

DRAFT FOR DISCUSSION ONLY

VERMONT SENATE

Lessons Learned Workgroup

REPORT OF FINDINGS

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This report represents the results of a study by a special workgroup of the Vermont State Senate.

The workgroup was tasked with conducting a high-level review of lessons learned from the response by the Senate to the 2019 Novel Corona Virus (COVID-19).

The report is not intended to be a final authoritative after-action report, but rather an initial collection of observations by members of the Senate. It is derived from comments and observations by Senators based upon their immersion in the legislative response to the crisis, including hearing hours of testimony from State leaders and consulting with Senate committees and with members of the Administration, business leaders, advocates, and constituents. These observations were supplemented by the Senators' reviews of extensive public and private documentation.

The members of the workgroup acknowledge that our findings are preliminary in nature. The crisis is not over. Once it is, we recommend that a thorough review of the crisis and Vermont's response to it be done by an independent entity.

The COVID-19 pandemic presented many challenges to the Legislature and State government as a whole, and the first nine weeks of our response has illuminated some important takeaways. We performed well in some areas and need improvement in others.

Positive aspects of the Senate's general response to the pandemic so far:

- We (the whole Senate and its committees) got up and running in short order. In general, we were nimble in our response and focused and disciplined in our approach.
- The use of the Joint Rules and Senate Rules Committees to coordinate and get information to legislative leaders and then the full body also worked well.
- The Senate and the Joint Rules Committee have worked well with the Governor's Administration so far in this emergency.

- There was generally good communication between the Governor's team and the Legislature.
- Political agendas were largely put away during the first two months of the emergency; the focus was on problem solving together and not on scoring political points.

Positive legislative/administration action:

- Legislative leaders viewed Act 91 as a strong public health response:
 - It expanded telemedicine.
 - It enabled quick licensure of more health care providers and gave flexibility to the Green Mountain Care Board and Department of Financial Regulation to stabilize the business operations of hospitals and independent providers.
 - Pharmacists got flexibility in providing maintenance medications for patients who needed ongoing treatment for chronic conditions.
- We were able to keep a safety net in place for vulnerable Vermonters; we helped the Designated Agencies and Special Service Agencies to continue their treatment of individuals with substance use disorders and mental health issues.
- The virtual absence of COVID-19 infections in Vermont's homeless population evidenced the State's success in transitioning this entire group from open shelters to hotel rooms or permanent housing.
- A moratorium on immediate evictions and the expansion of unemployment insurance benefits also helped to keep Vermonters afloat.
- Despite the continued and long-term challenges in child care, once child care stabilization plans were up and running, this program made it possible for child care options to continue for essential workers, and it helped child care facilities continue to exist through the immediate pandemic emergency. However, the sustainability of Vermont's system of child care remains uncertain.
- Schools and teachers across the State (where there was adequate connectivity) adapted fairly quickly to online learning. However, the effectiveness of remote education during a pandemic remains uncertain.
- The development of a system of food delivery to families via school buses was a very big success in many areas.
- The Senate learned that we actually can get work done remotely; prior to this emergency, it was only theoretical.
- The Legislative Information Technology team did a really great job setting up and maintaining systems to enable us to do our legislative work remotely.

- Holding hearings on Zoom (that are then streamed on YouTube) has brought more transparency to State government.
- Some Senators have suggested that having YouTube recordings seems to lead to witnesses providing more complete answers.
- More Vermonters get to see the inner workings of committees and get to listen to meetings of Joint Rules and full-Senate caucuses.
- Some silos between departments and agencies seem to have come down; there is better communication across State government departments and agencies.
- There has been greater flexibility in regard to regulations, and this has made it easier to get emergency work done.
- Many Vermont workers were able to switch to online learning and remote work in a very short amount of time.
- Regular caucuses of the whole have made committees much more aware of what other committees are doing, and this helps everyone do their jobs better.
- The Governor's daily press conferences with the Vermont Department of Health have been reassuring to Vermonters.
- Vermont State government has made decisions based in fact and data.
- Continuity-of-government plans were largely in effect and current, but were largely focused on natural disasters only.
- The emergency has given many of us a bird's-eye view of the big picture and when we each need to be more flexible.
- The General Assembly and the Governor were largely able to achieve consensus.
- Vermont kept death rates and infection rates very low compared to the rest of the nation.
- Joint Fiscal Operational Considerations – able to work remotely quickly in terms of equipment and access to files
- Joint Fiscal Forecasters – revenue forecasters generally worked well; data continued to be shared.
- The Department of Motor Vehicles (DMV) worked well, troubleshooting access issues and expirations of licenses and other DMV-issued documents.

