

## Appendix C: MOE Waiver Request

This form must be used for the submission of a request for a waiver of the requirements noted below. For assistance, please contact your State mailbox, which is [State].[oeese@ed.gov](mailto:oeese@ed.gov).

State New York

On behalf of my State, I request a waiver of the following State maintenance of effort (MOE) requirements for the following fiscal years:

*Please check all that apply:*

- FY 2020 MOE requirement for elementary and secondary education under section 18008 of the CARES Act.
- FY 2020 MOE requirement for higher education under section 18008 of the CARES Act.
- FY 2021 MOE requirement for elementary and secondary education under section 18008 of the CARES Act.
- FY 2021 MOE requirement for higher education under section 18008 of the CARES Act.
- FY 2022 MOE requirement for elementary and secondary education under section 317(a) of the CRRSA Act and section 2004(a) of the ARP Act.
- FY 2022 MOE requirement for higher education under section 317(a) of the CRRSA Act and section 2004(a) of the ARP Act.
- FY 2023 MOE requirement for elementary and secondary education under section 2004(a) of the ARP Act.
- FY 2023 MOE requirement for higher education under section 2004(a) of the ARP Act.

### Data for State support and overall State spending

A State must resubmit the baseline data for FYs 2017, 2018, and 2019 (baseline years) as part of this MOE waiver request. If these baseline data differ from a State's previously submitted data, please provide a description of the reason for the change. Additionally, a State must submit MOE data for the years in which it is requesting this waiver.

	State support for elementary and secondary education	State support for higher education	Overall State spending *	State support for elementary and secondary education as a proportion of overall State spending	State support for higher education as a proportion of overall State spending
<b>FY 2017</b>	\$23,464,481,127	Not required	\$96,126,625,000	24.41%	Not required
<b>FY 2018</b>	\$24,762,671,635	Not required	\$98,076,519,000	25.25%	Not required
<b>FY 2019</b>	\$25,431,221,214	Not required	\$100,064,089,000	25.41%	Not required
<b>Average FYs 2017-2019</b>	\$24,552,791,326	Not required	\$98,089,077,667	25.02%	Not required
<b>FY 2020</b>	\$26,373,708,943	Not required	Not required	Not required	Not required
<b>FY 2021</b>	\$25,867,424,445	Not required	Not required	Not required	Not required
<b>FY 2022</b>	\$27,278,039,421	Not required	\$112,797,650,000	24.18%	Not required
<b>FY 2023</b>	Not required	Not required	Not required	Not required	Not required

\*For overall State spending, a State may request a waiver based on final allocations or appropriations. For more information, see FAQ 10.

### Additional submission requirements

In an attachment, please provide:

1. A description of the extent to which the State experienced fiscal burdens in preventing, preparing for, and responding to the coronavirus and an explanation of how those fiscal burdens affected the State’s ability to maintain fiscal effort (e.g., the status of and any changes to the State’s rainy day fund, whether the State experienced a decline in revenues, or an increase in other emergency expenses resulting from the pandemic, such as expenses related to health care, unemployment insurance, or support for small businesses); and

New York's spending for K-12 education increased by \$2.7 billion (11.1 percent) on a fiscal year basis between the three-year baseline average period of FY 2017 to FY 2019 (\$24.6 billion) and FY 2022 (\$27.3 billion). However, the State's FY 2022 Enacted Budget included extraordinary spending measures for COVID-19 pandemic relief efforts that increased overall State spending and reduced the relative share of K-12 education spending as a percentage of total spending.

Changes in New York's overall spending outside of K-12 education due to the pandemic also included significant increases to Medicaid spending, fueled by elevated enrollment levels. Historically, New York State has experienced growth in Medicaid enrollment and public assistance caseloads during economic downturns due mainly to increases in unemployment. Many people who were laid off or otherwise experienced a decrease in family income in 2020 due to the pandemic became qualifying enrollees and began to participate in public health insurance programs such as Medicaid, the Essential Plan (EP), and Child Health Plus (CHP). Participants in these programs remain eligible for coverage for 12 continuous months regardless of changes in employment or income levels that may otherwise make them ineligible. From FY 2020 to FY 2022, Medicaid enrollment increased by nearly 1.4 million (22.6 percent), driven by the steep rise in unemployment triggered by the COVID-19 pandemic. These elevated enrollments caused \$1.4 billion of the \$2.3 billion annual increase in State Medicaid spending from FY 2021 to FY 2022.

