

Department of Legislative Services
 Maryland General Assembly
 2010 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 275 (The President, *et al.*) (By Request - Administration)
 Education, Health, and Environmental Affairs Appropriations and Ways and Means

Education - Maryland Longitudinal Data System

This Administration bill establishes the Maryland Longitudinal Data System (MLDS) as a statewide data system that contains individual-level student data and workforce data from all levels of education and the State’s workforce. The bill also establishes a Maryland Longitudinal Data System Center within State government to serve as a central repository for the data, to ensure compliance with federal privacy laws, to perform research on the data sets, and to fulfill education reporting requirements and approved public information requests.

The governing board of the center must submit an annual report by December 15 to the Governor and the General Assembly.

The bill takes effect July 1, 2010.

Fiscal Summary

State Effect: General fund expenditures increase beginning in FY 2012 to establish MLDS and the center. General fund expenditures also increase beginning in FY 2012 for the Maryland State Department of Education (MSDE) and Maryland Higher Education Commission (MHEC) to support the statewide system. Federal fund revenues and expenditures increase beginning in FY 2011, contingent on receipt of federal funding in 2010 to support development of the system. If federal funds are not available for this purpose, general fund expenditures increase by \$6.6 million in FY 2011 through 2013 to develop MLDS.

(\$ in millions)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
FF Revenue	\$1.1	\$4.5	\$1.0	\$0	\$0
GF Expenditure	\$0	\$4	\$1.3	\$1.9	\$2.0
FF Expenditure	\$1.1	\$4.5	\$1.0	\$0	\$0
Net Effect	\$0	(\$4)	(\$1.3)	(\$1.9)	(\$2.0)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Community college expenditures increase an average of \$50,000 per institution to modify their data reporting to MHEC in FY 2011. If local school systems are required to collect additional data, their administrative costs may increase.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

Maryland Longitudinal Data System

The bill requires MSDE; MHEC; the University System of Maryland (USM); Morgan State University (MSU); St. Mary's College of Maryland (SMCM); and the Department of Labor, Licensing, and Regulation (DLLR) to jointly establish the Maryland Longitudinal Data System, which must be fully operational by December 31, 2014. The purpose of MLDS is to facilitate and enable the linkage of student data and workforce data as well as generate timely and accurate information about student performance that can be used to improve the State's education system and guide decision makers at all levels. MLDS will allow users to effectively organize, manage, disaggregate, and analyze individual student data and to examine student progress and outcomes over time, including preparation for postsecondary education and the workforce. The linkage of student data and workforce data for MLDS is limited to no more than five years beyond the individual's latest attendance in any educational institution in the State. Certain student data is excluded from the system.

Maryland Longitudinal Data System Center

The center must serve as a central repository of the data in MLDS, including data sets provided by MSDE, local education agencies (LEAs), MHEC, institutions of higher education, and DLLR. The center must also oversee and maintain the warehouse of the data system data sets.

The center is required to ensure routine and ongoing compliance with the federal Family Educational Rights and Privacy Act (FERPA) and other relevant privacy laws and policies, including the required use of de-identified data (in which individual-level identity information including State-assigned student identifiers and Social Security numbers have been removed) in data research and reporting; the required disposition of information that is no longer needed; providing data security; and implementing

guidelines and policies that prevent the reporting of other potentially identifying data. The center must provide for the performance of regular audits for compliance with data privacy and security standards.

The center is also charged with conducting research using timely and accurate student and workforce data to improve the State's education system and guide decision making by State and local governments, educational agencies, institutions, teachers, and other education professionals. The center must fulfill information and data requests to facilitate State and federal education reporting with existing State agencies as appropriate and fulfill approved public information requests.

The research conducted by the center must include the impact of State and federal education programs; the performance of educator preparation programs; and best practices regarding classroom instruction, education programs and curriculum, and segment alignment.

Direct access to data in MLDS must be restricted to authorized staff of the center. The center may only use de-identified data in the analysis, research, and reporting conducted by the center. The center may only release aggregate data in reports and in response to data requests. Data that may be identifiable based on the size or uniqueness of the population under consideration may not be reported in any form. The center may not release information that may not be disclosed under FERPA or other relevant privacy laws and policies.

Governing Board of the Center

The organizational placement and location of the center within State government will be determined by the governing board. The executive director of the center will be appointed by the governing board. As provided in the State budget, the center may employ the additional staff necessary to carry out the center's functions. The center may receive funding from State appropriations, LEAs and institutions of higher education, federal grants, user fees, and any other public or private funds. The center must adopt regulations to implement the bill.

