

**Department of Legislative Services**  
Maryland General Assembly  
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**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 871 (Senator Zucker)  
Education, Health, and Environmental Affairs

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**Education - Accountability - Consolidated State Plan and Support and  
Improvement Plans (Protect Our Schools Act of 2017)**

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This bill requires that the State's consolidated state plan to improve student outcomes, which the Maryland State Department of Education (MSDE) must submit to the U.S. Department of Education (ED) under the federal Every Student Succeeds Act (ESSA), comply with the requirements detailed in the bill. The bill specifies parameters for school quality indicators, comprehensive support and improvement plans, and targeted support and improvement plans, and prohibits specified interventions.

The bill takes effect July 1, 2017.

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**Fiscal Summary**

**State Effect:** To the extent that the bill conforms to the federal ESSA requirements as explained below, the bill has no fiscal impact. Potential loss of federal revenues if some provisions of the bill put the State out of compliance with ESSA.

**Local Effect:** To the extent that the bill conforms to the federal ESSA requirements as explained below, the bill has no fiscal impact. Potential loss of federal revenues if some provisions of the bill put the State out of compliance with ESSA.

**Small Business Effect:** None.

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## Analysis

### **Bill Summary:**

#### *School Quality Indicators*

An educational accountability program must include at least three quality indicators that measure the comparative opportunities provided to students in public schools. For secondary schools, school quality indicators may include class size, case load, school climate surveys, opportunities to enroll in Advanced Placement courses and International Baccalaureate Programs, opportunities for dual enrollment, opportunities to enroll in career and technology education programs, and opportunities for industry certification. For elementary and middle schools, school quality indicators may include class size, case load, chronic absenteeism, and school climate surveys.

The school quality indicators used may not be based on student testing. Both academic indicators and school quality indicators must be given equal weight in reporting interim progress toward the State Board of Education's goals and objectives. The combined total of the academic indicators may not exceed 51% of the composite score.

#### *Comprehensive Support and Improvement Plans*

For each public school identified by MSDE for comprehensive support and improvement, the local board of education must develop and implement a comprehensive support and improvement plan to improve student outcomes at the school. The plan must (1) be developed in consultation with principals, teachers, school staff, and the exclusive bargaining representative; (2) include the specified school quality indicators; (3) include evidence-based intervention; (4) be based on school-level needs assessments; and (5) identify resource inequities and budgetary needs. The school and local board of education must approve the plan. MSDE must monitor and annually review the plan.

#### *Targeted Support and Improvement Plans*

For each public school identified by MSDE for targeted support and improvement, the school must develop and implement a Targeted Support and Improvement Plan to improve student outcomes at the school. A Targeted Support and Improvement Plan must meet the same specified requirements as those for comprehensive support and improvement plans. The local board of education must monitor and annually review the plan.

### *Requirements for Both Types of Plans*

Comprehensive Support and Improvement Plans and Targeted Support and Improvement Plans must be implemented in compliance with existing collective bargaining agreements between the local boards of education and the exclusive bargaining representative.

MSDE must distribute federal funds for the implementation of both plans based on a formula and driven by the identified needs of each school identified by MSDE.

After a two-year period from the date of a plan's implementation, if a local board of education determines that student outcomes have not improved at a public school, the local board must consult with the school to develop additional strategies and interventions including funding community supports, and grants provided in the Public School Opportunities Enhancement Program. However, nothing in this bill must be construed to authorize MSDE to require a local board of education to implement a specific intervention strategy.

After a three-year period from the date of a plan's implementation, if MSDE determines that student outcomes have not improved at a public school and intervention is necessary, MSDE must collaborate with the local board of education in determining the appropriate intervention strategy, subject to existing collective bargaining agreements between the local board of education and the exclusive bargaining representative. An intervention strategy may not include (1) creating a State-run school district; (2) converting a public school to a charter school; (3) issuing scholarships to public school students to attend nonpublic schools through direct vouchers, tax credit programs, or education savings accounts; and (4) contracting with a for-profit company.

**Current Law/Background:** ESSA is the most recent reauthorization of the federal Elementary and Secondary Education Act (ESEA), which provides federal funds for elementary and secondary education. Maryland is in the process of transitioning to a new student accountability plan under ESSA which requires significantly more data collection and publishing and changes the school improvement requirements as explained below. MSDE must submit its consolidated state plan with the new accountability measures and school improvement indicators to ED by September 18, 2017, for implementation beginning in the 2017-2018 school year.

