THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK /
ALBANY, NY 12234

TO: Subcommittee on State Aid

FROM: Ken Slentz

SUBJECT: 2012-13 Regents State Aid Proposal

DATE: December 7, 2011

AUTHORIZATION(S):

SUMMARY

Issue for Information

Does the attached Regents 2012-13 State Aid conceptual proposal reflect the Regents priorities for State Aid to school districts?

Reason(s) for Consideration

Development of policy.

Proposed Handling

Shortly before the December meeting, staff will add details to this proposal, including the dollar increase and broad distribution of funds, and present it to the Subcommittee. The Subcommittee will then make a recommendation to the full Board to approve the full proposal.

Procedural History

The Regents reviewed legislative action on State Aid to school districts at their May meeting. The Regents and Department sponsored a School Finance Symposium with educators, researchers and policymakers on September 13, 2011. The symposium summary was included in the October Regents materials. A proposal on restructuring Building Aid was also reviewed by the Subcommittee at their October meeting. Proposed options for the 2012-13 Conceptual Proposal were presented at the November meeting.

Background Information

Each year the Regents Subcommittee on State Aid develops the Regents State Aid proposal through a series of papers including a review of legislative action for the coming year, a review of the needs of school districts and examination of various program directions and State Aid solutions. The proposed 2012-13 Regents State Aid Proposal, Conceptual Proposal is attached.

Recommendation

Not applicable. I will ask the Regents to approve their full proposal, once the details of their proposal are added, which will be provided to you shortly before the December meeting.

Timetable for Implementation

Following the Regents approval of their State Aid proposal for school year 2012-13, the Governor will issue his budget recommendations in January and will ask the Legislature to approve a State budget by April 1.

Regents Proposal on State Aid to School Districts for School Year 2012-13

Executive Summary

The challenges of promoting the Regents Reform agenda and strengthening student outcomes for all subgroups in the context of a severe fiscal decline are notable. The overarching goal of this proposal is to support and improve the educational system for all students in New York State by re-engaging the Foundation Aid approach to funding school districts with a progressive funding formula while providing a measure of stability for all school districts. The Regents recommend the State appropriate all funds available to education within legal limits as a method for strengthening New York's economy through education. The Regents recommend the State take a multi-year approach and implement improvements in the distribution of expense-based aids for school construction, pupil transportation and shared services, thereby freeing more resources in the future to support continued growth in Foundation Aid. The Regents recommend strategic use of BOCES as regional leaders, multi-district reorganizations, regional high schools, continued mandate relief and support for options for addressing health insurance costs for school district employees.

Introduction

The Regents Reform agenda to improve teaching and learning in New York State is underway as school districts and BOCES work to implement teacher evaluation systems and Common Core curriculum and instructional approaches, develop longitudinal data systems to provide accountability from preschool through high school, college and work, and support struggling schools. The Regents have changed the focus from minimal competency to proficiency to ensure success for students following their high school education.

At the same time, a prolonged national economic slow down has resulted in states and school districts limiting education funding. New York State and its school districts are seeking solutions to operating more effectively in the midst of a difficult economy. This proposal provides key recommendations to answer the following question. How can we contain growth in costs, in response to constrained revenues in an unprecedented fiscal crisis, while increasing learning opportunities and student outcomes that support college and career readiness?

A review of the fiscal challenges facing New York State school districts sets the context within which the Board of Regents will advocate for a State Aid proposal. Legislative changes aimed at promoting reforms and cutting costs are presented, along with the impact of the withdrawal of federal stimulus funds, major expenditure trends in schools,

and demographic changes that affect school districts' financial stability. The challenges facing school districts include the need to implement reforms to raise student achievement leading to college and career readiness juxtaposed alongside a dire economy for school district budgets now and into the future.

Value of Investing in Education

Our future global economic competitiveness requires that our State's educational system graduate high school students who can enter college or begin their careers with the capacity for critical thinking and the demonstration of high-level skills. Some students fall into this category, but not nearly enough. Recent data for New York State reveals that only 73 percent of all students who started ninth grade in 2006 graduated four years later (84 percent white; 58 percent black; and 57 percent Hispanic). While the four-year graduation rate does represent a slow but steady improvement from prior years, the achievement gap between student subgroups continues to represent a challenge. When measures of college and career readiness are factored in, the results are even more discouraging. A mere 37 percent of all high school graduates were considered sufficiently proficient to effectively engage in college and careers when indicators of future success were reviewed. Among student subgroups the indicators of college and career readiness were even more dismal with 13 percent of black students and 15 percent of Hispanic students considered ready.[1]

Investing in education is key to New York State's economic recovery. The Regents Reform Agenda aims to increase the productivity of New York State schools by focusing on and improving the quality of teaching and learning. These reforms provide a clear path to college and career readiness. Since New York State won the Race to the Top competition and the award of $696 million, it has reached out to educators and administrators in many significant ways. For example, approximately 500 educators have received intensive training on the Common Core, Data Driven Instruction and teacher evaluation at three events involving 9 days and over 75 hours of focused, interactive professional development. These educators in turn have returned to school districts and engaged teachers and principals in their regions in these efforts to strengthen teaching and learning. A better educated population will ensure greater competitiveness of New York State in the nation and of the United States in the world. A better educated population is less likely to need costly social services and incarceration. While these reforms are teaching educators how to do more with less, the use of resources in support of the reform will be critical to its ultimate success. This proposal seeks to identify those key investments and changes to the existing school finance system to support a highly productive and efficient education system.

[1] Source: NYSED Office of Information and Reporting Services, 2010.

State Aid is Capped and Local Revenue-Raising Options are Constrained

Foundation Aid Formula

The Foundation Aid approach to funding school districts was enacted into law beginning in the 2007-08 school-year. The foundation formula had several goals including adequate funding for a sound basic education in response to the Campaign for Fiscal Equity decision; increased flexibility through the consolidation of about 30 existing aids; and transparency and predictability by reducing the number of formula components. The Foundation Formula has four basic components:

1) A base amount per pupil reflecting the cost to educate students, as determined by the amount spent by successful school districts;
2) A regional cost index to ensure a dollar of State Aid can buy a comparable level of goods and services around the State ;
3) An expected minimum contribution by the local community; and
4) The pupil need index recognizing added costs for providing extra time and extra help for students with special circumstances.

At the time the State enacted the formula it was anticipated that Foundation Aid would provide districts with an additional $5.5 billion to be phased in over a four-year period. In 2007-08, districts received an additional $1.1 billion and in 2008-09 another $1.2 billion. With the onset of the State's fiscal crisis the Foundation Aid phase-in was halted in 2009-10 and has been frozen at 2008-09 levels since that time. There is a disproportionate effect of freezing aid on high need, low wealth school districts, which rely most heavily on State funds as the largest portion of their total budgets, and have more limited capacity to raise additional revenue through tax increases.

Gap Elimination Adjustment

A Gap Elimination Adjustment (GEA), first enacted by the Legislature in 2009 and made a permanent section of law in 2011, seeks to close the gap between the budgeted State expenditures and revenues available to support them. In 2009-10, the $1.5 billion Deficit Reduction Assessment (DRA) was offset through the use of federal stimulus funds. However, in 2010-11 the GEA reduced State Aid to districts by $2.1 billion and, while this reduction was somewhat offset by the availability of federal stimulus funds, district losses eroded the gains made through the Foundation Aid phase-in. The 2011-12 GEA reduced aid by $2.6 billion in a manner which provided high need and average need districts with the largest per pupil cuts.

