

1 H.410  
2 Introduced by Representatives Cina of Burlington, Christie of Hartford, Sibia  
3 of Dover, and Toleno of Brattleboro  
4 Referred to Committee on  
5 Date:  
6 Subject: Executive; Governor; Artificial Intelligence Commission  
7 Statement of purpose of bill as introduced: This bill proposes to create the  
8 Artificial Intelligence Commission to support the ethical use and development  
9 of artificial intelligence in the State.

An act relating to the ~~creation of the Artificial Intelligence Commission~~ *use  
and oversight of artificial intelligence in State government*

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 ~~Sec. 1. FINDINGS; INTENT~~

12 (a) ~~The General Assembly finds that:~~

13 (1) ~~The Vermont Artificial Intelligence Task Force (Task Force),~~  
14 ~~established by 2018 Acts and Resolves No. 137, as amended by 2019 Acts and~~  
15 ~~Resolves No. 61, met from September 2018 through January 2020 to~~  
16 ~~investigate the field of artificial intelligence (AI) and make recommendations~~  
17 ~~for State action and policies with respect to this new technology.~~

1           (2) The Task Force found that this technology presents tremendous  
2 opportunities for economic growth and improved quality of life but also  
3 presents substantial risks of loss of some jobs and invasions of privacy and  
4 other impacts to civil liberties.

5           (3) Large scale technological change makes states rivals for the  
6 economic rewards, where inaction leaves states behind. States can become  
7 leaders in crafting appropriate responses to technological change that  
8 eventually produces policy and action around the country.

9           (4) The Task Force determined that there are steps that the State can  
10 take to maximize the opportunities and reduce the risk, but action must be  
11 taken now. The Task Force concluded that there is a role for local and State  
12 action, especially where national and international action is not occurring.

13           (5) The final report of the Task Force presents a series of  
14 recommendations for policies and actions consistent with the limited role of  
15 Vermont to direct the path of AI development and use in the State. The final  
16 report also concludes that Vermont can make a difference, maximize the  
17 benefits of AI, and minimize, or adapt to, the adverse consequences.

18           (b) It is the intent of the General Assembly to carry out the work of the  
19 Task Force by creating the Artificial Intelligence Commission to implement  
20 the other recommendations of the Task Force and make the State a leader in

1 ~~the United States and globally by promoting the development and use of~~  
2 ethical AI technology in Vermont.

3 Sec. 2. 3 V.S.A. chapter 69 is added to read:

4 CHAPTER 69. ARTIFICIAL INTELLIGENCE COMMISSION

5 § 5111. ARTIFICIAL INTELLIGENCE COMMISSION

6 (a) Definition. As used in this section, “artificial intelligence systems”  
7 means systems capable of perceiving an environment through data acquisition  
8 and then processing and interpreting the derived information to take an action  
9 or actions or to imitate intelligent behavior given a specific goal. An artificial  
10 intelligence system can also learn and adapt its behavior by analyzing how the  
11 environment is affected by prior actions.

12 (b) Creation. There is created an independent commission named the  
13 Artificial Intelligence Commission to study and monitor all aspects of artificial  
14 intelligence systems in Vermont.

15 (c) Membership. The Commission shall be composed of the following  
16 16 members:

17 (1) the Secretary of Commerce and Community Development or  
18 designee;

19 (2) the Secretary of Digital Services or designee;

20 (3) the Commissioner of Public Safety or designee;

21 ~~(4) the Secretary of Transportation or designee,~~

- 1 ~~(5) one member to represent the interests of workers appointed by the~~  
2 President of the Vermont State Labor Council, AFL-CIO;
- 3 ~~(6) the Executive Director of the American Civil Liberties Union of~~  
4 Vermont or designee;
- 5 ~~(7) one member appointed by the Chief Justice of the Supreme Court;~~
- 6 ~~(8) one member from the House, appointed by the Speaker;~~
- 7 ~~(9) one member from the Senate, appointed by the Committee on~~  
8 Committees;
- 9 ~~(10) two members who are academics at a postsecondary institute, with~~  
10 one appointed by the Speaker and one appointed by the Committee on  
11 Committees;
- 12 ~~(11) one member with experience in the field of ethics and human~~  
13 rights, appointed by the Vermont chapter of the National Association of Social  
14 Workers;
- 15 ~~(12) one member appointed by the Vermont Society of Engineers;~~
- 16 ~~(13) one member appointed by the Vermont Academy of Science and~~  
17 Engineering;
- 18 ~~(14) one member who is a secondary or postsecondary student in~~  
19 Vermont, appointed by the Governor; and
- 20 ~~(15) one member appointed by the Vermont Medical Society.~~

