

Congress of the United States
Washington, DC 20515

December 20, 2021

The Honorable Janet Yellen
Secretary
Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Dear Secretary Yellen:

We write to urge you to address critical issues facing Massachusetts communities in the Department of Treasury's ("Department's") final rule governing Coronavirus State and Local Fiscal Recovery Funds provided by the *American Rescue Plan Act* ("ARPA"). Massachusetts cities and towns have a unique set of circumstances that need to be addressed in any final rule.

Massachusetts has distinct systems for funding public education that have distorted cities' and towns' calculations of revenue loss for ARPA reimbursement. In 2021, the state began a six-year phased-in implementation of the *Massachusetts Student Opportunity Act of 2019* (SOA), which aimed to close longstanding education funding gaps by dramatically increasing state aid to local school districts.ⁱ This legislation changed Massachusetts' Chapter 70 education funding formula to direct more state aid to cities and towns, especially the lowest-income school districts and districts with high-need student populations.ⁱⁱ As a result, some low-income urban districts received up to a 16 percent increase in dedicated education funding, equivalent to a \$30 million boost over the prior year.ⁱⁱⁱ In accordance with the SOA, municipalities are required to provide detailed plans to the Massachusetts Department of Elementary and Secondary Education detailing how SOA funding will be used to support learning opportunities and outcomes for students.^{iv} If counted as part of COVID-19 related revenue losses, the once-in-a-generation investments in education will falsely offset COVID-19-related revenue losses reimbursable under ARPA.

Massachusetts also provides cities and towns with grants through the Massachusetts School Building Authority (MSBA) to offset costs associated with the construction of public school facilities. MSBA awards are distributed to municipalities over time as costs are incurred for project construction under specified MSBA approved projects.^v The SOA raised the cap for the annual state school-building grants to municipalities from \$500 to \$800 million beginning in 2020, resulting in significantly increased available grants for cities and towns to build new schools.^{vi} Like increased Chapter 70 funding distributions, certain Massachusetts communities began to receive increased MSBA grant payments to reimburse associated school building costs after the Baseline Revenue Year and at the same time other revenues were in decline due to the COVID-19 pandemic. In these cases, the communities are reporting that their MSBA grant payments are obscuring COVID-19 revenue losses reimbursable under ARPA.

Similar to concerns associated with increased education funding, municipalities have also reported distortions in revenue loss calculations associated with increased revenues from debt service

exclusions. The Commonwealth enables municipalities to raise funds by assessing additional taxes in excess of their levy limit or levy ceiling for the payment of specified debt service costs associated with significant capital projects (e.g., construction of school, public safety, and library buildings). Debt exclusions are only added to the levy limit for the life of the debt.^{vii} Municipal leaders in communities where debt exclusion revenue came online following the ARPA Baseline Revenue Year have expressed concerns that factoring in the debt exclusion revenue into calculations of revenue losses will falsely obscure losses in general revenue streams available for other critical municipal services.

Many Massachusetts municipalities received increased earmarked revenue through Chapter 70, MSBA grants, and debt service exclusions after the ARPA Baseline Revenue Year. Those increases are expected to continue throughout the ARPA reimbursement period. During the same time period, municipalities are contending with downturns in revenue from traditional sources available for critical government services, including public safety and public works. Because of the timing of these long-needed, vital investments to correct the state's underfunding of education or to support debt service payments for necessary capital projects, municipalities are reporting they cannot calculate any lost revenue for 2020 and future ARPA years if the additional funds are counted as "intergovernmental transfers" or Actual General Revenue as specified in Treasury's Interim Final Rule. We urge you to clarify in the final rule that these earmarked funding streams should not be included in municipalities' calculations of revenue loss.

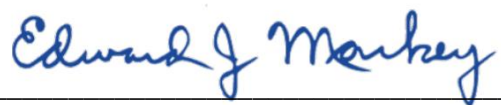
With these and other questions and concerns in mind, we respectfully request that the Department hold a public virtual event(s), in collaboration with the delegation, for Massachusetts municipal leaders to learn how to navigate the implementation of ARPA and to achieve ARPA's full intended benefits at the local level. We hope a virtual event(s) following the release of the final rule will provide an opportunity for municipal leaders to learn from and to ask questions of the Department.

The municipalities we represent face uncertain budgetary pressures in the months and years ahead, especially with the continued potential for COVID-19 related disruptions. A fair and accurate accounting of lost revenue will provide cities and towns with the necessary flexibility to reinvest in government services impacted by the pandemic—in line with Congressional intent. We stand ready to work with you on a solution to ensure municipalities can weather the economic downturn, avert long-term austerity measures, and avoid devastating cuts to basic government services. Thank you for your attention to this critical issue for Massachusetts.

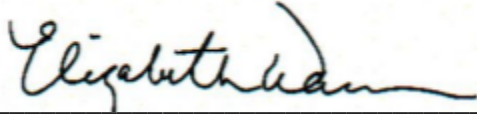
Sincerely,



Jake Auchincloss
Member of Congress



Edward J. Markey
United States Senator



Elizabeth Warren
United States Senator



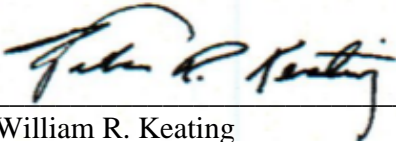
Richard E. Neal
Member of Congress



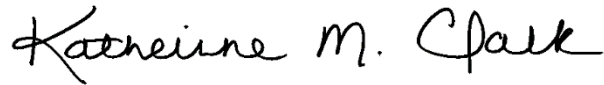
James P. McGovern
Member of Congress



Stephen F. Lynch
Member of Congress



William R. Keating
Member of Congress



Katherine M. Clark
Member of Congress



Seth Moulton
Member of Congress



Ayanna Pressley
Member of Congress



Lori Trahan
Member of Congress

ⁱ An Act Relative to Educational Opportunity for Students,
<https://malegislature.gov/Laws/SessionLaws/Acts/2019/Chapter132>

ⁱⁱ Ibid.

ⁱⁱⁱ Shira Schoenberg, “As expected, new ed funding helps Gateway Cities,” Commonwealth Magazine, January 24, 2020, <https://commonwealthmagazine.org/education/as-expected-new-ed-funding-helps-gateway-cities/>.

^{iv} Massachusetts Department of Elementary and Secondary Education, SOA Timelines and District Responsibilities, April 21, 2021, <https://www.doe.mass.edu/soa/timelines.html>

^v Massachusetts School Building Authority Pro-Pay FAQs, 2019
<https://www.massschoolbuildings.org/programs/pro-pay>

^{vi} Massachusetts School Building Report, December 8, 2020,
<https://malegislature.gov/Reports/10517/MSBA%20Student%20Opportunity%20Act%20Report.pdf>

^{vii} Massachusetts Department of Revenue Division of Local Services, Overrides and Exclusions,
<https://www.mass.gov/doc/proposition-2-12-ballot-question-requirement-and-procedure/download>