As the GEA is now a permanent part of law, the Regents are seeking a solution that addresses the needs of high need and average need districts.

A Tax Levy Cap Places Limits on Local Revenue for Education

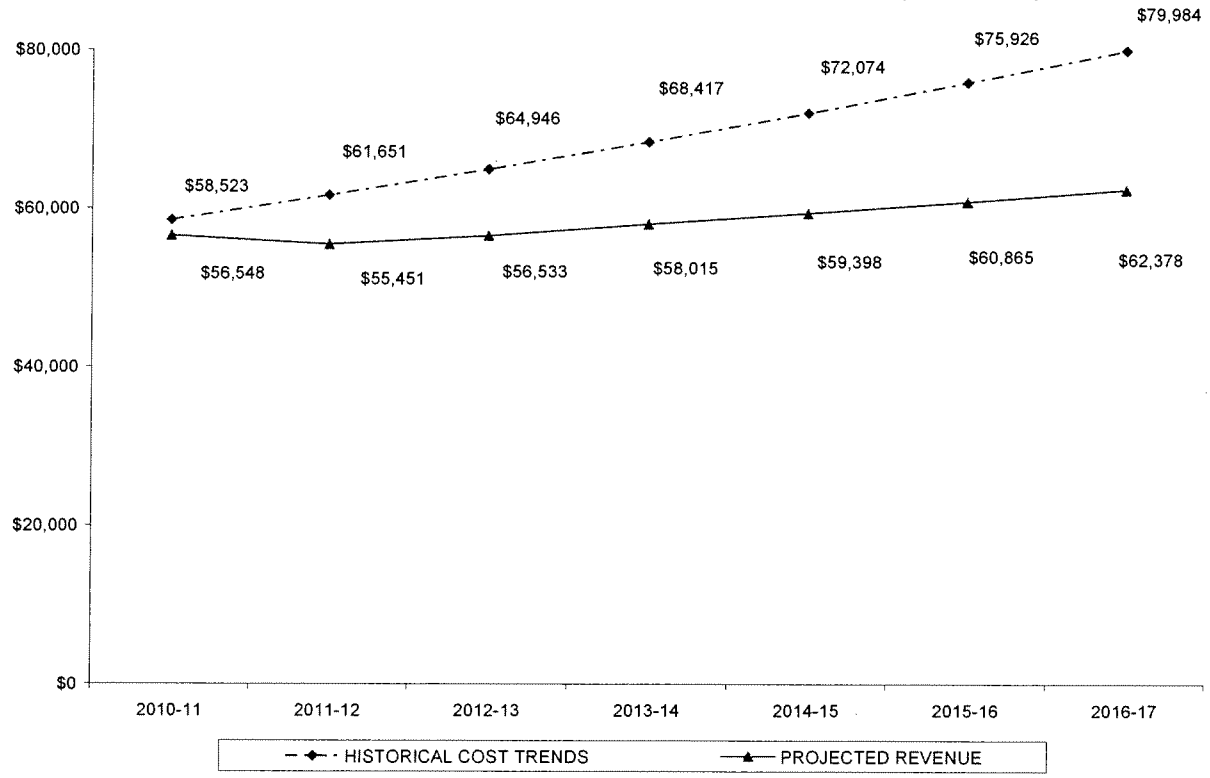
Beginning in 2012-13, districts' ability to increase property tax levies will be constrained. The new property tax cap law, enacted in 2011, restricts tax levy increases for local

governments, most school districts and other smaller independent entities, such as library, fire or water districts. The Big Four city school districts are not subject to the tax cap although the Big Four cities' total budgets, including school districts, are subject to the tax cap imposed on municipalities. New York City is exempted from the cap.

Under the tax cap, school districts may not increase their tax levy by more than the rate of inflation, as measured by the consumer price index (CPI), or 2 percent, whichever is less plus an allowance for certain increases in pension costs, tort actions and local capital costs, without a super majority vote of sixty percent. In cases, where the district does not have a budget approved by the voters and adopts a contingency budget the tax levy in frozen to the prior year's levy.

Figure 1 presents the projected impact on the levy and State Aid caps on school districts compared with historical cost trends.

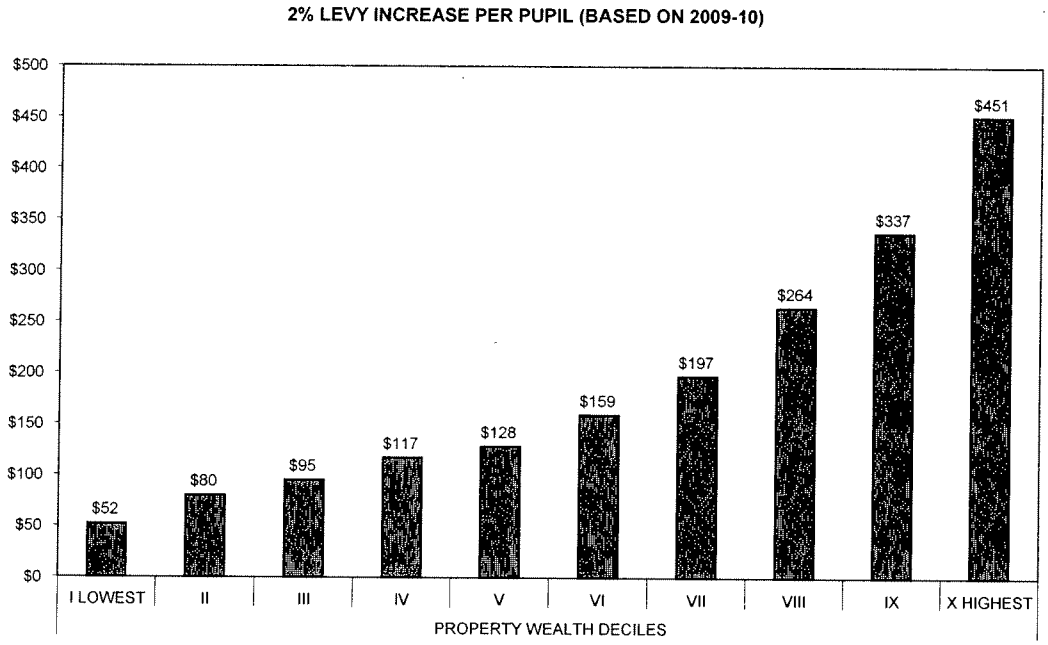
Figure 1: Impact of Caps on Revenues for School Districts (in millions)



The tax levy cap not only limits districts' ability to raise revenue, it also heightens the need for the equitable distribution of funding. A percentage cap is affected by the size of the levy, which varies considerably among districts. The cap is especially restrictive for low property wealth districts that are significantly limited in the amount of revenue that they can raise with each percentage point increase in the levy. Figure 2 shows the levy increase per pupil that would be allowed under the cap for school districts ranked by

property wealth. The wealthiest districts would be allowed a levy increase that is approximately nine times greater than the poorest districts.

Figure 2: Per Pupil Tax Levy by Property Wealth, Under the Tax Cap



Cap on Future General Support for Public Schools

The current law states that for the 2012-13 school year, and thereafter, the tax levy cap will be accompanied by a cap on General Support to Public Schools (GSPS). The cap on General Support to Public Schools will be limited to the rate of growth in personal income in New York State. This is estimated to be about 4.1 percent or approximately $805 million in 2012-13 based on a five year average. For future years, this cap will be based on a one year change which will likely result in greater volatility.

