

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].oese@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
FY 2017	\$23,464,481,127	\$5,477,049,300	\$96,126,625,000	24.41%	5.70%
FY 2018	\$24,762,671,635	\$5,729,149,800	\$98,076,519,000	25.25%	5.84%
FY 2019	\$25,431,221,214	\$5,885,512,800	\$100,064,089,000	25.41%	5.88%
Average FYs 2017-2019	\$24,552,791,326	\$5,697,237,300	\$98,089,077,667	25.02%	5.81%
FY 2020	\$26,373,708,943	\$5,944,655,100	Not required	Not required	Not required
FY 2021	\$25,867,424,445	\$6,015,107,100	Not required	Not required	Not required
FY 2022	\$27,278,039,421	\$6,045,180,900	Not required	Not required	Not required
FY 2023	\$29,313,943,039	\$6,438,186,000	\$121,330,005,000	24.16%	5.31%

*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 \$4.8 billion (19.4 percent) on a fiscal year basis between the three-year baseline average period of FY 2017 to FY 2019 (\$24.6 billion) and FY 2023 (\$29.3 billion). The State’s spending for higher education increased by \$741 million (13.0 percent) on a fiscal year basis between the three-year baseline average period of FY 2017 to FY 2019 (\$5.697 billion) and FY 2023 (\$6.438 billion).

However, the State's FY 2023 Financial Plan continued extraordinary spending measures for COVID-19 pandemic relief efforts that increased overall State spending and reduced the relative shares of K-12 education and higher education spending as a percentage of total spending. These time-limited spending measures are described in detail below.

Changes in New York's overall spending outside of 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 after their initial enrollment regardless of changes in employment or income levels that may otherwise make them ineligible. From FY 2020 to FY 2023, Medicaid enrollment increased by nearly 1.9 million (26.2 percent), driven by the steep rise in unemployment triggered by the COVID-19 pandemic. These elevated enrollments caused \$2.7 billion of the \$3.5 billion annual increase in State Medicaid spending from FY 2022 to FY 2023.

NY State Health Care Enrollment Actuals				
	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>
Medicaid - Individuals Covered	6,179,986	7,074,379	7,575,210	7,789,300
Essential Plan - Individuals Covered	800,438	891,932	970,939	1,163,584
Child Health Plus - Individuals Covered	433,405	391,932	387,139	405,265
	7,413,829	8,358,243	8,933,288	9,358,149

In FY 2023, New York State also provided non-recurring support for the pandemic-response programs described below. Support for these initiatives significantly increased total State operating funds spending in FY 2023 compared to the baseline period and contributed greatly to the State's noncompliance with the MOE requirements for K-12 education and higher education. These programs included:

- **Healthcare Worker Bonuses:** The State provided frontline healthcare workers earning less than \$125,000 with a bonus payment of up to \$3,000 to incentivize the recruitment and retention of qualified frontline healthcare and direct care professionals. The amount of the bonus was based on hours worked and length of time in service. Direct care State employees also received bonuses.

Healthcare and direct care worker bonuses totaled approximately \$1.6 billion in FY 2023.

- **Distressed Hospital Support:** \$800 million of one-time funding was provided to hospitals responsible for supporting medical needs in underserved communities across the State that experienced financial distress resulting from the COVID-19 pandemic.
- **Emergency Rental Assistance Program (ERAP):** ERAP is an economic relief program developed to help eligible households residing in their primary residence in New York State to request and receive assistance for rental and utility arrears accumulated during the COVID-19 crisis. The program provided over \$700 million in economic relief to low- and moderate-income tenants and helped landlords obtain rents due.
- **Landlord Rental Assistance Program (LRAP):** LRAP is an economic relief program developed to provide assistance for rental arrears accumulated during the COVID-19 eviction moratorium for landlords whose tenants were unwilling to apply for the Emergency Rental Assistance Program, including where the tenant vacated the rental property. The program provided over \$100 million in support to eligible landlords to obtain unpaid rents due.
- **Other Non-Recurring Pandemic Recovery Initiatives:** The FY 2023 Budget provided time-limited aid to targeted programs for recovery efforts, including, but not limited to, aid for public utility arrears assistance (\$250 million); relief grants for small businesses and arts organizations (\$226 million); funding for workforce recovery (\$43 million); and continued assistance for workers who suffered income loss due to COVID-19 but who were ineligible for Unemployment Insurance or related Federal benefits due to their immigration status or other factors (\$43 million).