- State Government demonstrated the ability to quickly introduce flexibility by cutting through red tape. We were thus able to staff wastewater plants with qualified workers, introduce tele-medicine, and bring in licensed professionals from other states.

Challenges/shortcomings/concerns:

- Patient demographics, including race, should have been collected from the beginning.
- Personal Protective Equipment (PPE) was not available in the quantities necessary for hospitals, emergency responders, doctors, and public-facing health care providers across the State.
- Many Vermonters struggled with their bills during the first two months of the crisis, especially when UI and PUA assistance were slow in getting out the door.
- Payments to self-employed people were not commensurate with what they could have earned. Some independent contractors have not had access to financial support since they have lost all their customers/clients.
- Many of our small businesses will not survive this emergency.
- We have not resolved how to provide robust services for children affected by mental health issues or trauma when they are home and cannot be in school or child care.
- We have heard testimony that prolonged time spent at home without supports can be very damaging for children who are living in families with abuse, both emotional and physical.
- The nature of work has changed with thousands of Vermonters working remotely, but whether it is sustainable remains unresolved. We must invest more money in our digital resources.
- There are broadband and connectivity deserts in our State. This makes it challenging to do business, education, and telehealth in these areas.
- We need more clear, concise, widely accessible online portals for Vermonters to get the information they need in a timely manner.
- We need to take a good hard look at cybersecurity and our connectivity weaknesses.
- What happens if the grid goes down? We are hugely dependent on electricity. What's the backup plan if we can't access the electricity we need?
- We must carefully examine the vulnerability of our communication systems.

- Although we are fortunate to be able to work remotely, it is also challenging and very different from working in the State House. We are not able to meet outside of Zoom meetings to flesh out an idea with a smaller group.
- Legislative work is often choppy and takes a lot longer than it would if we were in person. We have come to realize the great importance of more informal conversations and connections.
- Collegiality is more difficult to achieve remotely. In a new biennium, with new members, it will be a challenge to create for new members the connectivity and personal relationships that have made the Senate work.
- Online options for watching our legislative work are not available to everyone, reinforcing the need for high-quality, reliable Internet connections. Libraries were closed.
- We should consider how strike-all bills are labeled/titled and listed on web sites. The first few emergency bills were “strike-alls” of other bills. It was confusing for members of the public to follow.
- We are at the mercy of companies like Zoom and YouTube and any/all of the privacy issues they bring.
- At times, there was no clear channel of communication with the Administration. We must have a good handle on the State’s contingency plans and make sure that the Legislature’s contingency plans are also up to date.
- Enforcement of the Governor’s Stay at Home Orders was confusing. There was a lack of clarity as to the division of responsibility between law enforcement and the Attorney General.
- There was confusion between the Agency of Education and local school districts. Superintendents seemed to want more concrete answers, but AOE only provided guidelines and protocol suggestions.
- Humans were needed to step in sooner when we had a crisis bubbling up at the Vermont Department of Labor. Emails and recorded messages were not the answer; Vermonters felt abandoned, and the perception was that the entire system was broken.
- Many Vermonters faced food insecurity.
- We do not have a coordinated system to move food from farms to markets, especially local markets. We lack infrastructure to help farmers accommodate the swell in demand for local food.

