



*With much fanfare on June 18, 1993, then-Governor William Weld signs the Education Reform Act, an initiative intended to establish equity across all public schools.*

*(Photo by The Boston Globe/Getty Images)*

**W**hen it was signed into law in 1993, the Massachusetts Education Reform Act was seen as a landmark piece of legislation. Under the guiding principles of “adequacy and fairness,” the law was crafted to close the gap in public K-12 educational achievement among different types of communities—specifically between poorer districts and more affluent ones—and to ensure that public schools were able to provide to *every* child a quality education that met the seven criteria laid out by the Massachusetts Supreme Judicial Court for “an educated child.”

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The law, for the first time, established for each school district a required “foundation” level of spending—the baseline needed to provide an adequate education to all students—to be reached through a state-mandated “required local contribution” and a supplemental amount of state aid. State education aid doubled in the first five years under the law, which recognized the local fiscal restraints imposed by Proposition 2½ as well as the state’s fundamental responsibility to ensure that all children receive a high-quality education.

The standards-based law also provided a means of measuring the educational progress that was expected to result from the additional funding: an assessment system known as MCAS

(the Massachusetts Comprehensive Assessment System).

The comprehensive law, with its complicated funding formulas, was written as a seven-year plan—in order to give the state and school districts time to meet its requirements—and then was supposed to be re-examined every three years thereafter. The state did not hold to this schedule, however. The first readjustment didn’t come until fiscal 2007, when the state budget included a set of Chapter 70 reforms to change the way local ability to contribute is calculated, to guarantee a higher minimum state aid amount, to update data used in determining the allocation of education funding, and to provide a new type of aid for communities with growing

# Two Decades Into Education Reform Effort, Commission Calls for Substantial Changes to Funding Formula

*BY JOHN OUELLETTE*

enrollment. These changes were planned for a five-year phase-in, but a historic recession that hit in 2008 and took years to dig out of hampered many ambitious goals, including this one. In the meantime, certain school-related costs, particularly health insurance and special education, were far outpacing the incremental increases in the foundation budget, meaning that they were absorbing money that should have been going to classrooms. Although state aid grew in most years, it wasn't enough to keep up.

In a 2013 op-ed in *The Boston Globe*, marking twenty years under the Education Reform Act, one of its architects, former Senator Thomas Birmingham, extolled the educational progress made by the state's public school students, but lamented, "In

the last decade, support for public schools lost its primacy on Beacon Hill and state budgets reflect that. Today our inflation-adjusted education appropriation is the same as it was in 2002."

## **Special Commission Gets to Work**

The state budget act for fiscal 2015 authorized a newly constituted Foundation Budget Review Commission, a twenty-one-member panel charged with reviewing parts of Chapter 70 school finance law. Quoting the legislation, the commission was established to "determine the educational programs and services necessary to achieve the commonwealth's educational goals" and to "review the way foundation budgets are calculated and to make recommendations for potential changes in those calculations."

"The re-examination was really overdue," says Mansfield Town Manager Kevin Dumas, who was the mayor of Attleboro when he represented the MMA on the commission. "A lot had changed since 1993. Many education-related costs had escalated *much* faster than inflation, and the workload being placed on schools had grown significantly. The funding formula didn't reflect current realities, which places enormous pressure on municipal budgets and makes it much harder to provide the other essential services that all residents depend on."

The commission, led by the House and Senate chairs of the Legislature's Joint Committee on Education, began with a series of six public hearings around the state in early 2015. Commission

## COMMISSION CALLS FOR SUBSTANTIAL CHANGES TO FUNDING FORMULA

members heard from many stakeholders—including local officials and the MMA—that the state’s basic school spending standard set under the Chapter 70 statute fell far short of reflecting the true costs of educating students, especially in the areas of special education and health insurance for school employees. This reality, the MMA pointed out, was backed up by multiple independent studies.