As shown in the table below, if the time-limited pandemic-related costs for healthcare/direct care worker bonuses, distressed hospitals, and other recovery initiatives are excluded from total spending, the State's K-12 education and higher education spending would comply with federal MOE requirements in FY 2023. With these additional exclusions, spending on K-12 education comprises more than the required 24.52 percent of adjusted total State operating funds spending in FY 2023, 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. Meanwhile, spending on higher education comprises more than the required 5.31 percent of adjusted total State operating funds spending in FY 2023, falling within the permitted 0.5 percentage point rounding threshold when comparing spending to the baseline period.

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

Category	FY 2017 to FY 2019 Average	FY 2023
Total State Operating Funds Disbursements	\$98,162	\$123,750
<i>Federal Spending Adjustments</i>		
American Rescue Plan Act (Federal Grants)	\$0	\$2,350
Other Federal Grants	\$73	\$70
Total State Operating Funds Disbursements - Less Federal	\$98,089	\$121,330
<i>COVID-19 Spending Adjustments</i>		
Health Care & Direct Care Worker Bonuses	\$0	\$1,613
Emergency & Landlord Rental Assistance Programs	\$0	\$818
Financially Distressed Hospitals	\$0	\$800
Other Non-Recurring Pandemic Recovery Initiatives	\$0	\$589
Adj. State Operating Funds Disbursements	\$98,089	\$117,510
K-12 Education Spending	\$24,553	\$29,314
Maintenance of Effort Rates:		
K-12 Education	25.02%	24.95%
Difference Between Baseline MOE Rate and FY 2023	0.07%	
Difference Rounded to Nearest Percentage Point	0.00%	
Higher Education Spending	\$5,697	\$6,438
Maintenance of Effort Rates:		
Higher Education	5.81%	5.48%
Difference Between Baseline MOE Rate and FY 2023	0.33%	
Difference Rounded to Nearest Percentage Point	0.00%	

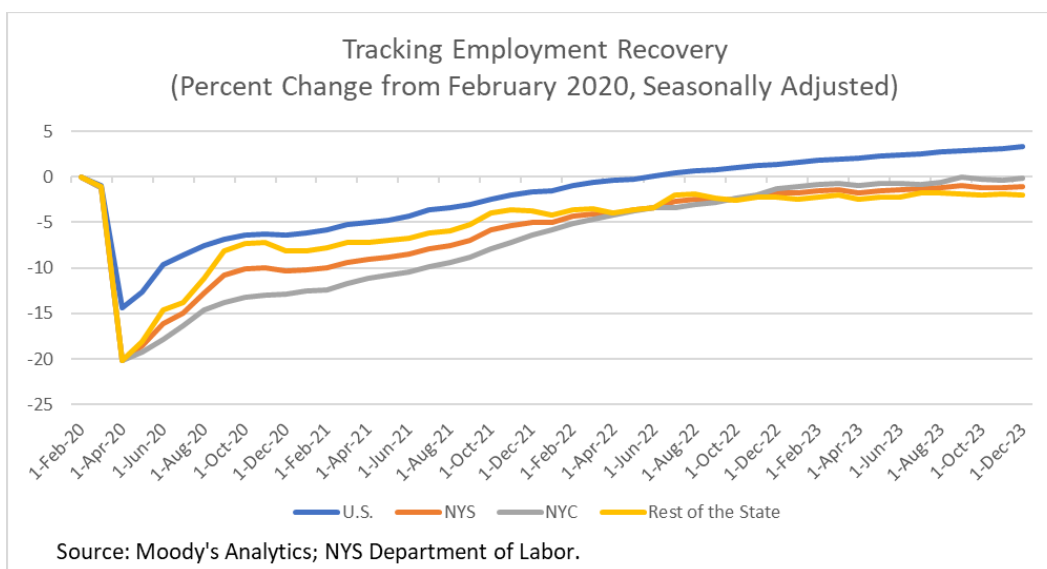
2. **Documentation and data supporting the description of the State’s fiscal burdens (e.g., revenue data, appropriation tables, unemployment statistics, etc.) including any State action that impacted State revenue(e.g., tax increases or decreases).**