<b>NY State Health Care Enrollment Actuals</b>			
	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>
Medicaid - Individuals Covered	6,179,986	7,074,379	7,575,210
Essential Plan - Individuals Covered	800,438	891,932	970,939
Child Health Plus - Individuals Covered	433,405	391,932	387,139
	<b>7,413,829</b>	<b>8,358,243</b>	<b>8,933,288</b>

New York State also provided non-recurring support for the two pandemic-response programs below. Support for these two programs significantly increased total State operating funds spending in FY 2022 compared to the baseline period and contributed greatly to the State's noncompliance with the MOE requirements for K-12 education. These two programs include:

- **Excluded Workers Program:** In FY 2022, \$2.1 billion in support was provided to jobless workers who were excluded from unemployment benefits, including undocumented adults and those with nontraditional jobs. The recipients had to have suffered a loss of work-related earnings or household income due to the COVID-19 pandemic.
- **COVID Testing Kits:** Pandemic response expenses were incurred in FY 2022 for the purchase of COVID-19 test kits for schools and local governments. These are non-recurring, pandemic-related costs that are expected to be partially reimbursed by FEMA in FYs 2024 and 2025.

As shown in the table below, if the one-time pandemic-related costs for these two programs are excluded from

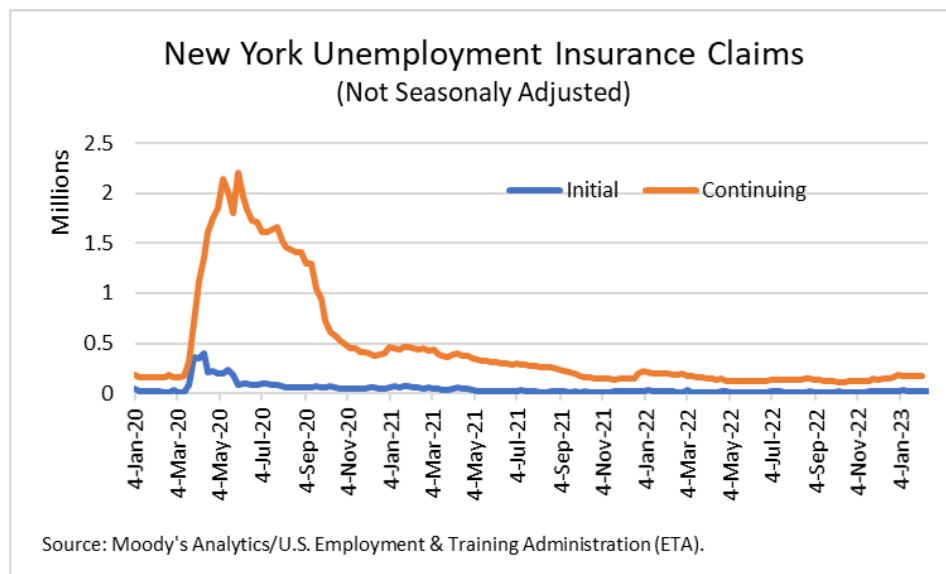
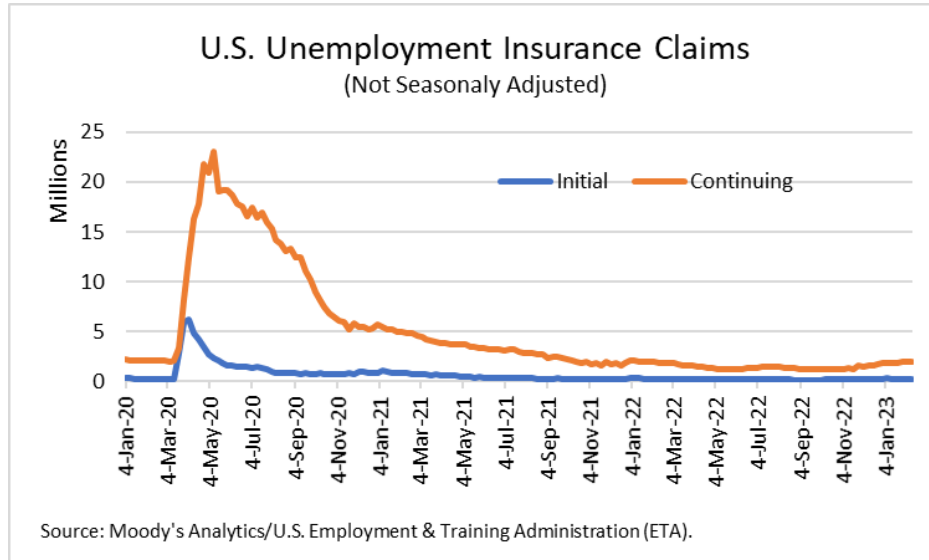
total spending, the State's K-12 education spending would comply with federal MOE requirements in FY 2022. With these two additional exclusions, spending on K-12 education comprises more than the required 24.52 percent of adjusted total State operating funds spending in FY 2022, falling within the 0.5 percentage point rounding threshold permitted by the U.S. Department of Education (USDE) when comparing spending to the FY 2017 to FY 2019 baseline period.

