

State Notes

TOPICS OF LEGISLATIVE INTEREST

Spring 2014



Educator Evaluation and Assessment Phase-In **Cory Savino, Fiscal Analyst**

The fiscal year (FY) 2014-15 budgets recommended by the Governor for School Aid and the Michigan Department of Education (MDE) include \$49.4 million for phasing in the new educator and administrator evaluation system. The funds would be used for training educators and administrators on observation tools, processing student performance on assessments, implementing a new computer-based student assessment, providing interim tests for schools, providing technical assistance to schools, ensuring compliance with the law, and establishing a waiver system for districts that have applied to use an alternative evaluation tool. Under current law, year-end evaluations are required beginning with the 2013-2014 school year, and student growth and achievement data must be the basis of at least 25% of the evaluation in 2013-2014 and at least 40% in 2014-2015. By the 2015-2016 school year, educator evaluations must be based 50% on student growth and achievement data, and 50% on practice and observation¹. A timeline recommended by the MDE would move the 50/50 requirement to the 2018-2019 school year, while Senate Bill 817 would postpone the new evaluations to the 2015-2016 school year and eliminate the 25% and 40% requirements for 2013-2014 and 2014-2015. This article provides background and an overview of the implementation plan for educator and administrator evaluations.

Background

In 2009, the Obama administration created Race to the Top (RTTT), which encouraged states to undergo education reforms in order to receive education grant funding. The \$4.35 billion grant came from the American Recovery and Reinvestment Act of 2009. Michigan submitted an application for RTTT funding in January 2010². In December 2009, Public Act 205 of 2009³ was enacted as part of a package of education reform legislation that aligned the law with the application for RTTT. Public Act 205 of 2009 encouraged local school districts, intermediate school districts (ISDs), and public school academies to create educator and administrator evaluation systems that included a significant portion of student growth and achievement data. These evaluations would be used, at a minimum, for informing educator professional development. This was in alignment with the professional development piece of the RTTT application. Public Act 336 of 2010 required all school districts, ISDs, and public school academies to have an evaluation system adopted and implemented by September 1, 2011. Michigan did not end up being awarded RTTT funding, but the education reform laws remained.

In April 2011, Governor Snyder proposed further reforms that were aimed at increasing educator quality and effectiveness⁴. In response, the Michigan Legislature passed a package of laws that made significant changes to teacher tenure and educator and administrator evaluations. Public Act 102 of 2011 created the Michigan Council for Educator Effectiveness (MCEE), which was tasked with recommending an evaluation system. Public Act 102 established further requirements on how much student growth and achievement are to be used in evaluations, as well as requiring multiple observations, and allowing a waiver for districts that already have strong evaluation systems. As described above, the share of student growth and achievement data that must be part of an educator's and administrator's evaluation increases from 25% in 2013-2014 to the 50% requirement

¹ See MCL 380.1249 (2)(a)(i).

² Race to the Top application from January 9, 2010. Provided by the Michigan Department of Education

³ All Public Acts cited in this article may be found through the Michigan Legislature's website:
<http://www.legislature.mi.gov/>

⁴ Press release from April 27, 2011. <http://www.michigan.gov/snyder/0,1607,7-277--255197--,00.html>.



in the 2015-2016 school year. These reforms were cited in 2012 when the State applied for a waiver from the Elementary and Secondary Education Act, also known as No Child Left Behind (NCLB)⁵. Under NCLB, schools were required to have improvement plans if at least 10% of their teachers were not "highly qualified". With approval of the waiver, the State is now required to implement an evaluation and support system for educators. This means that the evaluation system is now federally required in addition to being required by the State.

Public Act 102 of 2011 also requires that districts conduct observations as a part of the educator evaluation process. Districts are further required to conduct observations that are consistent with the guidelines laid out by an observation tool vendor. The MCEE recommended four observation tools⁶. These tools are vendor-created rubrics (expectations and standards) and training that observers use to carry out the observation component of educator evaluations. The tools were selected based on empirical evidence. The four tools were piloted with various districts, and based on those findings⁷, the MDE will issue a Request For Proposal (RFP) to the four vendors by the summer of 2014 and select one tool that will be the State-sponsored observation tool. The Michigan Council for Educator Effectiveness also recommended that districts have a waiver option if they want to use alternative observation tools as part of the observation component of educator evaluations.

In addition, the MDE is phasing out the current statewide assessment (the Michigan Educational Assessment Program, or MEAP) for a new assessment that is better aligned with the common core standards that were adopted by the State Board of Education in June 2010. The new assessment will be computer-adaptive and is planned to begin in the 2014-2015 school year. The assessment also will include interim tests that can be used to better track student growth, which will be used to provide student growth and achievement data for educator and administrator evaluations.

Funding and Implementation

The Governor proposed \$49,414,000 in the FY 2014-15 budget for implementing the new evaluation system⁸. Of the \$49.4 million, \$11.6 million would be funded from State General Fund/General Purpose (GF/GP) revenue, while \$37.8 million would be funded from the School Aid Fund. Table 1 shows a breakdown of the costs during the phase-in of the evaluation system.

The implementation plan is divided into three main sections: observation tools, technical assistance, and assessments. The \$22.1 million appropriation recommended for observation tools would support training and licensing of the observation tool that the MDE will endorse, determined by the RFP process. The costs are estimated to cover training for every school in the State. Schools that chose an alternative observation tool also could receive funding equal to the amount that they would have received for using the State-sponsored tool. If the alternative observation tool costs more than the funds provided by the State, the school would have to cover the additional amount. The first year of implementation is expected to cost the most, because of the initial licensing fees and extensive training that most observers would need to go through. After FY 2014-15, those costs are expected to decrease before leveling off as reoccurring licensing fees decreased and less training would be needed.

