

## Governor's Office Onboarding Guide: Legislative Relations

### **Overview**

Governors require legislative support to accomplish their policy objectives and plans for the state. Maintaining legislative relations is integral to the success of a governor's administration.

Interaction between the governor and the legislature begins the day after the election. Early in the governor's term, individual legislators will begin to lobby on behalf of particular bills, certain board and agency nominees and other pressing legislative business.

Legislation is needed to implement the governor's budget and fiscal priorities, carry out routine government functions and accomplish many of the governor's social policy goals. The media and public will judge the governor's leadership ability and success, in part, by how well the governor interacts with the legislature and whether the administration's legislative program succeeds in the legislature.

Developing and presenting an executive branch legislative program involves many complex and sensitive tasks, including tracking perhaps hundreds of pieces of legislation. It also requires evaluating and balancing competing interests in a highly political environment and devising a practical view of what is possible. An effective process to craft and implement a legislative program and strategy, as well as to cultivate and maintain working relationships with legislative leaders and members, is critical to ensuring the success of a governor's legislative program.

The governor's ability to manage and secure legislation also affects his or her ability to serve as a strong leader of the party. The governor needs to demonstrate good negotiation and compromise skills. An effective legislative relations strategy will

focus on the passage of the governor's legislative priorities while supporting or opposing other measures as appropriate from a policy or political perspective.

The inaugural address, the annual State of the State address and budget messages are all important forums for the governor to call attention to his or her legislative program and speak as an effective voice for the state. The perception of the governor as a strong leader will enhance his or her personal standing with the public and the state bureaucracy, contributing to the administration's success.

### **Organization and Staffing**

The task of coordinating staff resources to develop and manage the legislative package poses a challenge to any administration. The size and political composition of the legislature are important considerations when determining the size and structure of the legislative relations staff. An ineffective legislative relations staff or strategy can alienate legislative support for the governor's policy agenda and encourage competing and conflicting initiatives. This is particularly true in states where the governor's party has a weak legislative majority or is in the minority. However, a legislative majority of the governor's party does not necessarily guarantee smooth sailing for the governor's program.

### **The Reach of Legislative Relations**

In addition to promoting the governor in a leadership role, an effective legislative relations strategy enables the governor to focus attention on, and secure support for, his or her priorities. A legislative strategy also facilitates communication and coordination with the legislature and avoids interagency conflicts or agency actions that are contrary to the interests of the governor and the state.

The legislative relations function is emphasized strongly in most governors' offices. The governor may choose to create separate legislative relations positions or divide the responsibility for this function among various members of the governor's policy staff. Most states have a senior staff member or team designated to manage legislative relations, though this function will involve nearly all the governor's staff in some capacity. Some states employ a single staff member to coordinate the work of the other legislative assistants and report to the governor or chief of staff. Usually, those serving as legislative relations staff track the progress of legislation, judge the possible outcomes of legislation and communicate with legislators and interest groups.

Other members of the governor's staff who will be involved in the legislative relations process include:

- The policy advisor, in formulating and evaluating legislation;
- The political advisor, in determining the political feasibility of supporting legislation or assisting candidates;
- The legal counsel, in drafting bills and reviewing proposed legislation;
- The press aide, in arranging announcements with legislators and campaign support; and
- The governor's scheduler, in ensuring that the governor can participate at key activities during the legislative session, meet with legislators and be available to meet with his or her legislative staff.

## **Factors Influencing Legislative Relations Staffing**

The time that staff is dedicated to legislative relations will depend on the state's legislative calendar and how involved the governor wants to be in the legislative process and the pursuit of his or her legislative goals. In some states, a core legislative staff is maintained year-round, and temporary employees assist with the expanded workload during the legislative session. In other states, agency staff is formally or informally delegated to work on the governor's legislative program during the session.

The duration of the legislative session, the volume of legislation and controversial legislation will affect the workload.

## ***Roles and Responsibilities***

Each governor must craft a legislative relations strategy that recognizes the political climate in the state. Considerations include which party controls the legislature, support or lack of support from legislative leadership, party unity and strength of key legislators (friends or rivals).