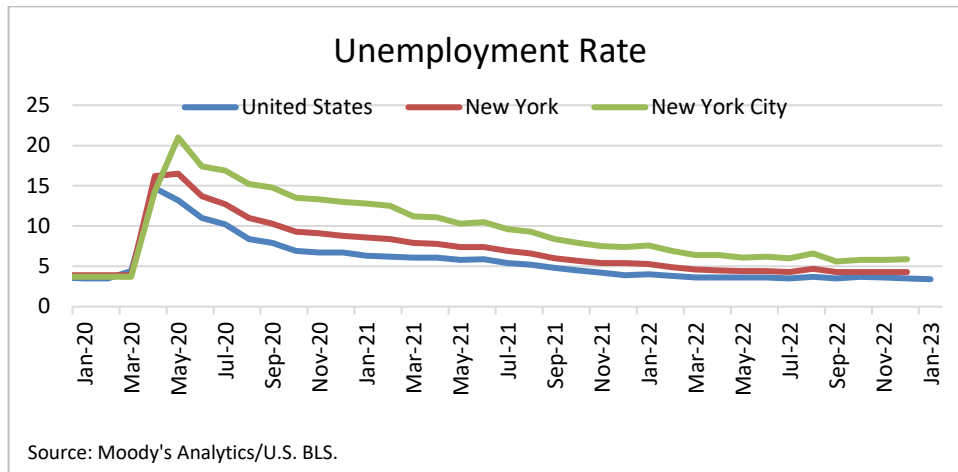
**K-12 Education Spending MOE Compliance with COVID-19 Spending Adjustments**  
(\$ in Millions)

Category	FY 2017 to FY 2019 Average	FY 2022
Total State Operating Funds Disbursements	\$98,162	\$117,403
<i>Federal Spending Adjustments</i>		
American Rescue Plan Act (Federal Grants)	\$0	\$4,500
Other Federal Grants	\$73	\$106
Total State Operating Funds Disbursements - Less Federal	\$98,089	\$112,798
<i>COVID-19 Spending Adjustments</i>		
Excluded Workers Fund	\$0	\$2,100
COVID Testing Kits	\$0	\$905
<b>Adj. State Operating Funds Disbursements</b>	<b>\$98,089</b>	<b>\$109,793</b>
K-12 Education Spending	\$24,553	\$27,278
Maintenance of Effort Rates:		
K-12 Education	25.02%	24.85%
Difference Between Baseline MOE Rate and FY 2022	0.17%	
Difference Rounded to Nearest Percentage Point	0.00%	

2. Documentation and data supporting the description of the State’s fiscal burdens (e.g., revenue data, appropriation tables, unemployment statistics, etc.) including any State action that impacted State revenue (e.g., tax increases or decreases).

As shown in the charts below, New York’s unemployment rate and number of unemployment insurance claims remained high relative to pre-pandemic trends at the time of the negotiation of the FY 2022 Budget in March 2021. The statewide unemployment rate was 7.9 percent, more than double the pre-pandemic rate in March of 2020, while continuing unemployment insurance claims stood at nearly half a million, or more than double the pre-pandemic rate.





The State's tax collections stayed relatively constant between FY 2020 and FY 2021, declining by approximately \$500 million (0.6 percent), from \$82.9 billion to \$82.4 billion. At the time of the FY 2022 Enacted Budget in April 2021, the State's FY 2022 All Funds tax collections were projected to total \$91.1 billion, supported by several actions included in the Enacted Budget to bolster tax revenues. These actions were intended to help offset baseline budget gaps projected as of February 2021 to be \$9.5 billion in FY 2022 and \$9.3 billion in FY 2023. These actions included:

- **Temporary High Income Surcharge.** The Enacted Budget implemented a surcharge on high earners through Tax Year 2027 that set a top rate of 10.9 percent for all filers earning more than \$25 million. The surcharge was expected to raise an additional \$2.8 billion in FY 2022.
- **Temporary Business Tax Increase.** The Enacted Budget implemented a surcharge on the corporate tax rate that increased the business income tax rate from 6.5 percent to 7.25 percent for three years through tax year 2023 for taxpayers with business income greater than \$5 million. It also increased the capital base method of liability estimation to 0.1875 percent from the prior year 0.025 percent rate. The capital base method increase continued to exempt qualified manufacturers, qualified emerging technology companies, and cooperative housing corporations and additionally exempted corporate small business beginning in Tax Year 2021. These changes were projected to raise All Funds revenue by \$900 million in FY 2022.