⁵ ESEA flexibility request to the United States Department of Education in 2012. Provided by the Michigan Department of Education.

⁶ MCEE July 2013 report, p. 9. Provided by the Michigan Department of Education.

⁷ Lessons From a Pilot of Educator Effectiveness Tools. Institute For Social Research. December 2013. Provided by the Michigan Department of Education.

⁸ FY 2014-15 Executive Budget. February 2014. Provided by the State Budget Office.

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Table 1: EDUCATOR EVALUATIONS AND STUDENT ASSESSMENT PHASE-IN – INCREASED COSTS

	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
<u>MCEE Recommendations Increased Costs</u>					
<u>Observation Tools</u>					
Teacher Observations - Training and Licenses	\$19,253,800	\$12,623,100	\$11,269,000		
Administrator Observations - Training and Licenses	2,816,200	1,417,000	1,417,000		
Observation Tools Total.....	\$22,070,000	\$14,040,100	\$12,686,000		
Value-Added Modeling and Integrated Evaluation Total.....	\$3,030,000	\$5,605,000	\$6,955,000		
<u>State Administration Data Systems</u>					
School Aid	2,700,000	2,200,000	2,200,000		
Department of Education	5,914,000	5,014,000	5,014,000		
State Administration - Data Systems Total	\$8,614,000	\$7,214,000	\$7,214,000		
Technical Assistance Total.....	\$11,644,000	\$12,819,000	\$14,169,000		
MCEE Recommendations Total.....	\$33,714,000	\$26,859,100	\$26,855,000		
<u>Student Assessments Increased Costs</u>					
<u>Computer-Based Assessments – Online Reporting Tool</u>					
Converting to Computer-Based Assessments	\$8,500,000 ^{a)}	\$8,500,000	\$8,500,000	\$8,500,000	\$8,500,000
Online Reporting Tool to Districts	3,200,000	500,000	500,000	500,000	500,000
Computer-Based Assessments - Online Reporting Tool Total	\$11,700,000	\$9,000,000	\$9,000,000	\$9,000,000	\$9,000,000
<u>Interim Tests</u>					
Interim Tests: Development Costs.....	\$4,000,000	\$4,000,000	\$4,000,000	\$4,000,000	\$4,000,000
Interim Tests: Grades 3-11 ELA/Math	0	5,332,148	5,332,148	5,332,148	5,332,148
Interim Tests: Grades K-2, 12 ELA/Math	0	0	2,335,704	2,335,704	2,335,704
Interim Tests: Grades 3-11 Social Studies	0	0	0	2,665,444	2,665,444
Interim Tests: Grades 3-11 Sciences.....	0	0	0	0	2,666,704
Interim Tests Total.....	\$4,000,000	\$9,332,148	\$11,667,852	\$14,333,296	\$17,000,000
Assessments Increased Costs Total	\$15,700,000	\$18,332,148	\$20,667,852	\$23,333,296	\$26,000,000
TOTAL INCREASED COST.....	\$49,414,000	\$45,191,248	\$47,522,852		
^{a)} The \$8.5 million for converting to Computer-Based Assessment comes from existing appropriations in the Technology Infrastructure Grant fund and does not represent an increase in the current funding level.					
Note: Though the table does not include costs beyond FY 2016-17 for Observation Tools and Technical Assistance, those costs would continue, but would depend on future contracts and demand.					

Source: School Aid Educator Evaluation and Student Assessment Phase-In. February 2014. Provided by the State Budget Office.

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Technical assistance would be provided through the MDE and School Aid funding, totaling \$11.6 million under the Governor's recommendation for FY 2014-15. Of that total, a School Aid appropriation of \$3.0 million would provide value-added modeling for test results as well as integrating observation data with value-added modeling for districts. (Value-added modeling measures how much of an impact a teacher had on a student's growth in a given time period.) These funds also would be used to pilot alternative evaluations for students who could not be evaluated under the standard assessment. This funding is anticipated to increase as more assessments needed to be modeled and integrated with the observation tool. In addition, \$2.7 million would be appropriated from the School Aid budget to provide the teacher-student rosters that would be needed for evaluations. Finally, the MDE budget proposal includes \$5.9 million for hiring 21 additional staff who, it is estimated, would be needed to provide adequate technical assistance to school districts. These employees would provide technical support for evaluations, monitor implementation and compliance, create a waiver review process, and use educator evaluation results in rating educator preparation institutions. State administration costs are expected to decrease and then level off after the initial phase-in year.

The Governor's recommendation also calls for \$15.7 million to be used for student assessments. Of this total, \$8.5 million would be earmarked from the Technology Infrastructure Grant fund for converting to a computer-adaptive assessment, providing paper-and-pencil tests to districts that were not prepared to implement online assessments, and expand writing assessments to additional grades. This does not represent increased funding, but rather funding that would be earmarked from funds appropriated for the Technology Infrastructure Grant. Another \$7.2 million represents increased funding to student assessments for the new computer-adaptive assessment. Of the \$7.2 million, \$3.2 million would be used to develop and run an online reporting tool that students, teachers, and parents could use to see assessment results as soon as they were scored. After the initial development of this tool, the costs are projected to decrease to \$500,000 in ongoing costs. Interim tests are projected to see the greatest increase in costs over the next five years. These tests are estimated to cost \$4.0 million initially in FY 2014-15, but the cost is projected to grow to \$17.0 million by FY 2018-19. The increase is due to the growth in the number of interim tests that would be phased in over the upcoming years under the Governor's proposal. These interim tests would provide pretest and post-test comparisons, designed to improve the accuracy of measuring individual student growth.