All State payments to school districts and BOCES for GSPS aids, including expense-based aids such as building aid, transportation aid and shared services aids, must be paid from funds available within the overall cap. The GSPS aids are estimated to cost an additional $265 million in 2012-13. In addition, $50 million of the overall increase is set aside for two new competitive grant programs for performance improvement and management efficiency. Funding for the new competitive grant programs will continue over the coming years.

Beginning in 2011-12, if growth in GSPS aids and the competitive grant set-aside exceed the allowable increase, the Gap Elimination Adjustment will be increased to contain overall growth within legislated limits. If programmed increases are less than the

limit established by the growth in income, the Legislature may enact provisions to allocate the remaining amount, such as with specific priorities given to continuation of the extended phase-in of Foundation Aid and reduction or elimination of the GEA. Unless the Legislature and Executive enact a provision, Foundation Aid and the GEA are continued at previous year's levels.

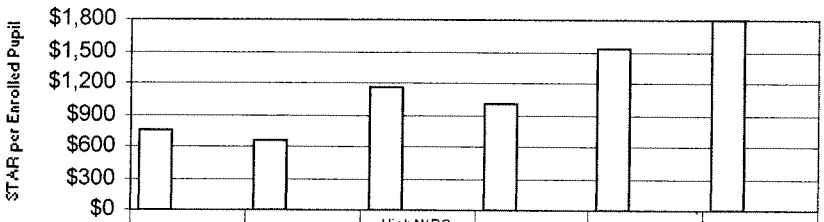
New Competitive Award Programs

Two competitive grant programs, intended as incentives for supporting school district efficiency and improved student academic performance, will begin in 2011-12 and be spread over several years. A $250 million School District Management Efficiency Award Program will reward districts for efficiencies in the administrative component of the budget, in pupil transportation capital and operating expenses and in non-personal service costs in the instructional component of the budget. A $250 million School District Performance Improvement Awards Program will reward school districts for improvement in student achievement especially for historically underserved student populations.

School Tax Relief

In addition to school aid, New York State provides property tax exemptions to New York State homeowners. The School Tax Relief (STAR) Program provides Basic and Enhanced STAR Property Tax Exemptions to New York State homeowners for their primary residence. Basic STAR is available to anyone who owns and resides in their own home. Enhanced STAR is available to senior homeowners whose incomes do not exceed a statewide standard. The State makes approximately $3 billion in payments each year to school districts to compensate them for reduced property tax receipts. Since STAR payments are linked to the value of the properties the program heightens the need for the equitable distribution of funding. Figure 3 provides details.

Figure 3. School Tax Relief (2010-11) by School District Need Categories



	New York City	Large Cities	High N/RC Urb/Sub	High N/RC Rural	Average N/RC	Low N/RC
STAR per Pupil	$762	$656	$1,166	$1,002	$1,530	$1,800
Share of STAR Aid	24.4%	2.4%	8.1%	4.9%	38.2%	22.0%
Share of Enrollment	37.8%	4.3%	8.1%	5.8%	29.5%	14.5%

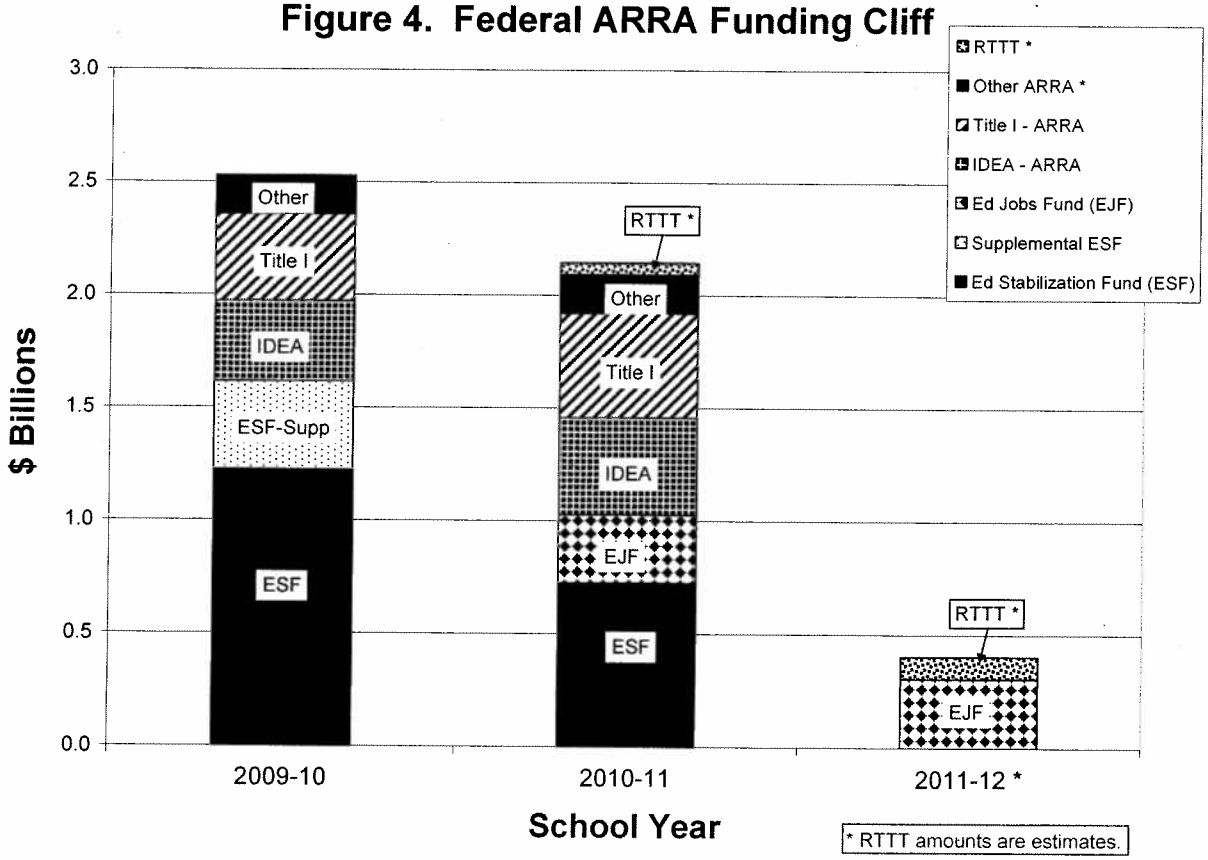
The Federal "Funding Cliff"

Over the past two years, State Aid has been supplemented with more than $5 billion in one-time infusions of federal American Recovery and Reinvestment Act (ARRA) funding. These included:

- Education Stabilization Funds
- Education Jobs Fund
- Additional Title I funds
- Additional IDEA funds

While these funds have helped to stabilize school district budgets, the inability of the economy to restore State revenues has created problems for school districts as they attempt to continue current educational programs. Figure 4 shows the stimulus funds provided in 2009-10 and 2010-11 and the drop in these funds beginning in 2011-12. These funds will further decline in 2012-13 when Education Jobs Funds will expire. In addition, $696 million in federal Race to the Top funds spread over four years will help school districts initiate new reforms to improve student achievement.

