

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1297

(Delegate Young)

Ways and Means

Education, Energy, and the Environment

Education - Artificial Intelligence - Study and Regulations

This bill requires the Maryland State Department of Education (MSDE) to conduct a comprehensive study of the potential use of artificial intelligence (AI) in public schools. The study must evaluate best practices for the safe, responsible, and ethical uses of AI, including practices that protect the personal information of students and school personnel. By December 1, 2024, MSDE must report on the results of the study to the Governor and the General Assembly, and by June 1, 2025, MSDE must adopt regulations based on the results of the study. The bill takes effect July 1, 2024, and terminates June 30, 2025.

Fiscal Summary

State Effect: General fund expenditures increase by an estimated \$240,000 in FY 2025 for MSDE to engage an expert consultant to complete the required study. General fund expenditures in future years may be affected depending on the results of the study and subsequent regulations adopted by MSDE (this potential impact is not shown below). Revenues are not affected.

Table with 6 columns: (in dollars), FY 2025, FY 2026, FY 2027, FY 2028, FY 2029. Rows include Revenues, GF Expenditure, and Net Effect.

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

Local Effect: Expenditures for local boards of education and local school systems may be affected depending on the results of the study and subsequent regulations adopted by MSDE. Revenues are not anticipated to be affected.

Small Business Effect: None.

Analysis

Current Law: For information on the status of AI in the State and nation, including information on the AI Subcabinet of the Governor’s Executive Council, please see the **Appendix – Artificial Intelligence**.

State/Local Expenditures: MSDE does not have the experience or expertise working with AI necessary to complete the study required by the bill. Thus, MSDE anticipates engaging an expert consultant with experience in AI to complete the study at an estimated cost of \$240,000. MSDE advises that, depending on how long it takes to develop the procurement and select a vendor, the study may not be fully complete by the December 1, 2024 due date established by the bill.

Additionally, expenditures for both MSDE and local school systems may increase depending on the study findings and subsequent regulations adopted by the MSDE. For example, the study could recommend that local school systems to implement certain systems or that MSDE provide additional resources to schools that use AI systems. In such a case, because the bill requires MSDE to adopt the regulations based on the study results, costs could increase significantly for MSDE and/or local school systems. However, any such impact depends on the study results and cannot be reliably estimated at this time.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 979 (Senator Hester) - Education, Energy, and the Environment.

Information Source(s): Department of Information Technology; Maryland State Department of Education; Maryland Department of Labor; Anne Arundel County Public Schools; Baltimore City Public Schools; Montgomery County Public Schools; Prince George’s County Public Schools; St. Mary’s County Public Schools; Department of Legislative Services

Fiscal Note History: First Reader - February 25, 2024
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Appendix – Artificial Intelligence

Artificial Intelligence – Generally

Artificial intelligence (AI) is a broad field of computer science that deals with the creation of “intelligent” systems that can reason, learn, and act autonomously. There are many different branches of AI, each with its own focus and set of techniques, such as machine learning, neural networks, robotics, expert systems, fuzzy logic, and natural language processing. AI research has been successful in developing algorithms for solving a wide range of problems, from game playing to conversation simulation.

Though a variety of forms of AI are now in use, experts have not established an agreed-upon definition for the technology. An early definition in 1955 branded AI as “making a machine behave in ways that would be called intelligent if a human were so behaving.” A more recent and expansive consensus definition of AI emerging in academic circles as cited by Stuart Russell and Peter Norvig in their computer science textbook *Artificial Intelligence: A Modern Approach*, defines it as “the designing and building of intelligent agents that receive percepts from the environment and take actions that affect that environment.”

In [Executive Order 01.01.2024.02](#), which is discussed in more detail below, for State regulatory purposes, AI means a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments. AI systems use machine- and human-based inputs to perceive real and virtual environments; abstract such perceptions into models through analysis in an automated manner; and use model inference to formulate options for information or action.

History of Artificial Intelligence

Though the general public’s awareness of AI may be relatively recent, AI has existed conceptually for nearly 70 years. In 1950, Alan Turing, the English mathematician and computer scientist, wrote *Computing Machinery and Intelligence*, one of the first papers that posed the question of whether machines can think. The phrase “artificial intelligence” was first coined in 1956 at an academic conference on the subject. From 1964 to 2017, numerous developments were made in the field, including the Massachusetts Institute of Technology’s “ELIZA,” a chatbot that simulates conversation; IBM’s Watson, a cognitive computing platform that uses AI to help businesses and individuals make decisions; and Apple’s Siri, a voice assistant for consumers that uses speech recognition.