Conclusion

The Governor's FY 2014-15 budget includes \$49.4 million to support the phase-in of new educator and administrator evaluations. This funding recommendation is based on MCEE recommendations and cost estimates. Of the total, \$8.5 million would come from existing sources, while \$40.9 million would come from increases in the School Aid and MDE budgets. The majority of the appropriation would be funded by the School Aid Fund (\$29.3 million), while \$11.6 million would come from GF/GP revenue. Fiscal Year 2015-16 costs are estimated to decrease to \$45.2 million after initial start-up costs are removed. In future years, however, those costs will increase as more interim tests are developed and phased in, if the Governor's proposal is implemented. Projections could change if further amendments are made to current law or the implementation plan.

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An Overview of Human Trafficking in the U.S. and Michigan **By Jeffrey Mann, Legislative Analyst**

Introduction

Human trafficking is commonly referred to as "modern day slavery". The International Labour Organization estimates that nearly 18.7 million people worldwide are exploited by individuals and enterprises for sex or forced labor.¹ The State of Michigan sees some of these cases; however, the true extent of these crimes within the State's borders is unknown. This paper will discuss the basics of labor and sex trafficking and the forms that they take in the United States and Michigan. This paper also will describe some estimates as to the prevalence of human trafficking in Michigan, some of the Federal and State anti-human trafficking laws, and the public and private actors involved in anti-trafficking efforts in Michigan. Finally, this paper will present some of the legislation introduced in Michigan to counter human trafficking, and describe some other legislative actions that have been suggested by individuals and groups involved in preventing human trafficking.

Labor Trafficking

Labor trafficking is defined by Federal law as "the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery".² The practices of labor trafficking are not restricted to any particular industrial sector, set of actors, or enterprise size. Cases involving labor trafficking have ranged from a single trafficked individual to large-scale trafficking for industrial or agricultural operations. While labor trafficking is not isolated to any particular industry, some sectors involve a disproportionate number of reported human trafficking cases. According to the National Human Trafficking Resource Center (NHTRC), several industries made up a majority of its reported labor trafficking cases between 2007 and 2012. These included domestic work, restaurant or food services, agriculture, peddling, and general labor (or unspecified).³ While sex trafficking receives more media attention and has been easier to identify, global estimates of labor trafficking are significantly higher than the estimates for sex trafficking.⁴ Moreover, labor trafficking involves a greater proportion of men than sex trafficking does, though women still occupy a majority of those forced into labor trafficking.⁵

Sex Trafficking

The Federal government defines sex trafficking as the "recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act".⁶ The United States Code further defines a "severe form" of sex trafficking as "sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age".⁷ The majority of the NHTRC's cases of sex trafficking in the U.S. have involved pimp-controlled

¹ International Labour Organization, "New ILO Global Estimate of Forced Labour: 20.9 million victims", 6-1-2012, retrieved 4-14-2014, http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_182109/lang-en/index.htm.

² 22 U.S.C. § 1702. This definition is for the "severe forms of trafficking in persons" related to labor. The terms "involuntary servitude" and "debt bondage" are defined separately.

³ Polaris Project, *Human Trafficking Trends in the U.S.: National Human Trafficking Resource Center 2007-2012*, 20, retrieved 4-14-2014, <http://www.polarisprojec.org/resources/hotline-statistics>.

⁴ See n.1.

⁵ *Id.* at 21.

⁶ 22 U.S.C. § 7102.

⁷ *Id.*



prostitution and commercial-front brothels, though other venues are present.⁸ Most sources estimate that sex trafficking is more prevalent in the United States than labor trafficking. Although sex trafficking predominately affects women, cases involving men or transgendered individuals also have been reported.

Trafficking in the United States and Michigan

United States

The United States is known to be a source, transit, and destination country for men, women, and children subjected to sex trafficking, debt bondage, involuntary servitude, and forced labor.⁹ The prevalence of human trafficking in any location is difficult to determine for several reasons. First, there is no uniform system for data reporting. The nature of human trafficking as a crime also contributes greatly to the problem. Victims are often unwilling to come forward out of fear. Commonly, this is the result of a trafficker's threats of violence, embarrassment, alienation, or warnings that the victim will be arrested or deported if he or she is found by the police. Other victims do not come forward due to lack of awareness about the rights they have under Federal and state law. While arrests and prosecutions add to an understanding about the prevalence of human trafficking, some cases that are human trafficking cases are prosecuted under other laws, and go unreported as human trafficking. Also because human trafficking is often meant to be covert, human traffickers often engage in a variety of strategies to keep their activities and their victims from being found. These include closely monitoring their victims, moving frequently, and sequestering their victims in houses with cameras and locked or barred doors and windows. Finally, misconceptions as to what human trafficking is and when questionable conduct may actually be human trafficking make third-party reporting difficult.¹⁰

There is some information available to determine the prevalence of human trafficking in the United States. The U.S. Department of Justice Bureau of Justice Statistics recorded 2,515 incidents of human trafficking nationwide between January 2008 and June 2010.¹¹ Of those incidents, 1,016 involved the sexual exploitation of a child, 1,218 involved the sexual exploitation of adults, and 350 involved labor trafficking.¹² In 2013, the NHTRC received 31,945 phone calls, 1,669 online tip forms, and 1,488 emails nationwide.¹³ These communications resulted in over 20,000 unique cases. Of those, 5,214 reported moderate to high indicators of human trafficking.¹⁴ Of these cases, 3,609 (63.23%) bore indicia of sex trafficking, 929 (17.82%) had indications of labor trafficking, and the remainder either were not specified or were a combination of sex and labor trafficking. While the actual numbers of sex trafficking victims in the United

⁸ See n.3, at 15.

⁹ United States Department of State, *Trafficking in Persons Report 2013*, 381, retrieved 4-8-2014, <http://www.state.gov/j/tip/rls/tiprpt/2013>.

