

To: Office of Elementary and Secondary Education, United States Department of Education

From: State of New Hampshire

Date: 12/27/2021

Re: Waiver Request from Section 2004(a) of the American Rescue Plan Act (ARP) and Section 317 of the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA)

Summary of Waiver Request

The State of New Hampshire has continued to maintain ongoing support in the vital areas of elementary, secondary, and higher education. Through examining the State’s overall support basis and aid per pupil basis, State education aid appropriations in New Hampshire exceed the average levels of support provided during State fiscal years 2017, 2018, and 2019. However, due to the unique definition of the Maintenance of Effort in ARP and the CRRSA, which defines support in education as a percentage of overall State spending, New Hampshire does not anticipate achieving technical compliance in 2022 and 2023 and, as a result, is now seeking a waiver.

The aforementioned non-compliance status is primarily the result of increasing investments by the State in addressing a persistent opioid addiction epidemic, understaffing of child protective services, and the waitlist for mental health services. Additionally, the State made two permanent 3.1 percent increases in Medicaid reimbursement rates for all providers during SFY 2020 and 2021. These necessary investments to improve the State’s capacity and ability to keep its citizens healthy and safe have required a larger percentage of the recent overall increases in the State budget, which has naturally decreased the percent of education spending relative to the overall State budget.

I. NHDOE Responses to Question #7 (a) & (b) of the Frequently Asked Questions – See Page #9: [Guidance on Maintenance of Effort Requirements & Waiver Requests \(ESSER and GEER\)](#).

- a.** *Table 1. Represents the percent of education funding appropriations relative to the overall State appropriations from education restricted or unrestricted funding sources for the applicable years under the maintenance of effort within ARP and CRRSA. Fiscal years 2022 and 2023 uses current appropriations in the enacted budget for the biennium; averages for fiscal years 2017, 2018, & 2019 use final expenditure data.*

Measurement & Year	Elementary and Secondary Education	Higher Education	Total State Spend
<i>Base Line Measurements</i>			
Average FY 2017- 2019	\$958,600,000	\$126,775,000	\$2,372,794,851
Percent Relative to Overall State Spend	39.59%	5.24%	100%
<i>Estimated Maintenance of Effort Measurements for FY 2022</i>			
FY 2022 Spending	\$1,034,752,476	\$144,500,000	\$2,687,037,000
Percent Relative to Overall State Spend	38.51%	5.38%	100%
Estimated Compliance	Non-Compliant	Compliant	N/A
<i>Estimated Maintenance of Effort Measurements for FY 2023</i>			
FY 2023 Spending	\$1,013,424,545	\$144,500,000	\$2,700,982,000
Percent Relative to Overall State Spend	37.52%	5.35%	100%
Estimated Compliance	Non-Compliant	Compliant	N/A

- b. The same methodology used to arrive to the baseline numbers as submitted to the United States Department of Education on 5/17/2021 was utilized to build Table 1 above. However, FY 2022 & 2023 education spending was derived using current appropriations and not the final expenditures. Additionally, overall state spending examines current appropriations and not expenditures. Estimated per pupil elementary and secondary education spend (2017-2019) and appropriations (2022 and 2023) increased 13% and 12% because of declining numbers of students.

II. NHDOE Responses to Question #7 (c) & (d) of the Frequently Asked Questions – See Page #9: [Guidance on Maintenance of Effort Requirements & Waiver Requests \(ESSER and GEER\)](#).

- c. During the pandemic, New Hampshire’s public sector, businesses, and citizens faced unpredictable challenges and economic distress, which shaped the State’s financial burdens. The State reported fiscal year 2020 performance in the Comprehensive Annual Financial Report (CAFR)¹ as follows: “Unrestricted revenue for the General and Education Trust Funds received during fiscal year 2020 total \$2,520.2 million which was below the fiscal year 2020 Plan of \$2,626.2 million by \$106 million, or 4.0%.” The State ended fiscal year 2020 with a “General and Education Trust Fund deficit balance of (\$54.4) million, when compared to the ending fund balance projected in the adopted budget for fiscal year 2020 of \$27.1 million, represents a deficit of \$81.5 million” below expected performance.

