1   TO THE HOUSE OF REPRESENTATIVES:

2   The Committee on Energy and Technology to which was referred House

3   Bill No. 410 entitled "An act relating to the creation of the Artificial

4   Intelligence Commission" respectfully reports that it has considered the same

5   and recommends that the bill be amended by striking out all after the enacting

6   clause and inserting in lieu thereof the following:

7   Sec. 1. FINDINGS; INTENT

8   (a) The General Assembly finds that:

9   (1) The Vermont Artificial Intelligence Task Force (Task Force),

10   established by 2018 Acts and Resolves No. 137, Sec. 1, as amended by 2019

11   Acts and Resolves No. 61, Sec. 20, met from September 2018 through January

12   2020 to investigate the field of artificial intelligence (AI) and make

13   recommendations for State action and policies with respect to this new

14   technology.

15   (2) The Task Force found that this technology presents tremendous

16   opportunities for economic growth and improved quality of life but also

17   presents substantial risks of loss of some jobs and invasions of privacy and

18   other impacts to civil liberties.

19   (3) Large-scale technological change makes states rivals for the

20   economic rewards, where inaction leaves states behind. States can become

1   leaders in crafting appropriate responses to technological change that

2   eventually produces policy and action around the country.

3   (4) The Task Force determined that there are steps that the State can

4   take to maximize the opportunities and reduce the risk, but action must be

5   taken now. The Task Force concluded that there is a role for local and State

6   action, especially where national and international action is not occurring.

7   (5) The final report of the Task Force presents a series of

8   recommendations for policies and actions consistent with the limited role of

9   Vermont to direct the path of AI development and use in the State. The final

10   report also concludes that Vermont can make a difference, maximize the

11   benefits of AI, and minimize, or adapt to, the adverse consequences.

12   (b) It is the intent of the General Assembly to carry out the work of the

13   Task Force by creating the Artificial Intelligence Commission to implement

14   some of the specific recommendations of the Task Force and conduct an

15   inventory of all automated decision systems that are being developed, used, or

16   procured by the State.

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

18   § 3303. REPORTING, RECORDS, AND REVIEW REQUIREMENTS

19   (a) Annual report and budget. The Secretary shall submit to the General

20   Assembly, concurrent with the Governor's annual budget request required

21   under 32 V.S.A. § 306, an annual report for information technology and

1   cybersecurity. The report shall reflect the priorities of the Agency and shall

2   include:

3   (1) performance metrics and trends, including baseline and annual

4   measurements, for each division of the Agency;

5   (2) a financial report of revenues and expenditures to date for the current

6   fiscal year;

7   (3) costs avoided or saved as a result of technology optimization for the

8   previous fiscal year;

9   (4) an outline summary of information, including scope, schedule,

10   budget, and status for information technology projects with total costs of

11   $500,000.00 or greater;

12   (5) an annual update to the strategic plan prepared pursuant to

13   subsection (c) of this section;

14   (6) a summary of independent reviews as required by subsection (d) of

15   this section; ~~and~~

16   (7) the Agency budget submission; and

17   (8) an annual update to the inventory required by section 3305 of this

18   title.

19   * * *

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

2   § 3305. AUTOMATED DECISION SYSTEM; STATE PROCUREMENT;

3   INVENTORY

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

5   (1) "Algorithm" means a computerized procedure consisting of a set of

6   steps used to accomplish a determined task.

7   (2) "Automated decision system" means any algorithm, including one

8   incorporating machine learning or other artificial intelligence techniques, that

9   uses data-based analytics to make or support government decisions, judgments,

10   or conclusions.

11   (3) "Automated final decision system" means an automated decision

12   system that makes final decisions, judgments, or conclusions without human

13   intervention.

14   (4) "Automated support decision system" means an automated decision

15   system that provides information to inform the final decision, judgment, or

16   conclusion of a human decision maker.

17   (5) "State government" has the same meaning as in section 3301 of this

18   chapter.