¹⁰ Michigan Commission on Human Trafficking, 2013 Report on Human Trafficking, 37, retrieved 4-2-2014, http://michigan.gov/documents/ag/2013_Human_Trafficking_Annual_Report_439271_7.pdf?20140403122710. One physician suggested that the reason that 93% of surveyed doctors said that they had never treated a human trafficking victim was that doctors are not trained to recognize human trafficking victims and would not recognize a victim if they saw one.

¹¹ Duren Banks & Tracey Kyckelhahn, "Characteristics of Suspected Human Trafficking Incidents, 2008-2010", *U.S. Department of Justice, Bureau of Justice Statistics Special Report*, p. 1, 4-2011, retrieved 4-7-2014, <http://www.bjs.gov/content/pub/pdf/cshti0810.pdf>.

¹² *Id.* at 3.

¹³ National Human Trafficking Resource Center, "2013 Statistical Overview", retrieved 4-11-2014, <http://www.polarisproject.org/resources/hotline-statistics>.

¹⁴ According to the NHTRC, cases categorized as "high" have a high level of critical information, and contain key indicators of human trafficking. Cases categorized as "moderate" contain some critical information or red flags, or resemble typical trafficking scenarios, but lack certain elements such as force or coercion.



States is not known, the Polaris Project estimates that the number of minors involved in sex trafficking in the U.S. could be in the hundreds of thousands.¹⁵

Trafficking in Michigan

Michigan is believed to be a major destination for human trafficking for a variety of reasons. The State's three border crossings with Canada make convenient entry points for international traffickers to bring their victims into this country. In addition, several main interstate highways bring commercial traffic through Michigan from other U.S. states. In areas such as Detroit and other economically depressed communities, law enforcement and other municipal services may not have the time, resources, or manpower to effectively police human trafficking.

The seriousness of human trafficking and its portrayal in the media and the news lead many to believe that human trafficking is not common in Michigan. However, there have been a number of prominent cases in Michigan relating to both domestic and international human trafficking. One example is Jean-Claude Toviave of Ypsilanti, who was sentenced to 135 months in prison on human trafficking charges in March 2013.¹⁶ He brought four children from his native Togo to Michigan in 2006 and forced them to work in his home, where he subjected them to physical and verbal abuse, for over five years. Human trafficking in Michigan also affects domestic victims. Sedrick Mitchell of Detroit was convicted of eight criminal charges in 2012.¹⁷ Mitchell was found to have forced two minors to prostitute themselves and turn over their earnings to him. He abused both girls physically if their earnings were insufficient and sexually assaulted both girls several times. A July 2013 FBI raid targeting 76 urban areas throughout the United States, including Detroit, resulted in 150 arrests and the rescue of 105 minors.¹⁸ Detroit ranked second in juveniles recovered and overall statistics, behind San Francisco.¹⁹

For the same reasons as those discussed above, the prevalence of human trafficking in Michigan is difficult to determine. Nevertheless, some estimates do exist. In 2013, the NHTRC received a total of 554 phone calls, 25 online tip forms, and 13 emails from individuals in Michigan.²⁰ Of those communications, the NHTRC generated 120 cases that had indicators of trafficking. As classified by the NHTRC, 50 of the reported cases were high and 70 were moderate. The majority of these cases (101) were sex trafficking cases, 15 had indications of labor trafficking, and the remainder were sex and labor trafficking or the nature of the case was not specified.

¹⁵ Polaris Project, "Human Trafficking Cheat Sheet", retrieved 4-14-2014, <http://www.polarisproject.org/resources/resources-by-topic/human-trafficking>.

¹⁶ Tresa Baldas, "University of Michigan janitor convicted of child slavery", *USA Today*, 3-25-2013, retrieved 4-10-2014, <http://www.usatoday.com/story/news/nation/2013/03/25/university-of-michigan-janitor-child-slavery-conviction/2017953/>.

¹⁷ Staff Reports, "Man nicknamed 'Gruesome' found guilty of human trafficking in Detroit", *Oakland Press News*, 3-24-2012, retrieved 4-9-2014, <http://www.theoaklandpress.com/general-news/20120324/man-nicknamed-gruesome-found-guilty-of-human-trafficking-in-detroit>.

¹⁸ Supervisory Special Agent David K. Porter, "FBI Detroit Participates in Operation Cross Country VII with Members of Southeast Michigan Crimes Against Children Task Force", FBI Detroit, 7-29-2013, retrieved 4-14-2014, <http://www.fbi.gov/detroit/press-releases/2013/fbi-detroit-participates-in-operation-cross-country-vii-with-members-of-southeast-michigan-crimes-against-children-task-force>.

¹⁹ *Id.*

²⁰ National Human Trafficking Resource Center, "Michigan State Report: 1/1/2013-12/31/2013", retrieved 4-14-2014, <http://www.polarisproject.org/state-map/michigan>. In nearly five years, the NHTRC received 1,245 communications from Michigan.



Federal and State Human Trafficking Laws

Federal Law

The laws pertaining to human trafficking in the United States stem from the Thirteenth Amendment to the U.S. Constitution, which states, "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."²¹ The principal statute banning human trafficking in the United States is the Trafficking Victims Protection Act (TVPA) of 2000. As the first act regulating human trafficking explicitly, it is the primary law for prosecuting human traffickers. Since its original passage, Congress has reauthorized the TVPA in 2003, 2005, 2008, and 2013.²²

Other laws that were originally passed to regulate or prohibit other activity have been repurposed or adapted to work for human trafficking. The Fair Labor Standards Act (FLSA), the Occupational Safety and Health Act (OSHA), and the National Labor Relations Act can be used to fight human trafficking, but often come with exemptions for industries most affected by human trafficking. For example, the FLSA exempts live-in domestic workers from overtime and minimum wage requirements, and regulations interpreting OSHA state that its provisions do not apply to "individuals who, in their own residences, privately employ persons for the purpose of performing for the benefit of such individuals what are commonly regarded as ordinary domestic household tasks".²³