1 ~~(d) Powers and duties. The Commission shall study and monitor the~~  
2 ~~growth of artificial intelligence systems in Vermont, including the following:~~

3 ~~(1) adopt, publicize, and monitor a State code of ethics for artificial~~  
4 ~~intelligence systems;~~

5 ~~(2) make recommendations to the Legislative, Executive, and Judicial~~  
6 ~~Branches on policies, laws, and regulations for artificial intelligence systems;~~

7 ~~(3) report to the Office of the Governor, the House Committees on~~  
8 ~~Commerce and Economic Development, on Energy and Technology, and on~~  
9 ~~Government Operations, and the Senate Committees on Economic~~  
10 ~~Development, Housing and General Affairs, on Finance, and on Government~~  
11 ~~Operations, on or before January 15 each year, on the following:~~

12 ~~(A) existing and future economic opportunities for artificial~~  
13 ~~intelligence systems available in Vermont and any policies or legislative~~  
14 ~~actions necessary to maximize those opportunities;~~

15 ~~(B) the extent of use of artificial intelligence systems by State~~  
16 ~~government and any actions needed to optimize that usage;~~

17 ~~(C) the impact of using artificial intelligence systems in Vermont on~~  
18 ~~the privacy interests of citizens and any necessary policies to protect the~~  
19 ~~privacy and interests of Vermonters from any diminution caused by~~  
20 ~~employment of artificial intelligence systems by State government or the~~  
21 ~~private sector,~~

1 ~~(D) the impact of artificial intelligence systems on jobs and incomes~~  
2 ~~in Vermont and any necessary policies to protect jobs and incomes from any~~  
3 ~~adverse effects of using artificial intelligence systems in Vermont;~~

4 ~~(E) the state of education on artificial intelligence systems in the~~  
5 ~~Vermont primary, secondary, and higher education systems, and the current~~  
6 ~~level of education, including education of ethics on artificial intelligence~~  
7 ~~systems; and~~

8 ~~(F) any other information the Commission deems appropriate based~~  
9 ~~on its work and any other recommendations from the Vermont Artificial~~  
10 ~~Intelligence Task Force Report of 2020.~~

11 ~~(e) Meetings. Meetings of the Commission may be called by the Chair.~~

12 ~~(f) Quorum. Nine members shall constitute a quorum of the Commission.~~  
13 ~~Once a quorum has been established, the vote of a majority of the members~~  
14 ~~present at the time of the vote shall be an act of the Commission.~~

15 ~~(g) Reimbursement. Members of the Commission who are not employees~~  
16 ~~of the State of Vermont and who are not otherwise compensated or reimbursed~~  
17 ~~for their attendance shall be entitled to compensation and expenses as provided~~  
18 ~~in 32 V.S.A. § 1010. Payment to the members shall be from the appropriation~~  
19 ~~to the Agency of Human Services.~~

1 § 5112. TECHNOLOGY DIRECTOR; POSITION

2 (c) There is created within the Agency of Commerce and Community  
3 Development the position of Technology Director to manage and implement  
4 the work of the Artificial Intelligence Commission established in section 5111  
5 of this title.

6 (b) The Technology Director shall have the administrative, legal, and  
7 technical support of the Agency of Commerce and Community Development.

8 Sec. 3. ARTIFICIAL INTELLIGENCE COMMISSION; REPORT

9 On or before January 15, 2022, the Commission shall include the following  
10 in its report required under 3 V.S.A. § 5111(d)(3):

11 (1) a proposal, in coordination with the Agency of Commerce and  
12 Community Development, for incentives and mechanisms to promote the  
13 growth of businesses engaged in the ethical development and use of artificial  
14 intelligence systems in Vermont, including ways to provide increased access to  
15 accelerated computing, create co-working spaces, and create grant programs to  
16 fund artificial intelligence initiatives; and

17 (2) a proposal, in coordination with the Agency of Education, for  
18 creating programs to increase awareness of artificial intelligence systems  
19 among students, teachers, and the general public.

