

Unleashing the Potential: New York's Boards of Cooperative Educational Services (BOCES) Respond to the State's Fiscal Crisis and High Property Taxes

Background

New York State faces an uncertain fiscal future with budget deficits projected over the next four years at or near \$48 billion. The investment bank, mortgage and credit crisis have left New York State and local fiscal infrastructure severely strained. This sector of the economy has recently provided some 20% of the revenue collected by New York State. The magnitude of the economic dislocation brought about by these circumstances is just beginning to be measured and understood.

Additionally, New Yorkers face the future encumbered by a local tax rate that is 79% higher than the national average and is sapping the economic vitality of various regions of the State. This tax burden is particularly difficult for low and moderate income families, older residents on fixed incomes and small business owners. The fiscal crisis compounds the ill effects of New York's status as a high-taxed State.

Boards of Cooperative Educational Services: Unleash the Potential

Boards of Cooperative Educational Services (BOCES) are the premier example of inter-municipal collaboration in New York State that works. Since 1948, for 60 years, local school districts have been able to organize BOCES to provide a wide range of educational and support services to component school districts. BOCES provide educational programs and services through an organizational structure that is a model of inter-district cooperation. BOCES do not have taxing authority. They are funded by the school districts forming the cooperative. They operate very much like a business in that they must address their component school district needs in order to survive.

Today, the thirty-seven BOCES are major educational enterprises in their own right and nearly all school districts - including rural, suburban and small cities are components of a BOCES.

BOCES offer 3 major areas of services:

- Non-instructional support services (management services),
 - Central business office
 - State Aid Planning and Financial Services
 - Cooperative purchasing
 - Health Insurance collaboration
 - Energy consortia

- Direct instructional programming:
 - Regents level career and technical education
 - Regents level alternative learning programs
 - Regents level special education and
 - A variety of adult education and job training programs

- Instructional support:
 - Student Achievement data analysis
 - Professional development
 - Curriculum development
 - School improvement planning and implementation.

Each BOCES is led by a District Superintendent (DS) who has a dual role - the chief executive officer and superintendent of the BOCES, reporting to a Board elected by component school boards and as the field representative of the Commissioner in their region. The district superintendents are charged by the Commissioner to lead educational reform and improvement efforts in their respective regions.

Component boards of education approve the BOCES budget; and the New York State Education Department (NYSED or SED) approves BOCES service contracts. The Commissioner submits an annual report to the Governor and the Legislature concerning BOCES finances and pupil performance.¹

The structure and mission of the BOCES demonstrate the power of intermunicipal cooperation to achieve economies and efficiencies, expand educational opportunity, close gaps in student achievement, improve educational equity and serve children from all districts, regardless of enrollment, income or wealth. BOCES have been and remain the vehicle through which public schools have offered choice to students and parents for decades and today BOCES are expanding those choices across the State.

Recently, two State Commissions appointed by the Governor - The Commission on Local Efficiency and Competitiveness, chaired by former Lieutenant Governor Stan Lundine, and The New York State Commission on Property Tax Relief, chaired by Nassau County Executive Thomas Suozzi, made a series of recommendations designed to encourage local tax relief and increase economy and efficiency in the delivery of local services. Both Commissions cited the historic role that BOCES have played in implementing cost saving programs and services for school districts as a model to be strengthened and replicated beyond service to schools to include services to all local governments.

The district superintendents of New York State support efforts to maintain the primary focus of BOCES as a cooperative of school districts under the jurisdiction

¹ Adapted from: <http://www.nysl.nysed.gov/edocs/education/sedhist.htm#boces>

of the New York State Board of Regents and the Commissioner of Education. The district superintendents propose to strengthen the role of BOCES as a facilitator and provider of educational programs and services to school districts to achieve greater economy, efficiency and higher quality of locally delivered programs and services as follows:

- (1) Enact some of the recommendations of the Commissions as relates to BOCES;
- (2) Make BOCES a more effective and efficient instrument through which State educational policy can be advanced and implemented;
- (3) Clarify the distinctions between aidable and non-aidable services to school districts and modify the decision-making process employed by NYSED accordingly.
- (4) Foster BOCES support for and involvement in cost saving intergovernmental cooperation when such activity contributes to the capacity of the public educational system.

