

**HOUSE . . . . . No. 2533**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Thomas P. Conroy***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to local education investment.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

*Thomas P. Conroy*

*13th Middlesex*

*Thomas J. Calter*

*12th Plymouth*

**HOUSE . . . . . No. 2533**

By Mr. Conroy of Wayland, a petition (accompanied by bill, House, No. 2533) of Thomas P. Conroy and Thomas J. Calter for legislation to provide for a local option real estate tax education surcharge. Revenue.

**The Commonwealth of Massachusetts**

**In the Year Two Thousand Thirteen**

An Act relative to local education investment.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. This chapter shall be known and may be cited as the Local Education  
2 Investment Act.

3 SECTION 2. As used in this chapter, the following words shall, unless the context clearly  
4 indicates a different meaning, have the following meanings:-

5 "Annual income", a family's or person's gross annual income less such reasonable  
6 allowances for dependents, other than a spouse, and for medical expenses as the housing  
7 authority or, in the event that there is no housing authority, the department of housing and  
8 community development, determines.

9 "School committee", the committee established by the legislative body of a city or town  
10 to make recommendations for education, as provided in section 5.

11 "Local Education Investment Fund", the municipal fund established under section 7.

12 "Legislative body", the agency of municipal government which is empowered to enact  
13 ordinances or by-laws, adopt an annual budget and other spending authorizations, loan orders,  
14 bond authorizations and other financial matters and whether styled as a city council, board of  
15 aldermen, town council, town meeting or by any other title.

16 SECTION 3. (a) Sections 3 to 7, inclusive, shall take effect in any city or town upon the  
17 approval by the legislative body and their acceptance by the voters of a ballot question as set  
18 forth in this section.

19 (b) Notwithstanding the provisions of chapter 59 or any other general or special law to  
20 the contrary, the legislative body may vote to accept sections 3 to 7, inclusive, by approving a  
21 surcharge on real property of not more than 3 per cent of the real estate tax levy against real  
22 property, as determined annually by the board of assessors. The amount of the surcharge shall  
23 not be included in a calculation of total taxes assessed for purposes of section 21C of said  
24 chapter 59.

25 (c) All exemptions and abatements of real property authorized by said chapter 59 or any  
26 other law for which a taxpayer qualifies as eligible shall not be affected by this chapter. A  
27 taxpayer receiving an exemption of real property authorized by said chapter 59 or any other law  
28 shall be exempt from any surcharge on real property established under this section. The  
29 surcharge to be paid by a taxpayer receiving an abatement of real property authorized by said  
30 chapter 59 or any other law shall be reduced in proportion to the amount of such abatement.

31 (d) Any amount of the surcharge not paid by the due date shall bear interest at the rate per  
32 annum provided in section 57 of said chapter 59.

33 (e) The legislative body may also vote to accept one or more of the following  
34 exemptions:

35 (1) for property owned and occupied as a domicile by a person who would qualify for  
36 low income housing or low or moderate income senior housing in the city or town;

37 (2) for class three, commercial, and class four, industrial, properties as defined in section  
38 2A of said chapter 59, in cities or towns with classified tax rates; or

39 (3) for \$100,000 of the value of each taxable parcel of residential real property.

40 (f) Upon approval by the legislative body, the actions of the body shall be submitted for  
41 acceptance to the voters of a city or town at the next regular municipal or state election. The city  
42 or town clerk or the state secretary shall place it on the ballot in the form of the following  
43 question:

44 "Shall this (city or town) accept sections 3 to 7, inclusive of chapter 44B of the General  
45 Laws, as approved by its legislative body, a summary of which appears below?"

46 (Set forth here a fair, concise summary and purpose of the law to be acted upon, as  
47 determined by the city solicitor or town counsel, including in said summary the percentage of the  
48 surcharge to be imposed.)

49 If a majority of the voters voting on said question vote in the affirmative, then its  
50 provisions shall take effect in the city or town, but not otherwise.

51 (g) The final date for notifying or filing a petition with the city or town clerk or the state  
52 secretary to place such a question on the ballot shall be 35 days before the city or town election  
53 or 60 days before the state election.

54 (h) If the legislative body does not vote to accept sections 3 to 7, inclusive, at least 90  
55 days before a regular city or town election or 120 days before a state election, then a question  
56 seeking said acceptance through approval of a particular surcharge rate with exemption or  
57 exemptions, may be so placed on the ballot when a petition signed by at least 5 per cent of the  
58 registered voters of the city or town requesting such action is filed with the registrars, who shall  
59 have seven days after receipt of such petition to certify its signatures. Upon certification of the  
60 signatures, the city or town clerk or the state secretary shall cause the question to be placed on  
61 the ballot at the next regular city or town election held more than 35 days after such certification  
62 or at the next regular state election held more than 60 days after such certification.