Economic Situation in New York

Employment across the U.S. rebounded from pandemic-era job losses in 26 months. In June 2022, the US employed more people than it did in February of 2020. However, as shown in the chart below, recovery in New York State has lagged national trends. At the time of the negotiation of the FY 2023 Budget in March 2022, New York State ranked 47th in terms of employment recovery among the 50 states and the District of Columbia (D.C). In March 2022, the State had 393,400 fewer workers than it did the month before the pandemic began, including 214,800 less in New York City.

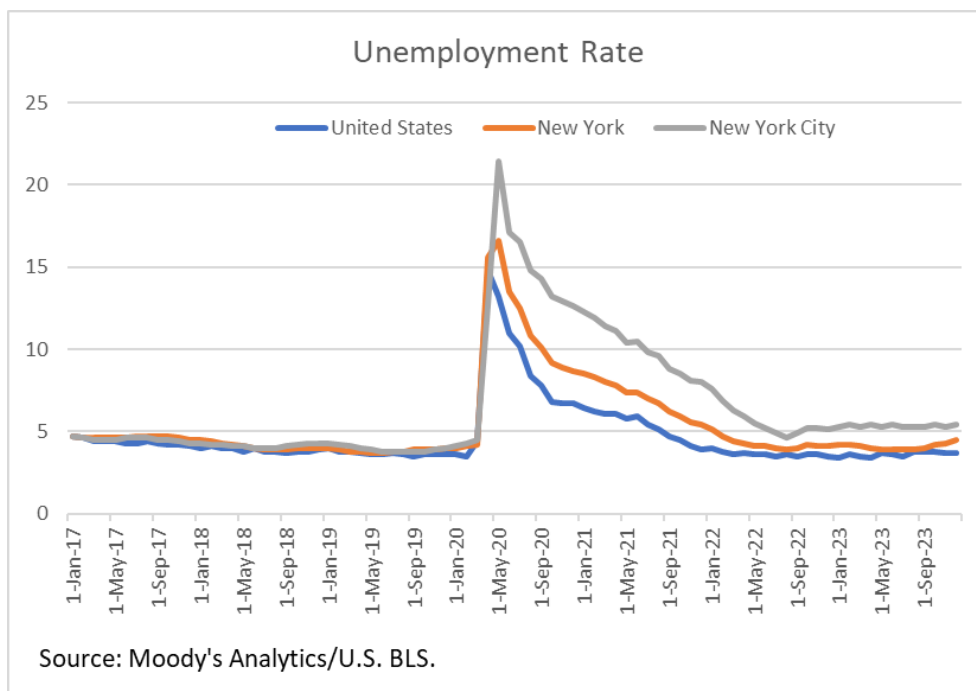
Almost four years after the onset of the COVID-19 pandemic, the State continues to feel its impacts. At the end of 2023, New York State ranked 46th in terms of employment recovery among the 50 states and the District of Columbia (D.C), faring better than only Rhode Island, Vermont, D.C., and Hawaii. At this time, New York State had approximately 73,400 fewer workers than it did the month before the pandemic, with

some major sectors still not having recovered to full strength. For example, the retail sector had recovered only 92.5 percent of jobs compared to the month before the pandemic began.



