

How the Indigent Legal Services Fund Functions: A Preliminary Data Analysis



New York State Defenders Association
Public Defense Backup Center
194 Washington Avenue
Albany, NY 12210

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Preface

Determining the impact of the Indigent Legal Services Fund (ILSF) on county public defense spending is complicated by the dearth of available information on exactly how state funds are being utilized within the counties. The following tables provide preliminary information on what is known about the allocation of State ILSF monies from 2005 through 2008 in relation to the Net Local Expenditures (NLE) for public defense services reported to the Office of the State Comptroller by each county. This data is only a starting point and its utility lies in establishing baselines and presenting concrete evidence for questions that need be answered if a comprehensive solution to problems arising under the ILSF is going to be found.

Two observations emerge from a review of this data. If ILSF is driving quality, the data cannot reveal it. Similarly, if counties are supplanting or avoiding quality improvement, the data cannot prove that. In the nine counties failing the maintenance of effort provisions this year, dramatic and evident problems are present in the delivery of public defense services. Whatever the resolution of the current ILSF predicament for those nine counties, the withdrawal of state resources from their public defense programs will not benefit public defense clients.

More than \$250 million in state financing has been spent since the introduction of ILSF. Twenty-three counties have now encountered trouble meeting the maintenance of effort test. Meanwhile, the quality of representation in New York State continues to decline. The time has come to assure a stable and predictable stream of state aid to localities while providing an oversight structure that provides those counties the tools to improve quality.

Section 1 provides an overview of NLE spending and ILSF distribution for the entire state and also for New York City compared to non-New York City counties.

Section 2 provides information on the nine counties that have failed to meet required NLE amounts in 2007, thereby being disqualified for 2008 ILSF distribution.

Section 3 provides data on whether proposed averaging would cure these counties, as well as the amount of money that would be lost with the allocation of partial ILSF funding. This section also includes an analysis of 2007 NLE spending compared to the rate of inflation. Finally, the section concludes with a projection of the use of an averaging test for all counties as opposed to a one year look-back. This analysis assumes that yearly NLE increases should at least equal the rate of inflation to avoid supplanting.

Table 1: Top 10 Counties by Overall Percentage of NLE 2002-2007

Top 10 Counties by Overall Percentage of Net Local Expenditures				
2002				
County	Expenses	% Total State Exp.	% Top 10 Counties	% of Non-NYC Total
New York City	\$ 136,779,856	63.36%	73.87%	N/A
Westchester	\$ 10,224,802	4.74%	5.52%	12.92%
Suffolk	\$ 8,041,759	3.72%	4.34%	10.16%
Monroe	\$ 6,682,016	3.10%	3.61%	8.45%
Erie	\$ 5,657,206	2.62%	3.06%	7.15%
Nassau	\$ 5,528,751	2.56%	2.99%	6.99%
Onondaga	\$ 3,979,837	1.84%	2.15%	5.03%
Dutchess	\$ 3,249,752	1.51%	1.76%	4.11%
Rockland	\$ 2,581,882	1.20%	1.39%	3.26%
Albany	\$ 2,438,996	1.13%	1.32%	3.08%
Top 10 Total	\$ 185,164,857	85.77%	100.00%	
Non-NYC Total	\$ 79,112,927	36.64%		
Overall State Total	\$ 215,892,783	100.00%		

Top 10 Counties by Overall Percentage of Net Local Expenditures				
2003				
County	Expenses	% Total State Exp.	% Top 10 Counties	% of Non-NYC Total
New York City	\$ 143,265,594	62.63%	73.21%	N/A
Westchester	\$ 11,807,433	5.16%	6.03%	13.82%
Suffolk	\$ 8,478,946	3.71%	4.33%	9.92%
Monroe	\$ 7,465,279	3.26%	3.81%	8.73%
Erie	\$ 5,919,031	2.59%	3.02%	6.93%
Nassau	\$ 5,697,770	2.49%	2.91%	6.67%
Onondaga	\$ 3,965,549	1.73%	2.03%	4.64%
Dutchess	\$ 3,319,116	1.45%	1.70%	3.88%
Rockland	\$ 2,927,772	1.28%	1.50%	3.43%
Albany	\$ 2,840,562	1.24%	1.45%	3.32%
Top 10 Total	\$ 195,687,052	85.55%	100.00%	
Non-NYC Total	\$ 85,465,559	37.37%		
Overall State Total	\$ 228,731,153	100.00%		