63 SECTION 4. (a) Upon acceptance of sections 3 to 7, inclusive, and upon the assessors'  
64 warrant to the tax collector, the accepted surcharge shall be imposed.

65 (b) After receipt of the warrant, the tax collector shall collect the surcharge in the amount  
66 and according to the computation specified in the warrant and shall pay the amounts so collected,  
67 quarterly or semi-annually, according to the schedule for collection of property taxes for the tax  
68 on real property, to the city's or town's treasurer. The tax collector shall cause appropriate books  
69 and accounts to be kept with respect to such surcharge, which shall be subject to public  
70 examination upon reasonable request from time to time.

71 (c) The remedies provided by chapter 60 for the collection of taxes upon real estate shall  
72 apply to the surcharge on real property pursuant to this chapter.

73 SECTION 5. (a) The school committee of a city or town that accepts sections 3 to 7,  
74 inclusive, shall (1) study the needs, possibilities and resources of the city or town regarding local  
75 public education. As part of its study, the committee shall hold one or more public informational  
76 hearings on the needs, possibilities and resources of the city or town regarding local education  
77 possibilities and resources, notice of which shall be posted publicly and published for each of  
78 two weeks preceding a hearing in a newspaper of general circulation in the city or town.

79 (2) The school committee shall make recommendations to the legislative body for the  
80 improvement of all the schools in the city or town school district, including ideas related, but not  
81 limited to, teacher professional development; purchase of technology; enhancing health and  
82 wellness education; and meeting capital needs that are not reimbursable under the guidelines set  
83 by the Massachusetts School Building Authority. In no instances shall funds from this act be  
84 used for teacher and other professional or administrative staff salaries or benefits, or maintenance  
85 needs of school buildings or properties, or similar school operating needs.

86 (3) The school committee may include in its recommendation to the legislative body a  
87 recommendation to set aside for later spending funds for specific purposes that are consistent  
88 with improving schools but for which sufficient revenues are not then available in the Local  
89 Education Fund to accomplish that specific purpose or to set aside for later spending funds for  
90 general purposes that are consistent with improving schools.

91 (c) The school committee shall not meet or conduct business without the presence of a  
92 quorum. A majority of the members of the school committee shall constitute a quorum. The  
93 school committee shall approve its actions by majority vote. Recommendations to the legislative  
94 body shall include their anticipated costs.

95 (d) After receiving such recommendations from the school committee, the legislative  
96 body shall then take such action and approve such appropriations from the Local Education Fund  
97 as set forth in section 8, and such additional appropriations as it deems appropriate to carry out  
98 the recommendations of the school committee.

99 SECTION 6. In every fiscal year and upon the recommendation of the school committee,  
100 the legislative body shall spend, or set aside for later spending, not less than 50 per cent of the  
101 annual revenues in the Local Education Fund. In each fiscal year, the legislative body shall  
102 make such appropriations from the Local Education Fund as it deems necessary for the  
103 additional administrative and operating expenses of the school committee pursuant to this act,  
104 but the appropriations shall not exceed one per cent of the annual revenues in the Local  
105 Education Fund. Funds that are set aside shall be held in the Local Education Fund and spent in  
106 that year or later years, but funds set aside for a specific purpose shall be spent only for the  
107 specific purpose. The local education funds shall not replace existing operating funds, only  
108 augment them.

109 SECTION 7. Notwithstanding the provisions of section 53 of chapter 44 or any other  
110 general or special law to the contrary, a city or town that accepts sections 3 to 7, inclusive, shall  
111 establish a separate account to be known as the Local Education Fund of which the municipal  
112 treasurer shall be the custodian. The authority to approve expenditures from the fund shall be  
113 limited to the legislative body and the municipal treasurer shall pay such expenses in accordance  
114 with chapter 41.

115 The following monies shall be deposited in the fund: (a) all funds collected from the real  
116 property surcharge or bond proceeds in anticipation of revenue pursuant to sections 4 and 11;  
117 and (b) all funds received from the commonwealth or any other source for such purposes. The  
118 treasurer may deposit or invest the proceeds of the fund in savings banks, trust companies  
119 incorporated under the laws of the commonwealth, banking companies incorporated under the  
120 laws of the commonwealth which are members of the Federal Deposit Insurance Corporation,  
121 and any income therefrom shall be credited to the fund. The expenditure of revenues from the

122 fund shall be limited to implementing the recommendations of the school committee and  
123 providing administrative and operating expenses to the committee.