As shown in the chart below, New York State's unemployment rate, fueled by continued high unemployment in New York City, remained significantly above the national average at the time of the negotiation of the FY 2023 Budget in March 2022. Notably, New York's unemployment rate of 4.6 percent in March ranked third highest among the 50 states and D.C. in that month.

As of the end of 2023, almost four years after the pandemic began, New York's unemployment rate continued to exceed the national average. The State's unemployment rate of 4.6 percent in December 2023 ranked sixth highest among the 50 states and D.C. in that month, behind or tied with Nevada, California, D.C., New Jersey, Illinois, and Alaska. Overall, New York's annual unemployment rate of 4.2 percent in 2023 was higher than the national annual rate of 3.6 percent.



New York State's Fiscal Outlook

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, which were both continued into FY 2023, included:

- **Temporary High Income Surcharge.** The FY 2022 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 and \$3.3 billion in FY 2023.
- **Temporary Business Tax Increase.** The FY 2022 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 and \$1.288 billion in FY 2023.

Combined with strong personal income tax receipts and a positive economic forecast, these additional revenue generators helped the State's FY 2023 Enacted Budget Financial Plan, which reflects expectations at the time the Budget was passed in April 2022, to be balanced in the General Fund on a cash basis of accounting in FY 2023 and the following four years.

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 FY 2022 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.

The State's FY 2023 Enacted Budget Financial Plan anticipated the economy remaining strong, projecting that All Funds tax collections would increase by an additional \$2.7 billion (2.6 percent) to \$107.5 billion, excluding PTET payments. Actual FY 2023 tax collections were significantly higher than this projection, totaling \$113.7 billion, driven by stronger than expected PIT settlement payments. The State's FY 2023 Enacted Budget Financial Plan projected dramatic growth in tax year 2021 prior year refunds attributable to PTET credits, but prior year refunds fell \$7.6 billion below expectations – to the benefit of the Financial Plan - prompting reevaluation of PTET credit realization timing and the conclusion that growth in tax year 2021 extensions (excluding PTET) was stronger than initially estimated.

If including PTET payments, which New York began collecting in December 2021, the State's actual All Funds tax collections increased to \$121.1 billion for FY 2022 and decreased to \$111.7 billion for FY 2023. 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?

K-12 Education

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.)

New York State - K-12 Education - General Support for Public Schools - SY 2022 to SY 2023				
(\$ in millions)				
	SY 2022	SY 2023	YTY Change	% Change
Total State Funding	\$28,156.92	\$30,258.11	\$2,101.19	7.5%

The State continued to strengthen its support for K-12 education between SY 2022 and SY 2023. The State's level of K-12 education funding increased significantly, from \$28.2 billion in SY 2022 to \$30.3 billion in SY 2023. This represents a \$2.1 billion (7.5 percent) annual increase.

Higher Education

New York State - Higher Education - Enacted Appropriations - FY 2022 to FY 2023				
(\$ in millions)				
	FY 2022	FY 2023	YTY Change	% Change
Total State Funding	\$6,045.18	\$6,438.19	\$393.01	6.5%

The State continued to strengthen its support for higher education between FY 2022 and FY 2023. The State's level of higher education funding increased significantly, from \$6.045 billion in FY 2022 to \$6.438 billion in FY 2023. This represents a \$393 million (6.5 percent) annual increase.

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

K-12 Education

New York State - K-12 Education - General Support for Public Schools - SY 2017 to SY 2023			
	K-12 GSPS (\$ in millions)	YTY Change	% Change
Baseline Years			
SY 2017	\$24,066.66		
SY 2018	\$24,949.23	\$882.57	3.7%
SY 2019	\$25,781.56	\$832.33	3.3%
Baseline 3-Year Average	\$24,932.48	\$857.45	3.5%
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%
SY 2023	\$30,258.11	\$2,101.19	7.5%
Difference from Baseline 3-Year Average to SY 2023		\$5,325.62	21.4%
Difference from SY 2019 to SY 2023		\$4,476.55	17.4%

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 \$5.3 billion (21.4 percent) on a school year basis between the three-year baseline average period of SY 2017 to SY 2019 (\$24.9 billion) and SY 2023 (\$30.3 billion). Between SY 2019 and SY 2023, K-12 state funding increased by \$4.5 billion, or 17.4 percent.

