



2021 Annual Report to BESE | Education-Related Laws

The following laws relating to the Department of Elementary and Secondary Education (Department/DESE) have been enacted and approved by Governor Baker in the first year of the two-year 192nd Legislative Session. The laws are listed in chronological order of enactment.

An Act relative to extending certain COVID-19 measures adopted during the state of emergency

[Chapter 20 of the Acts of 2021](#)

Approved: 6/16/21

[subsequently amended in Chapter 29 of the Acts of 2021, FY21 Supplemental Budget]

Section 20 allows remote participation by all members in any meeting of a public body and a quorum of the body and the chair shall not be required to be physically present at a specified meeting location.

An Act promoting student nutrition

[Chapter 62 of the Acts of 2021](#)

Approved: 10/14/21

Requires public schools in Massachusetts to implement the federal community eligibility provision (CEP) or provision 2 to provide universal free school breakfast and lunch to all students unless the implementation will result in financial hardship to the school or district in the following circumstances:

- The school or district has 60% or more low-income students.
- The school or district has 50% -60% low-income students unless the school committee votes to decline by June 1 or no longer has that number of qualifying students at the time of implementation as determined by the Department.

The law also requires:

- School nutrition directors to attend training on CEP provided by the Department.

- The Department to maximize the effectiveness of the direct certification process for determining low-income student percentages.
- Standardized notification, developed for districts by the Department, to families of student meal debt by districts.
 - Implementation of a 30-day resolution period to determine if the student is categorically eligible for free or reduced-price meals, during which no meals shall be denied the student.
 - Prohibits any action that would publicly identify the student as having meal-debt or resulting in exclusion of any activity or denial of official transcripts.

An Act relative to post-retirement employment of public retirees

[Chapter 67 of the Acts of 2021](#)

Approved: 10/21/21

Extends the hours per year that retired persons from the commonwealth or a county, city, town, district, or authority can work in the service of the commonwealth or a county, city, town, district, or authority from 960 hours to 1200 hours.

An Act concerning genocide education

[Chapter 98 of the Acts of 2021](#)

Approved: 12/2/21

- Section 1 creates a Genocide Education Trust Fund (Trust Fund) for the purpose of educating middle and high school students on the history of genocide, administered by the Commissioner of Elementary and Secondary Education, and establishes a genocide education grant program about which DESE will report to the legislature annually regarding expenditures.
- Section 2 adds “genocide education programs” to MGL chapter 69, section 1I, including it as one of the required instructional program descriptions that districts must report to DESE.
- Section 3 requires DESE to report to the legislature annually on the progress of genocide education for grantees under section 1 (e), the grant program established under the Trust Fund language.
- Section 4 adds definitions of “community-based organization” and “genocide” to MGL chapter 71; mandates genocide instruction for all middle and high school students and allows partnerships with community-based organizations to attain these obligations; specifies that the instruction not be required every year of middle and high school; and requires DESE to provide access to quality curricula and professional development for genocide instruction to districts. This section takes effect during the 2022-2023 school year (Section 7).
- Section 5 directs funds from fines for violations of constitutional rights to the Trust Fund.
- Section 6 directs funds from fines for assault and battery for the purpose of intimidation to the Trust Fund.

2021 FISCAL LAWS

FY22 General Appropriations Act (GAA)

[Chapter 24 of the Acts of 2021](#)

Approved: 7/16/21

The FY22 GAA provides total state spending of \$47.6B. The law provides total spending authority of \$6.423B for the Department, most of which goes to cities, towns, and school districts through Chapter 70 and other forms of education aid and reimbursements. This total represents a 4.88% growth over FY21 spending, an increase of \$163.16M (2.5%) above the Governor's FY22 request (House 1), \$25.7M (0.4%) above the House's recommendation, and \$43M (0.7%) above the Senate's recommendation.

I. Education Local Aid & Reimbursements

Chapter 70 aid (7061-0008) is increased by \$219.6M (4.2%) to \$5.503B. The FY22 Chapter 70 program reflects the passage in November 2019 of [An Act Relative to Educational Opportunity for Students](#), commonly known as the Student Opportunity Act (the Act). The Act makes significant changes to the Chapter 70 formula, based in large part on the recommendations of the Foundation Budget Review Commission (FBRC). The updated formula is also codified in Chapter 70 of the general laws.

