- No legislation

AS GU MP PR VI

RI
CT
NH
MA
MD
VT
NJ
DE
DC

Emergency Oversight Bills by Category 2021 (All Bills)



Examples of Legislative Actions to Balance Emergency Powers

States of Emergency

- Statutory limit on duration ranging from 2 to 90 days
- Legislature may terminate state of emergency
- Legislative approval to extend emergency
- Legislature may declare a state of emergency

Special Sessions

- Legislature may call itself into special session
- Legislature or governor may call special session
- Governor *must* call legislature into special session in emergencies

Review of Spending or Executive Orders

- Legislature must have notice of, review or approve emergency spending
- Audits of emergency contracts or expenditures
- Executive orders must be submitted to legislature for review or be of limited duration
- Limits on suspension of statutes

Legislative Oversight: 2020 Examples

Colorado



Utah



Legislative Oversight: 2021 Examples

Arkansas



Pennsylvania



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NCSL Web Pages

- [Legislative Oversight of Emergency Powers](#)
- [Continuity of Legislature During an Emergency](#)

NCSL Staff Contacts

- Pam Greenberg, Center for Legislative Strengthening
pam.greenberg@ncsl.org
- Natalie Wood, Director, Center for Legislative Strengthening
natalie.wood@ncsl.org