1 ~~Sec. 4. ARTIFICIAL INTELLIGENCE COMMISSION; POSITION;~~

2 ~~APPROPRIATION~~

3 ~~(a) The establishment of the permanent classified position of Technology~~  
4 ~~Director, established in 3 V.S.A. § 5112, is authorized in fiscal year 2021 in~~  
5 ~~the Agency of Commerce and Community Development. This position shall~~  
6 ~~be transferred and converted from existing vacant positions in the Executive~~  
7 ~~Branch and shall not increase the total number of authorized State positions.~~

8 ~~(b) The sum of \$80,000.00 is appropriated to the Agency of Commerce~~  
9 ~~and Community Development from the General Fund in fiscal year 2021 for~~  
10 ~~the position described in subsection (a) of this section.~~

11 Sec. 5. EFFECTIVE DATE

12 ~~This act shall take effect on July 1, 2021.~~

*Sec. 1. FINDINGS; INTENT*

*(a) The General Assembly finds that:*

*(1) The Vermont Artificial Intelligence Task Force (Task Force), established by 2018 Acts and Resolves No. 137, Sec. 1, as amended by 2019 Acts and Resolves No. 61, Sec. 20, met from September 2018 through January 2020 to investigate the field of artificial intelligence (AI) and make recommendations for State action and policies with respect to this new technology.*

(2) The Task Force found that this technology presents tremendous opportunities for economic growth and improved quality of life but also presents substantial risks of loss of some jobs and invasions of privacy and other impacts to civil liberties.

(3) Large-scale technological change makes states rivals for the economic rewards, where inaction leaves states behind. States can become leaders in crafting appropriate responses to technological change that eventually produces policy and action around the country.

(4) The Task Force determined that there are steps that the State can take to maximize the opportunities and reduce the risk, but action must be taken now. The Task Force concluded that there is a role for local and State action, especially where national and international action is not occurring.

(5) The final report of the Task Force presents a series of recommendations for policies and actions consistent with the limited role of Vermont to direct the path of AI development and use in the State. The final report also concludes that Vermont can make a difference, maximize the benefits of AI, and minimize, or adapt to, the adverse consequences.

(b) It is the intent of the General Assembly to carry out the work of the Task Force by creating the Artificial Intelligence Commission to implement some of the specific recommendations of the Task Force and conduct an inventory of all

automated decision systems that are being developed, used, or procured by the State.

*Sec. 2. 3 V.S.A. § 3303 is amended to read:*

*§ 3303. REPORTING, RECORDS, AND REVIEW REQUIREMENTS*

*(a) Annual report and budget. The Secretary shall submit to the General Assembly, concurrent with the Governor's annual budget request required under 32 V.S.A. § 306, an annual report for information technology and cybersecurity. The report shall reflect the priorities of the Agency and shall include:*

*(1) performance metrics and trends, including baseline and annual measurements, for each division of the Agency;*

*(2) a financial report of revenues and expenditures to date for the current fiscal year;*

*(3) costs avoided or saved as a result of technology optimization for the previous fiscal year;*

*(4) an outline summary of information, including scope, schedule, budget, and status for information technology projects with total costs of \$500,000.00 or greater;*

*(5) an annual update to the strategic plan prepared pursuant to subsection (c) of this section;*

*(6) a summary of independent reviews as required by subsection (d) of this section; ~~and~~*

*(7) the Agency budget submission; and*

*(8) an annual update to the inventory required by section 3305 of this title.*

\* \* \*

*Sec. 3. 3 V.S.A. § 3305 is added to read:*

*§ 3305. AUTOMATED DECISION SYSTEM; STATE PROCUREMENT;*

*INVENTORY*

*(a) Definitions. As used in this section:*

*(1) “Algorithm” means a computerized procedure consisting of a set of steps used to accomplish a determined task.*

*(2) “Automated decision system” means any algorithm, including one incorporating machine learning or other artificial intelligence techniques, that uses data-based analytics to make or support government decisions, judgments, or conclusions.*

*(3) “Automated final decision system” means an automated decision system that makes final decisions, judgments, or conclusions without human intervention.*

(4) “Automated support decision system” means an automated decision system that provides information to inform the final decision, judgment, or conclusion of a human decision maker.

(5) “State government” has the same meaning as in section 3301 of this chapter.

