



Legislative Advisory Committee on the State House Draft Report

Report to the Vermont General Assembly
Pursuant to 2021 Acts and Resolves No. 50, Section 32

Prepared by the Office of Legislative Counsel

August 17, 2021

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A. Statutory Charge of the Legislative Advisory Committee on the State House

2021 Acts and Resolves No. 50, Sec. 32

Sec. 32. LEGISLATIVE ADVISORY COMMITTEE ON THE STATE HOUSE; STATE
HOUSE LEGISLATIVE SPACE AND DESIGN; REPORT

(a)(1) The Legislative Advisory Committee on the State House shall review and make recommendations on any space and design proposals for the State House. The review shall take into account the Freeman, French, and Freeman, Legislative Space Study, 2021–2022, dated April 26, 2021. Prior to making any recommendations, the Committee shall consult with legislators, legislative staff, and relevant stakeholders on space needs.

(2) The Committee shall have the assistance of a planning architect from the Department of Buildings and General Services.

(b) On or before August 15, 2021, the Committee shall submit a report with its recommendations to the Joint Legislative Management Committee, the Joint Rules Committee, the House Committee on Corrections and Institutions, and the Senate Committee on Institutions.

B. Functions of the Legislative Advisory Committee on the State House

2 V.S.A. § 653. FUNCTIONS

(a)(1) The Legislative Advisory Committee on the State House shall be consulted on all activities relating to the acquisition and care of paintings and historic artifacts and furnishings, and the refurbishing, renovation, preservation, and expansion of the building and its interior.

(2) The Legislative Advisory Committee on the State House shall develop a plan for the acquisition or commission of artwork for the State House collection that represents Vermont's diverse people and history, including diversity of gender, race, ethnicity, sexuality, and disability status.

(b) The Sergeant at Arms and the Commissioner of Buildings and General Services, in discharging responsibilities under subdivision 62(a)(6) of this title and 29 V.S.A. §§ 154(a) and 154a, respectively, shall consider the recommendations of the Committee. The Committee's recommendations shall be advisory only.

C. Members of the Legislative Advisory Committee on the State House

The Legislative Advisory Committee shall be composed of the following 13 members:

Four members of the House of Representatives:.....Rep. Alice Emmons (Chair)

Rep. Janet Ancel

Rep. John Bartholomew

Rep. Butch Shaw

Four members of the Senate:.....Sen. Joe Benning

Sen. Alison Clarkson

Sen. Ruth Hardy

Sen. Anthony Pollina

The Chair of the Board of Trustees of the Friends of the Vermont State House.....John Dumville

The Director of the Vermont Historical Society.....Stephen Perkins

The Director of the Vermont Council on the Arts.....Karen Mittelman

The Commissioner of Buildings and General Services.....Jennifer Fitch

The Sergeant at Arms.....Janet Miller

D. Summary of Advisory Committee Proceedings

1. Testimony and Committee Deliberation

The Legislative Advisory Committee on the State House met 8 times between June 22, 2021, and August 10, 2021, to review proposals for the use of space at the State House and other buildings or facilities within the Capitol Complex. The Committee heard testimony from multiple members of the legislative staff, including the Sergeant at Arms, the Chief of the Capitol Police Department, the Director of Legislative Information Technology, the Director of Legislative Operations, the Director of Human Resources, Joint Fiscal Office Staff, Committee Services Staff, and Legal and Drafting Operations Staff from the Office of Legislative Counsel. The Committee also received testimony from staff from the Department of Buildings and General Services (BGS), including Joseph Aja, the Director for Design and Construction, and Stephen Frey, a Senior Facility Architect and Planner. The research and documents provided by Stephen Frey are posted on the Committee's web page and can be found at the following link: <https://legislature.vermont.gov/committee/document/2022/71/Witness/Stephen%20Frey#documents-section>

The Committee discussed multiple standards or proposals for use of the space available to the Vermont General Assembly for the 2022 legislative session. The Committee discussed whether and how to require COVID-19 vaccination for entry to the Vermont State House and whether proof of vaccination or personal protective equipment should be required for use of the State House. The Committee also discussed the use of certain air quality performance standards as a metric for determining capacity or recommended use of committee rooms and other spaces in the State House. The Committee learned that air flow and air quality are not the same metric and that air flow does not guarantee air quality. Multiple witnesses testified to recommend that the committee hearings during the 2022 legislative session should continue to be livestreamed

and that legislators, staff, and witnesses continue to have access to committee proceedings through video conferencing tools.

