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## IN SENATE

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Introduced by Sens. GONZALEZ, GOUNARDES, JACKSON -- read twice and ordered printed, and when printed to be committed to the Committee on Internet and Technology

AN ACT to amend the state technology law, in relation to establishing the position of chief artificial intelligence officer and the functions, powers and duties therefor

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 101 of the state technology law is amended by  
2 adding two new subdivisions 7 and 8 to read as follows:

3 7. "Artificial intelligence" or "AI" shall mean: (a) a machine-based  
4 system that operates with varying levels of autonomy and that may exhibit  
5 it adaptiveness after deployment and that, for explicit or implicit  
6 objectives, infers, from the input the system receives, how to generate  
7 outputs such as predictions, content, recommendations, or decisions that  
8 may influence physical or virtual environments. This includes, but is  
9 not limited to, systems, applications, software, or devices designed to:

10 (i) Sense, interpret, process, analyze, or otherwise comprehend data,  
11 text, speech, voice, images, video, sensor inputs, or other forms of  
12 information from physical and virtual environments.

13 (ii) Abstract concepts, detect patterns, extract features, develop  
14 explanatory and predictive data models, or otherwise derive higher-order  
15 insights through analysis of data and information.

16 (iii) Apply reasoning, decision logic, knowledge representation,  
17 prediction models, data model inferences, or other structured and  
18 unstructured techniques and capabilities to generate options, recommen-  
19 dations, forecasts, determinations, conclusions, actions, or other  
20 outputs that influence physical or virtual environments, systems, appli-  
21 cations, devices, or decision-making.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 (iv) Operate autonomously once deployed, regardless of whether  
2 designed to allow human monitoring, oversight, intervention, or over-  
3 ride.

4 (b) This definition shall not include any software used primarily for  
5 basic computerized processes, such as calculators, spell check tools,  
6 autocorrect functions, spreadsheets, electronic communications, or any  
7 tool that relates only to internal management affairs such as ordering  
8 office supplies or processing payments, and that do not materially  
9 affect the rights, liberties, safety or welfare of any human.

10 8. "Automated decision-making system" shall mean any software that  
11 uses algorithms, computational models, or artificial intelligence, or a  
12 combination thereof, to automate, support, or replace human decision-  
13 making and shall include, without limitation, systems that process data,  
14 and apply predefined rules or machine learning algorithms to analyze  
15 such data, and generate conclusions, recommendations, outcomes, assump-  
16 tions, projections, or predictions. "Automated decision-making system"  
17 shall not include any software used primarily for basic computerized  
18 processes, such as calculators, spell check tools, autocorrect func-  
19 tions, spreadsheets, electronic communications, or any tool that relates  
20 only to internal management affairs such as ordering office supplies or  
21 processing payments, and that do not materially affect the rights,  
22 liberties, safety or welfare of any human.

23 § 2. The state technology law is amended by adding a new section 102-a  
24 to read as follows:

25 § 102-a. Chief artificial intelligence officer; functions, powers and  
26 duties. 1. There is hereby established the office of artificial intelli-  
27 gence within the office. The head of such office shall be the chief  
28 artificial intelligence officer and shall be appointed by the governor  
29 with the advice and consent of the senate. The chief artificial intelli-  
30 gence officer shall be in sole charge of the administration of the  
31 office, and shall report to the executive department. The chief artifi-  
32 cial intelligence officer shall be designated as management confidential  
33 in the noncompetitive class in accordance with the civil service law.  
34 The chief artificial intelligence officer shall have expertise in arti-  
35 ficial intelligence, data privacy, and the technology industry.

36 2. The office of artificial intelligence shall have the following  
37 functions, powers and duties:

38 (a) Develop statewide artificial intelligence policies and governance,  
39 including but not limited to:

40 (i) Developing and updating state policy and guidelines on the use,  
41 procurement, development, and deployment of artificial intelligence and  
42 automated decision-making systems in a manner consistent with state  
43 laws;

44 (ii) Developing and updating a handbook regarding the use, study,  
45 development, evaluation, and procurement of systems that use artificial  
46 intelligence, in a manner consistent with state and federal laws, and  
47 national and international standards for use by the state's departments,  
48 boards, commissions, agencies and authorities;

49 (iii) Developing a risk management plan, including procedures for  
50 assessing and classifying risk levels, including, but not limited to,  
51 pertaining to the operations of the state, data security and privacy,  
52 and the rights, liberties, safety and welfare of any human for use of  
53 artificial intelligence and automated decision-making systems by the  
54 state's departments, boards, commissions, agencies and authorities; and

55 (iv) Setting governance standards for human oversight of artificial  
56 intelligence and automated systems, and determining resource require-