Strategy will then involve:

- Developing the governor's legislative program;
- Controlling agency legislation;
- Presenting the governor's legislative program;
- Drafting legislation and selecting sponsors;
- Providing testimony and lobbying;
- Maintaining relations with legislative leaders and members;
- Tracking legislation;
- Reviewing legislation;
- Responding to legislation; and
- Attending to politics.

An important consideration in designing a legislative relations strategy is to determine the governor's role in the process and who in the governor's office will manage the process. Determining the extent of involvement by the governor, other members of the governor's staff and agency heads is important in developing the legislative package and managing the governor's program in the legislature. A cohesive strategy will incorporate elements of the governor's style and personal preferences into the process.

## **Developing the Governor's Legislative Program**

Establishing a priority legislative program enables the governor to focus attention on the programs he or she wants enacted and assume a leadership role during the legislative session without expending resources on relatively minor issues. The governor's

priority legislative program should reflect the governor's priorities and political realities; if the legislation fails, it will be considered a political defeat. Conversely, the passage of priority legislation usually will signal a political success. In any case, developing the legislative program and establishing priorities are critical first steps.

Major proposals are formally identified as the governor's legislative program, while the more routine legislation associated with state government operations is managed at the agency level by the governor's appointees.

### **Ideas and Priorities for Legislative Proposals**

Several sources contribute ideas for the governor's legislative program. A governor's initial legislative program often is determined by the positions and policies proposed during the campaign. Subsequent legislative agendas are usually a combination of the governor's priorities and ideas developed and proposed by the governor's policy staff and agency heads and their staff. Legislators and interest groups also can be consulted for ideas.

The process used to collect legislative proposals for the governor's consideration can range from accumulating ideas presented in meetings over the year, to consulting informally with selected people, to calling formally for suggestions and written proposals. In most states, this proposal collection process is managed by the cabinet liaison, the budget or policy unit or the governor's legislative relations staff.

### **The Legislative Proposal Review Process**

After proposals for legislation have been collected, they are evaluated to examine the ideas and establish priorities among them. In some states, this may involve informal discussions with individuals on priorities or formal submission of legislative proposals. Policy officers often develop analyses of the issues and option papers for the governor's review.

The legislative proposal review process helps identify proposals for the governor's legislative program. This process also helps ensure no agency requests for legislation will conflict with the governor's priorities, budget recommendations or legislative program. In addition, the review process facilitates the exchange of information among agencies. Specifically, one agency's objections to another's legislative proposal can be considered and weighed before the package is drafted. Proposals also can be discussed in terms of how they relate to one another, their anticipated fiscal effect and their chances for passage. The result should be a balanced package of gubernatorial priorities and a list of other issues that may be pursued by individual agencies.

When the issues have been selected, they must be communicated to the agencies. Responsibilities for the preparation of legislation also need to be assigned. The technical preparation of legislation may be carried out in an agency or policy office, subject to review by the governor's legal counsel or legislative staff or delegated to a professional bill-drafting service or other agency within state government.

### **Controlling Agency Legislation**

Although most attention likely will be given to broad policy issues, the legislative relations strategy also needs to incorporate a review of more routine legislation requested by agencies. Central review of agency legislative proposals helps ensure agency heads do not work against one another or the governor in their legislative goals. It also limits the number of bills sanctioned by the executive branch. In addition, analyzing agency legislative proposals coordinates the executive branch by ensuring agency-requested legislation maintains the direction established in the governor's budget and legislative priorities. In many cases, the governor uses his or her ideas and objectives to set the tone and direction of agency legislative proposals. Agreements also need to be reached on how agency directors will pursue approved legislative priorities.

In some states, substantial central review of agency proposals affords agencies the opportunity to

comment on ideas and helps link executive branch policy with the budget process. The link between the administration's policy and budget process helps create a unified approach to developing executive branch legislation based on sound fiscal decisions. The review also can be extended to address positions agencies may be asked to take on other proposals in development. A central process that includes review of agency proposals and legislative positions can help ensure the development of cohesive executive branch legislation and coordination of the administration's response to other proposed legislation.