The governing board of the center must include the following State officials or their designee: the Secretary of Higher Education; the Chancellor of USM; the President of MSU; the State Superintendent of Schools; the Secretary of Labor, Licensing, and Regulation; and the Executive Director of the Maryland Association of Community Colleges or the executive director's designee. A representative of local superintendents of schools and four members of the public – one with expertise in large data systems and data security – must be appointed by the Governor with the advice and consent of the Senate. Members appointed by the Governor serve three-year terms and may be

reappointed but may not serve more than two consecutive terms. The Governor must appoint a chair of the governing board from among its members.

Governing board members may not receive compensation, but they are entitled to reimbursement for travel expenses.

The governing board is responsible for establishing the organizational placement and location of the center by seeking and evaluating proposals from interested entities based on specific criteria and for developing an implementation plan to phase in the center. The governing board must provide general oversight and direction as well as establish the policy and research agenda of the center. The annual budget of the center must be approved by the governing board. Other governing board responsibilities include developing and overseeing specified policies to comply with privacy measures, designating a standard for electronic transcripts that includes the use of the State-assigned student identifier, and reviewing research requirements for public data requests.

Before incorporating any individual data in MLDS, the governing board must report to the Governor and the General Assembly on the inventory of individual student data proposed to be maintained in the system, the privacy policies of the center, and a data security and safeguarding plan for the center.

The bill expresses legislative intent that the State make every effort to seek federal funding to support the creation and establishment of MLDS and center.

Public and Private Institutions, State Agencies, and Local School Systems

LEAs, community colleges, public four-year higher education institutions, and State agencies must make every effort to comply with the data requirements and implementation schedule for the data system as set forth by the governing board including transferring student and workforce data in accordance with the security and safeguard plan. Private institutions of higher education and private secondary schools may provide student data to the data system.

Current Law/Background: Maryland is working to develop a comprehensive statewide LDS, a key component of applications for Race to the Top funds and one of the assurances that the State was required to make in order to receive funds from the State Fiscal Stabilization Fund (SFSF) authorized by the American Recovery and Reinvestment Act (ARRA) of 2009. Maryland has received already over \$13 million in federal grants, of which \$8 million have been spent, to develop the State's current student-level data system. The current system, managed by MSDE, includes 4 of the 10 essential components of an effective data system as laid out by the *Data Quality Campaign*, which will be used to evaluate LDS in state Race to the Top allocations.

Maryland's system does not link to higher education or a unique teacher identifier, which are two required elements. According to the *Data Quality Campaign*, 31 states have the ability to match student-level prekindergarten to grade 12 data to higher education data.

Maryland is eligible for up to \$250 million of Race to the Top funds. Round 1 applications were due in January 2010. Maryland decided to apply in Round 2 in order to strengthen its application, which is due in June 2010.

In 2009, the Governor appointed a group chaired by the President of the State Board of Education and the USM Chancellor that examined creating a comprehensive Maryland data system. The group's recommendations have been incorporated into an application submitted in November 2009 for a competitive federal grant authorized in ARRA for an additional \$13.1 million to support the development of this educational LDS that will link P-12 data with higher education data. One of the recommendations was that the State establish an independent center to house data for primary and secondary education, higher education, and eventually employers.

The group also considered the privacy issues involved with creating a data warehouse including FERPA compliance. The group received legal advice from the Office of the Attorney General that the proposed center will comply with FERPA. Specifically, the group was advised that private institutions of higher education will not have any increased liability because MHEC intends to re-release their data without identifying information, except a unique number, which will be stripped and, under FERPA, MHEC may redisclose the data for research.

State Fiscal Effect:

One-time System Development

The State applied for a \$13.1 million competitive federal grant to facilitate the creation of the data system and the center. These federal grant funds could have been used to design, develop, and implement the statewide MLDS; however, there are no federal funds for ongoing maintenance or staffing. If the State received the additional \$13.1 million federal grant, an estimated \$6.6 million would have been used for contractual expenses to develop the statewide system; link the statewide system to the MSDE, MHEC, and DLLR systems; and purchase the equipment to contain the data. Although the State did not receive this particular federal grant, other federal funding may still be available for this purpose. Otherwise, these costs would need to be paid for with general funds.

	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>Total</u>
Contractual Expenses	\$945,278	\$1,515,205	\$304,700	\$2,765,183
Equipment	<u>160,000</u>	<u>3,030,000</u>	<u>655,000</u>	<u>3,845,000</u>
Total	\$1,105,278	\$4,545,205	\$959,700	\$6,610,183

The remaining \$6.5 million in competitive federal grants would have been used to support significant additional costs for MSDE and MHEC associated with enhancing the existing P-12 and higher education data systems to meet the requirements for Race to the Top and the pledge made by the State to receive SFSF. The Department of Legislative Services (DLS) finds that these costs are not directly attributable to this bill and are therefore not included in this estimate.