These additional revenue generators helped the State's FY 2022 Enacted Budget Financial Plan to be balanced in the General Fund on a cash basis of accounting in both FY 2022 and FY 2023. Notably, the State's actual FY 2022 All Funds tax collections totaled \$104.7 billion, excluding Pass-Through Entity Tax (PTET) payments, resulting in actual tax collections that were significantly higher than the \$91.1 billion projected at the time the Enacted Budget was passed in April 2021. This increase was fueled by higher-than-expected personal income tax receipts and a stronger than expected recovery in the real estate market, particularly in New York City.

If including PTET payments, which New York began collecting in December 2021, the State's actual FY 2022 All Funds tax collections increase to \$121.1 billion. The PTET program provides partnerships and S corporations the option to pay a tax of up to 10.9 percent on their taxable New York-sourced income, with their individual partners, members, and shareholders then receiving a refundable PTET credit equal to the proportionate or pro rata share of taxes paid by the electing entity. PTET is expected to be revenue-neutral on a multiyear basis. However, because the PTET credits are not necessarily realized by taxpayers within the same fiscal year that PTET revenue is received by the State, the PTET is not revenue-neutral to the State within each fiscal year.

3. In addition, in its waiver request, a State should submit information on the relevant factors listed below to support its request. The Secretary may ask States for additional information after States submit the MOE waiver request form. In determining whether to grant a State an MOE waiver, the Secretary may consider factors such as:

**Has the State increased support for education?**

The Department understands that it is possible that a State has maintained or increased overall funding for education and the proportion of the State budget for education has still declined because of increases in other areas of the budget (e.g., public health). In these cases, the Secretary may consider:

- Has total State funding for K-12 education and for higher education (calculated separately) increased from the prior fiscal year?

Unlike its school districts and 46 other states, New York's fiscal year does not begin on July 1, starting instead on April 1. In its reporting of State support for elementary and secondary education for purposes of this MOE requirement, New York has thus reported funding for its General Support for Public Schools (GSPS), excluding prekindergarten and Employment Preparation Education (EPE) aids, on a State fiscal year (FY) basis rather than a school year (SY) basis for consistency with reported overall State spending. However, GSPS is calculated in the first instance on a school year basis. For this reason, in discussing State funding for K-12 education, the remainder of this document refers to State funding for GSPS, excluding pre-k and EPE, on a school year basis. (As the MOE requirement considers State support only for K-12 education, spending for pre-k and EPE is excluded, as these programs support three- and four-year-old students and students over the age of 21 who have not earned a high school diploma, respectively.)

<b>New York State - K-12 Education - General Support for Public Schools - SY 2021 to SY 2022</b>				
<b>(\$ in millions)</b>				
	<b>SY 2021</b>	<b>SY 2022</b>	<b>YTY Change</b>	<b>% Change</b>
<b>Total State Funding</b>	\$25,325.81	\$28,156.92	\$2,831.11	11.2%

The State continued to strengthen its support for K-12 education between SY 2021 and SY 2022. The State's level of K-12 education funding increased significantly from \$25.3 billion in SY 2021 to \$28.2 billion in SY 2022. This represents a \$2.8 billion annual increase (11.2 percent).

As discussed in greater detail below, New York used CARES Act ESSER and GEER funds allocated to partially supplant the State's aid to school districts in SY 2021. Specifically, New York's FY 2021 Enacted Budget implemented a one-time reduction of \$1.1 billion to the State's share of aid to school districts. The State's FY 2022 Enacted Budget fully restored this reduction in State aid to school districts for SY 2022 and thereafter.

- Has total State funding for K-12 education and for higher education (calculated separately) increased over time (e.g., since baseline years)?

New York State - K-12 Education - General Support for Public Schools - SY 2017 to SY 2022			
	K-12 GSPS (\$ in millions)	YTY Change	% Change
<b>Baseline Years</b>			
SY 2017	\$24,066.66		
SY 2018	\$24,949.23	\$882.57	3.7%
SY 2019	\$25,781.56	\$832.33	3.3%
<b>Baseline 3-Year Average</b>	<b>\$24,932.48</b>	<b>\$857.45</b>	<b>3.5%</b>
SY 2020	\$26,681.28	\$899.73	3.5%
SY 2021	\$25,325.81	(\$1,355.47)	-5.1%
SY 2022	\$28,156.92	\$2,831.11	11.2%
<b>Difference from Baseline 3-Year Average to SY 2022</b>		<b>\$3,224.44</b>	<b>12.9%</b>
<b>Difference from SY 2019 to SY 2022</b>		<b>\$2,375.36</b>	<b>9.2%</b>

With the exception of SY 2021, total State funding for K-12 education has continued to increase over time. Total K-12 State funding increased by \$3.2 billion (12.9 percent) on a school year basis between the three-year baseline average period of SY 2017 to SY 2019 (\$24.9 billion) and SY 2022 (\$28.2 billion). Between SY 2019 and SY 2022, K-12 state funding increased by \$2.4 billion, or 9.2 percent.