(b) Inventory. The Agency of Digital Services shall conduct a review and make an inventory of all automated decision systems that are being developed, employed, or procured by State government. The inventory shall include the following for each automated decision system:

(1) the automated decision system’s name and vendor;

(2) a description of the automated decision system’s general capabilities, including:

(A) reasonably foreseeable capabilities outside the scope of the agency’s proposed use; and

(B) whether the automated decision system is used or may be used for independent decision-making powers and the impact of those decisions on Vermont residents;

(3) the type or types of data inputs that the technology uses; how that data is generated, collected, and processed; and the type or types of data the automated decision system is reasonably likely to generate;

(4) whether the automated decision system has been tested by an independent third party, has a known bias, or is untested for bias;

(5) a description of the purpose and proposed use of the automated decision system, including:

(A) what decision or decisions it will be used to make or support;

(B) whether it is an automated final decision system or automated support decision system; and

(C) its intended benefits, including any data or research relevant to the outcome of those results;

(6) how automated decision system data is securely stored and processed and whether an agency intends to share access to the automated decision system or the data from that automated decision system with any other entity, and why; and

(7) a description of the IT fiscal impacts of the automated decision system, including:

(A) initial acquisition costs and ongoing operating costs, such as maintenance, licensing, personnel, legal compliance, use auditing, data retention, and security costs;

(B) any cost savings that would be achieved through the use of the technology; and

(C) any current or potential sources of funding, including any subsidies or free products being offered by vendors or governmental entities.

Sec. 4. AUTOMATED DECISION SYSTEM; STATE PROCUREMENT; INVENTORY; REPORT

On or before December 1, 2022, the Agency of Digital Services shall submit to the House Committee on Energy and Technology and the Senate Committee on Finance a report on the inventory described in 3 V.S.A. § 3305. The report shall include recommendations for any changes to the inventory, including how it should be maintained and the frequency of updates.

Sec. 5. 3 V.S.A. chapter 69 is added to read:

CHAPTER 69. ARTIFICIAL INTELLIGENCE COMMISSION

§ 5011. ARTIFICIAL INTELLIGENCE COMMISSION

(a) Definition. As used in this section, “artificial intelligence systems” means systems capable of perceiving an environment through data acquisition and then processing and interpreting the derived information to take an action or actions or to imitate intelligent behavior given a specific goal. An artificial intelligence system can also learn and adapt its behavior by analyzing how the environment is affected by prior actions.

(b) Creation. There is established the Artificial Intelligence Commission within the Agency of Digital Services to study and monitor all aspects of

artificial intelligence systems developed, employed, or procured in State government.

(c) Membership. The Commission shall be composed of the following seven members:

(1) the Secretary of Digital Services or designee, who shall serve as chair;

(2) the Secretary of Commerce and Community Development or designee;

(3) the Commissioner of Public Safety or designee;

(4) the Executive Director of the American Civil Liberties Union of Vermont or designee;

(5) one member who is an expert in constitutional and legal rights, appointed by the Chief Justice of the Supreme Court;

(6) one member who is a social worker with experience in the field of ethics and human rights, appointed by the Governor; and

(7) one member who is an academic at a postsecondary institute, appointed by the Vermont Academy of Science and Engineering.

(d) Powers and duties. The Commission shall study and monitor artificial intelligence systems developed, employed, or procured in State government, including the following:

(1) propose for adoption by the Agency of Digital Services a State code of ethics for artificial intelligence in State government, which shall be updated annually;

(2) make recommendations to the General Assembly on policies, laws, and regulations for artificial intelligence systems in State government;

(3) review the automated decision systems inventory created by the Agency of Digital Services, including:

(A) whether any systems affect the constitutional or legal rights, duties, or privileges of any Vermont resident; and

(B) whether there are any potential liabilities or risks that the State of Vermont could incur from its implementation; and

(4) annually, on or before January 15 each year, report to the House Committee on Energy and Technology and the Senate Committees on Finance and on Government Operations on the following:

(A) the extent of the use of artificial intelligence systems by State government and any short- or long-term actions needed to optimize that usage or mitigate their risks;

(B) the impact of using artificial intelligence systems in State government on the liberty, finances, livelihood, and privacy interests of Vermont residents;

(C) any necessary policies to:

(i) protect the privacy and interests of Vermonters from any diminution caused by employment of artificial intelligence systems by State government; and

(ii) ensure that Vermonters are free from unfair discrimination caused or compounded by the employment of artificial intelligence in State government;

(D) a summary of the recommendations of any relevant national bodies on artificial intelligence, including the National Artificial Intelligence Advisory Committee established by the Department of Commerce, and its applicability to Vermont; and

(E) any other information the Commission deems appropriate based on its work.