More recently, in November 2022, OpenAI's ChatGPT (Chat Generative Pre-Trained Transformer) was released for public beta testing and by January 2023 had become one of the fastest growing consumer software applications in history, gaining more than 100 million users in that time. As users interact with the software, the software learns from the conversations and improves its capabilities. The continued development of this and other generative AI software systems is drawing the attention of policymakers to better understand the technology, regulate it to protect individuals from potential risks, and promote the development of safe applications of the technology.

Major Risks – Data Privacy, Bias, and Academic Integrity

Although data privacy has been a matter of concern since the advent of the Internet, the complexity of the algorithms that power AI has prompted interest in government regulation of the technology to prevent the improper or unethical use of personal data. However, regulation of this aspect of AI is sometimes challenging due to intellectual property claims and resistance by the private owners of these technologies to allow exploration of the internal workings of their systems.

As AI algorithms and neural networks are trained by humans, existing societal discriminations can be incorporated into the internal and inherent biases of the data sets that AI systems use and can affect the way an AI model functions. One set of AI functions that has been identified as potentially having some bias is the use of facial recognition software in security or policing contexts. In use by various law enforcement agencies throughout the nation, this software has been shown to be prone to error and unable to accurately recognize people of color, women, and young people. Similarly, some AI software designed to screen resumes for employment consideration has been found to be biased against minorities, women, and older individuals.

Academic institutions, including secondary and postsecondary institutions, have also raised concerns about AI's potential to compromise academic integrity. Generative AI systems can produce written works in response to prompts that can be presented by students as their work product. These institutions have struggled to develop policies and practices to limit the potential for such adverse uses of AI.

Federal Initiatives

The National Artificial Intelligence Initiative Act of 2020 became law on January 1, 2021. The aim of the Act is to promote U.S. leadership in AI research and development with the goal of accelerating the nation's economic prosperity and national security through the development and use of trustworthy AI in the public and private sectors and preparation of the workforce for the inevitable integration of AI systems. This multi-agency initiative has included work by the U.S. Department of Energy, in consultation with the National

Institute of Standards and Technology, to develop the AI Risk Management Playbook as a reference guide to support responsible and trustworthy AI use and development. Though not a binding document, the playbook addresses common AI risks and steps that AI leaders, practitioners, and procurement teams can take to manage data privacy and bias risks.

In addition, the White House introduced its Blueprint for an AI Bill of Rights, a set of five principles and associated practices (safe and effective systems; algorithmic discrimination protections; data privacy; notice and explanation; and human alternatives, consideration, and fallback) to help guide the design and deployment of automated systems to protect the rights and opportunities of the public, as well as public access to critical resources and services, and to serve as a guide for how new AI resources are developed. The blueprint is designed to apply to speech-related systems, surveillance and criminal justice algorithms, voting-related systems, and any other systems that could lead to potential algorithmic discrimination.

In October 2023, the White House issued an executive order to establish new standards for AI safety and security and direct actions that aim to protect privacy of Americans, advance equity and civil rights, protect consumers and workers, and promote innovation and competition.

Maryland Law

Maryland has certain statutes in effect that govern AI directly or indirectly. The Department of Information Technology and the Secretary of Information Technology are statutorily responsible for annually evaluating the feasibility of units of State government providing public services using AI, machine learning, commercial cloud computer services, device-as-a-service procurement models, and other emerging technologies.

Indirectly, Chapter 446 of 2020 prohibits employers from using facial recognition services to create facial templates of job applicants without their consent, and Chapter 41 of 2022 requires courts to consider the results of algorithmic tools before detaining juveniles. Additionally, Maryland's broader consumer protection and data privacy laws, such as the Consumer Protection Act and the Maryland Personal Information Protection Act (MPIPA), offer certain protections against AI-related risks. For example, MPIPA requires businesses that collect, maintain, or license personal information to implement reasonable security measures.

Regulatory Framework by Executive Order

In January 2024, the Governor issued [Executive Order 01.01.2024.02](#) to direct, guide, and regulate the use of AI by State agencies. Primarily, the executive order establishes an AI subcabinet to, among other things, (1) promote the foundational principles that State

agencies must adhere to when using AI (*i.e.*, fairness, equity, privacy, safety, validity, and transparency); (2) provide advice and recommendations to the Governor on the use of AI; (3) facilitate statewide coordination on the responsible, ethical, and productive use of AI; (4) develop an AI action plan to operationalize the AI principles; (5) find, evaluate, and offer training programs for state workers on the use of AI; and (6) study and make recommendations to the Governor and General Assembly on how AI affects the State workforce, economic development, and security.