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FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 978

(Delegate Luedtke, *et al.*)

Ways and Means

Education, Health, and Environmental Affairs

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

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), complies with the requirements detailed in the bill. The bill specifies parameters for academic and school quality indicators; comprehensive support and improvement plans; and targeted support and improvement plans; and prohibits specified interventions. The bill also requires the State Board of Education to establish a composite score that provides for meaningful differentiation of schools and specifies how the composite score must be developed and reported.

The bill takes effect July 1, 2017.

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.

Analysis

Bill Summary:

Composite Score and Academic and School Quality Indicators

An educational accountability program must include at least three quality indicators that measure the comparative opportunities provided to students or the level of student success in public schools. One of the school quality indicators must be school climate surveys. The school climate surveys must include at least one question to educators regarding the receipt of critical instructional feedback. Other school quality indicators may include: class size; case load; opportunities to enroll in Advanced Placement courses and International Baccalaureate Programs; opportunities for dual enrollment; opportunities to enroll in career and technology education programs; chronic absenteeism; data on discipline and restorative practices; and access to teachers who hold an Advanced Professional certificate or have obtained National Board certification. The school quality indicators used may not be based on student testing.

Of the academic indicators established by the State board, one must be access to or credit for completion of well-rounded curriculum that is indicative of on-track progress at key transition points within elementary and secondary education.

The composite score established by the State board must (1) include both academic and school quality indicators; (2) incorporate a methodology that compares schools that share similar demographic characteristics, including the proportion of economically disadvantaged students, as defined by the State in accordance with federal law; and (3) be reported in a manner that states for each score the individual indicator score that is used to calculate the composite score for each school.

The combined total of the academic indicators may not exceed 65% of the composite score. The composite score must be calculated numerically in a percentile form and may not be reported using a letter grade model. No academic or school quality indicator may be weighted as less than 10% of the total amount of the composite score. Subject to these restrictions, the final weights of the academic and school quality indicators must be determined by the State Board of Education, with stakeholder input.

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, parents, local community leaders, local

employer leaders, local government leaders, 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, local board of education, and MSDE 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 may be construed to authorize MSDE to require a local board of education to implement a specific intervention strategy during the two-year period. Notwithstanding any law, regulation, or executive order, a plan may include a lengthening of the school year beyond 180 days or any other limitation.

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) creating a local school system in addition to the 24 school systems established in the Education Article; (3) converting or creating a new public school without local board approval; (4) issuing scholarships to public school students to attend nonpublic schools through direct vouchers,

tax credit programs, or education savings accounts; and (5) contracting with a for-profit company. A decision of MSDE regarding an intervention strategy is final.

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.

On March 13, 2017, the U.S. Secretary of Education released new [guidance](#) regarding the implementation of ESSA including a new template for the submission of a state consolidated plan. According to the National Conference of State Legislatures, the original template was revised by ED to reflect only what is “absolutely necessary” according to ESSA. ED has been reviewing regulations promulgated by the previous administration related to ESSA. The Congressional Review Act allows the U.S. Congress and the new president to abolish any federal regulation finalized on or after June 13, 2016. House Joint Resolution 57, which has passed both the House of Representatives and the U.S. Senate and was signed into law by the President on March 27, 2017, blocks the accountability regulations under ESSA.

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 indicator 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 SQSS indicator.

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, which includes college and career readiness.

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. 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 success in multiple measures.

MSDE advises that under its draft plan, the indicators are weighted as follows for elementary and middle school: academic achievement 25%; academic progress 35%; English language proficiency 10%; SQSS 30%. For high school, the indicators are weighted as follows: academic achievement 20%; graduation rate 15%; English language proficiency 10%; college and career readiness 35%; and SQSS 20%.

Review of Consolidated State Plans

Under ESSA, after MSDE submits the consolidated state plan to ED on September 18, 2017, the plan (along with the plans submitted by other states at that time) must undergo a peer review that meets certain requirements. Unless the US Secretary of Education determines that the state plan fails to meet the requirements for a consolidated state plan as detailed in ESSA, the secretary must approve the plan no later than 120 days after its submission, which will be January 16, 2018. If the US Secretary of Education determines that the state plan fails to meet the requirements, ED must offer the state an opportunity to revise and resubmit its state plan.