Statutory parameters

The updated formula includes three parameters to be specified in each year's general appropriations act. In GAA 1, these are specified as follows:

- Total state target local contribution: 59%
- Effort reduction: 100%
- Minimum aid: \$30 per pupil

Foundation budget changes

The Act establishes new, higher foundation budget rates in five areas: benefits and fixed charges, guidance and psychological services, special education out of district tuition, English learners, and low income students. The rates have been increased by one-sixth of the gap between the FY2021 rates and the final target rates. The number of tiers for the low income increment rates is increased from ten to twelve; districts with higher concentrations of low income students benefit from higher rates.

In addition to these targeted rate increases, foundation budget categories have been increased to account for inflation. A new employee benefits inflation rate is applied to the employee benefits and fixed charges category. This is based on the enrollment-weighted, three-year average premium increase for all Group Insurance Commission plans; for FY2022 the increase is 2.78%. An inflation increase of 1.41% has been applied to all other foundation budget rates, based on the U.S. Department of Commerce's state and local government price deflator.

The combination of inflation, rate increases dictated by the Act, and the low income enrollment expansion increased statewide foundation budgets by \$300 million or 2.58%, despite the impact of a statewide enrollment decline of 3.26%, due in part to the ongoing pandemic. Overall foundation enrollment decreased from 938,085 in FY2021 to 907,506 in FY2022, a decrease of 30,579 students. Foundation budgets declined for 147 operating districts, including 27 districts with declines of more than 5%.

The Act also adds a new minimum aid adjustment to the formula. This provides hold harmless aid to 16 operating school districts that would otherwise have higher aid levels if the Act were not implemented.

Finally, the formula's minimum aid provision guarantees all operating districts receive at least the same amount of aid in FY2022 as they did in FY2021 plus at least \$30 per pupil. Therefore, the enrollment changes and any associated foundation budget decreases did not yield less aid than in FY2021.

Low income and special education enrollment

The Act reinstates the definition of low income enrollment used prior to FY2017, based on 185% of the federal poverty level. It replaces the economically disadvantaged designation (based on 133% of the federal poverty level) used from FY2017 through FY2021. For FY2022, a district's low income enrollment is the higher of: (a) the number of students matched through the Department's current direct certification process (which identifies students whose families have been approved for various federal and state benefit programs) or (b) the district's FY2016 low income percentage multiplied by its current foundation enrollment. Statewide low income enrollment for FY2022 is 382,088, including students matched through direct certification and estimated student counts based on FY2016, compared to 351,970 identified as economically disadvantaged in FY2021, which only includes students who were directly certified.

The Act also increases the assumed in-district special education enrollment to 5% for vocational students and 4% for non-vocational students. In FY2022, these assumed rates have been increased by one-sixth of the gap to 4.83% and 3.83%, respectively.

Required local contributions

The aggregate wealth model that has been used to determine local contribution requirements since FY2007 remains in place. Also, pursuant to its codification in the Act, a provision introduced in the FY2020 budget specifying a minimum required local contribution of 82.5% of foundation for any city or town with a combined effort yield greater than 175% of foundation is continued in FY2022.

Enrollment reserve fund

The budget also includes a \$40 million reserve fund (7061-0011) to address the impact that pandemic related enrollment loss had on state aid or transportation costs.

Charter school tuition reimbursements

Foundation tuition rates for Commonwealth charter schools are based on the same foundation budget rates used in Chapter 70. The foundation budget rate increases being implemented in FY2022 have been incorporated into our projected FY2022 tuition rates. In addition, charter school low income enrollment for FY222 has been calculated in a manner consistent with the methodology used for districts. The facilities component of the tuition rate is held constant at FY2021 levels, at \$938 per pupil, with this cost fully reimbursed by the state as in prior years.

The reimbursement formula for transitional aid to districts (7061-9010) reflects the change enacted by Section 38 of the FY2020 budget, with an entitlement of 100% of any tuition increase in the first year, 60% in the second year, and 40% in the third year. Funding for first year reimbursements is prioritized first, followed by funding for second year reimbursements. The Act requires 75% of the total state obligation to be funded in the first year, 90% in the second, and 100% in subsequent years. The budget includes \$151.7 million appropriation for these reimbursements, which is expected to meet or exceed the 75% requirement when tuition assessments are updated to reflect actual enrollments and district spending levels.

Special Education Circuit Breaker reimbursement (7061-0012) is increased by \$28.18M over the FY21 level to \$373.3M.

The FY22 GAA budget has added a \$2.3M increase for METCO Program (7010-0012), \$1M increase each for Homeless Transportation (7035-0008) and Rural School Aid (7061-9813).