Further, the Department of Elementary and Secondary Education reported that for fiscal 2015, municipal and regional school districts statewide spent an estimated \$2.3 billion *above* local foundation budgets. “This is fundamental proof that the foundation budget is inadequate,” the MMA testified. “On average, cities and towns are spending 24 percent *more* than what is called for in the foundation budget framework,” despite having endured a nearly \$400 million cut in discretionary municipal aid since fiscal 2008.

“Communities have funded their school budgets at above-foundation levels by reducing municipal services ... [and] increasing local reliance on property taxes and other local revenue sources. ... This has been done because local leaders have concluded that simply appropriating the amounts called for in the foundation budget would be woefully inadequate, and would compromise the quality of public education in their schools.”

The MMA also highlighted the growing number of “minimum aid” school districts. “Indeed, 245 districts do not qualify for additional aid beyond the minimum amount set for distribution on a per-student basis. And all parties agree that recent minimum aid levels have fallen far short of inflation, meaning that each year the Commonwealth is contributing a dwindling share of the cost of educating students in these communities.”



*Former Senate President Thomas Birmingham, an architect of the Education Reform Act, takes part in a roundtable discussion on the state budget hosted by the Rappaport Center in January 2009, at which he spoke about state support for public education.*

(Photo courtesy of Rappaport Center)

## SJC Decision Is at the Heart of Education Reform

The Education Reform Act, several years in the making, was signed into law just a few days after a 1993 Supreme Judicial Court decision that established the state constitutional standards against which education reform efforts in Massachusetts would be judged.

The plaintiffs in *McDuffy v. Secretary of the Executive Office of Education* [415 Mass. 545, 615 N.E.2d 516 (1993)] were students in property-poor communities who alleged that the Commonwealth was not meeting its constitutional duty to provide them with an adequate education of sufficiently high quality. The Supreme Judicial Court concurred, writing that the education clause of the Massachusetts Constitution imposes “a duty to provide an education for all its children, rich and poor, in every city and town of the Commonwealth at the public school level.” Further, the court found that “[w]hile it is clearly within the power of the Commonwealth to delegate some of the implementation of the duty to local governments, such power does not include a right to abdicate the obligation imposed on [the executive branch] and Legislatures ... by the Constitution.”

At the end of its *McDuffy* decision, the Supreme Judicial Court set out criteria regarding the nature of the duty to educate. The court stated that “an educated child” must possess “at least the seven following capabilities: (i) sufficient

oral and written communication skills to enable students to function in a complex and rapidly changing civilization; (ii) sufficient knowledge of economic, social, and political systems to enable students to make informed choices; (iii) sufficient understanding of governmental processes to enable the student to understand the issues that affect his or her community, state, and nation; (iv) sufficient self-knowledge and knowledge of his or her mental and physical wellness; (v) sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage; (vi) sufficient training or preparation for advanced training in either academic or vocational fields so as to enable each child to choose and pursue life work intelligently; and (vii) sufficient level of academic or vocational skills to enable public school students to compete favorably with their counterparts in surrounding states, in academics or in the job market.”

The court in *McDuffy* did not prescribe a solution or funding formula, leaving it to the legislative and executive branches of state government to devise a remedy that would meet the state’s constitutional duty. The court did authorize a single justice to retain jurisdiction to determine, in his or her discretion, whether appropriate legislative action was being taken within a reasonable time.

— John Ouellette

## Local Needs

The MMA joined the Massachusetts Association of School Superintendents and others in calling for a substantial increase in foundation budget rates for providing special education services. The MMA and the Superintendents Association also prioritized a substantial increase in the foundation rate for school employee benefits and fixed charges to more accurately reflect the true cost of these benefits, mainly health insurance for active and retired employees. The Department of Elementary and Secondary Education reported in 2015 that local spending on employee benefits was 150 percent of the foundation rate.

