

legislative bulletin

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To: All School Committee Members and Superintendents
From: Stephen J. Finnegan Esq., MASC General Counsel
Re: F.Y. S.2412 Ed. Reform Conference Committee Report
Date: November 21, 2019

ANALYSIS OF S. 2412 EDUCATION REFORM CONFERENCE REPORT

On November 20, 2019 the House and Senate passed the Student Opportunity Act without dissent as modified by the Conference Committee Report. The Conference Committee modified S.2412 by requiring DESE to calculate the minimum aid adjustment amount using the base and incremental rates in the FY 2020 budget, adjusted for inflation, plus the district's enrollment multiplied by \$30- **Minimum aid** is therefore the greater of either the district's foundation enrollment multiplied by a number set in the General Appropriations Act, but not less than \$30, or the minimum aid adjustment minus the previous year's Chapter 70 aid. **This ensures that no districts are harmed by any changes in this bill.**

A very controversial provision regarding school district accountability was resolved in Conference by requiring school districts to develop and make publicly available plans for closing gaps in student performance. These plans include specific goals and metrics to track success. The Commissioner is required to review these plans, and districts are required to make changes if

the plans are determined not to meet the requirements of the statute.

The Secretary of Education is required to collect and publish data on student preparedness in each district and high school for post graduate success in college and the workforce. The Secretary is required to make recommendations to establish statewide and regional targets for student preparedness for workforce and post-secondary education.

The final Conference Committee revisions to the Student Opportunity Act identifies educational and policy areas concerning, analyzing the method of determining required local contributions. DESE and the principals of five recovery high schools are directed to examine the costs associated with sending students to such schools, and determine the average cost per pupil for said students. Districts are allowed to utilize their reserve funds for unanticipated or unbudgeted costs associated with recovery high schools.

Finally, S2412 directs the Massachusetts School Building Authority and DESE to review eligible expenses and reimbursement rates in the school building assistance program to ensure that the program is accessible and

affordable to all communities. **This paragraph concludes the Conference Committee changes as summarized above. The remainder of this bulletin is taken from my September bulletin, which analyzes the provisions of the Student Opportunity Act S. 2348 up to the Conference Committee Report.**

The Legislature passed without a single negative vote the most comprehensive education reform bill since the passage of the landmark 1993 Education Reform Act. S. 2412 will increase funding for elementary and secondary education by \$1.5 billion over and above inflation to be distributed over a seven-year period. The Committee fact sheet states that over time assuming inflation The Student Opportunity Act could provide an estimated \$2.2 billion.

The Student Opportunity Act beginning in Fiscal Year 2021 assumes a seven-year implementation period. The current fiscal year state budget approved in late July of 2019 is not affected by S.2348. The current year budget continues through June 30, 2020.

In addition, S. 2348 requires a more accurate accounting of the foundation budget estimates of school districts employee and **retiree health care costs** by using up to date health insurance trend data collected by the Group Insurance Commission.

The proposed legislation also increases **special education enrollment and cost assumptions** to more accurately reflect district enrollment. For example, the “assumed in-school special education enrollment” –changes this definition to 4% (as opposed to the current 3.75%) of the total foundation enrollment in a

district plus 5% (as opposed to the current 4.75%) for vocational school enrollment. Assumed tuitioned-out enrollment shall remain the same as the current statute. As defined in MGL c. 70, S. 2 assumed tuitioned – out is defined as 1% of the total foundation enrollment in a district, not counting vocational or pre-school enrollment.

SPECIAL EDUCATION CIRCUIT BREAKER INCLUDES TRANSPORTATION

The Special Education Circuit Breaker provides state funding for the extraordinary expenses associated with certain special education expenses. This account is supposed to provide state funding for 75% of all approved costs that exceed 4 times the statewide average per pupil foundation budget, as defined in Chapter 70, for the previous fiscal year. The Circuit Breaker, which has been fully funded for the past two fiscal years, will for the first time reimburse districts for transportation in addition to instructional costs pursuant to an Individual Education Plan (IEP). **The estimated annual cost to include out-of-district transportation funding is estimated to be \$90 million.**

The proposed transportation costs will be phased in over four years. It is not unusual for transportation costs to equal or exceed the out- of district instructional costs. The Circuit Breaker law contains a new subsection that requires priority be given to instructional costs if, in a fiscal year, the amount appropriated under this section is less than 75% of all instructional and out of district transportation costs that exceed the approved costs threshold eligible for reimbursement.