Top 10 Counties by Overall Percentage of Net Local Expenditures				
2004				
County	Expenses	% Total State Exp.	% Top 10 Counties	% of Non-NYC Total
New York City	\$ 166,132,905	59.21%	71.99%	N/A
Westchester	\$ 11,807,433	4.21%	5.12%	10.32%
Suffolk	\$ 10,574,356	3.77%	4.58%	9.24%
Erie	\$ 9,289,477	3.31%	4.03%	8.12%
Monroe	\$ 8,249,269	2.94%	3.57%	7.21%
Nassau	\$ 7,840,340	2.79%	3.40%	6.85%
Onondaga	\$ 5,467,320	1.95%	2.37%	4.78%
Rockland	\$ 3,937,283	1.40%	1.71%	3.44%
Orange	\$ 3,738,361	1.33%	1.62%	3.27%
Albany	\$ 3,719,627	1.33%	1.61%	3.25%
Top 10 Total	\$ 230,756,371	82.24%	100.00%	
Non-NYC Total	\$ 114,455,693	40.79%		
Overall State Total	\$ 280,588,598	100.00%		

Top 10 Counties by Overall Percentage of Net Local Expenditures				
2005				
County	Expenses	% Total State Exp.	% Top 10 Counties	% of Non-NYC Total
New York City	\$ 142,241,508	58.08%	70.40%	N/A
Westchester	\$ 13,214,260	5.40%	6.54%	12.87%
Suffolk	\$ 9,356,065	3.82%	4.63%	9.11%
Monroe	\$ 7,695,553	3.14%	3.81%	7.49%
Nassau	\$ 7,349,760	3.00%	3.64%	7.16%
Erie	\$ 6,884,832	2.81%	3.41%	6.70%
Onondaga	\$ 4,987,501	2.04%	2.47%	4.86%
Orange	\$ 3,852,582	1.57%	1.91%	3.75%
Dutchess	\$ 3,300,092	1.35%	1.63%	3.21%
Albany	\$ 3,179,650	1.30%	1.57%	3.10%
Top 10 Total	\$ 202,061,803	82.50%	100.00%	
Non-NYC Total	\$ 102,683,314	41.92%		
Overall State Total	\$ 244,924,822	100.00%		

Top 10 Counties by Overall Percentage of Net Local Expenditures				
2006				
County	Expenses	% Total State Exp.	% Top 10 Counties	% of Non-NYC Total
New York City	\$ 154,847,466	58.64%	70.44%	N/A
Westchester	\$ 15,244,940	5.77%	6.93%	13.96%
Suffolk	\$ 9,625,445	3.65%	4.38%	8.81%
Monroe	\$ 8,027,540	3.04%	3.65%	7.35%
Erie	\$ 7,813,825	2.96%	3.55%	7.16%
Nassau	\$ 7,525,866	2.85%	3.42%	6.89%
Onondaga	\$ 5,012,930	1.90%	2.28%	4.59%
Albany	\$ 3,934,514	1.49%	1.79%	3.60%
Dutchess	\$ 3,872,947	1.47%	1.76%	3.55%
Rockland	\$ 3,934,514	1.49%	1.79%	3.60%
Top 10 Total	\$ 219,839,987	83.26%	100.00%	
Non-NYC Total	\$ 109,206,506	41.36%		
Overall State Total	\$ 264,053,972	100.00%		