Federal prosecutors also have used the Mann Act to prosecute commercial sex trafficking offenses. In its "Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons" for the 2006 fiscal year, the U.S. Attorney General highlighted several cases involving the Mann Act.²⁴ The Mann Act prescribes a criminal penalty for "[w]hoever knowingly transports any individual in interstate or foreign commerce...with intent that such individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense...".²⁵

Michigan Law

Amendments to the Michigan Penal Code in 2006 added Chapter 67A, which bans various forms of human trafficking. Specifically, Chapter 67A prohibits subjecting another person to forced labor or services through threat of physical harm, force, restraint, abuse of legal process, concealment of documents, blackmail, or financial harm.²⁶ Chapter 67A also prohibits recruiting, enticing, providing, or transporting a minor for sex, or a person for forced labor or services.²⁷ Additionally, as amended in 2010, Chapter 67A includes a prohibition against subjecting another person to forced labor or services through force, fraud, or coercion, and bans the recruiting, providing, or transporting of a person for labor or services for the purpose of debt bondage or involuntary servitude.²⁸ The chapter also imposes additional sentence modifiers for violations involving death, injury, kidnapping, or a victim who is a minor.

²¹ United States Constitution, amend. XIII, § 1.

²² U.S. Department of State, "U.S. Laws on Trafficking in Persons", retrieved 4-14-2014, <http://www.state.gov/j/tip/laws/>; "Current Federal Laws", retrieved 4-14-2014, <http://www.polarisproject.org/what-we-do/policy-advocacy/national-policy/current-federal-laws>.

²³ 29 C.F.R. 1975.6.

²⁴ U.S. Department of Justice, "Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons Fiscal Year 2006". 43, 50, retrieved 3-8-2014, <http://www.justice.gov/archive/ag/annualreports/tr2006/agreporhumantrafficking2006.pdf>.

²⁵ 18 U.S.C. § 2421.

²⁶ M.C.L. 750.426b-750.462f.

²⁷ M.C.L. 750.462g and 750.462h.

²⁸ M.C.L. 750.462j.



Other parts of the Penal Code also work to punish human trafficking in Michigan. Many cases of sex trafficking involve criminal sexual conduct, as defined in the Code.²⁹ The Code also includes human trafficking in a list of offenses that, if committed for financial gain, constitute racketeering.³⁰ There are also various prostitution offenses that are used to secure convictions of pimps and traffickers.

The penalties for violating Chapter 67A can be severe, ranging from 10 years to life in prison, depending on the circumstances of the crime.³¹ In addition, a convicted trafficker may be required to pay criminal fines ranging between \$10,000 and \$50,000. Assets and other property used in the commission of a human trafficking offense may be seized and forfeited.³² Additionally, a convicted trafficker may be required to pay restitution to his or her victim for lost wages, costs, attorney fees, and other losses incurred by the victim, and may be compelled to reimburse the government for the costs associated with investigation and prosecution.³³

Public and Private Actors

Public

Michigan's Department of Attorney General has increased its efforts to prosecute human traffickers and participates in a variety of initiatives to educate the public on the issue of human trafficking and to deter and prevent human trafficking. In 2011, the Attorney General launched the Human Trafficking Unit to prosecute trafficking cases under laws passed in 2010.³⁴ As of February 2014, the unit had secured the conviction of at least eight people for various offenses under current human trafficking laws.³⁵ In addition, the Attorney General co-chaired the Michigan Commission on Human Trafficking and is a member of the National Association of Attorneys General Presidential Initiative Leadership Council, whose major initiatives include a united effort on the enforcement of human trafficking laws and the prosecution of offenders.

²⁹ M.C.L. 750.462b-750.520e. Michigan repealed its laws against rape in 1975 and replaced them with four degrees of criminal sexual conduct (CSC). A typical case in which a trafficker may be convicted of CSC would be one in which a person had nonconsensual sex with a prostitute he or she was associated with, or had sex with a minor prostitute. For example, Sedrick Mitchell, n. 13, was convicted of CSC for his sexual assault of two minors whom he forced into prostitution.

³⁰ M.C.L. 750.159g(hh). The Penal Code prohibits a person from engaging in "a pattern of racketeering activity", or, at least two incidents of racketeering that have interrelated characteristics and amount to or pose a threat of continuing criminal activity. M.C.L. 750.159f. "Racketeering" means committing, attempting to commit, conspiring to commit, or aiding or abetting, soliciting, coercing, or intimidating a person to commit" one (or more) of the offenses enumerated in the Code for financial gain. M.C.L. 750.159g.

³¹ M.C.L. 750.462a to M.C.L. 750.462j.

³² Under Chapter 47 of the Revised Judicature Act, M.C.L. 600.4701, *et seq.*, the state or a local unit of government may seize "all personal property that is the proceeds of a crime, the substituted proceeds of a crime, or an instrumentality of a crime", and "[a]ll real property that is the proceeds of a crime or the substituted proceeds of a crime", except the primary residence of the spouse or dependent child of the owner, unless either of them knew of, and consented to the commission of, the crime.

³³ M.C.L. 750.462j(5).