124 SECTION 8. (a) The fees determined annually by the commissioner of administration  
125 under the provision of section three B of chapter seven, for all licenses issued under the authority  
126 of the division of professional licensure, except as otherwise provided, shall be subject to a  
127 surcharge of \$20. The surcharges shall be imposed for the purposes of improving public  
128 education in the commonwealth.

129 (c) All surcharges on fees collected pursuant to this section shall be forwarded to the  
130 Massachusetts Local Education Trust Fund, established in section 9.

131 SECTION 9. (a) There shall be established and set up on the books of the commonwealth  
132 a separate fund, to be known as the Massachusetts Local Education Trust Fund, for the benefit of  
133 cities and towns that have accepted sections 3 to 7, inclusive, and pursuant to said sections 3 to 7,  
134 inclusive, have imposed a surcharge on their real property tax levy, subject to any exemptions  
135 adopted by a municipality. The fund shall consist of all revenues received by the commonwealth:  
136 (1) under the provisions of section 8; (2) from public and private sources as gifts, grants and  
137 donations to further education improvement programs; or (3) all other monies credited to or  
138 transferred to from any other fund or source pursuant to law.

139 (b) The state treasurer shall deposit the fund in accordance with the provisions of section  
140 10 in such manner as will secure the highest interest rate available at a banking company  
141 incorporated under the laws of the commonwealth that is a member of the Federal Deposit  
142 Insurance Corporation and with the requirement that all amounts on deposit be available for  
143 withdrawal without penalty for such withdrawal at any time. All interest accrued and earnings  
144 shall be deposited into the fund. The fund shall be expended solely for the administration and  
145 implementation of this chapter. Any unexpended balances shall be redeposited for future use  
146 consistent with the provisions of this chapter.

147 (c) The state treasurer shall make all disbursements and expenditures from the fund  
148 without further appropriation, as directed by the commissioner of revenue in accordance with  
149 said section 10. The department of revenue shall report by source all amounts credited to said  
150 fund and all expenditures from said fund. The commissioner of revenue shall assign personnel of  
151 the department as it may need to administer and manage the fund disbursements and any expense  
152 incurred by the department shall be deemed an operating and administrative expense of the  
153 program. The operating and administrative expenses shall not exceed 2.5 per cent of the annual  
154 total revenue received under the provisions of said section 10.

155 SECTION 10. (a) The commissioner of revenue shall annually on October 15 disburse  
156 monies from the fund established in section 10 to cities and towns that have accepted sections 3  
157 to 7, inclusive, and notified the commissioner of their acceptance. The community shall notify  
158 the commissioner of the date and terms on which the voters accepted said sections 3 to 7,

159 inclusive. The municipal tax collecting authority shall certify to the commissioner the amount the  
160 municipality has raised through June 30 by imposing a surcharge on its real property levy and  
161 shall certify the percentage of the surcharge applied.

162 (b) The commissioner shall multiply the amount in the fund by 80 per cent. This amount  
163 distributed in the first round distribution shall be known as the match distribution. The first round  
164 total shall be distributed to each city or town accepting said sections 3 to 7, inclusive, in an  
165 amount not less than 5 per cent but not greater than 100 per cent of the total amount raised by the  
166 additional surcharge on real property by each city or town. The percentage shall be the same for  
167 each city and town and shall be determined by the commissioner annually in a manner that  
168 distributes the maximum amount available to each participating city or town.

169 (c) The commissioner shall further divide the remaining 20 per cent of the fund in a  
170 second round distribution, known as the equity distribution. The commissioner shall determine  
171 the equity distribution in several steps. The first step shall be to divide the remaining 20 per cent  
172 of the fund by the number of cities and towns that have accepted said sections 3 to 7, inclusive.  
173 This dividend shall be known as the base figure for equity distribution. This base figure shall be  
174 determined solely for purposes of performing the calculation for equity distribution and shall not  
175 be added to the amount received by a participant.

176 (d) Each city and town in the commonwealth shall be assigned a local education rank for  
177 purposes of the equity distribution. The commissioner shall determine each community's rank by  
178 first determining the municipality's equalized property valuation per capita ranking, ranking  
179 municipalities from highest to lowest valuation. The commissioner shall also determine the  
180 population of each municipality and rank each from largest to smallest in population. The  
181 commissioner shall add each equalized property valuation rank and population rank, and divide  
182 the sum by two. The dividend is the local education raw score for that municipality.