Higher Education

New York State - Higher Education - Enacted Appropriations - FY 2017 to FY 2023			
	Appropriations (\$ in millions)	YTY Change	% Change
Baseline Years			
FY 2017	\$5,477.05		
FY 2018	\$5,729.15	\$252.10	4.6%
FY 2019	\$5,885.51	\$156.36	2.7%
Baseline 3-Year Average	\$5,697.24	\$204.23	3.7%
FY 2020	\$5,944.66	\$59.14	1.0%
FY 2021	\$6,015.11	\$70.45	1.2%
FY 2022	\$6,045.18	\$30.07	0.5%
FY 2023	\$6,438.19	\$393.01	6.5%
Difference from Baseline 3-Year Average to FY 2023		\$740.95	13.0%
Difference from FY 2019 to FY 2023		\$552.67	9.4%

Total State funding for higher education has continued to increase over time. Total higher education State funding increased by \$741 million (13.0 percent) on a fiscal year basis between the three-year baseline average period of FY 2017 to FY 2019 (\$5.697 billion) and FY 2023 (\$6.438 billion). Between FY 2019 and FY 2023, higher education state funding increased by \$553 million, or 9.4 percent.

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

K-12 Education

New York - Per Pupil State Funding for K-12 Education - SY 2022 to SY 2023							
	K-12 GSPS (\$ in millions)	Enrollment ¹	YTY Change in Enrollment	% Change in Enrollment	Per Pupil Funding	YTY Change in Per Pupil Funding	% Change in Per Pupil Funding
SY 2022	\$28,156.92	2,472,370	-	-	\$11,389	-	-
SY 2023	\$30,258.11	2,446,137	(26,233)	-1.1%	\$12,370	\$981	8.6%

Per-pupil State funding for K-12 education increased from the prior fiscal year. In SY 2022, State-funded K-12 education per-pupil support was equal to \$11,389. In SY 2023, per-pupil funding increased 8.6 percent — an increase of almost \$1,000 per-pupil — to \$12,370.

Higher Education

New York - Per Pupil State Funding for Higher Education - FY 2022 to FY 2023							
	Total Funding (\$ in millions)	Enrollment ²	YTY Change in Enrollment	% Change in Enrollment	Per Pupil Funding	YTY Change in Per Pupil Funding	% Change in Per Pupil Funding
FY 2022	\$6,045.18	613,503	-	-	\$9,854	-	-
FY 2023	\$6,438.19	589,591	(23,912)	-3.9%	\$10,920	\$1,066	10.8%

Per-pupil State funding for higher education increased from the prior fiscal year. In FY 2022, State-funded higher education per-pupil support was equal to \$9,854. In FY 2023, per-pupil funding increased 10.8 percent — an increase of \$1,066 per-pupil — to \$10,920.

¹ School enrollment figures cited in this document represent public school enrollment in grades K-12, including ungraded pupils, in early October of the school year.

² College enrollment figures cited in this document represent public college enrollment in the Fall semester of the academic year.

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

K-12 Education

New York - Per Pupil State Funding for K-12 Education - SY 2017 to SY 2023							
	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
Baseline Years							
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%
Baseline Average	\$24,932.48	2,648,205	(14,753)	-0.6%	\$9,415	\$377	4.1%
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%
SY 2023	\$30,258.11	2,446,137	(26,233)	-1.1%	\$12,370	\$981	8.6%
Change from Baseline Average to SY 2023			(202,068)	-7.6%		\$2,955	31.4%
Difference from SY 2019 to SY 2023			(184,013)	-7.0%		\$2,567	26.2%

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 2023, apart from SY 2021.