Figure 4. Federal ARRA Funding Cliff



Education Expenses Continue to Increase

Although the historical rate of growth in school expenditures has been 5.3 percent school districts have made some progress in modifying the rate of growth of overall expenditures, . The chart in Figure 5 presents the projected impact of the levy and State Aid caps on school districts compared with historical cost trends. If total expenditures were to continue to grow at the rate of 5.3 percent annually, 2016-17 school year expenditures would reach almost $80 billion. Projected revenues, which assume the 2 percent cap on local property tax levy growth and no growth in federal aid or STAR, will reach only $62.3 billion in 2016-17. Therefore, considerable reductions in spending and programs will be necessary if the State is to stay within projected available revenues.

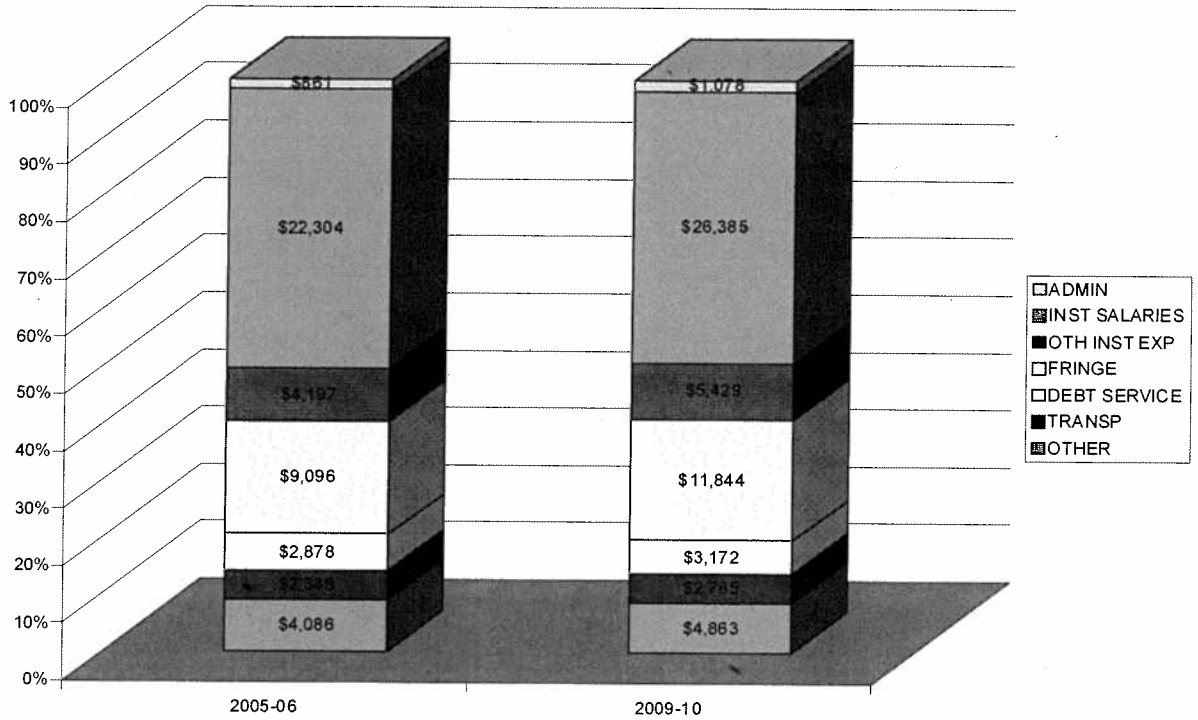
An examination of cost drivers in education over the past several years reveals the following trends in major expenditures in school districts statewide. Total expenditures increased from $45.8 billion to $55.6 billion from 2005-06 to 2009-10, an increase of 21.4 percent. Instructional salaries accounted for $4 billion of this increase, a total rate of increase of 18.3 percent. Fringe benefits increased by $2.7 billion, which at 30.2 percent was the highest among the categories of expenditures. Other instructional expenditures, which include expenditures for instructional technology and payments to charter schools increased at nearly the same rate at 29.4 percent; or $1.2 billion. Expenditures for administration increased at a rate of 25.2 percent, resulting in an increase of $200 million. These increases are reflected in Figure 5.

Decreased tax revenues and financial market losses have also negatively affected all levels of government and are exacerbated by demographic changes resulting in enrollment declines and growing numbers of retired personnel. Expenses for teacher retirement, employee health and other instructional expenses, including charter school payments, have increased from two to more than three times over the same period. Retirement contributions that are required to be paid by districts have increased significantly, due in part to the increasing number of retirees in the system, as well as the performance of retirement fund investments. The volatility of the stock market has resulted in districts paying more in retirement contributions in this weakened economy, compounded by a growing number of retirees for whom school districts must support health care and retirement costs.

Initial data submitted by school districts for expenses incurred in the 2010-11 school year reflected a $135 million reduction from the prior year estimates, showing that moderation in spending by districts may be beginning to slow the rate of the increase in formula-driven aids.

Figure 5: Increases in Districts' Expenditures, 2005-06 to 2009-10

Expenditures in 2005-06 and 2009-10 (in Millions)



Note: *ADMIN expenses are for the board of education and central administration.*

Board of Education*. This item consists of expenditures related to the Board of Education. The data displayed were the sum of expenditures for: 1) the board of education, the district clerk's office, and the district meeting; 2) auditing services; 3) the treasurer's office; 4) the tax collector's office; 5) legal services; and 6) the school census.*

Central Administration*. This item consists of expenditures for central administration. Data displayed were the sum of expenditures for: 1) the chief school officer; 2) the business office; 3) the purchasing office; 4) the personnel office; 5) the records management officer; 6) public information and services; 7), indirect costs and other unclassified expenditures and fees for fiscal agents.*

Additional Factors That Affect Spending

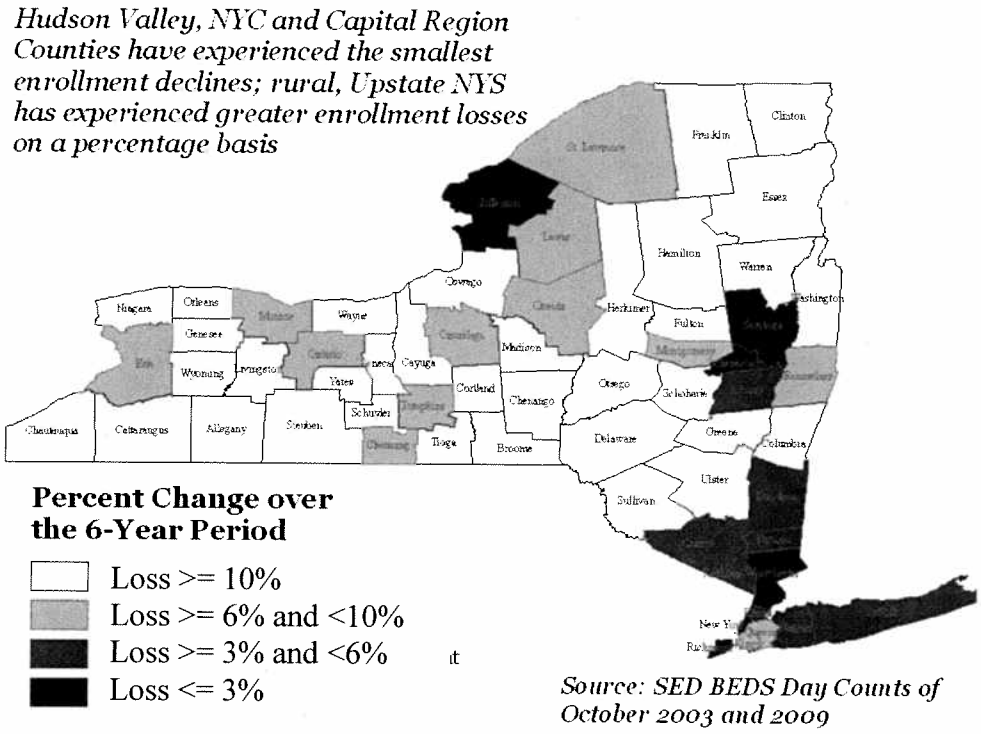
School District Efforts to Address Fiscal Challenges