³⁴ "No Love for Michigan Human Traffickers: A.G. Schuette Announces 8th Conviction", Michigan Attorney General Bill Schuette, 2-14-2014, retrieved 4-14-2014, http://www.michigan.gov/ag/0,4534,7-164-46849_47203-321992--,00.html

³⁵ *Id.*



The Michigan Commission on Human Trafficking was formed in 2013 by a collaborative effort between the Governor, the Attorney General, and the Michigan Legislature. The goals of the Commission were to assess the threat of human trafficking to Michigan residents and to develop a strategy for combating human trafficking in Michigan. The Commission consisted of 31 members from the Legislature, law enforcement, academia, and human trafficking activist organizations from around the State of Michigan.³⁶ In its 2013 report, the Commission set forth a number of findings, proposed strategies, and recommendations for locating human trafficking victims and their traffickers. These included a list of 11 legislative recommendations, such as a safe harbor law for human trafficking victims (which would shield victims from prosecution for crimes they were forced to commit), poster laws, civil forfeiture, and nuisance abatement.³⁷ Many of the Commission's recommendations have been incorporated into legislation currently before the Legislature.

The State's largest universities also contribute to anti-human trafficking efforts in Michigan, nationally, and internationally. The University of Michigan Law School offers a Human Trafficking Clinic. Launched in 2009, the Clinic gives law students the opportunity to aid human trafficking victims domestically and internationally through representation, advocacy, and education efforts.³⁸ The Clinic also keeps a database of human trafficking cases. The database is organized by case name, forum, venue, date, and whether the case is civil or criminal.

The Michigan Human Trafficking Task Force, headed by Michigan State University, also works on anti-human trafficking efforts. The Task Force consists of over 90 members from nongovernmental organizations (NGOs), community members, academic organizations, law enforcement organizations from the local, State, and Federal levels, and other professionals and organizations.³⁹ The Task Force's efforts include providing human trafficking education and training to law enforcement agencies, faith-based service providers, and community groups, and disseminating information to potential human trafficking victims.

Private

There are many NGOs and other private groups in Michigan and nationally that aid in anti-trafficking activities, including outreach, education, and victim services. Many of these are faith-based organizations.⁴⁰ These groups are often associated with a particular church, but this is not always the case.

The Polaris Project is a nonprofit entity that works to prevent human trafficking and human slavery in all forms through direct outreach and education. Founded in 2002 by Derek Ellerman and Katherine Chon,⁴¹ the Polaris Project engages in a number of activities including public policy programs, training, public outreach, support services for victims, and operating the NHTRC. The NHTRC is a hotline used to request information and resources on human trafficking and report tips on human trafficking to facilitate the arrest of human traffickers and the rescue of their victims. Through the NHTRC, the Polaris Project is able to accumulate information about how often its services are used, where they are used, and who is using them.

³⁶ See n.9, at 18.

³⁷ *Id.* at 45-51.

³⁸ University of Michigan Law School Human Trafficking Clinic, viewed 4-14-2014, <https://www.law.umich.edu/clinical/humantraffickingclinicalprogram/Pages/humantraffickingclinic.aspx>.

³⁹ Michigan State University: Michigan Human Trafficking Task Force, viewed 4-14-2014, <http://www.humantrafficking.msu.edu>.

⁴⁰ E.g., Manasseh Project, <http://www.manassehproject.org>; Eve's Angels, <http://www.evesangels.org>.

⁴¹ Polaris Project, "Founding Story", retrieved 4-14-2014, <http://www.polarisproject.org/about-us/overview/founding-story>.



Legislative Action in Michigan

As of this writing, there are at least 46 different bills before the Legislature designed to bolster anti-human trafficking efforts in Michigan or assist human trafficking victims. Many of these bills represent duplicate efforts in the Senate and House of Representatives to pass recommendations made by the Human Trafficking Commission. While many of the bills explicitly deal with human trafficking, others are designed to address human trafficking, but not explicitly. These measures are in varying stages in the legislative process.

Proposals that have been introduced in the Senate, and presently remain in committee, include Senate Bills 205 and 206, which would make it a felony for a person 16 or older to solicit another person between the ages of 16 and 17 to commit prostitution or another lewd or immoral act.⁴² Senate Bills 499 and 500 would create the "Human Trafficking and Reporting Act" and would direct funds received from the sale of property forfeited as a result of violations of Chapter 67A to certain purposes related to human trafficking violation enforcement and prevention. Senate Bill 596 would enact the "Human Trafficking Board Act" and create the Human Trafficking Board within the Department of State Police.

Under Senate Bill 589, a court's ability to terminate an individual's parental rights could be extended to instances in which a parent was convicted of a human trafficking violation. Senate Bills 594 and 595 would levy a \$3 excise tax per customer admitted into certain adult entertainment facilities, and would authorize local governments to adopt ordinances requiring any person employed at an adult entertainment business to obtain a permit to work at the business. A more recently introduced bill, Senate Bill 855, would grant immunity from civil liability to a number of professionals who, in the course of performing their professional duties, have reasonable cause to suspect a human trafficking violation, and report the suspected violation in good faith, or cooperate with an investigation into an alleged human trafficking violation.⁴³

Other bills have passed the Senate and are now awaiting action in the House. For instance, Senate Bills 585 through 588 would increase the minimum age for prostitution offenses, give the family court jurisdiction over minors who committed prostitution offenses, require counseling to be provided to a child in foster care who was a human trafficking victim, and provide affirmative defenses for victims of human trafficking during the prosecution of certain offenses (creating a "safe harbor law"). Senate Bills 590 through 593 would allow victims to sue their traffickers, allow a criminal conviction to be set aside on the ground of being a victim of human trafficking, provide victims of human trafficking with the ability to receive medical and psychological care, and grant consideration within the foster care system for minors who may be victims of human trafficking, respectively.

Proposed Laws and Conclusion

Both the Human Trafficking Commission and the Polaris Project have made general policy recommendations to strengthen human trafficking laws in Michigan. Elements of many of these proposed laws have been included in introduced legislation. However, there are several recommendations that have not. One such recommendation is a poster law, which would require that certain locations post an informational poster with the NHTRC hotline phone number.⁴⁴ The states that have passed such a law vary in their posting location requirements, but often include establishments that serve alcohol, adult entertainment businesses, rest areas, and other transportation system areas. In some cases, the laws include a fine for failing to post the signs in a conspicuous place.