Top 10 Counties by Overall Percentage of Net Local Expenditures				
2007				
County	Expenses	% Total State Exp.	% Top 10 Counties	% of Non-NYC Total
New York City	\$ 157,584,011	58.06%	70.03%	N/A
Westchester	\$ 15,308,839	5.64%	6.80%	13.45%
Suffolk	\$ 10,483,032	3.86%	4.66%	9.21%
Nassau	\$ 9,293,710	3.42%	4.13%	8.17%
Monroe	\$ 8,102,406	2.99%	3.60%	7.12%
Erie	\$ 7,831,959	2.89%	3.48%	6.88%
Onondaga	\$ 5,028,250	1.85%	2.23%	4.42%
Dutchess	\$ 3,928,101	1.45%	1.75%	3.45%
Albany	\$ 3,766,900	1.39%	1.67%	3.31%
Orange	\$ 3,682,369	1.36%	1.64%	3.24%
Top 10 Total	\$ 225,009,577	82.91%	100.00%	
Non-NYC Total	\$ 113,815,420	41.94%		
Overall State Total	\$ 271,399,431	100.00%		

Table 1a: NLE & ILSF Trends 2002-2008

	Net Local Expenditures					
	2002	2003	2004	2005	2006	2007
	\$ 215,892,783	\$ 228,731,153	\$ 280,588,598	\$ 244,924,822	\$ 264,053,972	\$ 271,399,431
1 yr \$ Change		\$ 12,838,370	\$ 51,857,445	\$ (35,663,776)	\$ 19,129,150	\$ 7,345,459
1 yr % Change		5.95%	22.67%	-12.71%	7.81%	2.78%
2 yr \$ Change			\$ 64,695,815	\$ 16,193,669	\$ (16,534,626)	\$ 26,474,609
2 yr % Change			29.97%	7.08%	-5.89%	10.81%
3 yr \$ Change				\$ 29,032,039	\$ 35,322,819	\$ (9,189,167)
3 yr % Change				13.45%	15.44%	-3.27%
4 yr \$ Change					\$ 48,161,189	\$ 42,668,278
4 yr % Change					22.31%	18.65%
2002-2007 \$ Change						\$ 55,506,648
2002-2007 % Change						25.71%

2002-2007 NLE increased 25.71%

2004-2007 NLE decreased by 3.27%

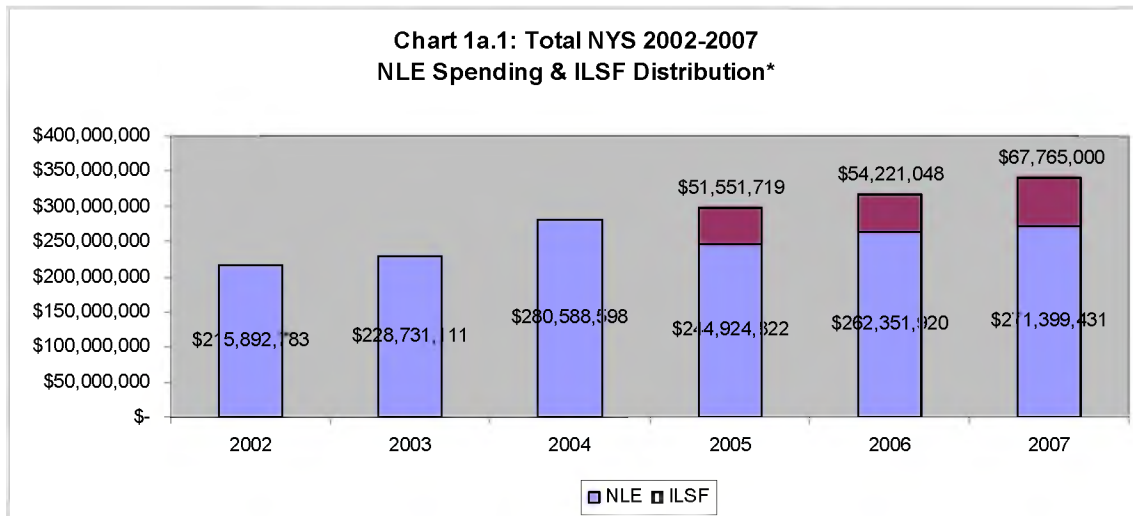
2005-2008 ILSF increased by 49.26%

	Indigent Legal Services Fund Local Distributions*						
	2002	2003	2004	2005	2006	2007	2008
				(Distributed based on 2004 NLE)	(Distributed based on 2005 NLE)	(Distributed based on 2006 NLE)	(Distributed based on 2007 NLE)
				\$ 51,551,719	\$ 54,221,048	\$ 67,765,000	\$ 76,944,551
1 yr \$ Change					\$ 2,669,329	\$ 13,543,952	\$ 9,179,551
1 yr % Change					5.18%	24.98%	13.55%
2 yr \$ Change						\$ 16,213,281	\$ 22,723,503
2 yr % Change						31.45%	41.91%
2005-2008 \$ Change							\$ 25,392,832
2005-2008 % Change							49.26%

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* The initial 2005 ILSF accumulation period was from July 2003 - December 2004, a period of 17 months.