## **Presenting the Governor's Legislative Program**

After developing a legislative program for the state, the governor must present the package to the legislature and the public. The State of the States address can be used to call attention to the governor's priorities and offers a powerful platform to show the governor leading state government. In most states, the annual State of the State message and the message accompanying the budget afford the governor major forums to communicate the administration's legislative agenda. A newly elected governor's inaugural address provides yet another forum for presenting legislative and program priorities to the public and legislature. In addition, a governor can call attention to his or her legislative program through special messages, speeches and a public relations strategy designed to focus attention on the governor's key legislative priorities.

## **Drafting Legislation and Selecting Sponsors**

In most states, statute or historical practice determines how the administration submits proposed bills to the legislature. In some states, budget legislation does not require a legislative sponsor, but in most instances the governor's program will need legislative sponsors. The proposal must be drafted into a bill and introduced to the legislature by its sponsor.

Choices for bill sponsorship include individuals in party leadership, key committee chairs or other

legislators who have a good relationship with the administration. Sponsor selection is important because it signals party or leadership support for a bill. Working with key legislators and choosing individual sponsors for legislation can be a tremendous boost to the administration in securing passage. By involving legislators as sponsors, governors can reward supportive legislators for past support or lay the groundwork for future ties between them and the administration. The choice of legislative sponsors is even more important in states where the governor's party is in the minority or maintains only a slight majority in the legislature.

## **Providing Testimony and Lobbying**

The governor needs to establish policies on his or her role and the role of others within the executive branch in securing the passage of legislation. This includes deciding how the governor's staff will promote specific legislative proposals and the role agency heads will play in lobbying and testifying before legislative committees.

In some states, the governor or members of his or her staff will defend the priority program proposals before legislative committee hearings. In other states, this task is left to the governor's cabinet, and the governor focuses on developing public support and intervening privately with individual legislators. The policy regarding agency testimony and legislative contacts should be reviewed and coordinated by the governor's staff to ensure the legislative bases are covered and eliminate duplication of effort or conflicting signals from the executive branch.

When a package has been introduced, the governor and his or her staff also must be prepared to deal with legislative objections and amendments. Often there will be pressure to add the special projects or related proposals of individual legislators to a popular piece of major legislation or combine proposals to build a stronger coalition of supporters. Although the governor's response to such proposals will vary according to circumstances and his or her own style, it is important to present such proposals to the governor and ensure the administration speaks with

a single voice when communicating the governor's response to the legislature.

## **Maintaining Relationships with Legislative Leaders and Members**

A new governor's early action on legislative matters creates expectations for the remainder of his or her term. Therefore, activities should be carefully planned at the outset of the administration. Issues to be considered include the degree to which legislators will be given access to the governor, the extent of legislators' involvement in developing the governor's program and how public announcements of projects or programs of special interest to an individual legislator will be addressed.

## **Legislative Leaders' Access to the Governor**

Whatever relationship exists between the governor and the legislative leadership, it is vital for the governor to maintain some process of consultation and communication. The relationship between the governor and legislative leaders can be affected by several factors, including their political affiliation ideologies; executive and legislative divisions of power within the state, both by law and custom; and the power the legislative leadership exerts over the legislature.

The governor may want to establish a vehicle to exchange ideas with the legislative leadership and resolve problems as they develop during the legislative session. In many states, it is common practice for the governor schedule regular meetings with the legislative leadership. This can be accomplished through informal breakfast meetings or working dinners at the mansion.

In other states, the contacts are less structured, though it is common for governors to provide immediate access through an open-door or call-back policy. Communication between the executive and legislative branches also is important at the staff level. Networking between the two staffs is encouraged to facilitate the flow of information and alleviate potential problems. The governor's chief of

staff and other senior staff members also can assist in maintaining good relations with legislative leaders.

## **Legislative Leaders' Involvement in the Formulation of Policy and Alternatives**

When politically feasible, the governor may want to involve the legislative leadership in the formulation of policy and legislative alternatives. This can help ensure the passage of legislation by providing the governor advance guidance on provisions to make it passable and securing important advocates within the legislature. Choosing key committee chairs as sponsors and working with them before the legislation is submitted can save the governor's office hours of difficult lobbying later on.