⁴² The House introduced and passed substantially similar bills, House Bills 4209 and 4210.

⁴³ House Bill 5399 contains identical language.

⁴⁴ See n. 31, at 51.

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Another suggested approach is a complete decriminalization of the sale of sex, with an accompanying increase in penalties for those who purchase sex. The notion is that severely penalizing the demand for prostitution, rather than the supply, would decrease the incidence of prostitution (and human trafficking). Some countries have applied this approach.⁴⁵

In conclusion, the legislative activity for the 2013-2014 session in regard to human trafficking represents a potential shift in Michigan's public policy. In recent years, there has been an attempt to move toward viewing sex-trafficked individuals as victims, rather than criminals, and this approach is reflected in much of the proposed legislation. In addition, the quantity and quality of information relating to the prevalence of human trafficking in Michigan are key to determining where problems are, and enhanced reporting of human trafficking offenses would give the Legislature, law enforcement, and, ultimately, individuals a better idea of the extent of human trafficking in Michigan communities. In turn, this knowledge could lead to more effective efforts to combat the problem.

⁴⁵ Victoria Stunt, "Sex workers fear new prostitution laws will compromise safety", *CBC News*, 2-7-2014, retrieved 4-14-2014, <http://www.cbc.ca/news/canada/sex-workers-fear-new-prostitution-laws-will-compromise-safety-1.2523145>. At least three countries follow this model, often called the "Nordic model": Iceland, Sweden, and Norway. France, the U.K., and Canada are currently considering similar legislation.

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Overview of State Transportation Services for Low-Income, Elderly, and Disabled Populations **By Frances Carley, Fiscal Analyst**

Summary

Several State departments offer transportation services for low-income, elderly, and disabled adult populations. This article will provide an overview of the various programs that serve these populations at the State level, including annual expenditures.¹

These various services are provided by the following departments: Michigan Department of Transportation (MDOT), Department of Human Services (DHS), Department of Community Health (DCH), and Department of Corrections (DOC), as well as the Strategic Fund in the Department of Treasury.² The spending in these program areas totaled \$40.1 million Gross in fiscal year (FY) 2011-12, and \$38.3 million Gross in FY 2012-13.

The Senate Appropriations Committee's budget recommendation for the Department of Human Services would require a workgroup to explore consolidation of these programs.³ Although the programs serve similar populations, the authority to manage and oversee a Federal funding stream typically must remain with a given department. Services may overlap in terms of the population served, but also may vary in terms of the specific objective, eligibility criteria, location and availability, or other implementation issues. If the workgroup is established, its report could provide more information as to whether it is possible to combine services or combine funding through an interagency agreement, interdepartmental grant, or another mechanism when services overlap.

Overview of Spending by Department

Table 1 provides a list of the spending by department and by program area in FY 2011-12 and FY 2012-13. Brief descriptions of the program areas follow.

Michigan Department of Transportation

The Michigan Department of Transportation provides specialized transportation services for low-income, elderly, and disabled populations. The programs are funded through both State and Federal revenue sources.

The services that are offered for low-income individuals are aligned with transportation to work services. This program is intended to remove the lack of transportation as a barrier to employment. Services are planned and implemented at the local level in coordination with social service and employment service agencies to transport welfare recipients and low-income individuals to and from jobs, where traditional services are unavailable, inappropriate, or insufficient.

The Michigan Department of Transportation also has interagency agreements with the DHS and Treasury to provide transportation to work services in Genesee County.⁴ The Department of Human Services and

¹ Regional and local services are not included unless State or Federal funding for the programs is reflected in the State budget.

² The Michigan State Housing Development Authority does not provide these services. Additionally, the focus of this report is on services for special adult populations, and therefore, does not include Department of Education transportation services.

³ The workgroup language also is included in the Appropriations Committee recommendations for MDOT, Treasury, DCH, and DOC.

⁴ The match from Treasury formerly was provided by the Department of Licensing and Regulatory Affairs.



Treasury each provide \$550,000 for this initiative, which is implemented by the transit provider in Genesee County, Mass Transportation Authority. The funds are used to transport Genesee County residents to jobs within Genesee County as well as neighboring Lapeer, Livingston, Oakland, Saginaw, and Washtenaw Counties.

Through the Federal Enhanced Mobility of Seniors and Individuals with Disabilities Program, MDOT provides public transportation services and alternatives for these populations.⁵ This Federal funding is provided to the states based on population size and also to large urban areas. Funding to serve disabled individuals primarily assists with transportation to and from jobs and other employment support services.

Department of Treasury, Strategic Fund

In addition to the \$550,000 match provided by the Department of Treasury for low-income transportation services in Genesee County (as described above), the Strategic Fund in the Department of Treasury provides funding for transportation services for other low-income employment programs, including welfare-to-work.

The Community Ventures program assists long-term unemployed people in Detroit, Flint, Pontiac, and Saginaw in removing barriers and obtaining employment. When this new program was launched, it received \$9.8 million in FY 2012-13. Transportation comprises a portion of the services, with approximately \$600,000 set aside for this purpose.

The Strategic Fund also supports Michigan Works! transportation services for individuals who are receiving cash assistance through the Family Independence Program (FIP) in the DHS. In order to be eligible for FIP, individuals must be employed or participate in job readiness activities. Michigan Works! has a contract with the DHS to provide FIP clients with assistance for job placement and other services to help them meet their work requirements and self-sufficiency plan.

Department of Human Services

In addition to providing a \$550,000 match for low-income transportation services in Genesee County (as described above), the DHS provides funding for low-income adults who are receiving various forms of public assistance, as well as disabled individuals.