- Has per-pupil State funding for K-12 education and for higher education (calculated separately) increased from the prior fiscal year?

New York State - Per Pupil State Funding for K-12 Education - SY 2021 to SY 2022							
	K-12 GSPS (\$ in millions)	Enrollment	YTY Change in Enrollment	% Change in Enrollment	Per Pupil Funding	YTY Change in Per Pupil Funding	% Change in Per Pupil Funding
SY 2021	\$25,325.81	2,540,436	-	-	\$9,969	-	-
SY 2022	\$28,156.92	2,472,370	(68,066)	-2.7%	\$11,389	\$1,420	14.2%

Per-pupil State funding for K-12 education increased from the prior fiscal year. In SY 2021, State-funded K-12 education per-pupil support was equal to \$9,969. In SY 2022, per-pupil funding increased 14.2 percent — an increase of over \$1,400 per-pupil — to \$11,389.

- Has per-pupil State funding for K-12 education and for higher education (calculated separately) increased over time (e.g., since baseline years)?

New York State - Per Pupil State Funding for K-12 Education - SY 2017 to SY 2022							
	K-12 GSPS (\$ in millions)	Enrollment	YTY Change in Enrollment	% Change in Enrollment	Per Pupil Funding	YTY Change in Per Pupil Funding	% Change in Per Pupil Funding
<b>Baseline Years</b>							
SY 2017	\$24,066.66	2,659,656			\$9,049		
SY 2018	\$24,949.23	2,654,808	(4,848)	-0.2%	\$9,398	\$349	3.9%
SY 2019	\$25,781.56	2,630,150	(24,658)	-0.9%	\$9,802	\$405	4.3%
<b>Baseline Average</b>	<b>\$24,932.48</b>	<b>2,648,205</b>	<b>(14,753)</b>	<b>-0.6%</b>	<b>\$9,415</b>	<b>\$377</b>	<b>4.1%</b>
SY 2020	\$26,681.28	2,611,646	(18,504)	-0.7%	\$10,216	\$414	4.2%
SY 2021	\$25,325.81	2,540,436	(71,210)	-2.7%	\$9,969	-\$247	-2.4%
SY 2022	\$28,156.92	2,472,370	(68,066)	-2.7%	\$11,389	\$1,420	14.2%
<b>Change from Baseline Average to SY 2022</b>			<b>(175,835)</b>	<b>-6.6%</b>		<b>\$1,974</b>	<b>21.0%</b>
<b>Difference from SY 2019 to SY 2022</b>			<b>(157,780)</b>	<b>-6.0%</b>		<b>\$1,586</b>	<b>16.2%</b>

Per-pupil State funding for K-12 education has increased over time. As shown in the table above, per-pupil State funding has increased year-over-year in every year from SY 2017 through SY 2022, apart from SY 2021.

Statewide, enrollment declined 6.6 percent from the three-year baseline average of SY 2017 to SY 2019 (2,648,205 pupils) to SY 2022 (2,472,370 pupils), a decline of over 175,000 pupils. Over this same period, per-pupil State K-12 funding has increased by nearly \$2,000 per-pupil (21.0 percent) from the three-year baseline average (\$9,415 per pupil) to SY 2022 (\$11,389 per pupil).

According to U.S. Census Bureau data, New York has ranked first amongst all states in school district current spending per pupil for the last 16 years (SY 2005 through SY 2020), a reflection of the State's longstanding commitment to provide all students with the resources to excel. New York school districts have spent at least 80 percent more than the national average per pupil every year dating back to 2011. According to the most recent U.S. Census data available, New York's school districts spent an average of \$25,519 per pupil in SY 2020, which was 89 percent more than the national average of \$13,494 per pupil. This level of spending was supported in part with \$12,220 per pupil of revenue from state sources, more than all but five other states and 62 percent more than the national average of \$7,548 per pupil.

- Has the State appropriated an increase in State funding for K-12 education and for higher education for future fiscal years?

New York State provides support for K-12 education through statutory aid formulas and through reimbursement for various grants and categorical programs. Major formula-based aid programs include Foundation Aid, Building Aid, and Transportation Aid.