The State fiscal year 2021 performance shows a strong economic recovery as reported in the fiscal year 2021 CAFR. This is the result of specific programs, including business support provided through the Main Street Relief Fund (MSRF), Emergency Healthcare Stabilization Relief Fund (EHSRF), and Nonprofit Emergency Relief Fund (NERF). Fiscal year 2021 shows General and Education Trust Fund revenues of \$2,979.7 million, an increase of 18.2% above prior year and 12.2% above plan².

New Hampshire enacts a state budget on a biennial basis, with the process beginning in the fall of even numbered years and concluding in June of odd numbered years. When projecting revenue and expenditure data for fiscal years 2022 and 2023, the State based its projections on the latest economic data available at the time, which predated the strong closing months of fiscal year 2021. Even with less favorable economic data, New Hampshire prioritized educational aid, appropriating more money per k-12 student compared to any of the baseline years contemplated under this Maintenance of Effort requirement.

- d. Unemployment Insurance claims in New Hampshire totaled 23,827 initial claims, with 323,039 continued weeks claimed in June 2020 for a seasonally adjusted unemployment rate of 10.3%³. Unemployment Insurance claims have fallen to 3,572 initial claims in July 2021, with 27,828 continued weeks claimed, for a July 2021 seasonally adjusted unemployment rate of 2.9%. All numbers include COVID-19 related claims. While the economy has recovered over the past year, New Hampshire’s seasonally adjusted workforce remains 6,050 individuals below June 2020 levels. The root cause of the State’s technical noncompliance with the Maintenance of Effort requirement does not directly correlate to the coronavirus pandemic, but rather the gap years between the baseline data and the compliance period. The State’s biennial budget for fiscal years 2020 and 2021 included significant investments in health and social services, including Medicaid rate increases, additional child protective services workers, and other actions to combat the opioid epidemic. During these years, the

¹ https://das.nh.gov/accounting/FY%2020/FY_2020_Comprehensive_Annual_Financial_Report.pdf

² https://das.nh.gov/accounting/FY%2021/FY_2021_Annual_Comprehensive_Financial_Report.pdf

³ <https://www.nhes.nh.gov/documents/nhdatadashboard.xlsx>

State maintained support for education, while increasing its investments in other areas of State government.

The Maintenance of Effort requirements under ARP create a donut-hole effect where these investments fall into a gap, namely the 2020 and 2021 fiscal year budgets, that are not represented in the State’s baseline data, nor part of the covered period. While these fiscal years faced impact by the declaration of public health emergency, decisions made prior to the pandemic place the State at a disadvantage in achieving ARP compliance. These actions were wholly uncoupled from Education funding decisions made during the same period. In the State’s efforts to respond to the opioid epidemic and to increase funding in specific areas, the State has conflicted with the requirement contemplated under ARP.

In responding to a crisis in this scenario, a state would have been required to either reduce expenditure categories, outside of education funding, in an equal amount to the expenditure increase to respond to the crisis, or necessarily increase education funding in the same proportion it increased health and social services funding. Under the formula contemplated here, it would be impermissible for a state to increase health and social services funding to respond to a crisis, holding all-else equal, and to meet the threshold required under ARP.

III. NHDOE’s Response to Question #8 of the Frequently Asked Questions – See Page #9: [Guidance on Maintenance of Effort Requirements & Waiver Requests \(ESSER and GEER\)](#).

- a. *Table 2. Represents the high-level K-12 and higher education funding information requested. Table 2 does not factor in all the different complexities associated with describing the New Hampshire State aid formulas for supporting K-12 education. Please see Table 3 and the written explanation below Table 3 for a more accurate representation of how we fund K-12 education in New Hampshire.*

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
State Funding Support (in thousands)¹							
K-12	\$955,279	\$959,787	\$960,734	\$1,004,518	\$1,052,603	\$1,034,752	\$1,013,425
Higher Education	\$124,775	\$127,475	\$128,075	\$142,755	\$143,860	\$144,500	\$144,500
Total	\$1,080,054	\$1,087,262	\$1,088,809	\$1,147,273	\$1,196,463	\$1,179,252	\$1,157,925
K-12 Pupil Data & State Aid Per K-12 Pupil²							
Charter School	3,420	3,543	3,932	4,228	4,533	4,578	4,624
District School	172,419	170,906	169,209	167,385	160,397	162,001	160,397
Total Pupils	175,389	174,449	173,141	171,613	164,930	166,579	165,021
State Aid Per Pupil	\$5,433	\$5,502	\$5,549	\$5,853	\$6,382	\$6,212	\$6,141
Higher Education Enrollment & State Aid Per Higher Education Student³							
Public University	26,371	27,333	26,998	25,267	25,014	24,764	24,517
Public College	11,152	10,451	9,818	10,171	10,069	9,969	9,869
Higher Education Pupils	37,523	37,784	36,816	35,438	35,084	34,733	34,385
State Aid Per Higher Education Pupil	\$3,325	\$3,374	\$3,479	\$4,028	\$4,100	\$4,160	\$4,202