II. Literacy Account and English Language Acquisition

The FY22 GAA increased funding for 7010-0033 Literacy Programs by \$2.54M to \$5M and level funded the 7027-1004 English Language Acquisition line item.

III. Program Changes

The FY22 GAA budget eliminates spending for the 7010-1202 Computer Science Education/Digital Literacy NOW (\$1M reduction) but provides a one-time transfer of \$1.49M from the Massachusetts Technology Park Corporation to continue the work in FY22.

The GAA has funded the 1595-0035 21st Century Education Trust Fund at \$5M and the 1595-0115 Civics Project Trust Fund at \$1.5M.

7010-1192 Education Improvement Project Grants is funded at \$7.2M for various earmarks.

The FY22 GAA budget includes a \$500K increase for 7010-1193 Civics Education Programs.

For 7027-0019 Connecting Activities, the FY22 GAA funds it at \$7.5M, \$1.1M more than the FY21 budget.

The FY22 GAA added two new line items:

- 7027-0020 \$600K for Innovation Pathways Programs
- 7061-0028 \$6M for Social Emotional Learning Grants

The FY22 GAA also:

- includes an increase of \$1M for Career and Technical Education Program (7035-0001) to \$2.5M;
- increases Adult Basic Education (7035-0002) to \$50M, a \$3.6M increase over FY21;
- includes \$15M for 7061-0027 COVID and Student Support Grants to reimburse costs for summer school and other summer programming to remedy student learning loss;
- adds a \$500K increase to 7061-9200 Education Data Services to \$1.08M;
- increases 7061-9401 Assessment Consortium by \$350K to \$550K;
- increases 7061-9408 Targeted Assistance by \$923K to \$15M;
- reduces 7061-9412 Expanded Learning Time Grants by \$3.1M to \$6.2M;
- adds an increase of \$200K to 7061-9634 Mentoring Matching Grants;
- increases 7061-9812 Child Sexual Abuse Prevention by \$500K to \$1.1M;
- funds 7061-9815 Grants for Hate Crimes and Bias Prevention at \$400K.

FY21 Supplemental Budget

[Chapter 29 of the Acts of 2021](#)

Approved: 7/29/21

- Section 57 amends Section 20 of chapter 20 of the acts of 2021 (relating to the Open Meeting Law) by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) Notwithstanding section 20 of chapter 30A of the General Laws or any general or special law to the contrary, a public body, as defined in section 18 of said chapter 30A, shall not be required to conduct its meetings in a public place that is open and physically accessible to the public; provided, however, that if the public body does not conduct the meeting in a public place that is open and physically accessible to the public, the public body shall ensure public access to the deliberations of the public body for interested members of the public through adequate, alternative means of public access. Where active, real-time participation by members of the public is a specific requirement of a general or special law, regulation or a local ordinance or by-law, pursuant to which the proceeding is conducted, any adequate, alternative means of public access shall provide for such participation and shall be sufficient to meet such participation requirement.

- Section 58 allows the Department to establish an alternative means of demonstrating English language proficiency for the state seal of biliteracy for students in the class of 2020 or 2021, which may include, but is not limited to, earning the modified competency determination in English language arts.
- Section 59 directs that the list of districts in the lowest 10 per cent of all statewide student performance scores released in fiscal year 2020 shall be maintained as that list for fiscal years 2021, 2022 and 2023.

FY21 Supplemental Budget

[Chapter 76 of the Acts of 2021](#)

Approved: 10/20/21

- Allocates \$20M for grants to Massachusetts approved special education schools to address the impacts of COVID-19
- Section 18 extends the deadline for the final report from the special commission established in Section 105 of [Chapter 227 of the Acts of 2020](#) to study equity and access to telecommunications services

An Act relative to immediate COVID-19 recovery needs (ARPA)

[Chapter 102 of the Acts of 2021](#)

Approved: 12/14/21

This law allocates federal ARPA funds in the form of new reserve accounts funding several K-12 programs, among them:

- \$100M grant program for public school district ventilation/air quality.
- \$25M earmarked for vocational and other public school programs in the Workforce and CTE Training reserve (1599-2037)

The law also allocates:

- Additional \$10M to 7061-0012 for special education compensatory services.
- Additional \$10M to 7010-0005 for teacher diversity programs.
- \$1M for a farm-to-school grant.

In addition, it revives the special commission to study and report on childhood vision and eye health, the special commission to study and make recommendations concerning the long-term fiscal health of rural school districts, and the special commission on telecommunications equity.