During the transition to the accountability indicators required under ESSA, Maryland will continue to publish information about Partnership for Assessment of Readiness for College and Careers assessments, as well as Maryland School Assessment Science and High School Assessment highlights on the [2016 Maryland Report Card website](#). Graduation, demographic, enrollment, and attendance data, and other supporting facts are also available.

The specific requirements of the new accountability program and the school improvement indicators required under ESSA are detailed below.

### *Every Student Succeeds Act*

ESSA significantly modified the accountability requirements of ESEA. Under the previous authorization of ESEA, known as No Child Left Behind (NCLB), each State educational agency was required to hold schools accountable based solely on results on statewide assessments and one other academic indicator. Under ESSA, each state educational agency (SEA) is required to have an accountability system that is state-determined and based on multiple indicators, including, but not limited to, at least one indicator of school quality or student success and, at a state's discretion, an indicator of student growth. Maryland's SEA is MSDE.

ESSA also significantly modified the requirements for differentiating among schools and the basis on which schools must be identified for further comprehensive or targeted support and improvement. Additionally, ESSA no longer requires a particular sequence of escalating interventions in Title I schools that are identified and continue to fail to make adequate yearly progress. Instead, it gives SEAs and local educational agencies (LEAs) discretion to determine the evidence-based interventions that are appropriate to address the needs of identified schools.

In addition to modifying ESEA requirements for state accountability systems, ESSA also modified and expanded upon the ESEA requirements for state and LEA report cards. ESSA continues to require that report cards be concise, presented in an understandable and uniform format, and, to the extent practicable, in a language that parents can understand, but now also requires that they be developed in consultation with parents and that they be widely accessible to the public. ESSA also requires that report cards include additional information that was not required to be included on report cards under ESEA, as amended by NCLB, such as information regarding per pupil expenditures of federal, state, and local funds; the number and percentage of students enrolled in preschool programs; where available, the rate at which high school graduates enroll in postsecondary education programs; information regarding the number and percentage of English learners achieving English language proficiency; and certain data collected through the [Civil Rights Data Collection](#). Additionally, ESSA requires that report cards include certain information for subgroups of students for which information was not previously required to be reported, including homeless students, students in foster care, and students with a parent who is a member of the U.S. Armed Forces.

## *State Accountability Plans Under the Every Student Succeeds Act*

Furthermore, ESSA authorizes an SEA to submit, if it so chooses, a consolidated state plan or consolidated state application for covered programs (instead of separate plans or applications for each federal program) and authorizes the U.S. Secretary of Education to establish, for each covered program, the descriptions, information, assurances, and other material required to be included in a consolidated state plan or consolidated state application.

Specifically, ESSA requires state accountability plans to include the following five indicators:

- proficiency on assessments, which may include growth in proficiency in high school;
- growth in proficiency in grades below high school or another academic indicator;
- high school graduation rates;
- progress of English language learners toward proficiency; and
- a nonacademic indicator, which is known as an indicator of school quality or student success (SQSS).

All accountability system indicators, including the measure of SQSS, must be:

- measured annually for all students and for each subgroup;
- able to provide meaningful differentiation between schools;
- where appropriate, based on the long-term goals in the state plan; and
- included in a state and district report card.

In the aggregate, the four required academic indicators must be given “much greater weight” than the measure of SQSS.

Based on the accountability system, beginning with the 2017-2018 school year and at least once every three school years thereafter, the State must use the accountability system to identify for comprehensive support and improvement (1) the 5% lowest performing schools and (2) schools with a high school graduation rate of less than 67%. MSDE, as the SEA, must notify each local school system in the State of any school served by the local school system that is identified for comprehensive support and improvement. Upon receiving such information from MSDE, the local school system must, for each school identified by the State and in partnership with stakeholders (including principals and other school leaders, teachers, and parents), locally develop and implement a comprehensive support and improvement plan for the school to improve student outcomes. The comprehensive support and improvement plan must be informed by all indicators in the accountability

program, including student performance against State-determined long-term goals, and other specified measures.

The comprehensive support and improvement plan *must be approved* by the school, local school system, and MSDE and upon approval and implementation, be monitored and periodically reviewed by MSDE.

Likewise, MSDE must use the accountability system to identify any school in which any *subgroup* of students is consistently underperforming. Upon receiving such information from MSDE, the *school* in partnership with stakeholders (including principals and other school leaders, teachers, and parents) must develop and implement a school-level targeted support and improvement plan to improve student outcomes based on the accountability system and other specified measures.