The reimbursement rate for students who have no father, mother or guardian living in the commonwealth, and for any school aged child placed in a school district other than a home town by, or under the auspices of, the department of transitional assistance or the department of children and families shall be addressed in the State Budget by including said students within the category of economically disadvantaged students. MASC has worked closely with the State Auditor over the years on this issue and it is gratifying to see these initial results.

MENTAL HEALTH AND RELATED SERVICES FUNDED IN S. 2348

MASC has long advocated additional funding for school health services. The Student Opportunity Act increases foundation budget spending for guidance and psychological services to expand social and emotional learning and mental health services.

ADDITIONAL SPENDING FOR MASS SCHOOL BUILDING AUTHORITY (MSBA)

S. 2348 lifts the annual cap on MSBA spending for school building construction by \$150 million. This boosts total spending in this account to \$750 million, thereby enabling more projects across the Commonwealth to be accepted into the MSBA funding pipeline.

LOW INCOME AND ENGLISH LEARNERS

In 2015, the Foundation Budget Review

Commission (FBRC), made up of key education stakeholders, including MASC, made recommendations to update the foundation budget. Starting in Fiscal Year 2018 the Legislature began funding those recommendations. The Student Opportunity Act builds on those investments, **by increasing the base for the low- income student increment** that varies depending on the percentage of low-income students in the district. Districts with the largest share of low-income students receive an additional increment of 100% of the statewide average base rate.

S.2348 increases the foundation budget increment for **English learners** with the largest increase targeted to high-school age English learners due to the increased needs of those students. The Student Opportunity Act defines low-income students as those students in families with incomes equal to or less than 185% of the federal poverty level. In recent years DESE used a 133% threshold.

CHARTER SCHOOL TUITION REIMBURSEMENTS

S.2348 includes a timeline for fully funding charter school reimbursement costs, which provide transitional aid to assist districts when students leave to attend charter schools. The Student Opportunity Act commits to a three-year implementation time line to fully fund the charter school tuition reimbursement program as most recently adopted in the Fiscal Year 2020 budget. **The tuition reimbursements shall be made in accordance with the following funding schedule: not less than 75% of all eligible costs in fiscal year 2021; not less than 90% of all eligible costs in fiscal year 2022; and not less than**

100% of all eligible costs in fiscal year 2023.

21st CENTURY EDUCATION TRUST FUND ESTABLISHED

The Student Opportunity Act establishes the 21st Century Education Trust Fund to provide flexible funding to districts and schools pursuing creative approaches to student learning and district improvement.

School districts must develop and make publically available plans for closing opportunity gaps. It appears that these plans must include specific goals and metrics to track success.

The Secretary of education will collect and publish data on student preparedness in each school district and high school for post graduate success in college and the workforce.

DATA ADVISORY COMMISSION

S.2348 establishes a Data Advisory Commission to help improve the use of data at the state, district and school levels to inform strategies that strengthen teaching, learning and resource allocation. MASC has been at the forefront of the efficient and non-replicative collection of data. MASC is a member of this Commission.

RURAL SCHOOLS COMMISSION

S.2348 establishes a special commission to study and make recommendations concerning the long term fiscal health of rural school districts that may face declining student enrollment. MASC is a member of this commission.

GOVERNOR BAKER MAY VETO ALL OR SOME SPECIFIC PROVISIONS OF S.2412 WITHIN TEN DAYS OF ITS PASSAGE.

It is not anticipated that the Governor would veto the entire bill, which he generally supports. He has expressed some reservations about accountability matters, which have also been addressed in S. 2412. The Governor may push for a more robust accountability process.

MASC believes that the Conference Committee struck the correct balance on the issues of accountability that have been inserted into S.2412.

Another controversial matter arose late in the process concerning Proposition 2 ½. Citizens for Limited Taxation in a memo to legislators opposed S.2412 because it may weaken Prop 2 ½. MASC supports the modest refinements contained in the bill to address the possibility that some districts may have difficulty meeting their local contribution requirements.

We will keep you informed about the Governor's actions.