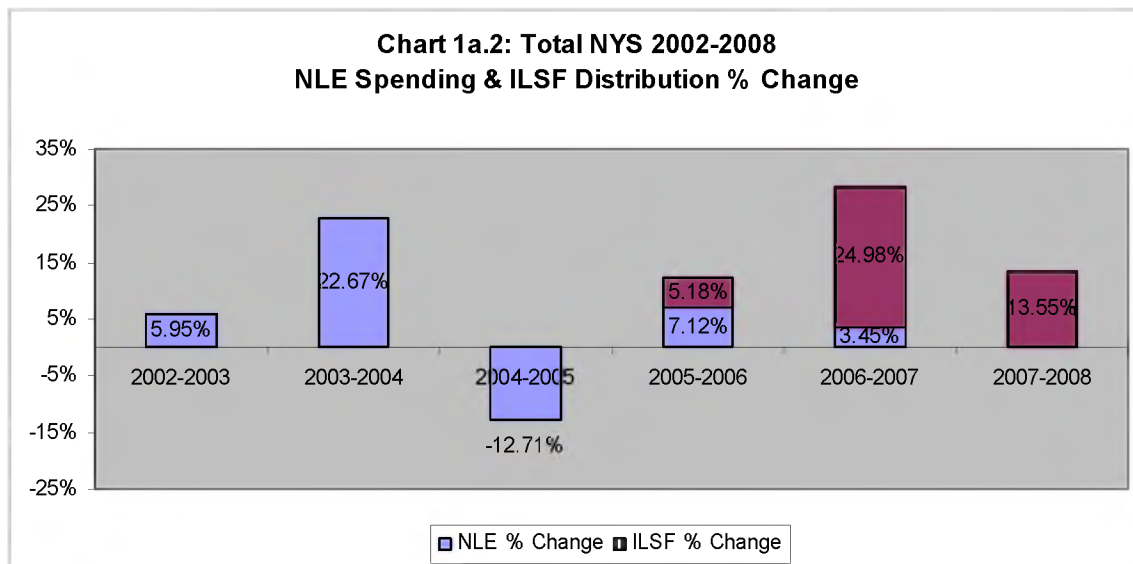


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* ILSF represents the year in which the money was distributed; cannot determine if all money was spent in that year.

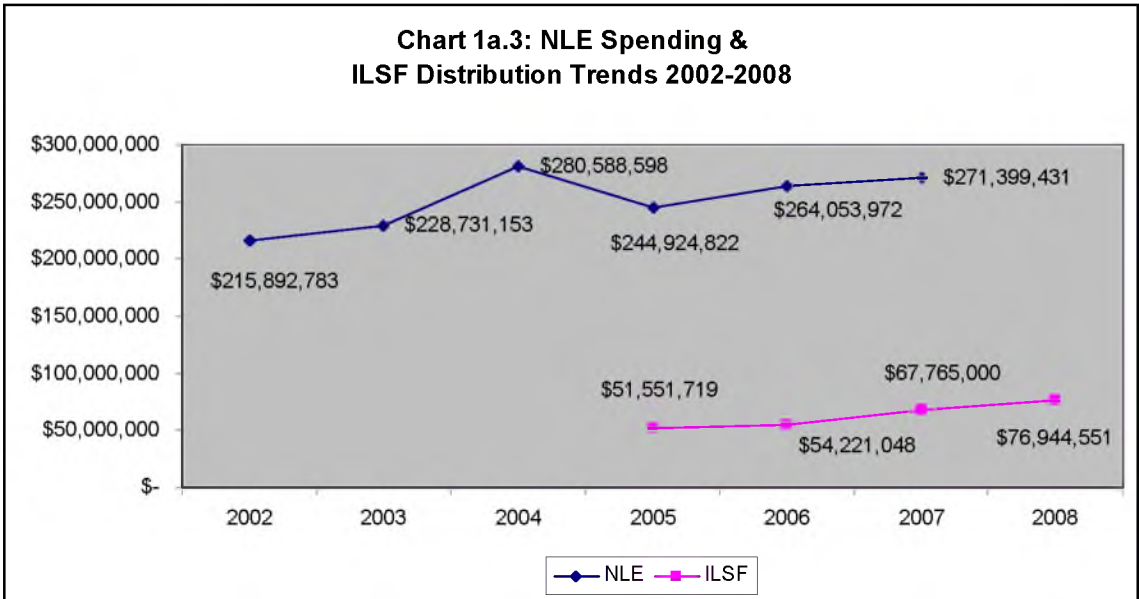
- 2005-2007 NLE increased approximately \$26 million (11%).
- 2005-2007 ILSF increased approximately \$16 million (31%).