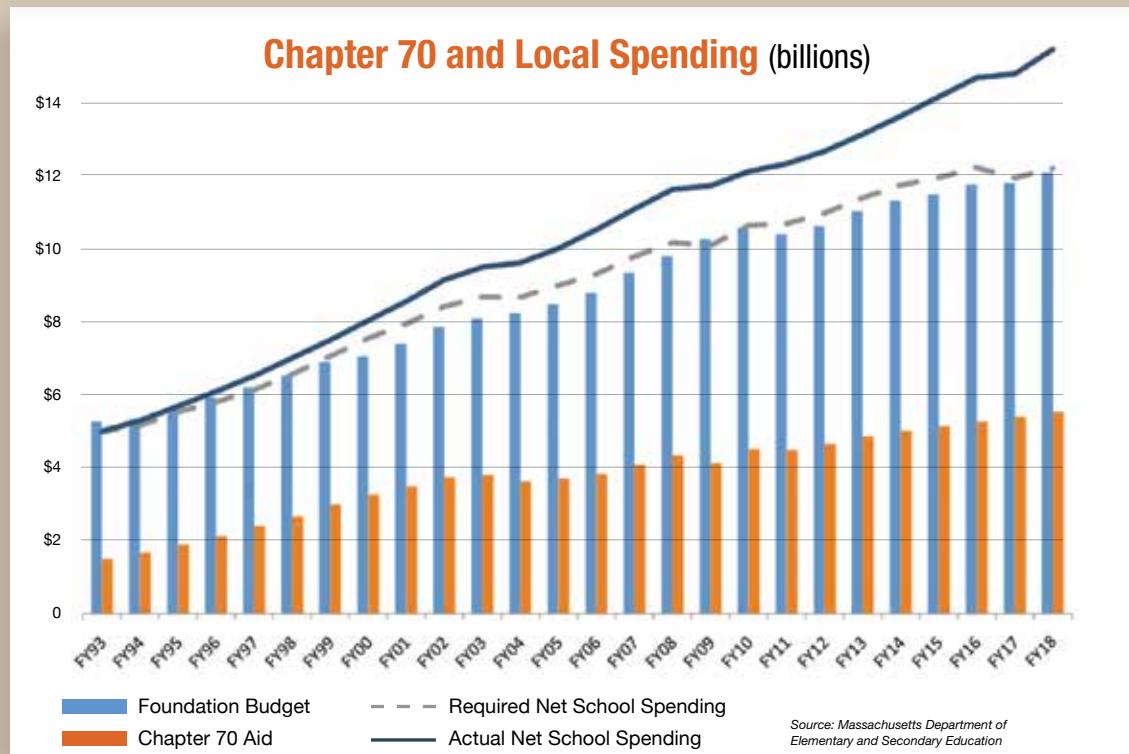
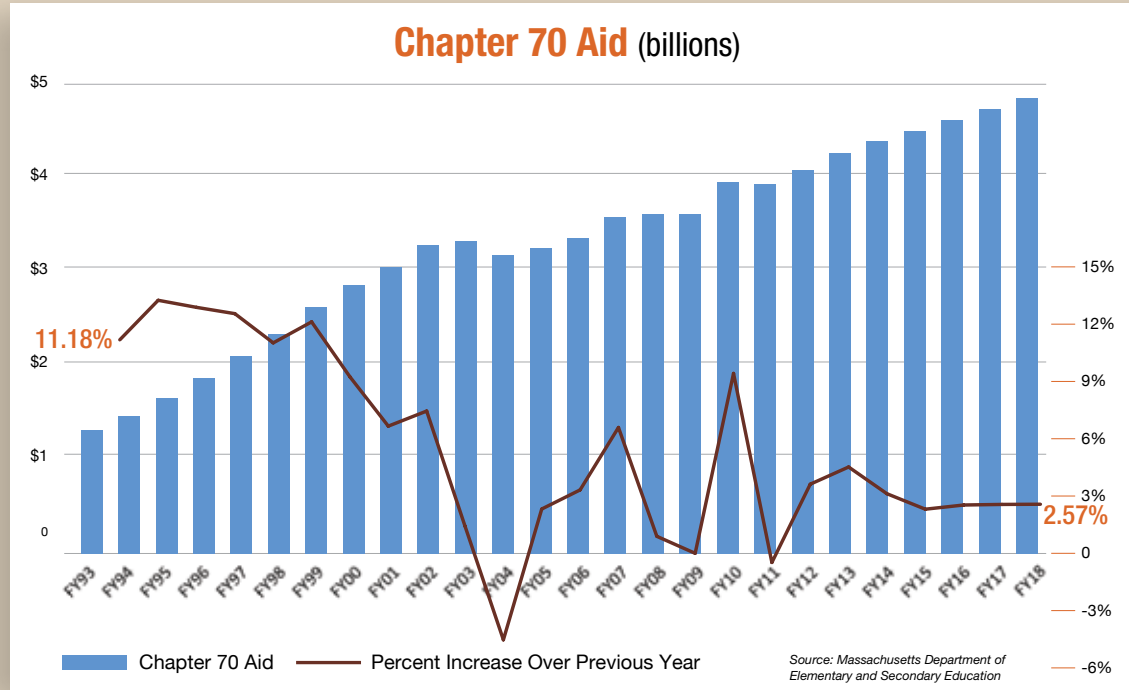
Municipal and school officials also made a strong case that the foundation budget does not adequately recognize the cost of educating an increasing number of non-special-education students who require special services, such as state-defined “high-need” students who are low-income, English language learners (ELL) or disabled, or any combination of the three.