Statewide, enrollment declined 7.6 percent from the three-year baseline average of SY 2017 to SY 2019 (2,648,205 pupils) to SY 2023 (2,446,137 pupils), a decline of over 202,000 pupils. Over this same period, per-pupil State K-12 funding has increased by nearly \$3,000 per pupil (31.4 percent) from the three-year baseline average (\$9,415 per pupil) to SY 2023 (\$12,370 per pupil).

Crucially, per-pupil State funding for K-12 education has also increased at a rate that exceeds growth in overall State expenditures. Between the three-year baseline average period of FY 2017 to FY 2019 and FY 2023, the State's level of overall spending increased by \$23.2 billion (23.7 percent). In comparison, per-pupil State funding for K-12 education increased by 31.4 percent versus the baseline average period of SY 2017 to SY 2019.

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 17 years (SY 2005 through SY 2021), 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 \$26,571 per pupil in SY 2021, which was 85 percent more than the national average of \$14,347 per pupil. This level of spending was supported in part with \$12,147 per pupil of revenue from state sources, more than all but five other states and 54 percent more than the national average of \$7,909 per pupil.

Higher Education

New York - Per Pupil State Funding for Higher Education - FY 2017 to FY 2023							
	Total Funding (\$ in millions)	Enrollment	YTY Change in Enrollment	% Change in Enrollment	Per Pupil Funding	YTY Change in Per Pupil Funding	% Change in Per Pupil Funding
Baseline Years							
FY 2017	\$5,477.05	709,095			\$7,724		
FY 2018	\$5,729.15	705,954	(3,141)	-0.4%	\$8,115	\$391	5.1%
FY 2019	\$5,885.51	698,957	(6,997)	-1.0%	\$8,420	\$305	3.8%
Baseline Average	\$5,697.24	704,669	(5,069)	-0.7%	\$8,085	\$348	4.4%
FY 2020	\$5,944.66	686,814	(17,855)	-2.5%	\$8,655	\$570	7.1%
FY 2021	\$6,015.11	655,354	(31,460)	-4.6%	\$9,178	\$523	6.0%
FY 2022	\$6,045.18	613,503	(41,851)	-6.4%	\$9,854	\$675	7.4%
FY 2023	\$6,438.19	589,591	(23,912)	-3.9%	\$10,920	\$1,066	10.8%
Change from Baseline Average to FY 2023			(115,078)	-16.3%		\$2,835	35.1%
Difference from FY 2019 to FY 2023			(109,366)	-15.6%		\$2,499	29.7%

Per-pupil State funding for higher education has increased over time. As shown in the table above, per-pupil State funding has increased year-over-year in every year from FY 2017 through FY 2023.

Statewide, enrollment declined 16.3 percent from the three-year baseline average of FY 2017 to FY 2019 (704,669 students) to FY 2023 (589,591 students), a decline of over 115,000 students. Over this same period, per-pupil State higher education funding has increased by \$2,835 per pupil (35.1 percent) from the three-year baseline average (\$8,085 per pupil) to FY 2023 (\$10,920 per pupil).

Crucially, per-pupil State funding for higher education has also increased at a rate that exceeds growth in overall State expenditures. Between the three-year baseline average period of FY 2017 to FY 2019 and FY 2023, the State's level of overall spending increased by \$23.2 billion (23.7 percent). In comparison, per-pupil State funding for higher education increased by 35.1 percent versus the baseline average period of FY 2017 to FY 2019.

The State Higher Education Finance report published by the State Higher Education Executive Officers Association highlights New York State's commitment to higher education. For public four-year institutions in FY 2022, New York ranks 16th in total education revenue per FTE student at \$22,124, surpassing the U.S. average by \$2,568 (13 percent). Similarly, for public two-year institutions in FY 2022, New York ranks 6th in total education revenue per FTE student at \$17,362, surpassing the U.S. average by \$4,665 (36 percent).