(e) Meetings. The Commission shall meet ~~at least 12 times~~ not more than 12 times each year or at the call of the Chair.

(f) Quorum. A majority of members shall constitute a quorum of the Commission. Once a quorum has been established, the vote of a majority of the members present at the time of the vote shall be an act of the Commission.

(g) Assistance. The Commission shall have the administrative, legal, and technical support of the Agency of Digital Services.

(h) Reimbursement. Members of the Commission who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for

their attendance shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010. Payment to the members shall be from an appropriation to the Agency of Digital Services from the Information Technology Internal Service Fund, established in section 3304 of this chapter.

*Sec. 6. ARTIFICIAL INTELLIGENCE COMMISSION; REPORTS AND  
RECOMMENDATIONS*

(a) On or before January 15, 2023, the Commission shall include the State code of ethics as described in 3 V.S.A. § 5011(d)(1) in its report required under 3 V.S.A. § 5011(d)(4).

(b) On or before January 15, 2024, the Commission shall develop recommendations for a clear use and data management policy for State government in its report required under 3 V.S.A. § 5011(d)(4), including protocols for the following:

(1) how and when an automated decision system will be deployed or used and by whom, including:

(A) the factors that will be used to determine where, when, and how the technology is deployed;

(B) whether the technology will be operated continuously or used only under specific circumstances; and

(C) when the automated decision system may be accessed, operated, or used by another entity on the agency's behalf and any applicable protocols;

(2) whether the automated decision system gives notice to an individual impacted by the automated decision system of the fact that the automated decision system is in use and what information should be provided with consideration to the following:

(A) the automated decision system's name and vendor;

(B) what decision or decisions it will be used to make or support;

(C) whether it is an automated final decision system or automated support decision system;

(D) what policies and guidelines apply to its deployment;

(E) whether a human verifies or confirms decisions made by the automated decision system; and

(F) how an individual can contest any decision made involving the automated decision system;

(3) whether the automated decision system ensures that the agency can explain the basis for its decision to any impacted individual in terms understandable to a layperson, including:

(A) by requiring the vendor to create such an explanation;

(B) whether the automated decision system is subject to appeal or immediate suspension if a legal right, duty, or privilege is impacted by the decision; and

(C) potential reversal by a human decision maker through a timely process clearly described and accessible to an individual impacted by the decision; and

(4) what policies the State should have for a third-party entity to disclose potential conflicts of interest prior to purchasing or using their technology and how the State should evaluate those conflicts with respect to how the State intends to implement the technology.

(c) On or before January 15, 2025, the Commission shall recommend for inclusion in its report required under 3 V.S.A. § 5011(d)(4):

(1) whether the scope of the Commission should be expanded to include artificial intelligence outside of State government;

(2) whether there should be any changes to the structural oversight, membership, or powers and duties of the Commission;

(3) whether the Commission should cease to exist on a certain date; and

(4) whether there are any other additional tasks the Commission should complete.

(d) As used in this section:

(1) “Automated decision system” means any algorithm, including one incorporating machine learning or other artificial intelligence techniques, that uses data-based analytics to make or support government decisions, judgments, or conclusions.

(2) “Automated final decision system” means an automated decision system that makes final decisions, judgments, or conclusions without human intervention.

(3) “Automated support decision system” means an automated decision system that provides information to inform the final decision, judgment, or conclusion of a human decision maker.

*Sec. 7. ARTIFICIAL INTELLIGENCE COMMISSION; POSITION;*

*APPROPRIATION*

(a) The establishment of the permanent classified position is authorized in fiscal year 2023 in the Agency of Digital Services to manage and implement the work of the Artificial Intelligence Commission, established in 3 V.S.A. § 5011, and to serve as the State expert on artificial intelligence use and oversight within State government. This position shall be transferred and converted from existing vacant positions in the Executive Branch and shall not increase the total number of authorized State positions.

(b) The sum of \$150,000.00 is appropriated to the Agency of Digital Services from the Information Technology Internal Service Fund, established in 3 V.S.A. § 3304, in fiscal year 2021 for the position described in subsection (a) of this section.

*Sec. 8. EFFECTIVE DATE*

This act shall take effect on July 1, 2022.