¹The State funding for education for FYs 2017-2020 was issued to the USED on May 17, 2021. FY 21 uses final appropriation numbers as of June 2021 and FYs 2022-2023 uses budgeted appropriations.

²K-12 Pupil Data for FYs 2022 and 2023 assumes one percent growth in charter school membership in both years while district public school membership is only expected to see growth in FY 2022 and then return to FY 2021 numbers. Pupil data for FYs 2017-2020 can be found in the link below:

<https://www.education.nh.gov/who-we-are/division-of-educator-and-analytic-resources/bureau-of-education-statistics/state-totals>

³Public university and public college pupil data was estimated to follow a one percent decline in FYs 2021-2023. Pupil data for FYs 2017-2020 may be located on the bottom of page 162 on the report below.

https://das.nh.gov/accounting/FY%2020/FY_2020_Comprehensive_Annual_Financial_Report.pdf

b. *Table 3. Represents a more accurate representation of how we fund K-12 schools in New Hampshire since it presents data in a way that more closely aligns with the State aid formula. The State aid formula to determine K-12 funding involves a series of data inputs and equations, which are calculated through a statutorily set algorithm; therefore, including all the complexities of formula is difficult. However, to analyze State aid per pupil between years, two components of the formula at a minimum need to be considered:*

- 1) *Pupil data from the prior year determines the current year aid amount for district public schools while charter public schools are funded using current year pupil data.*
- 2) *Some features of the formula are temporary in nature and sunset by design and intent. Additionally, State aid amounts might be temporary due to an anomalous revenue windfall, which occurred in FY 2021 and described below the table.*

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Total K-12 Funding Factoring In Temporary or One-Time Funding Aid							
Total K-12 Funding	\$955,279	\$959,787	\$960,734	\$1,004,518	\$1,052,603	\$1,034,752	\$1,013,425
Temporary Aid¹	\$(8,266)	\$(1,483)	\$0	\$0	\$(58,882)	\$(45,671)	\$(17,207)
Total Permanent Aid	\$947,013	\$958,304	\$960,734	\$1,004,518	\$993,721	\$989,081	\$996,218
Pupil Data Presented In A Manner More Aligned With How The State Aid Formula Works ²							
Charter School Pupil (No Lag)	3,420	3,543	3,932	4,228	4,533	4,578	4,624
District School Pupil (One Year Lag)²	174,645	172,419	170,906	169,209	167,385	160,397	162,001
Pupils Input Into Aid Formula	178,065	175,962	174,838	173,437	171,918	164,975	166,625
State Aid Per K-12 Pupil							
State Aid Per Pupil	\$5,318	\$5,446	\$5,495	\$5,792	\$5,780	\$5,995	\$5,979
% Change	N/A	2.40%	0.90%	5.14%	(0.20%)	3.72%	(0.28%)

Methodology: All source data from Table 2, except as noted in footnotes.

¹See explanation of temporary funding components below the table.

²As mentioned in the table's introduction, district public school data has a one-year lag for funding purposes. Meaning, the student data from the prior year primarily funds the current year.

Approximately \$59 Million in One-Time District Public School Appropriations in SFY 2021:

Modifications to the federal corporate tax code in calendar year 2017 incentivized multi-national corporations, which had historically sheltered their taxable profits overseas, to repatriate corporate income back to the United States. The act of repatriating corporate income not only included current year income but also a historical backlog of tax-sheltered income from previous tax years. Therefore, subjecting this historical backlog of corporate income to our United States corporate taxes and New Hampshire's business taxes created an anomalous one-time increase in business tax receipts primarily recorded in fiscal year 2019 that was not a continuous revenue source. The state budget for fiscal years 2020 and 2021 carried forward this anomalous revenue into fiscal year 2021 and appropriated approximately \$62.5 million to district public schools. The funding to district public school was unrestricted and included in New Hampshire's primary funding formula. This provision was specifically written in 2019 to be temporary. The primary funding was never permanent, and the New Hampshire Department of Education instructed school districts that these funds would not be ongoing when they were allocated.