In the Property Tax Report Card that districts submitted in May 2011, which projected budgeted expenses for the 2011-12 school year compared with the 2010-11 school year that was about to end, districts projected an increase in budgeted expenditures of 1.4 percent. This projection required an average tax levy increase of 3.4 percent. New York State voters passed ninety-three percent of school district budgets, in large part because of the responsible budgets that school districts put forward to voters. Anecdotally, many districts' modest budget increases were accomplished through a combination of negotiated contract changes to salaries and benefits, reductions in non-personnel expenses, attrition and staff reductions, including lay offs.

Enrollment Trends

Declining enrollments are evident in most parts of the State. Figure 6 shows enrollment losses which are greatest in rural New York but are also evident in districts in the Hudson Valley, New York City and Capital Region.

Figure 6: Average Percent Change in Student Enrollment By County, School Year 2003-04 to 2009-10



Source: SED BEDS Day Counts of October 2003 and 2009

Mandate Relief Efforts

Statutory and regulatory changes also provided some mandate relief to school districts in 2011 and are listed below. Further, in November 2011 the Board of Regents reviewed and accepted a list of mandate relief recommendations for special education services. Public hearings were conducted around the State and over 700 comments received in response to the mandate relief items which were initially proposal in May 2011. Regulatory and legislative amendments would align State requirements for special education students with the federal Individual with Disabilities Act (IDEA) legislation. Currently, State laws and regulations exceed those mandated by IDEA.

Statutory Mandate Relief

- Preschool Census every other year, rather than annually;
- School bus planning based on actual ridership;

- Flexibility in auditing claims by allowing a deputy claims auditor and risk-based claims auditing;
- Comptroller review and report on effectiveness of risk-based claims audit methodology;
- Shared superintendent program for small districts;
- Regional transportation services;
- Mandate Relief Council; and
- Regional transportation pilots

Regulatory Mandate Relief Enacted by the Board of Regents:

- Emergency repeal of requirement for school facility report cards in 8NYCRR 155.6;
- Emergency repeal of requirement for school bus idling reports in 8NYCRR 156.3(b);
- Flexibility with scheduling school bus driver safety training in 8NYCRR 156.3(h);
- Proposed repeal of 8NYCRR 136.3(e) relating to vision screenings for hyperopia; and
- Proposed amendment to 8NYCRR 80-4.3 to provide additional certification flexibility with regard to the assignment of teachers in school districts and BOCES to provide for more cost-efficient operations.

In the spring of 2011, the Board of Regents discussed and supported a number of important mandate relief measures. A comprehensive legislative package was introduced (S.5816) and included some of the provisions that were adopted this year. The Board has approved a Regents Legislative Proposal on mandate relief for 2012 that would continue and expand upon the remaining proposals advanced earlier this year.

As part of this continuing effort, the Regents identified and sought public comment concerning a number of legislative and regulatory changes that would provide mandate relief in special education, without adversely impacting services for students with disabilities. The Regents directed Department staff to prepare legislative and regulatory language in the following areas to:

CSE and CPSE Membership

- Propose legislation to amend section 4402 of the Education Law to more closely align the membership of the CSE to the federal IEP team membership.

- Propose legislation to amend section 4410 of the Education Law to more closely align the membership of the CPSE to the federal IEP team by repealing the requirement that the CSE membership must include an additional parent of a child with a disability.

Preschool Evaluations

- Propose legislation to repeal the requirement in section 4410(4)(b) of the Education Law that the parent selects the preschool evaluator.
  - In selecting the evaluator, the district must consider the parent's expressed preference, if any, for the evaluator.

- Propose legislation to amend section 4410(9-a) of the Education Law to establish that all school districts are automatically approved evaluators of preschool students suspected of having a disability without the need to submit an application to the Department.

- Propose regulations to amend section 200.16(c), (e) and (f) of the Regulations of the Commissioner of Education, as needed, to require the preschool initial evaluation be completed within 60 calendar days of receipt of parent consent to evaluate.

Individual Evaluations

Repeal the requirement in section 200.4(b)(2) which mandates that a school psychologist determine the need to administer an individual psychological evaluation.

Planning and Reporting Requirements

- Propose legislation to repeal section 4402(1)(b)(3)(h) that the school district must provide a form to parents of certain children with disabilities who are veterans of the Vietnam War for a report to the Division of Veterans' Affairs for research purposes.

- Propose legislation to repeal the requirement in section 4402(1)(b)(3)(d-2) that boards of education develop plans and policies for appropriate declassification of students with disabilities.

Approval of Certain Early Intervention Programs

Propose legislation to repeal section 4403(18) of the Education Law that the Commissioner of Education must approve the provision of early intervention services by approved preschool providers.

Commissioner's Appointment to State-Supported Schools

Propose legislation to repeal the requirements in section 4201 of the Education Law that the Commissioner make appointments to State-supported schools and that the State-supported school evaluate the student in addition to the evaluation conducted by the school district.

Statewide Proposals Support Greater Efficiency

In addition to legislative and regulatory changes related to mandate relief, in 2008 two executive commission reports proposed greater sharing of services and consolidation of school districts to make local governments more competitive and reduce the property tax burden. The *Local Government Efficiency and Competitiveness* and *Property Tax Relief* commissions, headed by former Lieutenant Governor Stan Lundine and (then) Nassau County Executive Thomas Suozzi, respectively, proposed numerous recommendations supporting district reorganization and shared service opportunities.

School Reorganization Process

The authority of the Commissioner of Education to restructure school districts is currently limited to proposing and/or approving reorganizations. Some type of local approval, such as a mandatory referendum, a permissive referendum, school board approval and/or approval of a district superintendent of schools is required in all reorganizations. Approval of the district superintendent of schools is required in partitioning school districts under Education Law § 2218. Both Commission reports noted earlier recommended changing State law and granting the Commissioner additional authority in this area. Additionally, while the Commissioner may propose reorganizations at any time, there are defined steps that must precede such action. These include: a feasibility study by the school district boards to determine the costs and benefits as well as the implementation process; a public information process; and a public support undertaking which can take the form of petitions or straw polls, i.e., advisory referendums. Once the Commissioner has proposed school district reorganization, the procedures that must be followed vary depending on the type of reorganization, though most reorganizations end up in a public referendum. Under this existing legal framework, the State has experienced only four school reorganizations in the last decade.