## **Relations with Individual Legislators**

The governor must decide how he or she will handle relations with individual legislators. This is an important element of legislative relations because the treatment of members will affect the governor's overall relationship with the legislature.

The policy on individual legislators' access to the governor can range from an informal open-door approach to a more formal system of appointments on request. The governor's hectic schedule will, in practice, lead many legislators to deal directly with the governor's staff, especially when the legislature is in session.

## **Tracking Legislation**

Because of the vast number of bills that will progress through the legislative process, a system for tracking legislation needs to be established to inform the governor of the pending legislative agenda. Legislative tracking information can serve the governor by:

- Identifying legislative proposals contrary to, or in conflict with, the governor's interest;
- Establishing agendas for leadership meetings;
- Scheduling testimony, lobbying and public information activities on behalf of the governor; and

- Warning the governor about key priority measures that need special attention.

Most governors have established an automated system for tracking legislation. The governor also will be kept aware of the progress of legislation informally through personal contacts between his or her staff and legislators. These contacts are especially important to gauge the mood of the legislature and what action legislators can be expected to take on a specific measure.

## Reviewing Legislation

Executive review of legislative actions is a critical step. Especially near the end of the legislative session, many bills passed by the legislature will require gubernatorial action. The governor needs to establish a reliable and systematic review process to determine whether to sign or veto a bill. This system can consist of a formal bill review procedure or a less rigorous analysis by key staff. Decisions to sign or veto, however, must be based on a careful and thoughtful examination of the central elements contained in the legislation.

For major legislative actions, the governor may want to give those persons whose recommendations differ from one another, especially agency directors, an opportunity to make their case. These discussions can help the governor decide whether to sign the bill or as a courtesy after a tentative decision is made. The governor also may want to call those who agree with his or her decision to ensure supportive statements. The documentation created during this review process for any approval or veto message can be an important part of legislative history and provide valuable guidance to those charged with implementing new legislation. It also may be used in future litigation. As a result, it is important for the record of the process to be as complete and accurate as possible.

In some cases, the governor will be asked to take positions on pending legislation before final action. Because it may be difficult to reverse these positions following final passage, governors may want to use a

similar review process in deciding how to respond to these requests.

## Signing Legislation

The governor must sign bills, and he or she will likely sign most bills the legislature passes. Governors can use ceremonies to sign important legislation or legislation that has a defined interest group, draw attention to their accomplishments and garner support for effective implementation of the legislation. Not every piece of legislation will require a signing ceremony with media coverage, however. Especially at the end of the legislative session, a large number of legislative items await gubernatorial action within time limits set by statute.

All states have established requirements as to when and how a governor must act on legislation passed by the legislature. These requirements may differ depending on how close to adjournment the legislation is passed. Some states have statutory requirements for the governor to act on all bills presented to him or her. In other states, if the governor does not sign or veto a legislative item, it automatically becomes law after a specific number of days. States vary in their treatment of legislation passed at the end of the legislative session. In some states, legislation dies if it is not acted on; in others, legislation becomes law unless the governor vetoes it.

Where automatic approval takes place after a certain number of days, not signing legislation is a way for a governor to enable legislation to become law unceremoniously. This alternative can be used for uncontroversial legislation or legislation on which the governor does not want to take a public stand. The governor should understand at the outset of the administration the constitutional and statutory provisions regarding bills not acted on by the governor. This understanding can avoid embarrassing situations.

## Using the Veto

The governor's veto power can focus attention on critical issues, and the veto message can mobilize support for the governor's position and identify legislative deficiencies that must be corrected in

future versions. A governor's decision to veto a bill even before it passes the legislature can have important legislative implications. This form of public pressure by the governor may serve to kill a bill so the governor does not have to use the veto. Legislative sponsors may decide not to go through the process of building a legislative majority if they believe they cannot also override the governor's veto. However, the threat of a veto may increase the possibility of passing a bill that is politically popular but questionable on its own merits by enabling legislators to vote for a bill without seeing it become law.