The Committee had multiple discussions regarding the use of space within the State House and how that space could be used safely to meet legislative needs. Discussions included whether certain smaller committee rooms in the State House should be used for committee proceedings during the 2022 session. The Committee also discussed whether other spaces in the State House should be converted to committee rooms to allow for improved air flow and appropriate public spacing to mitigate potential health risks. In addition, the Committee addressed whether the General Assembly should establish and enforce capacity limits for legislative spaces. Similarly, the Committee considered how spaces outside of the State House could accommodate “overflow” from full capacity committee meetings and how such space could also serve additional legislative needs such as caucuses or joint hearings likely to lack appropriate space within the State House during the 2022 legislative session.

The Committee also discussed whether to move certain staff offices or certain staff work places within the State House or to other buildings or facilities within the Capital Complex. The Committee discussed moving the Office of Legislative Counsel to either 2 Governor Aiken Avenue or 4 Governor Aiken Avenue in order to provide additional space within the State House and 1 Baldwin Street. The Committee also discussed moving the Legislative Operations staff to alternative spaces within the State House in order to allow for use of the current Operations offices for legislative needs if current space is repurposed. The Joint Fiscal Office and the Director of Human Resources also testified to space needs for each of their offices. In addition, the Committee also discussed potential alternative spaces for the Office of the Sergeant at Arms, the State House Police, and the Copy Room.

2. Overview of Committee Recommendations

After significant deliberation and debate on testimony and multiple proposals, the Committee recommends [21] measures be implemented by the Joint Legislative Management Committee (JLMC) or the relevant committee on Rules so that the General Assembly returns to physical use of the State House for most legislative activities in a manner that mitigates potential health threats to legislators and other legislative participants. Specifically, the recommendations of the Committee will allow for floor proceedings of the Senate and House to be conducted within the State House. Similarly, standing committees of the General Assembly would return to physical meetings within the State House. In addition, the media and the public would be granted physical access to legislative proceedings, subject to potential measures to mitigate health risks. **The recommendations listed below received unanimous approval from the Committee, with one exception indicated below.**

E. Advisory Committee Recommendations

The Committee recommends implementation of the following:

1. Persons entering the State House, including legislators, staff, advocates, media, and the public, should be strongly encouraged to be vaccinated for the COVID-19 virus but should not be required to be vaccinated to physically access the Vermont State House during the 2022 legislative session.¹
2. Proof of vaccination for COVID-19 should not be required for entry into the State House, but JLMC and the relevant Rules committees should assess whether masks or other personal health measures should be required for the 2022 legislative session based on State health orders and Center for Disease Control guidance issued between submission

¹ See Legislative Advisory Committee on the State House, Meeting June 29, 2021, available at <https://www.youtube.com/watch?v=O1woN26snd8>

- of this report and the convening of the 2022 legislative session. The Committee recommends that the relevant Rule committees—House, Senate, and Joint—adopt rules that are consistent with each other in order to avoid difficulty or impossibility in complying with varying requirements.
3. The standing committees of the Vermont General Assembly should meet physically within the State House during the 2022 legislative session.²
 4. Subject to approval by the relevant Rules committees, regularly scheduled caucuses of the political parties of the House of Representatives should use the well of the House for caucuses of the majority party, the Senate Chamber for caucuses of the Republican party, and an appropriately sized committee room for the Progressive party. Unscheduled or occasional caucuses of the House political parties should use the cafeteria, Room 11, or Room 24 (Legislative Lounge) when available.
 5. Subject to approval of the relevant Rule committees, use of the well of the House of Representatives or the Senate Chambers should be used as a potential meeting space for joint standing committee meetings and certain non-standing committee meetings, subject to approval by the Senate or House Committee on Rules.
 5. Specialty issue caucuses, public hearings, or similar meetings should use space within 109 State Street or elsewhere within the State House for meetings. The Advisory Committee does not recommend the use of 133 State Street for use by standing committees, caucuses, or public hearings. [The Committee needs to discuss how the

² See Legislative Advisory Committee on the State House, Meeting July 6, 2021, available at <https://www.youtube.com/watch?v=f395eVyw4yo>. This recommendation received one dissenting vote.