- We are more dependent on a single commodity (milk) than any other state. Reduced demand for dairy threatens a huge portion of our farm-based economy.
- Dairy in particular (although this is true for other agricultural sectors, too) is dependent on undocumented workers.
- Undocumented workers face distinct challenges during the COVID-19 pandemic: lack of access to health care, no access to federal relief checks, and language barriers that hinder them from gaining a better understanding of the crisis.
- Undocumented workers are often housed in close quarters, making any stay-at-home order extra challenging and making the workers more susceptible to virus contamination.
- Food banks were challenged to keep up with demand, and a significant number of Vermonters faced food insecurity.
- Closure of the Woodside facility created problems across the Agency of Human Services system.
- Joint Fiscal Office's self-reported struggles:
 1. Operational – didn't have cell phone numbers for non-JFO people outside the office; that slowed down communication.
 2. Operational – figuring out how to manage the quick informal communications.
 3. Operational – did not have a legislative plan for emergency disruptions in operations, so ad hoc adaptations were necessary.
 4. Fiscal – sometimes struggled with communications between Legislature and Administration; improved communication might have resulted in better understanding of implications and broader buy-in for decisions made, such as revenue timing and the RFP for someone to manage COVID Relief Funds.
 5. Big picture – unemployment insurance programs, child care, food needs.
- Legislative Council's reflections on challenges:
 1. The expertise of staff was sometimes ignored, resulting in poor decision making.
 2. Instead of efficiency, there has been a continuing expenditure of substantial resources on non-priorities and duplicative hearings.
 3. The different "silos" within the General Assembly (House and Senate, different committees and offices) have sometimes continued to pull in different directions.
 4. There has been a lack of communication in some circumstances, including a failure to communicate with staff who are providing the necessary support infrastructure and a failure to answer critical questions or resolve problems.

Changes that should be made going forward:

- We need to review the General Assembly's continuity-of-government plans. We also need to broaden our risk-management view to envision a wider range of potential risks

and our planned response to them. We need a plan for how to respond and make decisions in the event the State House is unusable for an extended period.

- We need to ensure that each Senator has cell phone numbers as well as official and personal email addresses of every other Senator as well as of key staff in JFO and Legislative Council.
- We should create a clear set of expectations for streamlined communication between the Executive and Legislative Branches.
- Joint Rules and Senate Rules were called on to play important roles during the emergency. We should make these roles clear so that the role/power of each committee is outlined.
- We need to compile all the quick steps taken by the Legislature so we have a “handbook” in case there is a resurgence or a similar pandemic.
- Vermont should craft a plan for different contingencies in the event we see a crisis-induced demand surge on any single State department. We should have an interim strategy that shifts workers to more quickly address a swell in demand.
- We should consider future emergencies that may have geographic elements that impact supply chains and energy imports.
- Statewide purchasing of PPE would be much more efficient. There was a large disparity, in that some organizations had enough PPE for their needs while others did not have an adequate supply.
- There should also be more planning dedicated to thinking broadly about PPE and what this might look like in a different kind of emergency.
- Careful planning around supply chains and food networks is essential.
- We need a better plan in place for juvenile offenders, especially if they must be moved during a crisis.
- This summer will be a real challenge for parents in Vermont. The lack of programming/camps for youth of all ages will be very tough for many families.
- The crisis has placed unprecedented stress on families. In turn, this is placing increased demand on the Designated Agencies and local partners for ongoing help with supporting families, providing therapy and counseling, and dealing with substance misuse awareness and treatment.
- One main long-term concern is bridging the gap for child care for Vermont families. We need to explore what policy changes are needed to keep child care centers open and to

expand the availability of other child care options. No one believes that requiring parents to pay half of their child's tuition without receiving child care is fair to low-income Vermonters.

- Joint Fiscal Office reflections on changes necessary:
 1. Operational – provide broadband statewide so all employees have enough bandwidth to work from home.
 2. Operational – put in place a legislative plan for any emergency disruption in operations.
 3. Fiscal – maintain the legislative role in spending/revenues while understanding that swift emergency action is necessary in some situations.

