

Memo

To: Members of the Joint Information Technology Oversight Committee

From: Irene Wrenner, Senator 

Date: December 12, 2024

Re: Complex, Expensive Technology Requires More Thorough Oversight

Urgent Issues

The State of Vermont purchases costly, complex technology without adequate oversight. As a JITOC member, I have seen only the tip of that iceberg before being asked to authorize big spending. Many technology problems and risks aren't discussed, much less investigated to my knowledge, by this committee or any other.

Discussion

Taxpayers are fretting about education spending. Meanwhile, hundreds of millions (or more) of Vermonters' dollars are being spent on a variety of state technology systems and services, now and in the years ahead, with little to no effective oversight.

JITOC hasn't met often enough nor long enough for members to understand the many purchases and policy issues we are asked to approve that require oversight, such as:

- 1) Vulnerability of cloud-based systems; for example, the catastrophic breach of Change Healthcare in February and lack of any contingency plans affected many of Vermont's pharmacies, doctors, and patients.
- 2) Captivity of cloud-based systems; recurring service costs on the expense side vs hosting our own systems investments on the capital side. If we need to change vendors, what can we take with us? Have contingencies been planned and costs compared?
- 3) Hackability of artificial intelligence systems, which are apparently at the core of Workday software that is slated to be licensed at up to \$88 M through 2031.
- 4) Circumvention of planning and procurement "guardrail" statutes by state agencies and departments, 3 VSA § 3303 (b) and (d), which leaves JITOC members unable to determine if a system is well planned or if it will pay for itself over its planned lifecycle.
- 5) Claims of secrecy by state officials; planning documents required by statute, independent reviews (IRs), and contracts have been unavailable to oversight officials. This is both obstructive to oversight and contrary to logic. Corrective action may require clarification in statute.

6) Delays in communication; reports aren't being provided by the administration to JITOC in a timely manner. Session law required a three-day delivery to JITOC, yet an April IR report was not provided until a pointed request was made by a JITOC member just four days before our November meeting to vote on release of \$11.8 M additional for the Enterprise Resource Planning (ERP) system.

Reports – such as the independent review of the unemployment insurance (UI) system and the business case, detailed project plans and status reports, including risk identification and risk mitigation of the software-defined wide area network (SD-WAN) – are long overdue to JITOC.

“The contract hasn't been signed,” is a frequent refrain. However, the use of redactions to preserve confidentiality allowed the recent Plante Moran IR to reveal critical information to JITOC members about the Workday ERP.

7) Expansion of fiber monopolies; Communications Union Districts (CUDs) are using public funds to expand private carriers' monopolies for fiber service, while ignoring existing statutory policy to support competition. IRs, required by statute for these IT Activities of CUDs, have not been contracted for by the Agency of Digital Services, despite specific statutory requirements. This is egregious and may soon be irreparable.

8) Gross inadequacies of the Ten-Year Telecommunications Plan (TYTP) draft; only a fraction of the elements required by statute were completed. The committees of jurisdiction cannot meet jointly to discuss flaws in the TYTP, due to an illogical statute. If they do, the Department of Public Service is allowed to adopt the plan, regardless of the magnitude of the failings identified by those committees.

9) Restoration of the public advocate function within the Public Service Department; Hiring an independent public advocate in the interim would improve the integrity of the upcoming incentive regulation plan (IRP) approval process for Condor / Consolidated. Legislation should be passed to disallow this approval to proceed without a completed, duly-adopted TYTP. This would enable the Public Utility Commission (PUC) to assure the required consistency between the TYTP and the IRP.

10) Deficiencies of legislative counsel; given the complexity of the technical issues under our purview, we may have no attorneys on staff capable of thoroughly evaluating executive branch deliverables and accountability.

11) Monitoring of the state's preparedness for real or potential threats to our data security and systems resilience, whether by individual hackers, nation states, artificial intelligence, coronal mass ejections, or satellite sabotage.

12) Lack of our own rules of procedure; JITOC “shall adopt rules of procedure” has been in law for more than six years, with none adopted, such as how often to convene

meetings, whether two or more members should be able call for a meeting, or whether executive sessions are allowed.

13) Suitability of members; JITOC members may or may not be tech savvy. Some may have conflicts of interest. Should background checks be conducted before members are privy to hearing about the most sensitive vulnerabilities of our systems and networks?

14) Need for accountability; Leadership should take immediate action to recover the \$50 M to \$70 M in missing intellectual property owned by the State as part of the Department of Vermont Health Access (DVHA) grant agreements to Vermont Information Technology Leaders (VITL) for medical records software development.

15) Lack of integration among state-funded fiber projects and public safety radio and cell service expansion, as well as the burying of Green Mountain Power lines, presents an about-to-be-missed opportunity to increase communications resilience with underground spans of backhaul fiber able to withstand severe weather events.

16) Need for smart spending; The Judicial Branch has realized \$3.5 M in savings over five years after implementing an independent network and separating from IT support via the Agency of Digital Services (ADS). As I asked at our November meeting: Is an audit of ADS in order – to help it trim expenses that it's passing on to other departments? Are there other departments which should be encouraged to set up their own technical support?

17) \$9 M in federal funds earmarked for Regional Dispatch are being spent on upgrades to State Police equipment and systems without independent reviews. Why is the Public Safety Communications Task Force not being vigilant and transparent about addressing the gaps in our emergency communications with the \$20 M it has? The integration of these systems should be among our highest priorities.

One final thought: JITOC should not have spending authority. The Joint Fiscal Committee should have that power of the purse after JITOC makes a case for approving any system.

Recommendation

JITOC needs a fresh start in order to address policy issues, such as the seventeen outlined above, that need regular, if not urgent, oversight.

The Legislature should reinvigorate JITOC and consider legislation which would require the executive branch to appoint an executive board to review and approve IT plans and assure the integration of these plans and accountability of state officials.