

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 § 3305 of this title.

18 * * *

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

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

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

2 including:

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

5 (B) whether the automated decision system is used or may be used
6 for independent decision-making powers on humans or that impact humans;

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7 and

8 (C) whether the automated decision system makes recommendations
9 affecting the constitutional or legal rights, duties, or privileges of any Vermont

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10 resident;

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

2 demonstrating 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 in State government.

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

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

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

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

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

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

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

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

9 (d) Powers and duties. The Commission shall study and monitor the
10 growth of artificial intelligence systems in State government, including the
11 following:

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

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

17 (3) review the automated decision systems inventory created by the
18 Agency of Digital Services; and

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

1 (A) the extent of the use of artificial intelligence systems by State
2 government and any actions needed to optimize that usage;

3 (B) the impact of using artificial intelligence systems in State
4 government on the privacy interests of citizens, as well as their liberty,
5 finances, and livelihood, and any necessary policies to protect the privacy and
6 interests of Vermonters from any diminution caused by employment of
7 artificial intelligence systems by State government; and

8 (C) any other information the Commission deems appropriate based
9 on its work.

10 (e) Meetings. The Commission shall meet at least one time each month or
11 at the call of the Chair.

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

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

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

1 § 5012. TECHNOLOGY DIRECTOR; POSITION

2 There is created within the Agency of Digital Services the position of
3 Technology Director to manage and implement the work of the Artificial
4 Intelligence Commission established in section 5011 of this title and to serve
5 as the State expert on artificial intelligence use and oversight within State
6 government.

7 Sec. 6. ARTIFICIAL INTELLIGENCE COMMISSION; REPORTS

8 (a) On or before January 15, 2023, the Commission shall include the State
9 code of ethics as described in 3 V.S.A. § 5011(d)(1) in its report required under
10 3 V.S.A. § 5011(d)(4).

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

15 (1) recommendations for a clear use and data management policy for
16 State government, including protocols for the following:

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

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

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

3 (iii) when the automated decision system may be accessed,
4 operated, or used by another entity on the agency’s behalf, and any applicable
5 protocols;

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

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

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

12 (iii) whether it is an automated final decision system or automated
13 support decision system;

14 (iv) what policies and guidelines apply to its deployment;

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

17 (vi) how an individual can contest any decision made involving
18 the automated decision system;

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

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

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

5 (iii) potential reversal by a human decision maker through a
6 timely process clearly described and accessible to an individual impacted by
7 the decision.

8 (c) As used in this section:

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

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

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

1 Sec. 7. 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. § 5012, is authorized in fiscal year 2023 in
5 the Agency of Digital Services. This position shall be transferred and
6 converted from existing vacant positions in the Executive Branch and shall not
7 increase the total number of authorized State positions.

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

12 Sec. 8. EFFECTIVE DATE

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

14 and that after passage the title of the bill be amended to read: “An act
15 relating to the use and oversight of artificial intelligence in State government”

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1 (Committee vote: _____)

2 _____

3 Representative _____

4 FOR THE COMMITTEE