To spur the expanded intergovernmental cooperation called for in the reports of the Commissions, the Governor and the Legislature must consider the extent to which local aid formulae facilitate their objectives. Currently BOCES Aid constitutes a mere 2-3% of the total aid paid by the State to school districts. If the State is to be taken seriously in its efforts to promote local economy and efficiency – and to reduce the impact of local property tax, it must use the aid it provides to leverage greater inter-district cooperation and functional consolidation.

Components of the Plan

BOCES as Agents for Reform

Issue: The Commissioner has charged district superintendents as the agents of school reform and improved student achievement in their supervisory districts. As CEOs of their BOCES and given the nature of their relationships in the field, district superintendents are uniquely positioned to marshal resources that can be brought to bear on school improvement initiatives.

NCLB requires the State to provide a network of support to schools in federal accountability status. Five years ago, SED determined that it would bypass the BOCES to create its own regional school support centers. These centers take direction from the Office of School Improvement and other offices in SED.

Ostensibly, these centers were to be the focal point for school improvement efforts and provide the means through which the work of the numerous other “networks” – which report to a variety of programmatic offices within SED - would coordinate services to schools in accountability status. This model has achieved limited success. It has also led to the creation of additional layers of bureaucracy and significant confusion in the networks themselves and in the field. The result is a slightly improved but still widely disparate network of support services that lacks coherent focus and direction.

Additionally, the centers and networks typically serve expansive geographic regions that dilute their effectiveness and marginalize efforts in those districts where support is needed most. The current configuration severely limits the authority of a district superintendent to effectively coordinate and deploy all available resources within a supervisory district.

Recommendation: The district superintendents and the BOCES represent the tried and proven “network” of support available to schools in New York State. NCLB specifically recognizes educational services agencies as eligible recipients of federal technical assistance monies that fund the centers and the networks. SED should utilize the district superintendent and the BOCES as the primary agents of school reform and assistance for all purposes including compliance with NCLB requirements for State Educational Agencies to provide network support in all areas of the State except New York City. The work of the existing networks should be delivered through the BOCES pursuant to contracts between the BOCES and the State Education Department. The indirect cost allowance for contracts with SED is typically between 2 – 3 %. As a result there is little interest in these contracts and BOCES typically do them to support SED because of the role of the district superintendent. Yet, in doing so the BOCES are treated as vendors – forced to respond to RFPs and subject to burdensome requirements.

Additionally, in serving as local educational agencies, the BOCES end up incurring costs on behalf of their component school districts to support these activities on behalf of SED.

Unless the Comptroller and Attorney General will agree that SED can treat BOCES as sole source vendors for these federal purposes, the Regents and SED should seek Legislative approval to treat BOCES as sole source providers of school support and improvement services that are clearly the province of the BOCES and local school districts.

Updating BOCES Aid to School Districts

Issue: Currently BOCES Aid to school districts is limited to the first \$30,000 in salary paid to BOCES employees shared among local school districts, while the cost of fringe benefits is aided at the full BOCES aid ratio. This limit has been in

existence for 18 years. According to the United States Bureau of Labor Statistics –\$30,000 in 1991 would equate to \$48,197 in 2008. Therefore the relative value of BOCES Aid has decreased by 62.5% during a time when the State through various administrations has promoted intergovernmental cooperation. This situation negatively impacts the capacity of BOCES to provide regional school improvement services, educational programs and leadership development experiences for teachers and aspiring school leaders. It also undermines and belies State policy promoting regional cooperation to save taxpayer dollars.

Recommendation: Eliminate the cap on the amount of BOCES Aid that is paid to school districts for staff shared through BOCES to strengthen the incentive for school district participation in BOCES programs, build the capacity of BOCES to deliver cost-effective services and expand intermunicipal cooperation.

Fairness in Excess Cost Aid to School Districts

Issue: The State provides aid to school districts for the education of special education students primarily through excess cost aids. Currently the State's Private Excess Cost Aid Formula is more favorable to some school districts than the Public Excess Cost Aid Formula. This makes no programmatic sense and drives many public school districts away from BOCES as the providers of choice for special education services to private providers who often do not operate under the same standards and constraints as public providers.

Left unaddressed, this situation will result in a migration of special education students away from BOCES in favor of private placements receiving a higher level of aid. The overall impact is to diminish the capacity of BOCES to provide cost-effective special education services and the placement of students in isolated private settings rather than general education – public school environments. This contravenes public policy supporting least restrictive learning environments by providing local school districts are provided with economic incentives to opt for private placements over public ones.