Regional High Schools are an approach to reorganizing school districts for greater efficiency and effectiveness. The law authorizing Central High School Districts, revoked in 1944, was reinstated in 1981 to enable the formation of central high school districts in Suffolk County, only. In 1999, one school district was formed from the reorganization of two local districts, Eastport Union Free School District and South Manor Union Free School District. Department staff have been exploring whether this or other approaches to regional high schools may prove beneficial in other counties in the State. This option may be particularly useful in improving the instructional programs in school districts on the verge of "educational insolvency" or the inability to provide a quality educational program.

Recommendations

Support a More Efficient and Effective Foundation Aid

With Foundation Aid frozen since 2009-10 and two years of cuts in General Support for Public Schools (GSPS) using the Gap Elimination Adjustment (GEA) method, the progress that was made during the first two years of the Foundation Aid phase-in has been eroded.

The cap on GSPS will limit the increase in new State revenues available to school districts to about $805 million (the capped maximum) less the increase in GSPS aids and grants (including the State's share of expense-based aids and the annual portion of the competitive grant programs), resulting in approximately $400 - $500 million for allocation to school districts. This amount is insufficient to support the elimination of the 2012-13 proposed $2.6 billion GEA and re-start the phase-in of the foundation formula. A multi-year approach is needed to restore the "foundation" to Foundation Aid.

Therefore, while funding options available within the Regents State Aid proposal are limited, definitive steps need to be taken to simplify the approach to funding school districts in 2012-13 and to make the distribution of funding more progressive. It is proposed that amount of aid districts received in 2011-12 for Foundation Aid, High Tax Aid, Academic Enhancement Aid and Supplemental Excess Cost Aid less the GEA reduction provide the Foundation Aid base for moving forward and that any funds available within the State Aid cap be used to restart the Foundation Aid phase-in with a new target for full phase-in set for 2019-20. The approach is similar to when Foundation Aid was created in 2007-08 by consolidating a number of categorical aids. In addition, the Foundation Aid formula should be updated with more current enrollment numbers, measures of student need and regional cost index.

Expense-Based Aids

By supporting more aggressive cost-containment measures in the expense-based aids, the Regents propose to shift a greater percentage of State resources allotted for the General Support for Public Schools toward instructional educational costs. This will have an impact on State Aid for future years. The Regents are not proposing changes for this year because school districts have already incurred expenses. This proposal recommends changes in State Aid be enacted now for future years based on expenses that school districts will incur after July 1, 2012 to avoid the rapid growth of expense based aids.

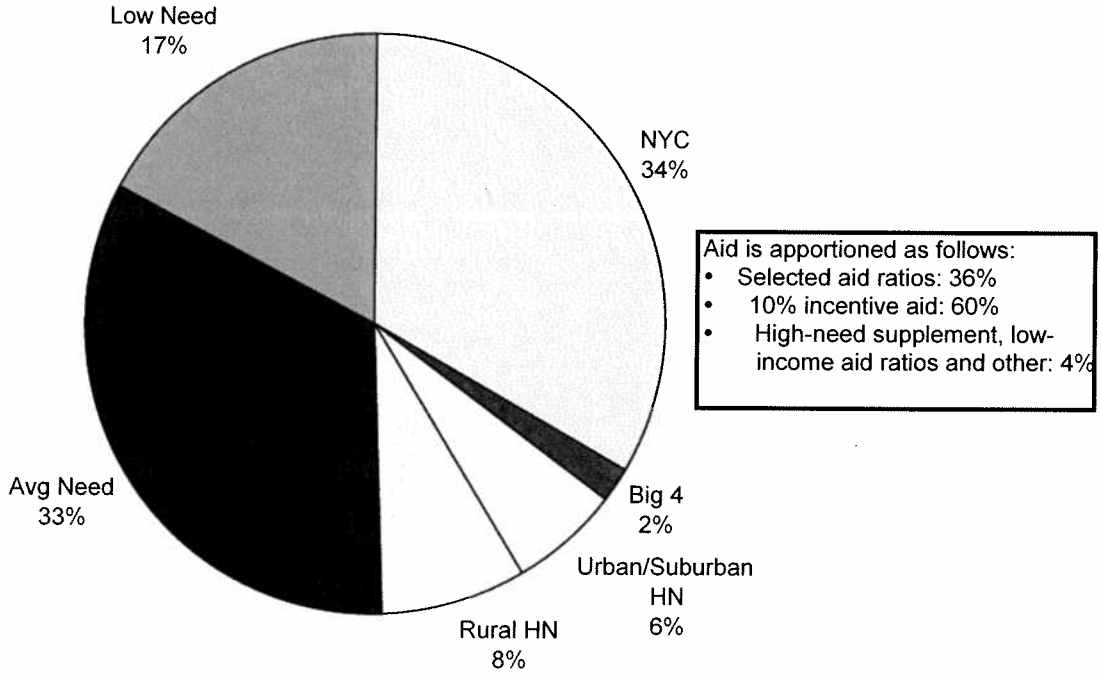
Increased Accountability for Sound and Sustainable School Buildings

Expense-based aids, such as Building Aid, continue to grow while State revenues needed to sustain the P-12 educational system are dwindling. The cost of Building Aid in 2010-11 was estimated to be approximately $2.4 billion, which represents an

increase of approximately 10 percent each year since 2005-06. While increases in Building Aid continue at an unsustainable rate, the total amount for General Support to Public Schools (GSPS) declined by 3.3 percent for the current school year. If State revenues continue to be constrained and as the State pays more to support the continual increase in Building Aid there is a commensurate reduction in funds available to support education costs overall.

It is imperative that the State move toward ensuring there is a balance between State support for school construction and State support for instruction. Toward this end, the State needs to modify the incentives that exist within the current funding approach. Building Aid formula enhancements, such as aid ratio enhancements and the choice of building aid ratios, have driven up the cost of school construction and diminished the accountability of the funding system. In 2010-11 approximately $446 million of the total cost of Building Aid was due to formula enhancements of which $223 million reflects aid to low need and average need districts. Figure 6 shows the distribution of Building Aid attributed to formula enhancements to groups of school districts.

Figure 6: The Distribution of Building Aid Attributed to Formula Enhancements



The following option provides recommendations for modifying Building Aid to contain costs within the current funding system.

Modify Building Aid

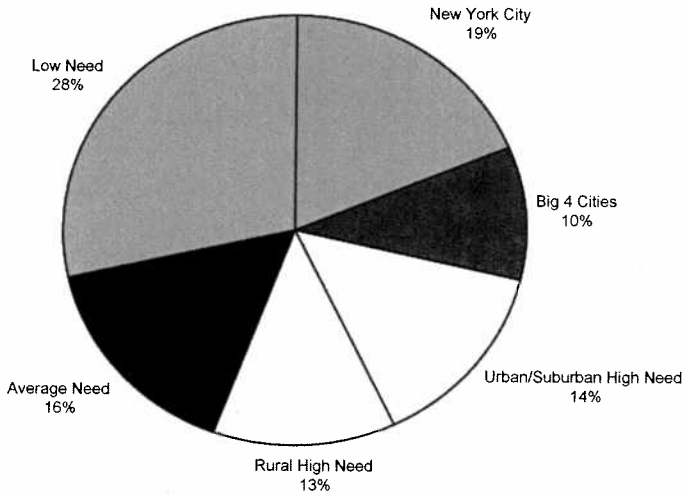
Even without a full restructuring of Building Aid, there are several options for controlling costs while continuing to provide students with sound and sustainable school buildings. Modifying some existing funding provisions would facilitate a more targeted disbursement of State funding for capital construction. The Regents recommend applying these changes prospectively. Some options include:

Eliminate Incentive Aid

In 1998 school districts uniformly received a ten percent increase in their State reimbursement rate for Building Aid. This "ten percent incentive aid" was enacted to spur capital investment in public school facilities and supporting them in becoming 21st century learning centers, as well as to eliminate problems associated with deteriorating facilities caused by aging structures and deferred maintenance.