Services for low-income adults are provided through the Employment and Training Support Services line item in the DHS budget. The services are intended to maintain or enhance employment and can be made available for a maximum of four consecutive months to families that are receiving the child care subsidy, food assistance, or Medicaid. These services are not available through the FIP work participation program.

Michigan Rehabilitative Services (MRS) provides a range of services for disabled individuals to support employment outcomes and independence. Transportation is one of the available support services. In order to draw down the Federal Rehabilitation Services Administration and Vocational Rehabilitation Title I grant, the State provides a match of 21.3%. Based on Federal eligibility requirements, individuals must: 1) have a physical or mental disability that constitutes or results in a substantial barrier to employment; 2) be able to benefit from vocational rehabilitation services; and 3) want to work.

⁵ Prior to FY 2012-13, funding for these services was provided under both the Elderly Individuals and Individuals with Disabilities program and the New Freedom program.



Department of Community Health

The Department of Community Health provides transportation for low-income populations for various medical needs, including chronic health problems, prenatal care, and cancer screenings.

Medicaid recipients throughout the State are eligible to receive Non-Emergency Medical Transportation program transportation through public and private providers. Macomb, Oakland, and Wayne Counties have a contract with LogistiCare to provide the services.

Children and some adults with chronic health care needs and their families can qualify for nonemergency medical transportation through the Children's Special Health Care Services. This program covers more than 2,700 diagnoses, including cancer, cerebral palsy, liver disease, certain vision disorders, sickle cell anemia, and epilepsy. Individuals who are 21 years old and older can qualify for services if they have cystic fibrosis or certain blood coagulation disorders. This program provides a variety of family- and community-based support services, with transportation being just one item in the spectrum.

The Maternal Infant Health Program serves high-risk pregnant women who are enrolled in Medicaid. Local health departments, private health agencies, and outpatient hospital clinics certified by the DCH participate in the program. These service providers refer clients to the program if there are any conditions that could have an adverse effect on the pregnancy outcome, such as nutritional problems, cognitive, emotional or mental impairments in the mother, drug, alcohol or tobacco abuse, or the need for transportation to keep medical appointments.

The Breast and Cervical Cancer Program is a national program, authorized by Federal legislation and funded by the Centers for Disease Control and Prevention, to provide screening services and diagnostic testing for breast and cervical cancer. In Michigan, services are available statewide and more than 29,000 uninsured or underinsured women are screened for these cancers each year. Some of the funding is made available for transportation to appointments.

Department of Corrections

As part of the assistance that is available for prisoner re-entry, transportation is included in the range of support services that are intended to help ex-offenders meet the conditions of their parole, items that could include meetings with a parole officer or job readiness or other employment goals. Private transportation is also an allowable service under certain circumstances and may include fuel cards, bicycles, mileage reimbursements, or private services. Public transportation was made available to 5,600 cases and private transportation was made available to 1,600 cases in FY 2011-12. In FY 2012-13, 4,762 cases received public transportation services and 859 cases received one of the private services.

Conclusion

This article identifies transportation services for low-income, elderly, and disabled populations and where, potentially, there are overlapping services among the various State departments. There are similar employment services for low-income individuals within MDOT, Treasury, the DHS, and the DOC. Various programs for disabled individuals are in place in MDOT, the DHS, and, to some extent, the DCH. These are examples of potential connections that are visible on the surface. The Senate Subcommittee's budget recommendation for the DHS included a workgroup to explore consolidation of these various programs in order to improve efficiency, delivery of service, and communication among the departments.



Table 1

TRANSPORTATION SERVICES FOR LOW-INCOME, DISABLED, AND SENIOR POPULATIONS		
Program and Department	FY 2011-12 Actual	FY 2012-13 Actual
Department of Transportation		
Low-Income Transportation to Work Assistance.....	\$4,700,000	\$4,700,000
Elderly/Disabled Transportation Assistance.....	<u>10,652,800</u>	<u>3,203,500</u>
Subtotal	\$15,352,800	\$7,903,500
Department of Human Services¹⁾		
Low-Income Transportation to Work Assistance.....	\$550,000	\$550,000
Employment and Training line item	261,200	168,900
Michigan Rehabilitation Services (MRS)	<u>0</u>	<u>588,600</u>
Subtotal	\$811,200	\$1,307,500
Department of Treasury – Strategic Fund²⁾		
PATH and Michigan Works! for FIP clients	\$3,800,000	\$6,654,500
Low-Income Transportation to Work Assistance.....	550,000	550,000
Community Ventures	<u>N/A</u>	<u>600,000</u>
Subtotal	\$4,350,000	\$7,804,500
Department of Community Health (Nonemergency Medical Transportation)		
Medicaid	\$15,150,500	\$18,494,300
Children's Special Health Care Services.....	2,458,500	1,626,400
Maternal Infant Health Program	1,446,700	749,600
Breast and Cervical Cancer Program.....	<u>18,200</u>	<u>13,700</u>
Subtotal	\$19,073,900	\$20,884,000
Department of Corrections		
Prisoner Re-entry - Public Transportation	\$362,700	\$294,100
Prisoner Re-entry - Private Transportation	<u>165,600</u>	<u>76,000</u>
Subtotal	\$528,300	\$370,100
Total	\$40,116,200	\$38,269,600
<p>1) The Department of Licensing and Regulatory Affairs (LARA) previously managed MRS. The Employment and Training and MRS data are estimates based on vendor information found in the Michigan Administrative Information Network (MAIN). The estimates do not include items that are flagged as vehicle repairs or purchases.</p> <p>2) Previously, LARA managed the work program for Family Independence Program (FIP) clients, and the program is now managed by the Strategic Fund in Treasury. The Community Ventures program was launched in FY 2012-13.</p>		