19   (b) Inventory. The Agency of Digital Services shall conduct a review and

20   make an inventory of all automated decision systems that are being developed,

1   employed, or procured by State government. The inventory shall include the

2   following for each automated decision system:

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

4   (2) a description of the automated decision system's general capabilities,

5   including:

6   (A) reasonably foreseeable capabilities outside the scope of the

7   agency's proposed use; and

8   (B) whether the automated decision system is used or may be used

9   for independent decision-making powers and the impact of those decisions on

10   Vermont residents;

11   (3) the type or types of data inputs that the technology uses; how that

12   data is generated, collected, and processed; and the type or types of data the

13   automated decision system is reasonably likely to generate;

14   (4) whether the automated decision system has been tested by an

15   independent third party, has a known bias, or is untested for bias;

16   (5) a description of the purpose and proposed use of the automated

17   decision system, including:

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

19   (B) whether it is an automated final decision system or automated

20   support decision system; and

1   (C) its intended benefits, including any data or research relevant to

2   the outcome of those results;

3   (6) how automated decision system data is securely stored and

4   processed and whether an agency intends to share access to the automated

5   decision system or the data from that automated decision system with any

6   other entity, and why; and

7   (7) a description of the IT fiscal impacts of the automated decision

8   system, including:

9   (A) initial acquisition costs and ongoing operating costs, such as

10   maintenance, licensing, personnel, legal compliance, use auditing, data

11   retention, and security costs;

12   (B) any cost savings that would be achieved through the use of the

13   technology; and

14   (C) any current or potential sources of funding, including any

15   subsidies or free products being offered by vendors or governmental entities.

16   Sec. 4. AUTOMATED DECISION SYSTEM; STATE PROCUREMENT;

17   INVENTORY; REPORT

18   On or before December 1, 2022, the Agency of Digital Services shall

19   submit to the House Committee on Energy and Technology and the Senate

20   Committee on Finance a report on the inventory described in 3 V.S.A. § 3305.

1   The report shall include recommendations for any changes to the inventory,

2   including how it should be maintained and the frequency of updates.

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

4   CHAPTER 69. ARTIFICIAL INTELLIGENCE COMMISSION

5   § 5011. 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 established the Artificial Intelligence Commission

13   within the Agency of Digital Services to study and monitor all aspects of

14   artificial intelligence systems developed, employed, or procured in State

15   government.

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

17   seven members:

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

19   chair;

20   (2) the Secretary of Commerce and Community Development or

21   designee;

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

2   (4) the Executive Director of the American Civil Liberties Union of

3 Vermont or designee;

4   (5) one member who is an expert in constitutional and legal rights,

5 appointed by the Chief Justice of the Supreme Court;

6   (6) one member who is a social worker with experience in the field of

7 ethics and human rights, appointed by the Governor; and

8   (7) one member who is an academic at a postsecondary institute,

9 appointed by the Vermont Academy of Science and Engineering.

10 (d) Powers and duties. The Commission shall study and monitor artificial

11 intelligence systems developed, employed, or procured in State government,

12 including the following:

13   (1) propose for adoption by the Agency of Digital Services a State code

14 of ethics for artificial intelligence in State government, which shall be updated

15 annually;

16   (2) make recommendations to the General Assembly on policies, laws,

17 and regulations for artificial intelligence systems in State government;

18   (3) review the automated decision systems inventory created by the

19 Agency of Digital Services, including:

20   (A) whether any systems affect the constitutional or legal rights,

21 duties, or privileges of any Vermont resident; and

1   (B) whether there are any potential liabilities or risks that the State of

2   Vermont could incur from its implementation; and

3   (4) annually, on or before January 15 each year, report to the House

4   Committee on Energy and Technology and the Senate Committees on Finance

5   and on Government Operations on the following:

6   (A) the extent of the use of artificial intelligence systems by State

7   government and any short-or long-term actions needed to optimize that usage

8   or mitigate their risks;

9   (B) the impact of using artificial intelligence systems in State

10   government on the liberty, finances, livelihood, and privacy interests of

11   Vermont residents;

12   (C) any necessary policies to:

13   (i) protect the privacy and interests of Vermonters from any

14   diminution caused by employment of artificial intelligence systems by State

15   government; and

16   (ii) ensure that Vermonters are free from unfair discrimination

17   caused or compounded by the employment of artificial intelligence in State

18   government;

19   (D) a summary of the recommendations of any relevant national

20   bodies on artificial intelligence, including the National Artificial Intelligence

1   Advisory Committee established by the Department of Commerce, and its

2   applicability to Vermont; and

3   (E) any other information the Commission deems appropriate based

4   on its work.

5   (e) Meetings. The Commission shall meet at least 12 times each year or at

6   the call of the Chair.

7   (f) Quorum. A majority of members shall constitute a quorum of the

8   Commission. Once a quorum has been established, the vote of a majority of

9   the members present at the time of the vote shall be an act of the Commission.