- General Assembly will use legislative space in 109 State Street during the 2022 legislative session.]
6. Use of the Card Room for presentations by advocates or special interests should be paused for the 2022 legislative session to prevent congestion and allow for greater air flow in the hallways of the third floor of the State House.³
 7. The Cedar Creek Room should not be used for presentations or receptions during the 2022 legislative session because of issues with congestion and air flow in that room.
 8. Presentations and receptions during the 2022 legislative session should be held in the cafeteria with a limit of one presentation or reception in the morning and one in the afternoon. Presentations and receptions include the coffee “side table” offerings sponsored by advocates many mornings.
 9. During the 2022 legislative session, school tours or group tours, including sports teams subject to a congratulatory resolution, should be limited to no more than two tours a day and no more than 25 participants per tour group. Schools and legislators should be informed prior to the 2022 legislative session that group tours should only be allowed with the prior authorization of the Sergeant at Arms.
 10. The Sergeant at Arms should be authorized to spend up to \$750,000.00 to retrofit or fit up the State House to meet the public health and space needs of the General Assembly during the 2022 legislative session. A full summary of the proposed expenditures can be found in the memo the Sergeant at Arms submitted to the Advisory Committee on August 3, 2022, which can be found here:

³ Id.

<https://legislature.vermont.gov/Documents/2022/WorkGroups/StHouse/Documents%20and%20Testimony/W~Janet%20Miller~Funding%20Request%20from%20Sgt%20at%20Arms%20to%20Meet%20Pre-session%20Facilty%20Needs~8-3-2021.pdf>.⁴

11. Videoconferencing and livestreaming tools used by standing committees during the 2021 legislation session should continue to be available for use by standing committees. However, the Advisory Committee recommends that the Joint Legislative Management Committee or the House and Senate Rules Committees develop protocols or rules for the appropriate use of the tools, including protocols on when to use the tools, when to allow persons to participate through video conferencing, and how to police inappropriate use of the tools.⁵ Key questions that JLMC or the Rules Committees should address are whether and how floor proceedings in the House and Senate should be livestreamed or recorded; whether YouTube is the best tool for use of livestreaming or recording; and how long recordings of floor proceedings and committee hearings should be retained for on the Internet or, alternatively, in the Vermont State Archives and Records Administration's records center.

12. Approve the request of the Office of Legislative Information Technology to expend funds to prepare or retrofit the House and Senate chamber, committee rooms, and other legislative spaces for livestreaming, videoconferencing, and improved audio systems. The total funds proposed for expenditure are \$900,000 of federal Coronavirus Relief Funds. Of those funds, \$400,000 would be used to fit-up committee rooms with A/V technology to enable video conference and livestreaming in all committee rooms. The

⁴ The Joint Legislative Management Committee approved this expenditure on August 5, 2021. See Joint Legislative Management Committee, Meeting August 5, 2021, available at <https://www.youtube.com/watch?v=hBtjZ15jdBE>

⁵ See Legislative Advisory Committee on the State House, Meeting July 13, 2021, available at

remaining \$500,000.00 would be used to fit up the House and Senate Chambers with A/V technology, enabling videoconference and livestreaming as determined by standards established by the relevant Rule Committee.⁶

13. Room 26 (Senate Committee on Agriculture) should not be used for a legislative standing committee, and the Senate Committee on Agriculture should meet in Room 13 (Senate Pro Tem Office). The Senate Pro Tem would use Room 26 as an office. The rooms should be used as recommended during the 2022 legislative session and until determined otherwise by the Senate Committee on Rules.
14. The following five existing rooms used by legislative standing committees should not be used during the 2022 legislative session for committee meetings: Room 32 (House Committee on Agriculture and Forestry); Room 33 (House Committee on Corrections and Institutions); Room 41 (House Committee on Energy and Technology); Room 42 (House Committee on General, Housing, and Military Affairs); and Room 47 (House Committee on Natural Resources, Fish, and Wildlife).⁷
15. To allow all House of Representatives standing committees to meet within the State House during the 2022 legislative session, the following rooms should be converted from their traditional legislative use for use by those House of Representatives standing committees moved out of their traditional rooms: Room 9 (the Coat Room), Room 10, Room 11, Room 24 (the Legislative Lounge), and the Ethan Allen Room.⁸ The Advisory Committee recommends that these rooms return to their traditional use after the 2022

⁶ The Joint Legislative Management Committee approved this expenditure on August 5, 2021. See Joint Legislative Management Committee, Meeting August 5, 2021, available at <https://www.youtube.com/watch?v=hBjZJ5jJBE>

⁷ See Legislative Advisory Committee on the State House, Meeting July 20, 2021, available at <https://www.youtube.com/watch?v=yIwv1S6uZ5w> and at https://www.youtube.com/watch?v=uXwiYng_XGs, <https://www.youtube.com/watch?v=z8thyw2Zi9s>, and at <https://www.youtube.com/watch?v=16wFosl-9vY>

⁸ Id.

legislative session as soon as public health risks allow. The Advisory Committee noted that House standing committees could not be moved into existing Senate standing committee rooms as the largest Senate committee is smaller than every House committee. Thus, moving a Senate standing committee to one of the repurposed State House rooms would not resolve space needs.