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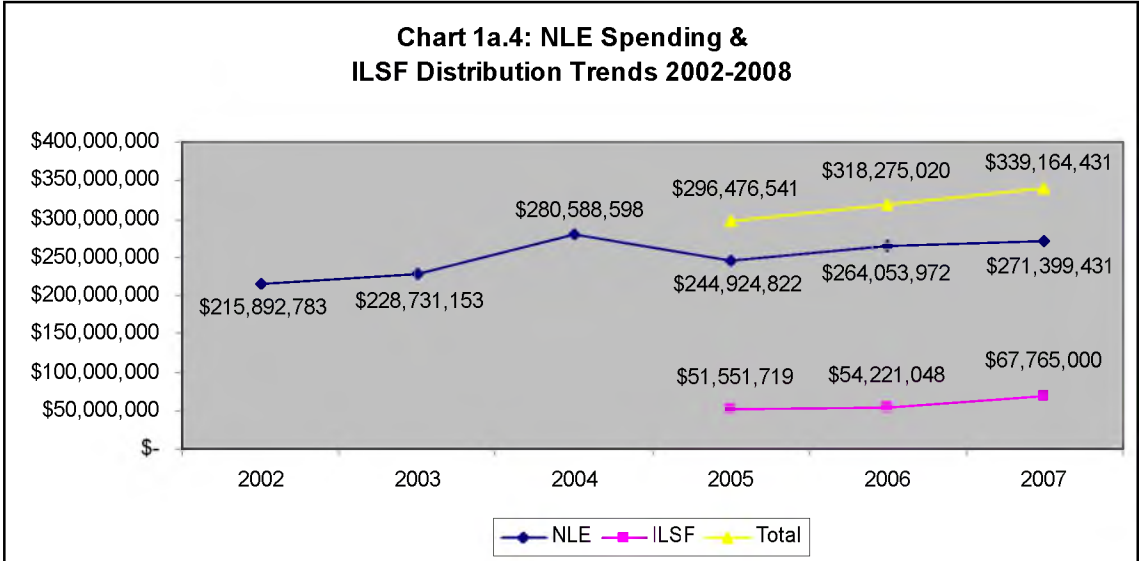
- 2003-2004 NLE increased 22.67% (largely due to increase in assigned counsel fees).
- 2006-2007 NLE increased 3.45%.
- 2006-2007 ILSF increased 24.98%