### *Maryland Consolidated State Plan*

MSDE has been working with its [ESSA stakeholder committee](#) to participate in the review of the law and to develop Maryland's consolidated state plan. As required by ESSA, MSDE has taken multiple measures to ensure extensive consultation with stakeholders including a ESSA external committee with multiple stakeholders representing the identified groups, more than 65 stakeholder meetings, seven ESSA subcommittees which include MSDE, LEA and equity stakeholders, monthly discussions with the State Board of Education, and two ESSA surveys. A draft of Maryland's [consolidated state plan](#) is available for review and can be found on MSDE's website. MSDE advises that there are two more drafts planned, and there are additional meetings with stakeholders scheduled.

MSDE advises that a final draft of the plan will be presented to the State Board of Education in June, after which the draft will be submitted to the Legislative Policy Committee for review and comment as well as posted on MSDE's website for further review and comment. MSDE will consider comments received and present a final consolidated state plan to the State board in August 2017 for approval, in order to submit the plan to ED by the September 18, 2017 deadline.

Although the accountability plan has not yet been finalized, MSDE advises that the system as a whole will focus on low-performing groups. An outline of Maryland's draft accountability program is shown in **Exhibit 1**; more detail can be found in the draft consolidated state plan. According to the draft plan, performance results will be calculated using the indicators specified. Elementary and middle schools with students in grades 3 through 8 have four indicators: (1) achievement and gap narrowing; (2) growth or progress; (3) English language proficiency; and (4) school and student success. High schools with students in grade 9 through 12 also have four indicators: (1) achievement and

gap narrowing; (2) graduation rate; (3) English language proficiency; and (4) school and student success.

**Exhibit 1**  
**Draft Maryland Accountability Program**

Indicator	Measures	
Academic Achievement	Proficiency For ELA, Math, Science, Government	
	Performance Level Composite for ELA, Math, Science, Government	
	Participation for ELA, Math, Science, Government	
Academic Progress	Growth (Value Matrix) for ELA, Math	
	Growth (student growth percentiles) for ELA, Math	
	Growth K-3	
Graduation Rate	4-year Adjusted Cohort Graduation Rate	
	5-year Adjusted Cohort Graduation Rate	
	6-year Adjusted Cohort Graduation Rate	
English Language Proficiency	Progress Toward English Language Proficiency (K-12)	
School Quality School Success (SQSS)	Academic (HS)	College and Career Preparation
		AP, IB, SAT, ACT
		Dual Enrollment
		CTE Concentrator
		On-track in grade 9
		Postsecondary Enrollment
	Opportunity	Access to Effective Teachers
		Well Rounded Curriculum
		Additional Factors to be Determined
	Climate	Removals (Suspension, Expulsion, Disproportionality)
		Chronic Absenteeism (K-12)
		Social-emotional Learning (K-12)
		Survey

AP: Advanced Placement  
 CTE: Career Technology Education  
 ELA: English language arts  
 HS: high school  
 IB: International Baccalaureate

Source: Maryland State Department of Education

As shown in Exhibit 1, in the draft plan, MSDE proposes two measures for inclusion in the achievement and gap narrowing indicator based on student testing. The first is the performance, or proficiency, of students meeting the long-term and interim goals. The second is the performance on a performance composite. Specifically, MSDE is planning to assign points to each student participating in a state assessment with partial credit available for moderate or partial performance below proficient. Performance above the proficiency level would be awarded a higher point total. Separate group scores will be generated for each measurement (English language arts, Math, and Science) as well as at the state, LEA, school, and student group levels. MSDE is also planning on using a performance composite that is explained in greater detail in the draft plan. For all of these measures, MSDE is proposing a 16-year time period, which was chosen to provide students a full 12 years of implementation of the Maryland College- and Career-Ready Standards.

In addition, MSDE proposes to use two methodologies to measure growth as measures within this indicator. The first measurement is a value matrix where students are measured on their own performance from one year to the next. The second method is to use student growth percentiles to measure students against their academic peers.

MSDE is proposing to include college and career readiness measures for high schools that include both college readiness and career readiness. A student can demonstrate college readiness through Advanced Placement or International Baccalaureate exams, dual enrollment, or enrollment in postsecondary education within 12 months. A student demonstrating success in any one of the college or career readiness measures is considered a single student success factor. A student is only counted once in the numerator, even if he or she demonstrates multiple measures.

#### *Other States' Accountability Programs*

Other states have also published their draft accountability programs for public comment. Illinois has decided to weight the SQSS measures at 49% of the total score, and the four other measures (*i.e.*, achievement, academic progress, graduation, and English language proficiency) at 51% of the total score. Delaware has decided to assign the weights as follows: achievement 25%; academic progress 30% (20% individual student growth and 10% lowest performing student growth); graduation 10%; English proficiency 10%; and SQSS 25%. Ohio has assigned the weights as follows: 20% achievement; 20% academic progress; 15% graduation; 45% SQSS (15% K-3 literacy, 15% prepared for success, and 15% gap closing). Ohio includes English language proficiency in its gap closing measure. Other states including Colorado, Louisiana, and Tennessee have decided to use different weights for elementary and middle schools than what they are using for high schools.