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

K-12 Education

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 2023, Foundation Aid totaled \$21.3 billion, representing 70.5 percent of the \$30.3 billion in GSPS for K-12 education aid provided to school districts. The State's FY 2023 Enacted Budget increased Foundation Aid by \$1.5 billion (7.6 percent). This \$1.5 billion increase represented the second installment of a historic three-year commitment by the State to phase in the Foundation Aid formula’s full funding target ("Total Foundation Aid") over the period of SY 2022 to SY 2024, ensuring that by SY 2024 each school district would 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, when the commitment to phase-in the Foundation Aid formula over three years was made, the State had projected that an additional \$4.9 billion in aid a year would be needed to fully fund the formula by SY 2024. However, due to high inflation, this cost had risen by almost \$700 million, to \$5.6 billion, by the time of the FY 2024 Enacted Budget in May 2023. Despite this increase from the originally anticipated cost, the FY 2024 Enacted Budget maintained the State's commitment to fully fund the Foundation Aid formula for the first time in its 17-year history. Since SY 2021, State support for K-12 education has increased by over \$7.8 billion (30.9 percent), including a \$5.6 billion (30.4 percent) increase in Foundation Aid.

New York State - K-12 Education - General Support for Public Schools - SY 2021 to SY 2024				
	Foundation Aid	Other GSPS	Pandemic Adjustment	Total K-12 Education GSPS
<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	\$21,335.51	\$8,922.60	\$0	\$30,258.11
SY 2024	\$24,001.16	\$9,161.74	\$0	\$33,162.90
Change (\$) SY 2021 to SY 2024	\$5,589.38	\$1,117.06	\$1,130.65	\$7,837.09
Change (%) SY 2021 to SY 2024	30.4%	13.9%	n/a	30.9%

Higher Education

New York State provided a historic level of support for higher education in the FY 2024 Enacted Budget. The FY 2024 Enacted Budget provided \$500 million to create the first-ever State endowment contribution match for SUNY's four university centers. The Enacted Budget also provided \$256 million in new, recurring general operating support to SUNY and CUNY (SUNY \$163 million, CUNY \$93 million). In addition, the Budget provided \$125 million for nonrecurring strategic investments to SUNY and CUNY (SUNY \$75 million, CUNY \$50 million). Finally, the Budget provided an additional \$120 million to pay for fringe benefit growth at SUNY and CUNY.

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?**

K-12 Education

As noted above, State support for K-12 education was not reduced in SY 2023. Rather, the State's level of K-12 education funding increased significantly, from \$28.2 billion in SY 2022 to \$30.3 billion in SY 2023. This represents a \$2.1 billion (7.5 percent) annual increase. On a State fiscal year basis, the State's overall level of support for K-12 education increased by \$2.0 billion (7.5 percent) in FY 2023.

Additionally, as discussed above, the State's FY 2023 Financial Plan 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, healthcare and direct care worker bonuses, distressed hospital aid, support to jobless workers who were otherwise excluded from collecting unemployment benefits, small business assistance, aid to address utility arrears and emergency rental and landlord assistance.

Higher Education

As noted above, State support for higher education was not reduced in FY 2023. Rather, the State's level of higher education funding increased significantly, from \$6.045 billion in FY 2022 to \$6.438 billion in SY 2023. This represents a \$393 million (6.5 percent) annual increase.

Additionally, as discussed above, the State's FY 2023 Financial Plan included extraordinary spending measures for COVID-19 pandemic relief efforts that increased overall State spending and reduced the relative share of higher education spending as a percentage of total spending. These factors included elevated Medicaid enrollments, healthcare and direct care worker bonuses, distressed hospital aid, support to jobless workers who were otherwise excluded from collecting unemployment benefits, small business assistance, aid to address utility arrears and emergency rental and landlord assistance.

- **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 2023. State support for higher education was not reduced in FY 2023.