In its testimony, the MMA further pointed out that updating special education, employee benefits and high-need student factors would not be sufficient to “fully address issues related to the adequacy and equity of school funding for most school districts.” The association urged the commission to examine and improve the local contribution and school aid calculation factors in the Chapter 70 formula. The vast majority of public school districts receive only a minimum new aid amount, which has been as low as \$20 per student in some years. Over time, the state-local balance of K-12 public

education costs had shifted to 41 percent from the state and 59 percent from local taxpayers. The MMA proposed a reset to a 50-50 split.

Finally, the MMA raised the thorny issue of public funding for charter schools, noting that charter school budgets are not

subject to a public process, and yet they drain off more than 10 percent of all Chapter 70 dollars. To make matters worse, the state routinely underfunds the statutory account intended to help soften the blow of lost state aid that’s diverted as tuition payments to charter schools.



**Commission Recommends Changes**

In its final report and recommendations to the Legislature, released on October 30, 2015, the Foundation Budget Review Commission acknowledged that the education finance system in Massachusetts “is fiscally strained by the failure to substantively reconsider the adequacy of the foundation budget since 1993.” The commission also found that local taxpayers were carrying a disproportionate share of the cost of educating children in Massachusetts.

The commission focused on “identifying areas where the foundation budget and district spending might be poorly aligned or out-of-date” and explored whether district spending was guided by “best practice, efficiency, and productivity.” The commission recommended major updates to key parts of the state’s minimum school spending standard, which would increase school aid and local contribution amounts for most municipal and regional school districts.

The commission identified three priorities:

- Updating how health insurance costs are accounted for in the foundation budget
- Adjusting special education cost factors

to better reflect actual spending at the local level

- Making spending adjustments to reflect best practices for educating low-income and English language learner students

Specifically, the commission recommended that the employee health insurance rate in the foundation spending standard be changed by linking it to the average state Group Insurance Commission rate. The plan would also establish a new component for health insurance for retired school employees in the foundation budget, and would create a special health-care-cost inflation factor specifically for these two foundation budget components.