183 (e) The commissioner shall then order each municipality by LE raw score, from the  
184 lowest raw score to the highest raw score. This order shall be the LE rank for each municipality.  
185 If more than one municipality has the same LE raw score, the municipality with the higher  
186 equalized valuation rank shall receive the higher LE rank.

187 (f) After determining the LE rank for each municipality in the commonwealth, the  
188 commissioner shall divide all municipalities into deciles according to their LE ranking, with  
189 approximately the same number of municipalities in each decile, and with the municipalities with  
190 the highest LE rank shall be placed in the lowest decile category, starting with decile 10.  
191 Percentages shall be assigned to each decile as follows:- decile 1, 140 per cent of the base  
192 figure; decile 2, 130 per cent of the base figure; decile 3, 120 per cent of the base figure; decile 4,  
193 110 per cent of the base figure; decile 5, 100 per cent of the base figure; decile 6, 90 per cent of  
194 the base figure; decile 7, 80 per cent of the base figure; decile 8, 70 per cent of the base figure;  
195 decile 9, 60 per cent of the base figure; decile 10, 50 per cent of the base figure.

196 After assigning each municipality to a decile according to their LE rank, the  
197 commissioner shall multiply the percentage assigned to that decile by the base figure to  
198 determine the second round equity distribution for each participant.

199 (f) Notwithstanding any other provision of this section, the total state contribution for  
200 each city or town shall not exceed the amount raised by the municipality's surcharge on its real  
201 property levy.

202 (g) When there are monies remaining in the trust fund after the first and second round  
203 distributions, and any necessary administrative expenses have been paid in accordance with  
204 section 6, the commissioner may conduct a third round surplus distribution. Any remaining  
205 surplus in the fund may be distributed by dividing the amount of the surplus by the number of  
206 cities and towns that have accepted this chapter. The resulting dividend shall be the surplus base  
207 figure. The commissioner shall then use the decile categories and percentages as defined in this  
208 section to determine a surplus equity distribution for each participant.

209 (h) The commissioner shall determine each participant's total state grant by adding the  
210 amount received in the first round distribution with the amounts received in any later round or  
211 rounds of distributions, with the exception of a city or town that has already received a grant  
212 equal to 100 per cent of the amount the community raised by its surcharge on its real property  
213 levy.

214 (1) Only those cities and towns that adopt the maximum surcharge allowed by this  
215 chapter shall be eligible to receive additional state monies through the equity and surplus  
216 distributions.

217 (2) If less than 10 per cent of the cities and towns in the commonwealth have accepted  
218 sections 3 to 7, inclusive, and imposed and collected a surcharge on their real property levy, the  
219 commissioner may calculate the state grant with only one round of distributions, or in any other  
220 equitable manner.

221 (j) After distributing the trust fund in accordance with this section, the commissioner may  
222 keep any remaining funds in the trust for distribution in the following year.

223 SECTION 11. The school committee shall keep a full and accurate account of all of its  
224 actions, including its recommendations and the action taken on them and records of all  
225 appropriations or expenditures made from the Local Education Fund. The records and accounts  
226 shall be public records.

227 SECTION 12. Notwithstanding the provisions of any general or special law to the  
228 contrary, every city and town may accept sections 3 to 7, inclusive, and may thereupon receive  
229 state grants under section 10. A city or town that accepts said sections 3 to 7, inclusive, shall not  
230 be precluded from participating in state grant programs.

231 State grant programs may include local adoption of this chapter among the criteria for  
232 selection of grant recipients. Funds in the Local Education Fund may be made available and used  
233 by the city or town as the local share for state or federal grants upon recommendation of the  
234 school committee and the legislative body, as provided for in section 5, if such grants and such  
235 local share are used in a manner consistent with the recommendations of the school committee.

236 SECTION 13. (a) At any time after imposition of the surcharge, the legislative body may  
237 approve and the voters may accept an amendment to the amount and computation of the  
238 surcharge, or to the amount of exemption or exemptions, in the same manner and within the  
239 limitations set forth in this chapter.

240 (b) At any time after the expiration of five years after the date on which sections 3 to 7,  
241 inclusive, have been accepted in a city or town, said sections may be revoked in the same manner  
242 as they were accepted by such city or town, but the surcharge imposed under section 3 shall  
243 remain in effect in any such city or town, with respect to unpaid taxes on past transactions and  
244 with respect to taxes due on future transactions, until all contractual obligations incurred by the  
245 city or town prior to such termination shall have been fully discharged.

246 Section 14. The commissioner of revenue shall have the authority to promulgate rules and  
247 regulations to effect the purposes of this chapter.