- **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 or higher 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 2023 relative to the baseline period, including K-12 education and higher education. Figures in these tables are presented on a fiscal year basis, rather than a school year basis, to allow for better comparisons with spending in other budget categories.

The largest increases in SOF spending between the baseline period and FY 2023 were for health, K-12 education, debt service, mental hygiene, 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, health, mental hygiene, and social welfare. Despite a \$4.8 billion (19.4 percent) increase in the State's K-12 education spending between the three-year baseline average period and FY 2023, K-12 education's share of SOF spending declined by 0.86 percentage points over the period due to significant growth in other budget areas as necessitated by the COVID-19 pandemic. Despite a \$741 million (13.0 percent) increase in the State's higher education spending between the three-year baseline average period and FY 2023, higher education's share of SOF spending declined by 0.50 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 in FY 2023 relative to the baseline period was driven in part by a State-funded Emergency Rental Assistance program to assist individuals and families impacted by the pandemic, the Landlord Rental Assistance program to assist landlords whose tenants accumulated rental arrears during the COVID-19 eviction moratorium, the continuation of increased public assistance caseloads and time-limited utility arrears aid. Increased health spending was driven by elevated Medicaid enrollments during the COVID-19 pandemic and Health Care/Direct Care worker bonuses, as discussed above. Increased mental hygiene spending in FY 2023 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 SOF¹ Spending by Functional Category
(in millions of dollars)

	3 Year Average		FY 2023 vs Baseline Period	
	<u>FYs 2017-2019</u>	<u>FY 2023</u>	<u>Change</u>	<u>% Change</u>
K-12 Education	24,553	29,314	4,761	19.4%
Health	21,552	28,591	7,039	32.7%
Higher Education	5,697	6,438	741	13.0%
General State Charges	7,897	10,203	2,306	29.2%
Debt Service	6,028	10,481	4,453	73.9%
Mental Hygiene	5,107	8,245	3,138	61.4%
Transportation	4,810	4,986	176	3.7%
Public Protection	3,792	4,178	386	10.2%
Social Welfare	3,369	5,616	2,247	66.7%
Electeds	2,794	3,011	217	7.8%
General Government	1,506	1,738	232	15.4%
Local Government Assistance	761	781	19	2.5%
Economic Development	600	1,272	673	112.2%
Parks & The Environment	406	450	44	10.8%
All Other ²	9,217	6,027	-3,190	-34.6%
TOTAL	98,089	121,330	23,241	23.7%

¹SOF total excludes Federal grants received within the State's Operating Funds

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

Adjusted Annual SOF¹ Spending by Functional Category
(% Share of Total SOF Spending)

	3 Year Average <u>FYs 2017-2019</u>	<u>FY 2023</u>	<u>Change</u>
K-12 Education	25.02%	24.16%	-0.86%
Health	21.97%	23.57%	1.59%
Higher Education	5.81%	5.31%	-0.50%
General State Charges	8.05%	8.41%	0.36%
Debt Service	6.15%	8.64%	2.49%
Mental Hygiene	5.21%	6.80%	1.59%
Transportation	4.90%	4.11%	-0.79%
Public Protection	3.87%	3.44%	-0.42%
Social Welfare	3.43%	4.63%	1.19%
Electeds	2.85%	2.48%	-0.37%
General Government	1.54%	1.43%	-0.10%
Local Government Assistance	0.78%	0.64%	-0.13%
Economic Development	0.61%	1.05%	0.44%
Parks & The Environment	0.41%	0.37%	-0.04%
All Other ²	9.41%	4.97%	-4.44%

¹SOF total excludes Federal grants received within the State's Operating Funds.

²All 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 day funds)? 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?**

At this time, all HEER funds have been previously allocated to IHEs.

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

K-12 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.

Higher Education

New York did not use any of the HEER funds to supplant State funding for higher education. The federal funds were awarded directly from the federal government to IHEs. IHEs spent the funding pursuant to DOE guidelines.

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 3/15/2024
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 directly.