10   (g) Assistance. The Commission shall have the administrative, legal, and

11   technical support of the Agency of Digital Services.

12   (h) Reimbursement. Members of the Commission who are not employees

13   of the State of Vermont and who are not otherwise compensated or reimbursed

14   for their attendance shall be entitled to compensation and expenses as provided

15   in 32 V.S.A. § 1010. Payment to the members shall be from an appropriation

16   to the Agency of Digital Services from the Information Technology Internal

17   Service Fund, established in section 3304 of this chapter.

1   Sec. 6. ARTIFICIAL INTELLIGENCE COMMISSION; REPORTS AND

2   RECOMMENDATIONS

3   (a) On or before January 15, 2023, the Commission shall include the State

4   code of ethics as described in 3 V.S.A. § 5011(d)(1) in its report required under

5   3 V.S.A. § 5011(d)(4).

6   (b) On or before January 15, 2024, the Commission shall develop

7   recommendations for a clear use and data management policy for State

8   government in its report required under 3 V.S.A. § 5011(d)(4), including

9   protocols for the following:

10   (1) how and when an automated decision system will be deployed or

11   used and by whom, including:

12   (A) the factors that will be used to determine where, when, and how

13   the technology is deployed;

14   (B) whether the technology will be operated continuously or used

15   only under specific circumstances; and

16   (C) when the automated decision system may be accessed, operated,

17   or used by another entity on the agency's behalf and any applicable protocols;

18   (2) whether the automated decision system gives notice to an individual

19   impacted by the automated decision system of the fact that the automated

20   decision system is in use and what information should be provided with

21   consideration to the following:

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

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

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

4 support decision system;

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

6   (E) whether a human verifies or confirms decisions made by the

7 automated decision system; and

8   (F) how an individual can contest any decision made involving the

9 automated decision system;

10   (3) whether the automated decision system ensures that the agency can

11 explain the basis for its decision to any impacted individual in terms

12 understandable to a layperson, including:

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

14   (B) whether the automated decision system is subject to appeal or

15 immediate suspension if a legal right, duty, or privilege is impacted by the

16 decision; and

17   (C) potential reversal by a human decision maker through a timely

18 process clearly described and accessible to an individual impacted by the

19 decision; and

20   (4) what policies the State should have for a third-party entity to

21 disclose potential conflicts of interest prior to purchasing or using their

1   technology and how the State should evaluate those conflicts with respect to

2   how the State intends to implement the technology.

3   (c) On or before January 15, 2025, the Commission shall recommend for

4   inclusion in its report required under 3 V.S.A. § 5011(d)(4):

5   (1) whether the scope of the Commission should be expanded to include

6   artificial intelligence outside of State government;

7   (2) whether there should be any changes to the structural oversight,

8   membership, or powers and duties of the Commission;

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

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

11   complete.

12   (d) As used in this section:

13   (1) "Automated decision system" means any algorithm, including one

14   incorporating machine learning or other artificial intelligence techniques, that

15   uses data-based analytics to make or support government decisions, judgments,

16   or conclusions.

17   (2) "Automated final decision system" means an automated decision

18   system that makes final decisions, judgments, or conclusions without human

19   intervention.

1   (3) "Automated support decision system" means an automated decision

2   system that provides information to inform the final decision, judgment, or

3   conclusion of a human decision maker.

4   Sec. 7. ARTIFICIAL INTELLIGENCE COMMISSION; POSITION;

5   APPROPRIATION

6   (a) The establishment of the permanent classified position is authorized in

7   fiscal year 2023 in the Agency of Digital Services to manage and implement

8   the work of the Artificial Intelligence Commission, established in 3 V.S.A.

9   § 5011, and to serve as the State expert on artificial intelligence use and

10   oversight within State government. This position shall be transferred and

11   converted from existing vacant positions in the Executive Branch and shall not

12   increase the total number of authorized State positions.

13   (b) The sum of $150,000.00 is appropriated to the Agency of Digital

14   Services from the Information Technology Internal Service Fund, established

15   in 3 V.S.A. § 3304, in fiscal year 2021 for the position described in subsection

16   (a) of this section.

17   Sec. 8. EFFECTIVE DATE

18   This act shall take effect on July 1, 2022.

19   and that after passage the title of the bill be amended to read: "An act

20   relating to the use and oversight of artificial intelligence in State government"

1   (Committee vote: _____)

2   _____

3   Representative _____

4   FOR THE COMMITTEE