## *Public School Opportunities Enhancement Program*

Chapter 32 of 2016 established the Public School Opportunities Enhancement Program and Grant in MSDE to assist local school systems, public community schools, and nonprofit organizations in the State in expanding or creating extended day and summer enhancement programs and to assist nonprofit organizations in the State and community schools in expanding or supporting existing educational programming during the school day. For fiscal 2018 through 2021, the Governor must include \$7.5 million annually in the State budget for the program. Specified counties in which at least 50% of public school students as a percentage of full-time equivalent students qualify for free lunch under the National School Lunch Program are eligible to participate in the program. If the grantee is a local school system, the local school system must provide at least an equal match to State grant funding.

**State and Local Fiscal Effect:** To the extent that the bill conforms to the federal ESSA requirements, as explained below, the bill has no fiscal impact. However, the bill *potentially* conflicts with ESSA with regards to (1) the weights assigned to various accountability program indicators and (2) the entity that must approve comprehensive support and improvement plans. If the bill is found to be in violation of ESSA, *potentially* \$248.6 million in federal Title I grants and school improvement grants may be jeopardized. The bill also requires that the State accountability program use specified school quality indicators, prohibits school quality indicators to be based on student testing, and limits the intervention strategies that may be used for schools that require comprehensive support and improvement plans and targeted support and improvement plans; however, as explained below, this is assumed to have no fiscal impact.

The bill states that, “the combined total of the academic indicators may not exceed 51% of the composite score.” ESSA states, in the aggregate, the four required academic indicators must be given “much greater weight” than the measure of SQSS. ED must determine if assigning the four academic indicators a weight of 51% meets the requirement that those measures be given “much greater weight.” In its draft plan, Illinois has decided to assign a weight of 51% to the four academic indicators; however, its plan has not yet been approved.

In addition, the bill requires the school and the local board of education to approve any comprehensive support and improvement plans. MSDE is not required to approve the plans, only monitor and review them annually. However, ESSA requires comprehensive support and improvement plans to be “approved by the school, local education agency, and State education agency.” The plans must also be monitored and periodically reviewed by the State education agency. It is unknown if ED will consider this conflict a violation of ESSA.

Additionally, the bill also requires that the State accountability program use specified school quality indicators and prohibits school quality indicators from being based on student testing. This will require MSDE to make changes to the school quality indicators listed in the draft consolidated state plan. It is assumed this can be done with existing resources.

Local school systems will likely direct their spending toward the indicators that are ultimately included in the consolidated state plan. Local school systems may choose to increase spending on specified activities (*e.g.*, additional teachers to reduce class size) to increase school ratings; however, the bill does not require any additional spending. Whichever school quality indicators are chosen to be included in the consolidated state plan, whether directed by the bill or not, will direct local school system spending.

Further, the bill limits the intervention strategies that may be used for a school identified for comprehensive support and improvement or targeted support and improvement. According to the draft consolidated state plan, none of these intervention strategies that are prohibited are mentioned in the draft plan. Specifically, according to the draft plan, based on an analysis of the needs assessment, the school and local school system must identify prioritized needs for each school identified for improvement (comprehensive or targeted) in order to select the evidence-based strategies for their intervention plan. The plan must reference the research supporting the selected evidence-based strategies in the appendix of the application. Each plan must align with the seven components of the Maryland Turnaround Principles Model, which are (1) strong leadership; (2) ensuring teachers are effective and able to improve instruction; (3) providing additional time for instruction; (4) strengthening the school's instructional program; (5) ensuring data is used for continuous improvement and to inform instruction; (6) ensuring safe and supportive schools; and (7) ensuring school has ongoing mechanisms to support family and community engagement. Thus, it is assumed that this provision of the bill has no fiscal impact and limited operational impact. However, to the extent that the prohibited measures are proven to be evidence-based strategies that met Maryland Turnaround Principles Model requirements, these intervention strategies would be prohibited by the bill.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 978 (Delegate Luedtke) - Ways and Means.

**Information Source(s):** Maryland State Department of Education; Maryland Higher Education Commission; Department of Labor, Licensing, and Regulation; Public School

Construction Program; Frederick and Montgomery counties; Education Commission of the States; U.S. Department of Education; Department of Legislative Services

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