In the first link below, see page 8 line 17 of the State of New Hampshire Education Trust Fund surplus statement drafted in September 2019 stating the funds would come from FY 2019 surplus and remain allocated on a one-time basis. Also, see the link explaining that the \$62.5 million would go to adequate education aid for FY 2021. Please note, in September 2019 these were current estimated appropriations and the final appropriations were less than estimated (i.e., \$58.8 million).

Surplus Statement:

http://www.gencourt.state.nh.us/LBA/Budget/operating_budgets/2020_2021/HB%203%20and%204/9-25-19%20Surplus%20Statement.pdf

See Bullet Seven Explaining \$62.5 Million Put in Operating Budget (i.e., HB1) for FY 21:

http://www.gencourt.state.nh.us/LBA/Budget/operating_budgets/2020_2021/HB%203%20and%204/Final%20HB%203%20and%204%20Briefing%209-25-19.pdf

Temporary COVID-19 Related Adjustments to the State Aid Formula for FY 2022 & FY 2023:

Other temporary modifications to the formula have occurred over the years not connected specifically to anomalous revenue fluctuations. For example:

- **FY 2022 and FY 2023** - These FYs include an estimated \$45.7 million and \$17.2 million in funding to hold student enrollment and demographic changes harmless in the formula, respectively. While the State could have let the State funding formula work as designed which would have naturally decreased State aid, the State decided to adjust the student counts being used in the formula to stop the negative funding impact of student enrollment declines, some of which were the result of the pandemic. This is not really a one-time boost to increase funding but essentially stopped the State from achieving a cost savings due to less students being enrolled in public school during the pandemic. This enrollment hold harmless creates a scenario in the education formula where the State is theoretically funding students not being educated by the districts and makes comparing year-to-year State aid per pupil misleading.
 - See the second row and last column of page 11 of the PDF submitted to the subcommittee to see approximately the impacts of these enrollment adjustments for FY 23:
http://www.gencourt.state.nh.us/LBA/Budget/House_Finance_Division_II/DOE_Revised_Adequacy_Presentation_3.9.21.pdf
 - See the table at the bottom of SB135 to see an approximate estimate of the enrollment adjustments in FY 22:
http://gencourt.state.nh.us/bill_status/billText.aspx?sy=2021&id=1060&txtFormat=html

- **FY 2017 and FY 2018** - The State of New Hampshire paid \$1.5 million in SFY 2018 due to an inconsistent and inaccurate interpretation of the State funding formula occurring during FY 2017 and FY 2016. Of the \$1.5 million paid in SFY 2018, \$798,930 should have been paid in FY 2017. See link for an explanation:
 - http://gencourt.state.nh.us/bill_Status/billText.aspx?sy=2018&id=1751&txtFormat=html
- **FY 2017** - The State of New Hampshire settled a lawsuit in SFY 2017 and paid \$9 million, which should have been paid in prior fiscal years. See link:
 - http://gencourt.state.nh.us/bill_Status/billText.aspx?sy=2017&id=272&txtFormat=html

Explanations for the Appearance of Minor Decreases in State Aid Pupil after Data Adjustments:

Once adjustments occur for these funding anomalies, the dataset shows that overall the State aid per pupil has increased. Within this overall increase, some aspects of the formula do reflect a decline in State aid per pupil without any intent by the State of New Hampshire to decrease State aid per pupil. For example:

- **FY 2020 to FY 2021** – Without including the \$58.8 million in one-time funding increase in FY 2021, the State of New Hampshire made no deliberate effort to either increase or decrease the State aid per pupil between FY 2020 and 2021. However, the State of New Hampshire weights its funding per pupil based on different demographics. For example, a student living within 180 percent of the federal poverty guidelines receives 1.5 times more State aid than a student not in poverty, holding all other demographic information about the student equal. The counts of students experiencing poverty used in the State aid formula decreased by 2,398 from FY 2020 to FY 2021. Although the State of New Hampshire was grateful to see a decrease in child poverty, this also resulted in a decrease in State funding based on the design of the formula ensuring districts with higher levels of poverty receive more State aid.
- **FY 2022 to FY 2023** – Without including the adjustments made to the enrollment, which increased funding during FY 2022 and 2023, it still appears State aid decreased per pupil. This is not due to any deliberate effort to increase or decrease State aid per pupil. This is simply due to some components of the formula being static. For example, we spend approximately \$158 million in State aid in the formula through a “Stabilization Grant.” This grant is a set amount based on a calculation made in FY 2012 to hold districts harmless when changes were made to the formula in FY 2011 following the Great Recession. In FY 2023, we expect the number of pupils input to the formula should increase. While most aid components of our formula will increase with more students, the stabilization grant will remain static, thereby making an increase in students appear to produce a decrease in State aid per pupil.

Additional State Education Aid Changes in the MOE Period Include:

- **Full-Day Kindergarten:** Starting in FY 2019, New Hampshire increase funding for kindergarten students from \$1,780.64 to \$3,786.66. In addition, for districts expanding from half-day to full day programming, the State also provides start-up grants of at least \$1,893.33 for each kindergarten student present on the first day of school. This money is in addition to fully reimbursing the district at least \$3,786.66 a year later.
- **Poverty Focused Aid:** Starting in FY 2022 and continuing in statute with no sunset provision, the State will provide \$17.5 million a year in school funding targeted to the communities with the highest level of poverty on a progressive basis.
- **Stabilization Grants Fully Restored:** Stabilization grants, which were decreasing at a rate of 4 percent each year, were permanently restored in FY 2020 to the \$158 million full amount.

Efforts to increase State aid to schools we did not include as education spending in formula for calculating the MOE include:

- Ending the Moratorium on School Building Aid: New Hampshire’s primary and largest State aid program to fund school building projects was in a moratorium since the great recession to stop new projects from being funded. In FY 2020, this moratorium terminated; the State estimates \$38.5 million dollars will be used to fund new projects between FY 2020 and 2023.
- Public School Infrastructure Funding: Starting in FY 18, New Hampshire started a new program to fund public school infrastructure type expenses, which was separate from the School Building Aid program. Since FY 2018, the program has allocated approximately \$28.7 million. Appropriations are included within the FY 2022 and 2023 State budget.
- Charter School Lease Aid: A new program was funded in FY 2020 to allow financial support for charter schools leasing a space. This support continues in the FY 2022 and 2023 budget and has grown from \$200,000 to \$500,000 since inception.
- Special Education Aid: New Hampshire has a statutory formula for providing State aid to support schools educating high-cost special education students. In FY 2020, an additional \$8 million a year increase in funding was implemented. This amount was further increased in 2022, by \$2.5 million.
- Tuition and Transportation: The State provides tuition and transportation support for districts as they provide career and technical education opportunities for New Hampshire students. Funding for this program has increased by \$1.6 million in FY 2020 and continues to be higher than the base year funding levels.

c. *Table 4. Demonstrates the growth in State aid for programs not included in the definition of educational spending provided in the Maintenance of Effort document submitted to the United States Department of Education on May 17, 2021.*

	FY 2017 ¹	FY 2018 ²	FY 2019 ²	FY 2020 ²	FY 2021 ²	FY 2022 ³	FY 2023 ³
State Aid Appropriations for Districts Outside of Maintenance of Effort Data Submitted (In Thousands)							
Building Aid⁴	\$37,000	\$35,000	\$33,000	\$38,500	\$30,500	\$56,973	\$24,960
Public School Infrastructure	\$0	\$18,760	\$10,000	\$0	\$0	\$1,000	\$1,000
Charter School Lease Aid	\$0	\$0	\$0	\$200	\$500	\$500	\$500
Special Education Aid	\$22,300	\$22,300	\$22,300	\$30,800	\$30,800	\$33,252	\$33,917
Tuition and Transportation	\$7,400	\$7,400	\$7,400	\$9,000	\$9,000	\$9,000	\$9,000

Methodology: All source data from Table 2 except as noted in footnotes.