On special education, the commission recommended that the foundation budget components for in-district and out-of-district services be adjusted to reflect actual special education costs, which have substantially exceeded the original expectations that were adopted in the early 1990s. The plan would increase the assumed in-district special education enrollment rate from 3.75 percent of students to 4 percent (and from 4.75 percent to 5 percent for vocational students), and would increase the out-of-district rate to capture spending up to the



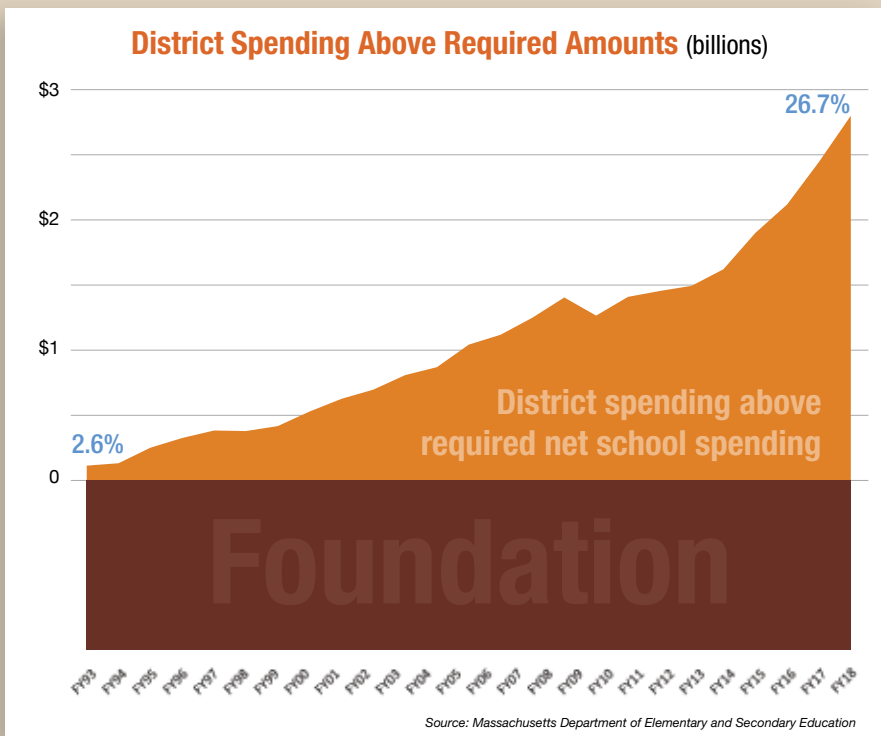
**Background on Chapter 70**

In his November 2014 report, *Building on 20 Years of Massachusetts Education Reform*, the late Mitchell Chester, then Massachusetts Commissioner of Elementary and Secondary Education, provided the following explanation of the state’s education aid program:

“The state aid program that provides general financial assistance to local school districts is popularly known as Chapter 70 due to its statutory basis in Chapter 70 of the Massachusetts General Laws. It was enacted as part of the Education Reform Act. While education aid formulas existed as early as 1919, none had assigned state government such a central role in establishing and supporting a minimum level of educational spending for all districts. ...

“In order to ensure that the foundation budget of each district keeps pace with inflation, Chapter 70 indexes the core elements of the foundation budget to inflation by a government price deflator calculated by the U.S. Department of Commerce. ...

“Besides establishing foundation spending levels for each district, Chapter 70 also established required local contributions for each municipality in the Commonwealth. Often referred to as the ‘equity’ provisions of the formula, these local contributions were designed to reflect the relative fiscal capacity of the Commonwealth’s 351 cities and towns.”



level where special education “circuit breaker” reimbursements are triggered. The commission also recommended that special education funding recognize “the growing use of inclusion as the preferred pedagogical model in the Commonwealth.”