Foundation Aid represents unrestricted operating aid and is the largest single category of State aid provided to New York's school districts. In SY 2022, Foundation Aid totaled \$19.8 billion, representing 70.4 percent of the \$28.2 billion in GSPS for K-12 education aid provided to school districts. The State's FY 2022 Enacted Budget increased Foundation Aid by \$1.4 billion (7.6 percent). This \$1.4 billion increase represented the first installment of a historic three-year commitment by the State to phase in the Foundation Aid formula's full funding target ("Total Foundation



Aid"), ensuring that by SY 2024 each school district will receive at least as much Foundation Aid as prescribed by the funding formula.

Created in 2007, the Foundation Aid formula calculates Total Foundation Aid for each school district based on instructional expenses in lower-spending academically successful districts, adjusted to reflect inflation, regional cost differences, concentrations of pupils who need extra resources (e.g., English language learners), and the community's income and property wealth per pupil. Originally, the State planned to raise each district's annual Foundation Aid to at least its Total Foundation Aid by SY 2011; however, after increases in SY 2008 and SY 2009, the Great Recession halted those plans.

At the time of the FY 2022 Enacted Budget, the State had projected that an additional \$4.9 billion in aid a year would be needed to fully fund the Foundation Aid formula by SY 2024. However, due to high inflation, this cost had risen by almost \$800 million, to \$5.7 billion, by the time of the FY 2024 Executive Budget in February 2023. Despite this increase from the originally anticipated cost, the FY 2024 Executive Budget maintained the State's commitment to fully fund the Foundation Aid formula for the first time in its 17-year history. The State's FY 2024 Executive Budget, updated for the most recent available data, represents a \$7.7 billion (30.2 percent) increase in GSPS for K-12 education aid versus SY 2021, including a \$5.7 billion (30.7 percent) increase in Foundation Aid.

<b>New York State - K-12 Education - General Support for Public Schools - SY 2021 to SY 2024</b>				
	<b>Foundation Aid</b>	<b>Other GSPS</b>	<b>Pandemic Adjustment</b>	<b>Total K-12 Education GSPS</b>
<i>\$ in millions</i>				
SY 2021	\$18,411.78	\$8,044.68	(\$1,130.65)	\$25,325.81
SY 2022	\$19,819.35	\$8,337.57	\$0	\$28,156.92
SY 2023	\$21,335.55	\$8,870.36	\$0	\$30,205.91
SY 2024*	\$24,069.09	\$8,916.06	\$0	\$32,985.15
<b>Change (\$) SY 2021 to SY 2024</b>	<b>\$5,657.31</b>	<b>\$871.38</b>	<b>\$1,130.65</b>	<b>\$7,659.33</b>
<b>Change (%) SY 2021 to SY 2024</b>	<b>30.7%</b>	<b>10.8%</b>	<b>n/a</b>	<b>30.2%</b>

\* SY 2024 values are as of the FY 2024 Executive Budget, which was released February 1, 2023. The State's Enacted Budget is due on April 1.

**Are there exceptional circumstances that caused the State to be unable to maintain support for education?**

**If a State's support for education declined, the Secretary may consider:**

- **Are there specific severe effects of the COVID-19 pandemic on the State's economy that necessitated reductions in support for elementary and secondary education and for higher education?**

As noted above, State support for K-12 education was not reduced in SY 2022. Rather, the State's level of K-12 education funding increased significantly, from \$25.3 billion in SY 2021 to \$28.2 billion in SY 2022. This represents a \$2.8 billion (11.2 percent) annual increase. On a State fiscal year basis, the State's overall level of support for K-12 education increased by \$1.4 billion (5.5 percent) in FY 2022.

Two pandemic-related factors caused the annual increase in overall State support for K-12 education in FY 2022 to be smaller than it would otherwise have been. First, most GSPS outside of Foundation Aid reimburses a certain percentage of certain types of school districts expenses (e.g., pupil transportation), and due to the shift to remote learning beginning in March 2020, districts' actual expenses in SY 2020 were significantly lower than the estimates in the State Education Department's February 2020 database, which was used to prepare the FY 2021 Enacted Budget. As a result, State support for K-12 education for SY 2021 (other than Foundation Aid and the Pandemic Adjustment) was \$285 million lower than projected at the time of the FY 2021 Enacted Budget in April 2020. Because of the statutory aid payment schedule, this whole \$285 million reduction just impacted disbursements in FY 2022. Second, as discussed in greater detail below, also because of the statutory aid payment schedule, \$341 million of the Pandemic Adjustment reduction in State support for education for SY 2021 occurred in FY 2022.

Additionally, as discussed above, the State's FY 2022 Enacted Budget included extraordinary spending measures for COVID-19 pandemic relief efforts that increased overall State spending and reduced the relative share of K-12 education spending as a percentage of total spending. These factors included elevated Medicaid enrollments, a new program to provide support to jobless workers who were otherwise excluded from collecting unemployment benefits, and the costs associated with purchasing COVID-19 testing kits for schools and local governments.