Center Costs

The State is responsible for the ongoing operating expenses for MLDS and the center with costs beginning in fiscal 2012. Once the center is fully operational, beginning in fiscal 2014, general fund expenditures increase an estimated \$1.1 million annually.

This estimate reflects the cost of hiring an executive director, one administrative support staff, and two data analysts to perform the functions and duties of the data center (phased in over two years). Four full-time salaries, fringe benefits, start-up costs, and ongoing operating expenses, as well as ongoing network infrastructure and software licensing costs are included in the estimate.

	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>
New Positions	2	2		
Salaries and Fringe Benefits	\$174,919	\$357,813	\$375,035	\$393,124
Network Infrastructure	0	12,000	24,000	24,000
Software Licensing	0	250,000	500,000	500,000
Start-up/Operating Expenses	<u>8,685</u>	<u>85,731</u>	<u>152,101</u>	<u>152,122</u>
Total	\$183,604	\$705,544	\$1,051,136	\$1,069,246

Future year expenditures reflect full salaries with 4.4% annual increases, 3% employee turnover, and 1% annual increases in ongoing operating expenses.

Ongoing System Costs for MSDE and MHEC

In addition to the contractual expenditures required to link MSDE and MHEC's current data systems to MLDS accounted for above, both agencies' expenditures will increase beginning in fiscal 2012 to support the creation of the statewide MLDS and center.

General fund expenditures increase beginning in fiscal 2012 for MSDE and MHEC to each hire two additional data analysts (one each in fiscal 2012 and 2013) to oversee the linking of the data systems, liaison with the new center, and perform the increased analytical duties required by creating the center. The estimate includes four full-time salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses, as well as network infrastructure costs and software licensing costs associated with supporting the new system at both MSDE and MHEC.

	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>
New Positions	2	2		
Salaries and Fringe Benefits	\$166,495	\$349,018	\$365,853	\$383,537
Network Infrastructure	0	12,000	24,000	24,000
Software Licensing	0	250,000	500,000	500,000
Start-up/Operating Expenses	<u>9,160</u>	<u>10,211</u>	<u>2,101</u>	<u>2,122</u>
Total	\$175,655	\$621,229	\$891,954	\$909,659

Future year expenditures reflect full salaries with 4.4% annual increases, 3% employee turnover, and 1% annual increases in ongoing operating expenses.

DLLR advises it already collects and analyzes the required data and therefore has no additional costs at the agency level.

Costs Not Covered by Competitive Federal Grant Funds to Implement and Maintain P-12 and 13-20 Systems

There are additional costs to implement and maintain the P-12 and higher education data systems that MSDE advises cannot be paid for with the competitive federal grant funds. These costs are not directly attributable to the bill and therefore are not part of the fiscal estimate. DLS included staff and ongoing operating costs, including software maintenance and licensing costs, at MSDE and MHEC to interface with MLDS beginning in fiscal 2012, as described above.

However, in order for MLDS to exist and operate, the P-12 and higher education data systems must be operational. MSDE estimates costs of approximately \$1.5 million annually in fiscal 2011 and 2012 to implement the P-12 system. Ongoing costs not included in DLS' estimate of approximately \$1.1 million in fiscal 2013 and approximately \$768,000 beginning in fiscal 2014, and increasing annually by inflation, are also estimated by MSDE. Similarly, MHEC estimates costs of approximately \$200,000 in fiscal 2011, \$130,000 in fiscal 2012, and approximately \$50,000 annually beginning in fiscal 2013 that are not included in DLS' estimate.

Local Expenditures: Community colleges will need to modify their data reporting systems to meet the requirements of the bill. The extent of the modifications will be determined by the center's governing board and may vary considerably between colleges; however, MHEC estimates the modifications will cost an average of \$50,000 per institution. To the extent that colleges with similar data systems are able to develop shared contracts with vendors, costs may be somewhat lower.

LEA data collection costs may increase once the center is established if they are required to collect additional data. One county reported that an additional full-time staff member dedicated to data collection would cost approximately \$100,000 per year.

Additional Information

Prior Introductions: None.

Cross File: HB 467 (The Speaker, *et al.*) (By Request - Administration) - Ways and Means and Appropriations.

Information Source(s): Department of Budget and Management; Maryland State Department of Education; Maryland Higher Education Commission; Caroline, Prince George's, Montgomery, and Howard counties; Baltimore City; Department of Labor, Licensing, and Regulation; University System of Maryland; U.S. Department of Education; Department of Legislative Services

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mpc/rhh Revised - Senate Third Reader/Updated Information - March 30, 2010
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Analysis by: Caroline L. Boice

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Education - Maryland Longitudinal Data System

BILL NUMBER: SB 275

PREPARED BY:

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.