16. The House Rules Committee should assign standing committees to the State House rooms converted into legislative committee rooms based on the perceived need of legislative standing committees for physical space during the 2022 legislative session due to the high profile, controversial, or historically popular issues that a committee is likely to address in 2022.⁹
17. Two Legislative Operations staff (Charlene Dindo and Myriah Burke) who are currently located on the first floor of the State House Annex and who require quiet working conditions and relatively little interaction with legislators should be moved temporarily to 2 Governor Aiken Avenue for the 2022 legislative session. Legislative Operations proposed that the office space previously used by the support staff of the Commissioner and Deputy Commissioner of BGS be used for these employees.
18. The Director and Deputy Director Legislative Operations (Mike Ferrant and Peggy Delaney) should remain in the State House, but should be moved from the first floor of the State House Annex. The Director and Deputy Director are constantly interacting with legislators and providing other legislative services. Consequently, it is necessary to site their workspace in the State House. The two employees should be located either in the open space of the second floor of the Mezzanine in the State House Annex or in a new

⁹ Id.

space constructed on the third floor of the State House Annex in the space previously used by the Friends of the State House just outside the entrance to the cafeteria. BGS will provide information on possible construction of the new space. Rooms 32 and 33 on the Third Floor of the State House should be reserved for use by legislators.

19. [The space vacated by the Legislative Operations staff should be converted into a coat room for legislators and the public. Additional information is necessary to address the specific details for entry, design, and access to other offices or doors.]
20. Human Resources staff should be moved to the office space previously used by David Shutz on the first floor of 2 Governor Aiken Avenue. Renovations such as painting, new carpet, new lighting, and a new, secure and lockable door were requested. The Advisory Committee has requested estimates of the cost and potential timing of the renovations.
21. Legislative leadership and BGS should initiate planning, construction, and installation of a new heating ventilation and air conditioning (HVAC) system for the State House as soon as practicable. The Advisory Committee reviewed application of air standards to the current State House heating and cooling system. Most specifically, the Committee reviewed whether and how American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standard 62.1 for Ventilation of Acceptable Air Quality could be required for the current heating and cooling system or could be used as a standard for air quality or air flow in the State House. The Advisory Committee determined that ASHRAE 62.1 was not feasible for implementation under the current State House system. However, updating the HVAC system as soon as practicable so that the State House can meet ASHRAE standards will improve air quality and help improve the overall public health environment within the building. [Prior to updating the HVAC

system in the State House, the Committee recommends that JLMC or the Sergeant at Arms review use of portable air purifier units in each legislative committee room. Review should include evaluation of the efficacy of portable air purifier units, the noise generated by such units, and an overall determination of the benefit and detriments of the units.]

F. Conclusion

The Vermont Constitution guarantees Vermonters the rights of freedom and liberty, and the Vermont State House awards the State's citizens with the gift of a place and presence where freedom and liberty are exercised as the framers of the Vermont Constitution intended. The Vermont General Assembly has demonstrated that it can operate successfully outside of the confines of the State House, but when it did, all involved readily perceived how meeting remotely stripped the legislative process of desired, if not integral, functions, values, and interactions. A physical return to the State House should reinstate the functioning of the Vermont General Assembly to its intended and expected standards.

However, the Advisory Committee believes that the Vermont General Assembly should not return to the State House without implementing practical common sense solutions to mitigate the public health concerns that arise when large groups of people gather together to exercise democracy. The Advisory Committee took meaningful testimony and engaged in significant debate regarding multiple measures that the Vermont General Assembly could implement to address COVID-19 and other public health concerns. Based on this testimony and debate, the Advisory Committee offers 21 recommended measures to implement prior to and during the 2022 legislative session. These measures should help mitigate public health concerns and should

aid in keeping the State House as healthy as it can be so that the Vermont General Assembly can continue to engage in the democracy we as a State expect and value.

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