School districts across the State took advantage of this incentive and in many districts State funds enabled significant infrastructure expansion and modifications with only a small local taxpayer match. Since the incentive was enacted in 1998, the State has approved over $50 billion in public school infrastructure. The goal of encouraging school districts to invest State and local funds in their facilities has been accomplished and the additional State expense, i.e., the ten percent incentive, should be eliminated. It is estimated that once implemented this measure will save the State $296 million annually. Figure 7 shows the distribution of 2011-12 Building Aid resulting from the ten percent incentive.

Figure 7: 2011-12 Distribution of Building Aid Attributed to 10% Incentive

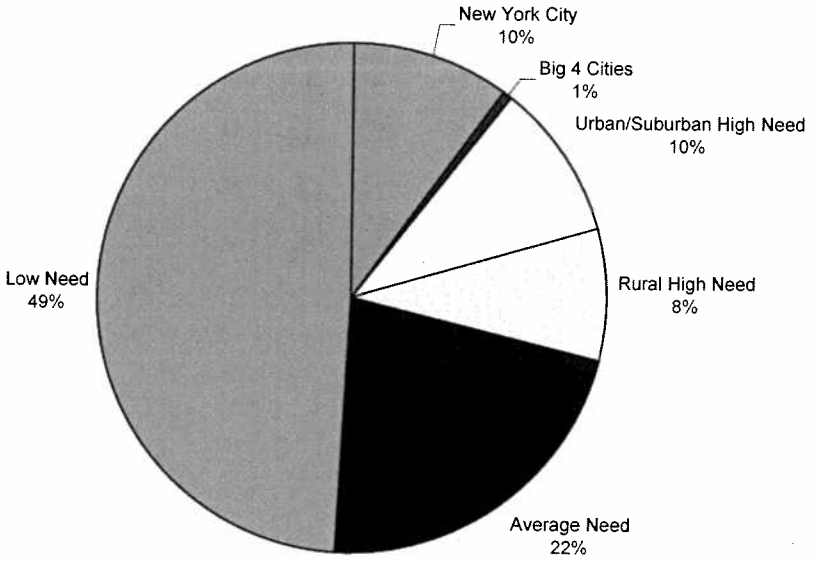


Eliminate the Selected Building Aid Ratio

School districts are given the option of selecting their most favorable Building aid ratio, or the State's share of funding capital projects, dating back to 1981-82. In many cases, the ratio selected does not reflect the district's current fiscal capacity. Those districts that have experienced an increase in wealth over the past 30 years can avoid paying their fair share of capital projects by passing on an increased share to the State. Alternatively, districts that have grown less wealthy over time opt to use the current building aid ratio as it results in a greater State share for capital construction. This results in the State paying more than needed to compensate districts for their ability to raise revenues locally.

Eliminating the selected aid ratio will require all districts to use their current aid ratio thereby reimbursing all districts according to their current fiscal capacity. In order to not retroactively change a district's reimbursement schedule, it is recommended that the selected Building aid ratio be eliminated for new projects beginning in 2012-13. It is estimated that eliminating the selected Building aid ratio will save the State approximately $175 million annually. Figure 8 presents the distribution of 2011-12 Building Aid attributed to aid ratio choices.

Figure 8: 2011-12 Distribution of Building Aid Attributed to Aid Ratio Choices



Discontinue State Support for Excessive Amounts of Incidental Costs

Another economic inefficiency results from the "incidental cost loophole" in which districts are allowed to implement large incidental projects for relatively small construction work. The problem stems from the method by which the Department is required to calculate a district's allowable incidental costs associated with capital projects. Specifically, a Maximum Cost Allowance (MCA) or reasonable cost estimate is established for each project. The Department also calculates an incidental cost allowance which provides funding for construction related costs, including consulting and attorney fees, construction management, costs of publishing, advertising and public bidding, land acquisition and site work, etc. An incidental cost allowance of 20 percent is permitted for elementary schools and 25 percent for secondary schools. Therefore, a large high school project with an MCA of $50 million would generate an incidental cost allowance of $12.5 million for ancillary activities. Currently, State law would permit such a district to spend a minimum of $10,000 in capital costs (of the entire $50 million in MCA) to be eligible for the entire incidental allowance of $12.5 million, and thus the term, "incidental cost loophole". In the current economic climate it is unreasonable to continue to allow districts to access the full amount of the incidental costs tied to the MCA for a capital project without embarking on the project. The funds generated by this loophole have been used to pay for projects and activities that are not directly related to the instruction of students. It is estimated that eliminating the incidental cost loophole will save approximately $100 million or more annually.

It is recommended that any incidental costs permitted be tied to the *actual* cost of the construction project or that the State allow the loophole only for site improvements that relate to the infrastructure of the facility such as paving, safety, storm damage, etc. It is also recommended that a process be established via research and investigation, whereby exceptions would be allowed where structural issues might have a greater incidental cost than the actual construction cost.

Achieve Additional Savings from Sustainable Design and Building Practices

Long term savings can be achieved by adopting cost beneficial strategies that make the most efficient use of resources, including sustainable construction and long life cycle products. Requiring that districts select long lasting materials, such as high quality flooring, when constructing or renovating a facility makes good economic sense and provides the greatest cost benefit ratio. Currently, the amortization period the State uses may not necessarily reflect the useful life of the improvement of the building.

During these difficult economic times the State must be more strategic with its limited resources on building improvements or facility related purchases without a reasonable useful life. This is especially relevant when the improvement, or facility related expenditure, is rendered useless before the minimum time period for reimbursement (fifteen years) is reached. Therefore, it is recommended that a capital expense have a minimum useful life of 15 years in order to be eligible for Building Aid.

In addition, districts that adopt sustainable construction practices will require fewer State and local resources in the future. It is also cost-effective to require that school buildings

comply with high performance design standards, such as the *best value based on life cycle cost.* Studies have shown that high performance school designs potentially save 20 times the initial investment over the life of the improvement as a result of energy efficiency, life cycle cost, low maintenance, and other items.

Support for high performance schools must be in concert with the practical application of implementing more far reaching energy savings approaches. State resources are most effectively used when there is a mutual benefit to both the State and the local entity. While renewable energy such as wind, geothermal, biomass and other green energy forms may be appropriate from the perspective of becoming more energy self-sufficient, the returns on investment make these impractical for using Education funding. For example, solar and wind systems have 80 year financial paybacks and geothermal heating systems cost the State 300 percent of a traditional high efficiency heating system. It is proposed that the State will pay State Aid on the reasonable amount of a traditional system. Should the locality choose to invest in reusable energy sources such as those mentioned herein, they would bear the costs of these projects.