- Legislative Council reflections on the General Assembly's operations and needed changes:
 1. Establish priorities and listen to those professionals with relevant expertise to ensure good decision making.
 2. Focus time and resources on implementing those priorities and not expend time and resources on other issues.
 3. Communicate and coordinate to work together efficiently.
 4. Staff has been put under a great deal of stress, juggling working from home and child care. This situation is not sustainable.
 5. The General Assembly must begin to plan now for how it will improve remote functions during the August session, the fall, and perhaps the 2021 session.
 6. That planning process should emphasize improving communication between the Legislature and Legislative Council.

What should we do to be better prepared for the next crisis?

- We must have better broadband access across the State so that business and government can communicate, educators can educate, and patients can access telehealth and telemedicine.

- We need better isolation and testing protocols for long-term care facilities.

- We need to think more carefully and deeply about the psychological toll on elder patients, especially those struggling with dementia or memory loss, when their families are not able to visit and offer comfort.

- We need to have more careful planning for our homeless population, our inmates in correctional facilities, and Vermont's migrant workers.

- We can't successfully weather a widespread emergency in Vermont's schools without adequate broadband and connectivity access statewide.

- We must refill our reserves; it was critical that we had them, and we need to make sure we commit to refilling them and more.
- We know there is a lot of pain ahead; making decisions about spending will be extremely difficult. How do we build a recovery when we have no money for our budget right now?
- We must conduct a risk assessment of our critical IT systems, such as the Department of Labor’s system. We must commit to upgrading, rebuilding, or replacing aging systems that threaten our ability to perform critical functions. Where will that money and the professionals needed come from?
- Vermont State Government has experienced a history of troubled IT projects. How will we do better, going forward? How can we make positive and lasting structural change when we are facing such a deep cut to our budget?
- We hate to keep repeating it, but connectivity is critical: This crisis reemphasized the need to extend broadband and cell coverage to every location in Vermont—now.
- Vermont needs a better telehealth and telephone triage plan. Senate and House are working on this jointly.
- We need an analysis of contingency planning and emergency management systems across the State.
- Vermont needs an improved plan for continuity of government leadership. The protocol in the event of the loss of the Governor does not have the needed depth. For example, the risk to the State of a terrorist act during the State of the State message would be severe.
- Can schools/districts begin to use snow days as a way to build and test methods to “practice” remote learning from home? These spontaneous days at home could be used to test run different methods for teaching and learning.
- How will we be able to do adequate COVID-19 testing that will ensure safety for kids and staff when schools reopen?
- Can we develop a better method to deal with budgets that haven’t passed due to natural or health disasters? What should the default be in these tricky situations?
- We must rethink depth of succession planning for potential loss of leadership in the Executive and Legislative Branches, e.g, should someone in the chain not attend joint sessions?
- Review legislative IT redundancy and risk of loss of key staff.

- Assess the full range of risks; rate them relative to probability, impact and preparedness. What probability-based risks exist for which we should plan?
- Consider how the General Assembly would meet if a joint meeting were required and social distancing were needed as did NH, e.g., Senate meets in House Chamber; House meets externally.
- Better and more intelligent information portals are needed in State government.
- We need to better assess risk to identify potential threats and prepare for them. For example, what happens if the grid goes down? What happens if there is no Internet availability? What happens if the Tax Department and its staff are destroyed in a terrorist attack?
- Vermont's dependence on imported goods leaves us vulnerable to national and international distribution chains. Food insecurity has come into focus at the same time that we see farmers struggling to earn a fair living. This would seem to indicate there are opportunities to boost our agricultural economy while we enhance food security for Vermonters.
- We need a plan for how to respond in the event there are food distribution interruptions and breaks in the national infrastructure.
- In states where committee and floor hearings are recorded and broadcast online, the infrastructure likely exists so they control their own recordings, rather than relying on a third party, such as YouTube. We should examine whether we should implement a similar system here.

We do not claim that these observations are definitive. They are made during the ongoing crisis. Our thoughts will evolve as this continues, but there are things that we can and should do now to better manage the current crisis and to better prepare ourselves for the future.