Recommendation: State excess cost aid to school districts should be the same whether a student is placed in a private or public placement. This will encourage a broader range of choices and inject a higher level of competition and efficiency in the provision of special education services by BOCES and private providers and improve the quality of services to students and their families.

BOCES Data Collection and Program Evaluation

Issue: Expansion of State support for BOCES and the clarification of BOCES authority to provide a broad range of intergovernmental services warrant the adoption of a data collection and program evaluation system that will enable policymakers to assess the return on State investment and to quantify the expanded capacity and economies and efficiencies attained through BOCES.

Recommendation: The BOCES will collectively develop and adopt a data collection and program evaluation and analysis system to measure enhanced capacity, and the economies and efficiencies achieved through the programs and activities of each BOCES in the State, with respect to services to school districts and services to other entities. Each BOCES will provide a report to its stakeholders, the Commissioner, the Regents, the Governor and the Legislature on a biennial basis documenting capacity building as well as economies and efficiencies achieved in the provision of programs to school districts and other entities for the reporting period.

Educational Leadership through BOCES /USNY Partnership

Issue: New York State is experiencing a crisis in educational leadership. As school superintendents and principals retire there is a paucity of applicants eager to move into these positions. District superintendents conduct superintendent searches and with vacancies that would once attract scores, if not hundreds of applicants, searches today are yielding relative handfuls of candidates aspiring to school leadership. As the complexity of these positions grows and barriers to entry to school leadership proliferate in the form of additional certification requirements the State must recognize that school leadership development is at a critical juncture.

Recommendation: Enhance incentives to school districts to support leadership development through additional BOCES Aid targeted to programs developed by district superintendents and institutions of higher education schools of education whereby aspiring leaders can receive one year of paid leave to participate in a credit bearing internship program and course work. Participation would be subject to local board approval and BOCES Aid would be 20% in addition to the districts BOCES Aid ratio – up to 100% of the cost of the salary of the aspiring leader. A similar program was once provided through the Erie 1 BOCES, where interns were employed by the BOCES for the period of their internship. The \$30,000 cap on aid for salaries effectively eliminated the incentive for school district participation as school salaries increased without a commensurate increase in the aid on salaries.

Achieving Economy and Efficiency in Acquisition of BOCES Facilities

Issue: BOCES are currently limited to lease terms of no more than 10 years for BOCES facilities. Real estate developers who are often reluctant to build facilities for BOCES when the BOCES can only commit to a 10 year lease. When a developer is willing to assume that risk, the rental costs to the BOCES are often prohibitive. BOCES can also bond projects with the approval of a majority of voters in the BOCES. If the resulting debt would have any district in the BOCES exceeding its debt limit, the voters of such districts must also approve the referendum by super-majority margins.

Additionally, students served by BOCES are often educated in facilities that do not possess all of the resources typically associated with a school environment, as BOCES are left to rent vacant office facilities, warehouses and other non-school properties as sites for delivery of academic programs.

The impediments to BOCES facility development often discourage intergovernmental cooperation and drive up costs for BOCES facilities which are typically leased for 10 years or less. They have also resulted in the Hamilton, Fulton Montgomery BOCES and the Cayuga, Onondaga BOCES expending significant time and taxpayer money to obtain special legislation to permit 30 year leases for construction of necessary facilities. This is an inefficient process.

Recommendation: Authorize BOCES to enter into leases for up to 30 years, with an option to purchase the subject property at intervals provided in such a lease. This will provide BOCES with a stronger bargaining position in dealing with real estate developers. As the current debt on BOCES building and aid to districts is based upon a 15 year schedule, the schedule would be modified to conform to the extended period.

Additionally, EXCEL Aid, currently available to school districts should be made available to BOCES.

Addressing the Future of School Transportation: High Energy Costs and Environmental Impacts

Issue: The rising cost of fuel and utility costs threatens the capacity of local school districts to provide necessary educational opportunities to students. Currently local school districts are free to maintain independent transportation services and departments that result in inefficiencies and excess fuel consumption. Additionally, many districts within in a supervisory district adopt varying student attendance schedules. These practices are neither economically nor environmentally sustainable.

Recommendation: The State should mandate uniform calendars and schedules for school districts within supervisory districts to maximize opportunity for regional transportation of students. Additionally, the State should fully fund and require each BOCES to undertake a study to determine how to implement a regional school transportation system in that BOCES region with the objectives of maximizing cost efficiencies and conserving fuel. Such plans should be subject to public input and approval of the Commissioner as a condition precedent to receipt of transportation aid to school districts.