The veto power was not designed to be used on a whim. Historically, governors have used this powerful executive authority sparingly. Some governors may leave office without vetoing more than a few legislative proposals. Because methods for overriding a veto exist in all states, there is ample opportunity for embarrassment at the hands of the legislative process. A veto decision should be made when it can be reasonably assumed the veto will be sustained or the governor wants to send a strong message about his or her personal position.

Although all states provide the governor with veto authority, states vary in the scope of authority conferred on their chief executive. In some states, the governor possesses full veto and line-item veto power. In other states, statutory restrictions inhibit the governor's use of the veto. These include restrictions on the type of legislation that can be vetoed and the ways the veto can be overridden. The decision to veto should be made with a thorough understanding of the bill, the political environment and the statutory constraints.

## **Attending to Politics**

As chief executive of the state and the leader of a state political party, the governor often will seek to secure a supportive legislature by taking an active role in state primary and general legislative elections. The governor can become involved in legislative races by campaigning directly for the party's candidates, helping to raise money for candidates or offering the

technical assistance of his or her party organization or political supporters to favored candidates.

There are drawbacks if the governor becomes very involved in primaries, including the possibility the candidate the governor supports may lose and the possibility the primary elections could become divisive and threaten party unity for general elections. The governor could choose to campaign actively for his or her party's candidate only in the general election to strengthen party unity with legislators of the same party and increase party strength within the legislature. Although election activity is both appropriate and expected, the governor may want to limit his or her direct involvement to general elections to avoid appearing too partisan and risk alienating legislators of the opposite party, especially in states where the opposing party is in the majority. Such decisions must reflect the governor's own preferences and the politics and customs of the state.

## ***Techniques and Tools***

Governors possess powerful techniques and tools to craft their legislative program and ensure agency legislative proposals align with their priorities. The inaugural address, State of the State address and budget message are all excellent forums to communicate and build momentum for the executive branch's legislative agenda. Good relations with individual legislators can be facilitated by the numerous courtesies governors can extend. Governors also have specific systems to monitor and review legislation and use different tools to communicate their thoughts and actions on a bill.

## **Consulting to Develop the Governor's Legislative Program**

As a first step toward formulating a legislative package, the governor often will request suggestions and proposals for a policy agenda. He or she can consult various sources to develop this list, including the governor's campaign promises, the governor's senior staff and office of policy development, agency heads, legislative leaders and individual legislators and interest groups.

Governors also can obtain policy ideas for their legislative program from discussions at national and regional meetings and through information provided by the National Governors Association Center for Best Practices on successful policy initiatives being pursued in other states.

## **Reviewing Agency Legislative Proposals**

In most states, the review of agency legislation begins with the design and communication of a schedule for the submission of legislative recommendations. This usually is done by the governor's legislative relations or policy staff. Agency-suggested legislative proposals should include information about procedural requirements such as the submission of draft bills and explanatory and fiscal comments. Many governors' offices establish guidelines to ensure agency bills are submitted to the governor well in advance of the legislative session to enable sufficient time to determine any conflicts and report findings to the governor.

## **Communicating the Governor's Legislative Program**

The governor has three major tools to communicate his or her legislative program to the press and state citizens: the inaugural address, the State of the State address and the budget message.

For a new governor, the inaugural address is intended to create a blueprint of the major priorities of his or her administration. Many of these themes are derived from campaign speeches and the new governor's goals for the state. Specific financial and legislative proposals typically are not presented in the inaugural address. The inaugural address provides an ideal opportunity to announce policies and themes to be pursued by the governor. This address can be effective in setting the tone for the new administration.

The State of the State address is the governor's report to the legislature on the condition of the state and the actions the administration intends to take to address priority concerns. Often this speech is used to convey the substance of the governor's legislative proposals,

including general legislative goals or specific objectives. In some states, the governor, either by statute or tradition, combines the State of the State speech with the budget proposal, but usually these are presented separately.

Whether delivered in person or in writing, the budget message highlights the governor's budget recommendations. Through this message, the governor reviews the state's financial condition and outlook. The governor can use the budget message to detail any proposed tax changes and highlight recommended expenditure cuts or increases for the state. The budget message should be tied closely to the governor's legislative package. This will enhance the chances for adoption of legislative and budgetary proposals.