Pupil Transportation

Regional Transportation Pilots

In New York State, 2.5 million children ride school buses and/or take public transportation to and from school each day. The expense-based Transportation Aid that partially supports the cost of this endeavor has been increasing at a rate much higher than inflation, or about five percent, or $83 million, each year. In 2008-09, school districts spent approximately $2.8 billion for pupil transportation, for which they received $1.5 billion in Transportation Aid or approximately 54 percent of the expense. Approximately 230 districts, or 34 percent, are reimbursed at the maximum Transportation aid ratio of 90 percent.

Chapter 378 of the Laws of 2010 authorized the Commissioner of Education to conduct pilot programs to assist school districts in the formation of regional transportation systems to begin addressing the issue of, "how can school districts contain costs while providing quality service delivery?" Four BOCES, representing 41 school districts, conducted pilots.

The purpose of the pilots is to quantify savings that can be associated with best practices. An inventory of best practices, and identification of current obstacles to efficiency, is being developed and savings quantified.

It is recommended that the multiple aid ratio choice be eliminated for Transportation Aid and that aid be made more progressive and responsive to school districts' current fiscal capacity, i.e., more strategically target aid to the highest need districts and support greater flexibility for shared pupil transportation services.

BOCES as Regional Leader

Boards of Cooperative Educational Services (BOCES) help increase the effective and efficient delivery of educational services in New York State through shared services with school districts. The District Superintendent is both chief executive of the BOCES and the Commissioner's representative in the field to promote education reforms and solve local problems. District Superintendents are increasingly being asked to serve as Regional Leader as well as Regional Service Provider. Recommendations include increasing the role of the District Superintendent and BOCES as Regional Leader and Regional Service Provider. These include:

- Extend the existing BOCES capacity to provide all BOCES services available to school districts to charter schools as well.
- Maintain BOCES Aid at current levels where Cooperative Service Agreements support the Regents reform agenda.
- Make BOCES Aid more progressive .by eliminating the multiple aid ratio choices and refining the computation of the State share to better reflect districts' fiscal capacity.
- Provide authority for State agencies to contract with BOCES to provide such agencies with educational services that they are otherwise required by law to provide, including but not limited to, the operation of Committees on Special Education and the provision of special education and related services. Such agencies may include the Office of Children and Family Services, Office of Mental Health, Office for People with Developmental Disabilities, and the Division of Corrections.
- Provide authority for BOCES to provide services to the Big Four city school districts (Yonkers, Rochester, Syracuse and Buffalo), in addition to the career and technical education services currently authorized by law. These city districts should be given the authority to contract with BOCES in critical service areas where BOCES' capacity is greater than that of the respective city. Such services can include:
    - Arts and cultural programs for students;
    - Technology services provided through BOCES; and
    - School health services

Support for School District Organization for High Performance

Economy of scale has been identified as one barrier to the efficient delivery of services that effectively prepare students for college and career. Districts in some regions of the State may benefit from additional shared opportunities for students. A broad view of consolidation of programs and services supports streamlining the delivery of

instructional and non-instructional programs to expand and strengthen academic opportunities, especially for students in high need rural areas that may be fiscally challenged to provide the breadth of opportunities available to students in more affluent urban and suburban areas.

Options to expand statewide reorganization efforts should continue to be explored, specifically regional or county level reorganization options that might create economies of scale, preserve or expand programmatic opportunities for students and provide a broader, equity-enhancing tax base. Montgomery County, Maryland is an example of a county-wide school district that was able to increase student achievement despite the district's growing enrollment and changing demographics.[2]

In order to better focus school district reorganization on student achievement, the Regents recommend the State:

- Explore reorganization options for school districts on a broader level, including consideration of multi-district reorganizations; and
- Expand legislation to allow regional high school districts permitted by law only in Suffolk County to occur in the rest of the State.

Explore Health Insurance Options for School District Employees

Health insurance for active and retired school employees is a cost area that has grown by 14.9% on average, annually, over the last 15 years. It is important to note that the long-term national trend for both public and private sector employees has been approximately ten percent growth per year.[3] The more recent increase in New York Statecosts is likely to be driven by: 1) the relative greater age of the teaching workforce; 2) the greater availability of traditional indemnity (as opposed to managed care forms of) insurance such as the Empire Plan afforded to district employees; and 3) the large number of individual bargaining units i.e., the roughly 680 school districts Statewide, including some of which are quite small and cannot benefit from economies of scale

It is also important to note the trade off between quality and cost. Specifically, when employers raise co-pays, deductibles or other cost-sharing measures with employees, many workers, particularly middle- and low-income workers may defer or not avail

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[2] Source: "Differentiated Treatment in Montgomery County Public Schools", Richard Elmoer, David Thomas, and Tonika Cheek Clayton. February, 2006: Public Education Leadership Project at Harvard University, A Joint Initiative of The Harvard Graduate School and Education and Harvard Business School.

[3] From 1960 to 2007 health care expenditures grew 9.8 percent, annually nationwide, when averaged across all payor types and delivery settings (that is primary, acute and long term care).
Source: Centers for Medicare & Medicaid Services, Office of the Actuary, National Health Statistics Group, National Health Expenditure Accounts, National health expenditures, 2007. Available from: http://www.cms.hhs.gov/NationalHealthExpendData/;

themselves of routine and preventative services that in the long-term can drive spending down. [4]

For example, there are several programs that might serve as models for expanded coverage, while reducing costs, and allowing districts to customize benefits to meet employee needs. For example, in 2009, there were at least 31 districts that were part of one or more multi-district health insurance consortia (a group of school districts that join together to purchase health insurance for their employees). The consortia are typically created through the Board of Cooperative Educational Services (BOCES). Experience reveals post-adoption cost savings relative to prior health expenses. Another advantage of consortia approach is that districts can presently create them without any changes in State law, regulation or policy. [5]

Additional Recommendations

Universal Prekindergarten

The Regents recommend that the Universal Prekindergarten grants be expanded and continue the progress that has been made toward the goal of making quality early childhood education available throughout New York State.

Continue Mandate Relief Efforts

The Regents support continued mandate relief to school districts, including but not limited to legislative and regulatory changes in the provision of special education programming previously delineated. The changes sought are expected to relieve school districts of some special education mandates that exceed those required be federal law without demonstrably reducing the services provided to students and providing greater flexibility to strengthen the overall general education programming for all stunts, including special education students.

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[4] The authors of this meta-analysis (located at: http://jama.ama-assn.org/content/298/1/61.short) is illustrative. In it, they concluded that: *"Pharmacy benefit design represents an important public health tool for improving patient treatment and adherence. While increased cost sharing is highly correlated with reductions in pharmacy use, the long-term consequences of benefit changes on health are still uncertain."*

[5] Examples of estimates and actual cost experience, as well as other particulars, are fleshed out in this report:

Condition Critical: Can Health Insurance Consortiums Rein In School District Health Care Costs? Available at: htt://www.nysba.org/client_uploads/nysssba_pdf/ConsortiumReportFinal.pdf

High Tax Aid

The Regents also recommend the implementation of a modest High Tax Aid formula that recognizes the extraordinary burdens shouldered by taxpayers in districts with high costs.

Conclusion

Investing in education is key to New York State's economic recovery. The Regents Reform Agenda aims to increase the productivity of New York State schools by focusing on and improving the quality of teaching and learning. These reforms provide a clear path to college and career readiness. While these reforms are teaching educators how to do more with less, the use of resources in support of the reform will be critical to its ultimate success. This proposal seeks to identify those key investments and changes to the existing school finance system to support a highly productive and efficient education system.