During this revision process, the state must be provided: (1) in writing, notice of the determination and the supporting information and rationale to substantiate such determination; (2) technical assistance to assist the State in meeting the requirements of ESSA; (3) in writing, all peer-review comments, suggestions, recommendations, or concerns relating to its state plan; and (4) a hearing, unless the state declines the opportunity for such hearing. Only if the state does not revise and resubmit its state plan, or the U.S. Secretary of Education determines that the revised plan does not meet the requirements of ESSA, may a state's plan be disapproved and the state be in violation of ESSA, and thus, be in danger of jeopardizing federal Title I grants and school improvement grants.

Other States' Accountability Programs

Other states have also published their draft accountability programs for public comment. For example, in its initial draft plan for public comment, Illinois 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. However, after public comment, Illinois changed its plan to assign a weight of 75% to five core academic indicators and 25% to five SQSS indicators. 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%. 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:

Compliance with ESSA

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 the weights assigned to various accountability program indicators, and another requirement of ESSA as explained below. If the State's consolidated plan, submitted in compliance with the bill's requirements, is found to be in violation of ESSA, *potentially* \$248.6 million in federal Title I grants and school improvement grants may be jeopardized. As discussed above, ED must approve the State's plan within 120 days of its submission on September 18, 2017, which would be in January 2018. Further, before a plan can be disapproved, ED must provide the State an opportunity to revise and resubmit its plan. Thus, based on this timeline, before any federal funds *may* be withheld, the State board, Governor, and General Assembly would have an opportunity to revisit the plan and any applicable statutory requirements, if necessary.

The bill states that, "the combined total of the academic indicators may not exceed 65% of the composite score." ESSA states, that in the aggregate, the four required academic indicators must be given "much greater weight" than the indicator(s) of SQSS. ED must determine if assigning the four academic indicators a weight of 65% meets the requirement that those measures be given "much greater weight." As one example of a state plan, in its initial draft plan for public comment, Illinois assigned a weight of 51% to the four academic indicators; however, after public comment Illinois changed the indicator weights for its plan. In its new plan submitted to ED on April 3, 2017, Illinois has assigned a weight of 75% to five core academic indicators and 25% to five SQSS indicators. Other states that have submitted their plans to ED include: Connecticut, Delaware, District of Columbia, Massachusetts, Nevada, New Jersey, New Mexico, Tennessee, and Vermont.

Under ESSA, MSDE must establish statewide exit criteria for schools identified for comprehensive support and improvement; if these standards are not met in a specified number of years, then a "more rigorous State-determined action, such as the implementation of interventions (which may include addressing school-level operations)" must be taken. Under the bill, MSDE must collaborate with a local school system to determine the appropriate intervention strategy, and the intervention strategies are limited to those allowed by existing collective bargaining agreements. These limits *may* be determined by ED to be in conflict with ESSA requirements. However, the bill also states that MSDE decisions regarding intervention strategies are final.

Changes to Maryland's Draft Consolidated State Plan

The bill also requires or specifies several components of the State accountability program. However, as explained below, these are assumed to have no fiscal impact.

The bill requires that the State accountability program use specified academic and school quality indicators and prohibits school quality indicators from being based on student testing. In addition, under the bill, no academic or school quality indicator may be weighted as less than 10% of the total amount of the composite score. These will require MSDE to make changes to the indicators listed in the draft consolidated state plan. It is assumed this can be done with existing resources.

The bill also requires the State to develop a composite score for each school, specifies certain components of the score, and requires the individual indicator score used to calculate the composite score for each school be reported. MSDE was already developing a composite score. While MSDE will need to make changes to the draft composite score and may need to adjust its plans for reporting each school's score, it is assumed that these changes can be made 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 indicators are chosen to be included in the consolidated state plan, whether directed by the bill or not, will direct local school system spending.

Moreover, under the bill, MSDE will need to change the draft plan procedures relating to comprehensive and targeted intervention schools. In the draft plan MSDE is involved in the process every year of implementation of intervention strategies for comprehensive intervention schools; under the bill, MSDE has no involvement in improvement strategies until three years after the school is identified. It is assumed that these changes can be made using existing resources.

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.

Finally, the bill requires MSDE to distribute federal funds for implementation of comprehensive and targeted improvement plans based on a formula. ESSA allows funds for those purposes to be allocated based on a formula or competitive basis. MSDE was planning to allocate these funds using a combination of formula and competitive grants based upon identified needs. Therefore, under the bill, funds to local school systems may be distributed differently; it is assumed that this change in allocation methodology can be made using existing resources.

Additional Information

Prior Introductions: None.

Cross File: SB 871 (Senator Zucker) - Education, Health, and Environmental Affairs.

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; National Conference of State Legislatures; Congress.gov; Department of Legislative Services

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