¹ FY 2017 see page 775 of the operating budget for FY 2016-2017:

http://www.gencourt.state.nh.us/LBA/Budget/operating_budgets/2016_2017/Chapter%20275%20HB%201.pdf

² FY 2018-2021 is a summary of these program on page 3 in the link below:

http://www.gencourt.state.nh.us/LBA/Budget/House_Finance_Division_II/DOE_Revised_Adequacy_Presentation_3.9.21.pdf

³ FY 2022-2023 this information in the budget can be found in multiple locations. See pages 659 (lease aid) & 707 (other programs):

http://www.gencourt.state.nh.us/LBA/Budget/QuickResults/HB_1_Final_Version.pdf

Also, see page 41 for public school infrastructure funds and page 166 for building aid for both FYs:

http://www.gencourt.state.nh.us/LBA/Budget/QuickResults/HB2_Final_Version.pdf

⁴ Building Aid appropriations in FY 2022 include a \$30 million appropriation carried over from FY 2021.

IV. Addressing of Additional Considerations for Discretion of the U.S. Secretary of Education

- a.** *Has total State funding for K-12 education and for higher education (calculated separately) increased from the prior fiscal year?*
- i. Yes, for higher education as demonstrated in Table 2. For K-12 support, refer to Table 3 and the narrative that follows. Without fully factoring in all the demographic changes in the State that influence school funding but removing the significant temporary changes to the formula, total State support for K-12 consistently stays around \$990 million. Per the narrative following Table 3, the State has made no deliberate effort to permanently decrease State aid and continues to expand funding opportunities in the formula. However, the overall trend of fewer students has put downward pressure on funding due to NH's funding formula being student driven. With these declining enrollment numbers, budget writers have consistently adapted the formula with the effect of maintaining stable overall funding. Additionally, Table 4 shows growth in the State aid programs to districts, which was not included in the Maintenance of Effort calculations. Total growth reflects direct appropriations and are not impacted by student enrollment dynamics.
- b.** *Has total State funding for K-12 education and for higher education (calculated separately) increased over time (e.g., since baseline years)?*
- i. Yes, for higher education and K-12 support. Table 2 shows total K-12 support not exceeding \$961 million in the baseline years, but stays well over a billion dollars in the applicable years. Similarly, the base year total State support for higher education did not reach \$130 million while funding for the applicable years is \$144.5 million a year.
- c.** *Has per-pupil State funding for K-12 education and for higher education (calculated separately) increased from the prior fiscal year?*
- i. Yes, for higher education as demonstrated in Table 2. For K-12 support, the increase in State aid per pupil is not exclusively linear from year-to-year. Table 2 clearly shows State aid per pupil has increased substantially since the base years starting in FY 2017 and continues to generally trend positively even as student populations decline. However, to better understand the complexities of the State funding formula and recent financial and demographic changes in the State as it relates to K-12 funding, Table 3 and the narrative after the table needs to be considered. After attempting to control and understand the factors in the formula and the nature of the state aid per pupil measurement, the data shows steady and consistent growth in State support for students when measuring State aid per pupil.
- d.** *Has per-pupil State funding for K-12 education and for higher education (calculated separately) increased over time (e.g., since baseline years)?*
- i. Yes, for both. Even without adjusting the data to control for alterations or certain mechanics of the State K-12 funding formula, a simple State aid per pupil measurement as depicted in Table 2 shows substantial growth over the baseline years. In the baseline years, higher education State aid per pupil is approximately under \$3,500 and well over \$4,000 in the applicable years. For K-12 State aid per pupil, the baseline years remain in the \$5,500s or under with the applicable years clearing \$6,100.

- e. *Has the State appropriated an increase in State funding for K-12 education and for higher education for future fiscal years? Perm vs. temp changes.*
 - i. Yes. In regards to Higher Education: Every two years, our State funds higher education State systems with an unrestricted State grant to be used to cover operational expenses. There is no set funding formula in law or New Hampshire constitutional requirement establishing a funding framework, therefore all funding is technically temporary. However, Table 2 shows Higher Education State funding has not decreased once between SFY 2017 & 2023. Increases in State funding for higher education intuitions is typically used to achieve a policy objective, such as, freezing tuition rates for New Hampshire residents. State funding tends to increase as higher education costs put upwards pressure on the tuition rates.
 - ii. Regarding K-12 Public Schools: K-12 spending at the state level rose by roughly \$76 million during FY 2022 vs. FY 2017 to 2019, which increased overall state spending accordingly.