1 ments for responsible adoption, including, but not limited to developing  
2 and deploying employee training programs for safe and responsible use of  
3 artificial intelligence; and

4 (v) Ensuring public access requirements are established for the publi-  
5 cation of information related to each state agency use of automated  
6 decision-making systems and artificial intelligence;

7 (b) Coordinate the activities of any and all state departments,  
8 boards, commissions, agencies and authorities performing any functions  
9 using artificial intelligence tools;

10 (c) Coordinate and track state department, board, commission, agency  
11 and authority procurement and planning in state programs;

12 (d) Investigate and assess what resources, monetary or otherwise, if  
13 any, a department, board, commission, authority or agency requires to  
14 adapt to the changes that artificial intelligence will bring to the  
15 regulatory landscape and to adequately adopt and oversee the use of  
16 artificial intelligence across its operations;

17 (e) Provide guidance to governmental entities in developing, designing  
18 and deploying standards, mission, regulations, investments, practices,  
19 systems pertaining to the use of artificial intelligence tools and auto-  
20 mated decision-making systems, in a manner that protects the rights and  
21 safety of individuals, including but not limited to employee training,  
22 protecting privacy and data security, safeguarding against discrimi-  
23 nation based on race, gender, ethnicity, religion, disability, sexual  
24 orientation, or socioeconomic status, mitigating risks of misinformation  
25 and manipulation, and impact on the human workforce;

26 (f) Recommend the replacement, disconnection or deactivation of any  
27 application that utilizes artificial intelligence or any automated deci-  
28 sion-making system and that demonstrates that deployment and use is  
29 inconsistent with provisions of law or is otherwise harmful to the oper-  
30 ations of the state, data security and privacy, or the rights, liber-  
31 ties, safety, and welfare of any human;

32 (g) Study the implications of the usage of artificial intelligence for  
33 data collection to inform testing and evaluation, verification and vali-  
34 dation of artificial intelligence to ensure that artificial intelligence  
35 will perform as intended, including when interacting with humans and  
36 other systems, develop common metrics to assess trustworthiness that  
37 artificial intelligence systems will perform as intended, and minimize  
38 performance problems and unanticipated outcomes, protect against risks  
39 to data security and privacy, and address the possibility of intentional  
40 misuse of an artificial intelligence system;

41 (h) Submit a report annually to the temporary president of the senate  
42 and the speaker of the assembly on progress, findings, studies and  
43 recommendations regarding the use of artificial intelligence and auto-  
44 mated decision-making systems in the various government agencies. Such  
45 report shall also be made publicly available on the office of informa-  
46 tion technology website. Where the chief artificial intelligence officer  
47 makes a determination that such disclosure would result in a substantial  
48 negative impact on health or safety of the public, infringe upon the  
49 privacy rights of individuals, or significantly impair the state's abil-  
50 ity to protect its information technology or operational assets, the  
51 officer may redact such information, provided an explanatory statement  
52 by which such determination was made is published along with the redact-  
53 ed report. The provisions of this subdivision shall not be deemed to  
54 require or authorize the disclosure of confidential information or trade  
55 secrets; and

1 (i) Investigate and conduct periodic audits of any department's,  
2 board's, commission's, agency's or authority's use of artificial intel-  
3 ligence tools or automated decision-making systems to ensure:

4 (i) departments, boards, commissions, agencies and authorities devel-  
5 op, acquire and use such tools or systems that comply with the constitu-  
6 tion, state and federal laws;

7 (ii) ensure that any benefit a department, board, commission, agency  
8 or authority receives by using such tools or systems outweighs any risk  
9 in using that automated system;

10 (iii) ensure that each such tool or system is secure, protected and  
11 resistant to circumstances in which that automated system faces any  
12 systematic vulnerability, manipulation or malicious exploitation; and

13 (iv) nothing in this section shall be construed as restricting the  
14 artificial intelligence officer's or any state department's, board's,  
15 commission's, authority's or agency's access to:

16 (1) conduct any internal investigation aimed at developing, improving  
17 or repairing any product, service or technology,

18 (2) prevent, detect, protect, respond, investigate, report to any  
19 person responsible for any security incident, identity theft, fraud,  
20 harassment, malicious or misleading activity or illegal activity, or

21 (3) preserve the integrity or security of any system.

22 3. To effectuate the purposes of this section, the chief artificial  
23 intelligence officer may request and receive from any department, divi-  
24 sion, board, bureau, commission or other agency of the state or any  
25 political subdivision thereof or any public authority, staff and other  
26 assistance, information, and resources as will enable the office of  
27 artificial intelligence to properly carry out its functions, powers and  
28 duties.

29 § 3. The state technology law is amended by adding a new section 104-a  
30 to read as follows:

31 § 104-a. Advisory committee for state artificial intelligence policy.