The report included an impact summary describing how the health insurance and special education formula changes would affect statewide school aid and local contribution amounts, though the summary did not address the impact of updating the formula to account for ELL and low-income students. If they had been fully implemented for fiscal 2016, the health insurance and special education changes would have increased the fiscal 2016 statewide foundation budget by nearly \$1.1 billion, to \$10.9 billion. Under the rules in effect for fiscal 2016, the foundation budget rose by less than a quarter of that amount—\$224 million. According to the impact summary, required local contributions would have increased by \$543 million in fiscal 2016 to \$6.1 billion, and state education aid would have increased by another \$495 million to \$4.9 billion. Some districts, however, would have remained as “minimum aid” districts.

### ELL and Special Education

In response to concerns raised by school officials about the inadequacy of the foundation budget with regard to the high cost of educating ELL students, particularly at the high school level, the final report recommended that the ELL factor be restructured and increased for all grade levels, including high school, in order to increase the range of ELL-only weightings and to expand available funds for staff-intensive, high-school-age interventions. The report also recommended that the increment be applied to vocational school ELL students.

The commission recognized that the Department of Elementary and Secondary Education had spent years “ramping up efforts to hold districts and schools accountable for results, and to ensure that every effort is being made to identify, reduce, and eliminate remaining achievement gaps.” The commission, therefore, saw it as “a special moral and fiscal focus ... to make sure that the

schools and districts most likely to be held accountable for bringing high-need students to proficiency also had sufficient resources to meet those standards, and educate their high-needs populations to the same standards as other students by reviewing the adequacy and efficacy of the ELL and low-income rates in the formula.”

After analysis and discussion about how well the foundation budget accounts for the cost of educating low-income students, the commission made a series of recommendations, including increasing the low-income increment for districts with high concentrations of low-income students.

The commission also recommended that every school district be required to post a plan on a state website and on the local district website describing the following:

- How it will use the funds calculated in the ELL and low-income allotments to serve the intended populations
- What outcome metrics the district will use to measure the success of the programs so funded
- Performance against those metrics
- The results of the funding on improving student achievement

The commission recommended that plans “detail how funds are being used to improve instructional quality, and/or ensure that services are provided that allow every student to arrive at school physically and mentally healthy, with their social and emotional needs met, and ready to learn.”

### ‘Best Practice’ Objectives

The commission’s report also stated that it anticipates “that districts will use funding flexibility for one or more of the following best practices”:

- Expanding learning time, in the form of a longer day and/or year, and inclusive, where appropriate, of common planning time for teachers
- Providing “wraparound services” that improve and maintain the health of public school students, including social and emotional health and skills, mental health, and oral health
- Hiring staff at levels that support

improved student performance and the development of the whole child

- Increasing and improving professional development rooted in pedagogical research and focused on instructional improvement, including evidence-based practices such as hiring instructional coaches
- Purchasing up-to-date curriculum materials and equipment, including instructional technology
- Expanding kindergarten, preschool and early education programs

Finally, the commission concluded: “We are convinced that providing a high-quality education to every student within the Commonwealth, regardless of wealth, income, educational background, or zip code, is not only a matter of constitutional obligation but of generational responsibility. ... The good work begun by the Education Reform Act of 1993, and the educational progress made since, will be at risk so long as our school systems are fiscally strained by the ongoing failure to substantively reconsider the adequacy of the foundation budget.”

### Post-Commission Progress

The MMA has been voicing its strong support for full implementation of all of the recommendations of the Foundation Budget Review Commission to update the Chapter 70 “foundation budget” minimum spending standards, particularly for special education and employee health insurance, and to add to the spending standard a measure of recognition for the cost of services for low-income, English language learner and other students who would benefit from more intensive services. The MMA also supports the commission’s recommendation to phase in the changes over a four-year period.

Progress has been incremental thus far. The fiscal 2018 state budget began the process of implementing commission recommendations to update the foundation budget spending standard by adding more weight to the cost factor for employee benefits (mainly health insurance), an adjustment that accounted for a \$66 million increase in foundation budget funding. The governor’s fiscal 2019 budget proposal would continue this modest progress. 🌟