V. Addressing of Exceptional Circumstances Regarding State’s Maintenance of Support

- a. *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?*
 - i. No. New Hampshire has not reduced support for education.
- b. *What steps did the State take to avoid and/or minimize such reductions?*
 - i. Not Applicable.
- c. *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?*
 - i. No. New Hampshire has not allocated State Fiscal Recovery Funds to supplement state education funding. At this time, the State is not aware of any local district using Local Fiscal Recovery Funds to supplement local education funding.
- d. *How did reductions in support for elementary and secondary education and for higher education compare to other budget categories?*
 - i. Education support did not decrease year-over-year. Other areas experienced increased investments, such as Health and Social Services, which has increased from 42.4% of State expenditures in fiscal year 2020 to 44.7% of State appropriations for fiscal year 2023.
- e. *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 day funds)? If so, what was the impact of the reduction or what is the anticipated impact (e.g., to what extent were its resources reduced or will its resources be reduced)?*
 - i. There were no direct steps taken that would proactively reduce resources influencing the State’s ability to meet MOE. During the most recent budget process, the State of New Hampshire made several modifications to its tax structure that will influence both the General Fund and the Education Trust Fund. However, given the mechanism the State uses to provide education funding, these tax changes will have a no impact on the State’s ability to meet the MOE requirements.

The State of New Hampshire predominantly funds k-12 state education aid from the Education Trust Fund, which is funded from a variety of revenue sources including business taxes, lottery proceeds, and a Statewide Education Property Tax (SWEPT). Any shortfall in the Education Trust Fund is automatically funded through General funds, effectively meaning that there can never be a shortfall.

The State pays K-12 education adequacy aid based on an enrollment driven formula. The State enacted changes as previously described to augment amounts paid under this formula for SFY22-23 using surplus Education Trust Funds. The State projects to end the SFY22-23 biennium with a \$21 million surplus in the Education Trust Fund.

The State did take steps to reduce taxes that fund the Education Trust Fund based on this unprecedented surplus. In state fiscal year 2023, there is a one-time \$100 million reduction in SWEPT, which reduces the burden on local property taxpayers without reducing aid received by the community. This reduction is supplemented by the robust performance of other tax types, which have increased revenues faster than expenditures under the state funding formula.

The State enacted a reduction in the Meals and Rooms tax law from 9% to 8.5% effective October 1, 2021 for the sale of prepared meals, rented rooms, or vehicle rentals. The portion of revenue attributable vehicle rentals is dedicated to the Education Trust Fund.

The State enacted future tax changes to the Interest and Dividends tax beginning in fiscal year 2023, phasing the tax out entirely over the course of five years. The 5% tax is currently levied on interest and dividend earnings above \$2,400.

The State enacted business tax reductions to the Business Enterprise Tax (BET) and the Business Profits Tax (BPT). Additionally, the minimum thresholds for both taxes were increased.

For the BET, the tax rate was reduced from 0.6% to 0.55% for taxable periods ending on or after December 31, 2022. The statutory minimum threshold for taxation was increased from an enterprise value tax base of \$111,000 to \$250,000 and similarly increased for the gross receipts minimum from \$220,000 to \$250,000.

For the BPT, the tax rate was reduced from 7.7% to 7.6% for taxable period ending on or after December 31, 2022. The statutory minimum tax threshold for gross receipts increased from \$50,000 to \$92,000 effective December 31, 2022.

The State expects to see an increase in its Rainy Day Fund balance at the end of FY 23 based on the enacted budget and actual results for FY 21, growing from \$115 million currently to \$257.8 million as of June 30, 2021. The legislative projection for the biennium ending FY 23 anticipate a Rainy Day Fund balance of \$158 million. This projection is pending state revenue and expenditure performance during the biennium and is subject to change.

VI. Addressing of the State’s Use of ESSER, GEER, or HEER Funding

- a.** *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?*

 - i. Yes.

- b.** *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?*

 - i. Yes, all HEER funds have been used to provide net new resources to higher education. Those funds have not replaced existing State commitments to higher education.

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

 - i. No, the State of New Hampshire has not reduced permanent State funding. New Hampshire has not supplanted State funding for education with ESSER, GEER, or HEER funds.