Supporting Full-day BOCES High School Programs

Issue: Both Commissions cite the value of regional approaches to the delivery of high school education programs. Currently, school districts sending students to full-day BOCES programs are penalized by loss of per capita student aid. This is a disincentive to participation in such regional initiatives, many of which are addressing the most pressing needs of “at risk” students. The Tech Valley High School – a joint venture of Capital Region and Questar III BOCES provides an innovative 21st century project based model that is receiving statewide and national attention. Additionally, may smaller rural school districts who are laboring under tremendous financial pressures would achieve savings and expand educational programming through consolidation of their high schools on a regional level through BOCES

Recommendation: Eliminate the aid penalty to school districts for participation in full-day BOCES educational programs. Clarify the authority of BOCES to operate comprehensive high schools and issue high school diplomas. This will encourage the development of regional high school programs that focus on preparation of students for the rigors of the global economy and serve as centers for the development of best practices and regional professional learning communities to strengthen teaching as a profession.

Year Round Educational Opportunities for New York Students

Issue: Research documents the loss of educational attainment during the prolonged summer recess. Currently school districts receive BOCES Aid for remedial summer programs for students and COSER 5875 may allow enrichment and other academic courses offered during the school year during the summer months provided Part 100 Regulations are met. Additionally, BOCES are prohibited from offering summer educational programming for a fee. The constraints on COSER 5875 and the inability of BOCES to charge for summer enrichment programs does not promote the widespread availability of summer enrichment programming for students to help them retain and continue learning.

Recommendation: BOCES Aid to school districts should be extended to all BOCES operated summer programs to encourage year round learning. This should include both remedial and enrichment learning programs. Additionally, where local school districts do not provide summer enrichment programming, BOCES should be allowed to offer such programs at a charge to student families.

BOCES as Means to Achieve Taxpayer Savings

Issue: The General Municipal Law permits local governments, school districts and BOCES to participate in intermunicipal agreements.

Recommendation: Where it can save taxpayer dollars and is consistent with the provisions of the General Municipal Law, BOCES should consider extending services provided to school districts to other local government units. This would expand and strengthen the capacity of BOCES to provide low-cost high quality services to school districts and provide the benefits of economy and efficiency to local governments choosing to participate.

District Superintendent Leadership

Issue: The district superintendents are the only school superintendents in the State to have their salaries capped by statute and their benefits constrained by those provided to the State's managerial and confidential employees.

The office of district superintendent requires authoritative experience, support for component boards of education, work with local school superintendents and the capacity to lead school improvement and entrepreneurial innovation in the region. It was once considered a capstone to the career of school superintendents but the salary and benefits constraints are driving many incumbents to seek other employment – some in component school districts, which was unheard of just a few years ago - and discouraging many qualified candidates from applying for the position because they would suffer economically.

The crisis in leadership brought about by this arbitrary limit on district superintendent compensation is manifested in the high level of vacancies in the position, particularly in Nassau, Suffolk, Rockland, Orange and Westchester Counties as well as the BOCES surrounding New York's larger upstate cities. Additionally, many BOCES have resorted to hiring Chief Operating Officers to serve as CEO of their BOCES, instead of filling the position of district superintendent. This deprives the State of the regional leadership of the district superintendent and undermines the capacity of the Regents and the State Education Department to effect educational policy in these regions.

Compensation of district superintendents must be at least competitive with the compensation of school superintendents and other chief executive officer positions in a given region. The authority to establish the local share of district superintendent compensation must be returned to each BOCES.

Recommendation: If New York State is serious about maintaining strong and effective regional leadership of public education and advocacy on behalf of children the current restrictions on district superintendent compensation must be repealed. Additionally, the Regents, through the Commissioner of Education should be provided with the authority to raise the State share of the district superintendents salary; rescind the limits on district superintendent compensation and compel the appointment of a district superintendent after a vacancy has existed in the office for more than 18 months.

Conclusion

School districts cooperation through BOCES works and it works everyday. The appendices of this report contain a sampling of the savings BOCES have achieved through their innovative collaboration with school districts. More can be accomplished in this era of fiscal distress - if the full potential of BOCES as educational leaders and providers of programs and services to school districts is unleashed and the State adopts aid formulae that further advance and promote school district and regional cooperation.