## **Building Member Support for the Governor's Legislative Program**

To garner support for the legislative program or ward off any opposition, the governor can grant or deny certain courtesies to individual legislators, including:

- Sharing announcements or other publicity regarding actions affecting a particular part of the state with the legislator(s) from the area, members of the governor's party or legislators who have supported the governor's programs;
- Inviting legislators to participate in the development of legislative proposals;
- Endorsing other initiatives sponsored by individual legislators;
- Involving individual legislators in bill signings or other press events;
- Expediting special requests by legislators on behalf of constituents, including special events at the governor's mansion, tours of the governor's mansion and pictures of the governor; and
- Informing legislators in advance of program budget actions, executive appointments and other events of interest to them.

## **Monitoring, Reviewing and Responding to Proposed Legislation**

Because of the complexity of the legislative process, most governors rely on a formal automated legislative monitoring system with clearly defined products. Although tracking systems vary considerably among states in detail and sophistication, they can include information such as:

- Reports identifying bills by title and number or subject;
- The current status of a bill, such as committee assignment, legislative hearing dates, bill reports or floor action;
- The scheduled date for a bill's next action (vote, committee hearings, etc.);
- Legislators who are supporting or opposing the legislation and those who have not taken a position; and
- A summary of past successes or failures of similar legislation.

Alternative methods used to monitor legislation include the use of legislative relations staff working in the governor's office and agency or budget staff working on specific issue areas. In many states, the legislative tracking process has been simplified through commercial or legislative bill-tracking services. In other states, the governor can rely on state computer capabilities that facilitate the sharing of information on new legislation, the legislative calendar and legislative actions that have been taken. Some state legislatures have begun providing such information on the Internet.

Most gubernatorial office systems for reviewing legislative bills include the historical and political characteristics of the proposed legislation, including a brief legislative history, tally of legislators voting for or against the bill and comments or recommendations by affected agency heads and interest groups. They also may consider prior legislative actions in the policy area, the governor's public positions in this policy area and partisan views, public opinion poll data in the policy area, mail received on the bill and comments and recommendations by the governor's key staff.

A governor's response to introduced legislation that is being monitored and reviewed will vary according to circumstances. It is important to have a mechanism to present legislative proposals to the governor and to ensure that the administration speaks with a single voice when communicating its position to the proposed legislation.

## **Gubernatorial Action on Passed Legislation**

Governors can use three tools—a veto message, transmittal message and signature message—to communicate thoughts and actions regarding legislation that has secured passage through both legislative chambers. In a veto message, the governor explains why he or she has decided to veto a bill. The obvious benefit of using a veto message is to provide the governor an opportunity to articulate problems with the bill. A secondary benefit of the veto message is to prepare the governor to meet any attempt by the legislature to override the veto. Because the governor's position is clearly stated, he or she leaves little room for interpretation. Any attempt to override or openly criticize the decision must address the governor's position. The veto message is important as a historical and political document. The governor's legal counsel typically plays an important role in drafting this message.

A transmittal message is used when legislation is enacted without the governor's signature. This tool can be used when the governor has reservations about the bill but has decided to allow it to become law. The transmittal message is an opportunity for the governor to communicate to the public and the legislature that the bill, as written, may be subject to interpretation. The transmittal message can explain the governor's interpretation of the bill.

When the governor signs a bill into law, he or she will use a signature message. The signature message anticipates legal challenges to the bill and provides an explanation of the governor's interpretation of the bill. A signature message contributes to the legislative history of the bill, thereby guiding the judicial system. A public signing ceremony can:

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- Focus public thinking on an important issue that has received legislative attention;
- Present the governor as a victorious leader when a priority legislative initiative is passed;
- Mend fences with legislators after a legislative struggle by presenting the major players behind the governor; and
- Reward sponsors and supportive legislators and interest group representatives by sharing the moment with them.

Time constraints will prohibit bill-signing ceremonies for all but the most important legislative items. However, some governors schedule an hour or so periodically for signing many pieces of legislation and invite particular groups and legislators to attend. The governor may visit briefly with these people and conduct several short ceremonies. In this way, rewards for support are accommodated and photo opportunities can be offered without severely encroaching on the governor's busy schedule.

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