- **What steps did the State take to avoid and/or minimize such reductions?**

N/A - State support for K-12 Education was not reduced in SY 2022.

- **Did the State use Coronavirus State and Local Fiscal Recovery Funds awarded by the U.S. Department of the Treasury under section 9901 of the ARP Act to support elementary and secondary education and higher education?**

No - New York did not use these funds to support K-12 Education.

- **How did reductions in support for elementary and secondary education and for higher education compare to other budget categories?**

As shown in the tables below, most functional spending categories experienced increases in their State Operating Funds (SOF) spending in FY 2022 relative to the baseline period, including K-12 education and higher education. Figures in these tables are presented on a fiscal year, rather than a school year, basis to allow for better comparison with spending in other budget categories.

The largest increases in SOF spending between the baseline period and FY 2022 were for debt service, health, K-12 education, social welfare, and State employee fringe benefits. The largest increases in relative share of SOF spending as compared to the baseline period included payments for debt service, social welfare, mental hygiene, and health. Despite a \$2.7 billion (11.1 percent) increase in the State's K-12 education spending between the three-year baseline average period and FY 2022, K-12 education's share of SOF spending declined by 0.84 percentage points over the period due to significant growth in other budget areas as necessitated by the COVID-19 pandemic.

Growth in social welfare spending was driven by increased public assistance caseloads due to elevated unemployment levels during the public health emergency, as well as a State-funded rent supplement program to assist individuals and families impacted by the pandemic. Increased health spending was driven by elevated Medicaid enrollments during the COVID-19 pandemic, as discussed above. Increased mental hygiene spending in FY 2022 reflects changes in funding previously reported under the Medicaid Global Cap, as well as measures taken in response to the COVID-19 pandemic, such as 2.5x overtime to address critical staffing needs.

Adjusted Annual SOF <sup>1</sup> Spending by Functional Category (in millions of dollars)				
	3 Year Average <u>FYs 2017-2019</u>	<u>FY 2022</u>	<u>Change</u>	<u>% Change</u>
K-12 Education	24,553	27,278	2,725	11.1%
Health	21,552	25,825	4,273	19.8%
Higher Education	5,697	6,045	348	6.1%
General State Charges	7,897	10,025	2,128	26.9%
Debt Service	6,028	12,545	6,517	108.1%
Mental Hygiene	5,107	7,666	2,559	50.1%
Transportation	4,810	4,153	-657	-13.7%
Public Protection	3,792	3,088	-704	-18.6%
Social Welfare	3,369	5,693	2,324	69.0%
Electeds	2,794	2,769	-25	-0.9%
General Government	1,506	1,433	-73	-4.9%
Local Government Assistance	761	764	2	0.3%
Economic Development	600	1,271	672	112.1%
Parks & The Environment	406	438	32	8.0%
All Other <sup>2</sup>	9,217	3,805	-5,412	-58.7%
<b>TOTAL</b>	<b>98,089</b>	<b>112,798</b>	<b>14,709</b>	<b>15.0%</b>

<sup>1</sup>SOF total excludes Federal grants received within the State's Operating Funds

<sup>2</sup> All Other includes non-MOE education spending and the removal of Federal grants from the SOF spending totals.

Adjusted Annual SOF<sup>1</sup> Spending by Functional Category

	3 Year Average		
	<u>FYs 2017-2019</u>	<u>FY 2022</u>	<u>Change</u>
K-12 Education	25.02%	24.18%	-0.84%
Health	21.97%	22.90%	0.92%
Higher Education	5.81%	5.36%	-0.45%
General State Charges	8.05%	8.89%	0.84%
Debt Service	6.15%	11.12%	4.98%
Mental Hygiene	5.21%	6.80%	1.59%
Transportation	4.90%	3.68%	-1.22%
Public Protection	3.87%	2.74%	-1.13%
Social Welfare	3.43%	5.05%	1.61%
Electeds	2.85%	2.45%	-0.39%
General Government	1.54%	1.27%	-0.27%
Local Government Assistance	0.78%	0.68%	-0.10%
Economic Development	0.61%	1.13%	0.52%
Parks & The Environment	0.41%	0.39%	-0.03%
All Other <sup>2</sup>	9.41%	3.37%	-6.04%

<sup>1</sup> SOF total excludes Federal grants received within the State's Operating Funds.

<sup>2</sup> All Other includes non-MOE education spending and the removal of Federal grants from the SOF spending totals..