32 1. There is hereby created in the division of broadband access an advi-  
33 sory committee for state artificial intelligence policy. The chief arti-  
34 ficial intelligence officer shall serve as chair of the committee. The  
35 committee shall be composed of a minimum of seven representatives or  
36 their equivalent selected from state agencies and appointed by the  
37 governor, provided that no more than one member shall be appointed from  
38 a single agency, and provided further that the director shall serve as  
39 an ex-officio member of the committee. In addition, one member shall be  
40 appointed by the speaker of the assembly, one by the temporary president  
41 of the senate, and two members to be appointed by the governor at the  
42 recommendation of the two largest organizations in the state represent-  
43 ing municipal leadership.

44 2. All members of the advisory committee shall serve at the pleasure  
45 of their appointing authority. The members of the committee shall  
46 receive no compensation for their services, but shall be allowed their  
47 actual and necessary expenses incurred in the performance of their  
48 duties.

49 3. No member of the advisory committee shall be disqualified from  
50 holding any other public office, nor forfeit any such office by reason  
51 of appointment hereunder, notwithstanding the provisions of any general,  
52 special or local law, ordinance or city charter, provided however that  
53 members appointed by the governor, speaker of the assembly, or temporary  
54 president of the senate shall be considered state officers and subject  
55 to the provisions of paragraph (a) of subdivision eight of section  
56 seventy-three of the public officers law.

1 4. The advisory committee shall, at minimum, meet twice in each calendar  
2 year, provided that additional meetings of the advisory committee  
3 may be called by the chairperson at any time.

4 5. The advisory committee shall:

5 (a) Advise the chief artificial intelligence officer on best practices  
6 for the use of artificial intelligence and automated decision-making  
7 systems in agencies;

8 (b) Advise the chief artificial intelligence officer on state policy  
9 for artificial intelligence and automated decision-making systems;

10 (c) Advise the chief artificial intelligence officer on the current  
11 state of the state in relation to competitiveness in artificial intelli-  
12 gence, including the scope and scale of New York's investments in arti-  
13 ficial intelligence research and development;

14 (d) Advise the chief artificial intelligence officer on improving the  
15 workforce, including use in training, education and worker assistance in  
16 relation to the use of artificial intelligence;

17 (e) Advise the chief artificial intelligence officer on leveraging  
18 local resources to optimize and improve operations in various areas of  
19 government operations, including but not limited to medical services,  
20 cyber security, infrastructure, and recovery from natural disasters;

21 (f) Advise the chief artificial intelligence officer on opportunities  
22 for local, regional, interstate, federal, and international cooperation  
23 in artificial intelligence research activities, standards development  
24 and regulations;

25 (g) Advise the chief artificial intelligence officer on strategies to  
26 prevent and mitigate artificial intelligence-assisted misinformation  
27 campaigns and the potentially harmful effects of artificial intelli-  
28 gence;

29 (h) Advise the chief artificial intelligence officer on how the state  
30 can leverage the substantial and growing expertise of the emerging tech-  
31 nologies, such as artificial intelligence, in the long-term development  
32 of public policies that affect the privacy, rights, and the use of arti-  
33 ficial intelligence online;

34 (i) Advise the chief artificial intelligence officer on strategies for  
35 the development of inter-governmental cooperation among agencies of the  
36 federal, state, and local governments and cooperation; and

37 (j) Make periodic recommendations to the legislature on legislative or  
38 regulatory changes.

39 § 4. Subdivisions 2 and 3 of section 102 of the state technology law,  
40 as added by chapter 430 of the laws of 1997 and as renumbered by chapter  
41 437 of the laws of 2004, are amended to read as follows:

42 2. The head of the office shall be the director of the office, who  
43 shall serve as the chief technology officer for the state of New York  
44 and shall be designated as management confidential in the noncompetitive  
45 class in accordance with the civil service law. The director shall be  
46 the chief executive officer of and in sole charge of the administration  
47 of the office, with exception to the office established pursuant to  
48 section one hundred two-a of this article and the committee established  
49 pursuant to section one hundred four-a of this article. The director  
50 shall be entitled to receive reimbursement for expenses actually and  
51 necessarily incurred by [~~him or her~~] such director in the performance of  
52 [~~his or her~~] such director's duties.

53 3. The director may, from time to time, create, abolish, transfer and  
54 consolidate bureaus and other units within the office not expressly  
55 established by law as [~~he or she~~] such director may determine necessary  
56 for the efficient operation of the office, subject to the approval of

1 the director of the budget, with exception to the office established  
2 pursuant to section one hundred two-a of this article and the committee  
3 established pursuant to section one hundred four-a of this article.  
4 § 5. This act shall take effect on the ninetieth day after it shall  
5 have become a law.