- **Did the State take steps that reduced or will it take steps to proactively reduce its financial resources in a way that impacted or will impact its ability to meet MOE requirements (e.g., tax changes (and in what context), additional contributions to rainy dayfunds)? If so, what was the impact of the reduction (e.g., to what extent were its resources reduced or will its resources be reduced)?**

N/A

**Has the State used or will it use ESSER, GEER, or Higher Education Emergency Relief (HEER) funding to replace State funding for education?**

**It is important for the Department to understand the State's use of pandemic-related Federal funds when reviewing a request for a waiver. The Secretary may therefore consider:**

- **Will all unallocated ESSER or GEER funds relevant to the waiver be used to provide net new resources to K-12 schools and to higher education and not be used to replace existing State commitments to K-12 education and to higher education?**

At this time, all ESSER and GEER funds have been previously allocated to LEAs.

- **Will all unallocated HEER funds be used to provide net new resources to higher education and not be used to replace existing State commitments to higher education?**

N/A

- **Has the State previously used any ESSER, GEER, or HEER funds to replace State funding for education?**

New York used CARES Act ESSER and GEER funds to partially supplant the State's aid to school districts. Specifically, New York's FY 2021 Enacted Budget implemented a one-time reduction of \$1.1 billion to the State's share of aid to school districts for SY 2021. Because of the statutory aid payment schedule, approximately \$790 million of this reduction occurred in FY 2021 while the remaining \$341 million occurred in FY 2022. The reduction in GSPS for each school district was equal to the district's CARES Act award, determined by the district's proportional level of federal Title I funding. New York's FY 2022 Enacted Budget fully restored this "Pandemic Adjustment" reduction in State aid to school districts for SY 2022 and thereafter — and no additional ESSER or GEER funds were used to supplant the State's GSPS.

Moreover, the timing of New York State's fiscal year and the enactment of the CARES Act on March 27, 2020, created unique and complex issues for the adoption of the State's FY 2021 Enacted Budget. New York is the only state in the nation with a fiscal year that begins April 1; all other states have a fiscal year commencing July 1 or later. New York was actively negotiating and finalizing its FY 2021 Enacted Budget before the passage of the CARES Act, which occurred only days before the State's FY 2021 began. With New York City as the epicenter of the COVID-19 pandemic and the pandemic's impact on the State's revenues unknown at the time, the Governor and the State Legislature decided to use newly available CARES Act funds to ensure that overall funding to school districts was not reduced.

Notably, the State fully complied with the CARES Act MOE requirements for FY 2020 and FY 2021. The ESSER and GEER programs within the CARES Act included MOE provisions requiring states to provide in FY 2020 and FY 2021 at least as much funding as they provided on average to K-12 education, and higher education, over the three-year period from FY 2017 to FY 2019. New York State exceeded its CARES Act MOE requirement of \$24.6 billion by \$1.8 billion in FY 2020 and \$1.3 billion in FY 2021.

Additionally, New York State's FY 2022 Enacted Budget used \$35 million of ARP Act ESSER discretionary funds to supplant a portion of the State's reimbursement to New York City for its charter school tuition payments. New York State's school districts pay tuition set at a statutorily calculated per pupil rate for students who reside in the district and enroll in a charter school. The State subsequently reimburses districts for a portion of these costs,

generally at a rate of \$1,000 per pupil. The State reduced its level of reimbursement to New York City by \$35 million in FY 2022. However, the level of overall funding to New York City was not reduced because the State used ARP Act funds to backfill the \$35 million reduction. The FY 2023 Enacted Budget fully restored the State’s share of charter supplemental tuition payments to New York City. Notably, this State reimbursement program is outside of and in addition to GSPS.

To the best of my knowledge and belief, all of the information in this MOE data submission are true and correct and the failure to submit accurate data may result in liability under the False Claims Act, 31 U.S.C. § 3729 et seq.; OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485; and 18 USC § 1001, as appropriate, and other enforcement actions.

Michael Smingler (518) 473-0608  
Governor or Chief State School Officer or Authorized Representative (Typed or Printed Name) Telephone

Michael Smingler 3/15/2023  
Signature of Governor or Chief State School Officer or Authorized Representative Date

**Public Burden Statement**

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1810-0745. Public reporting burden for this collection of information is estimated to average 2 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is required to obtain or retain benefit under section 18008 of the Coronavirus Aid, Relief, and Economic Security Act (CARES) Act, Division M, Section 317 of the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA) Act, and Section 2004(a) of the American Rescue Plan Act of 2021 (ARP Act) If you have any comments concerning the accuracy of the time estimate, suggestions for improving this individual collection, or if you have comments or concerns regarding the status of your individual form, application or survey, please contact Britt Jung, Office of State and Grantee Relations, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, DC 20202-6450, email: [SGR@ed.gov](mailto:SGR@ed.gov) directly.