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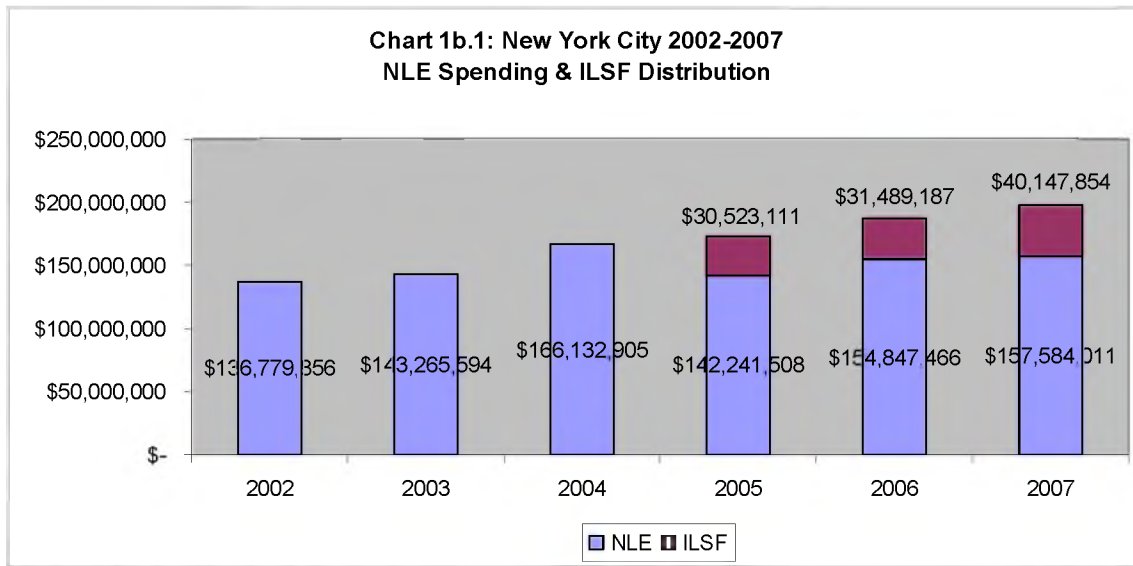
- 2002-2007 NLE increased 25.71% (\$215,892,783 to \$271,339,431).
- 2005-2007 NLE decreased 3.27% (\$280,588,598 to \$271,339,431).
- 2005-2008 ILSF increased 49.26% (\$51,551,719 to \$76,944,551).



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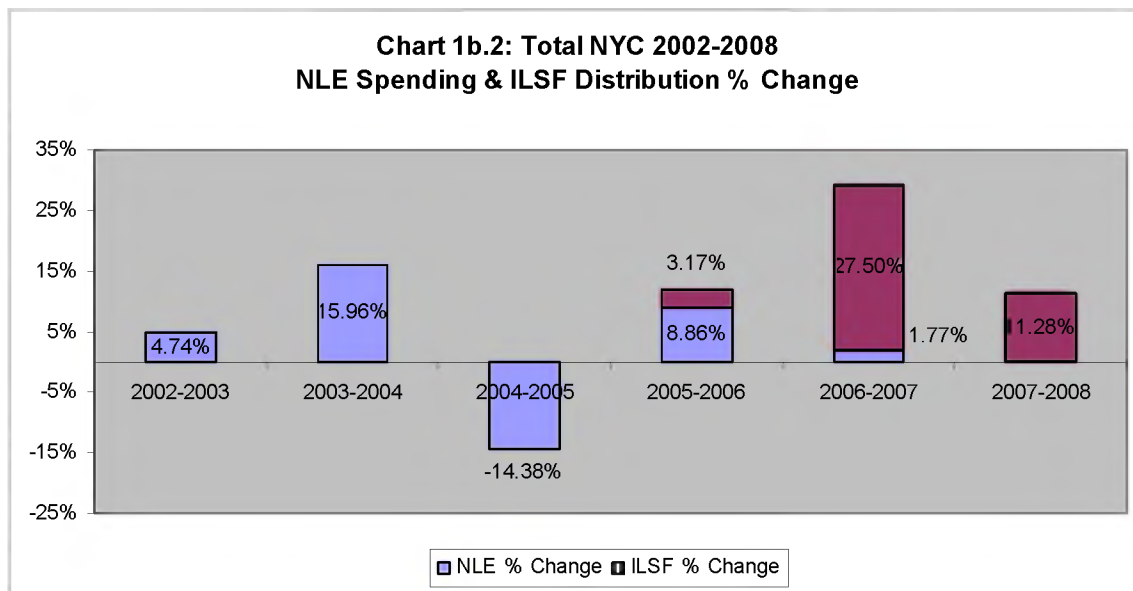
- 2005-2007 combined NLE spending and ISLF distribution increased 14.4% (\$296,476,541 to \$339,164,431).



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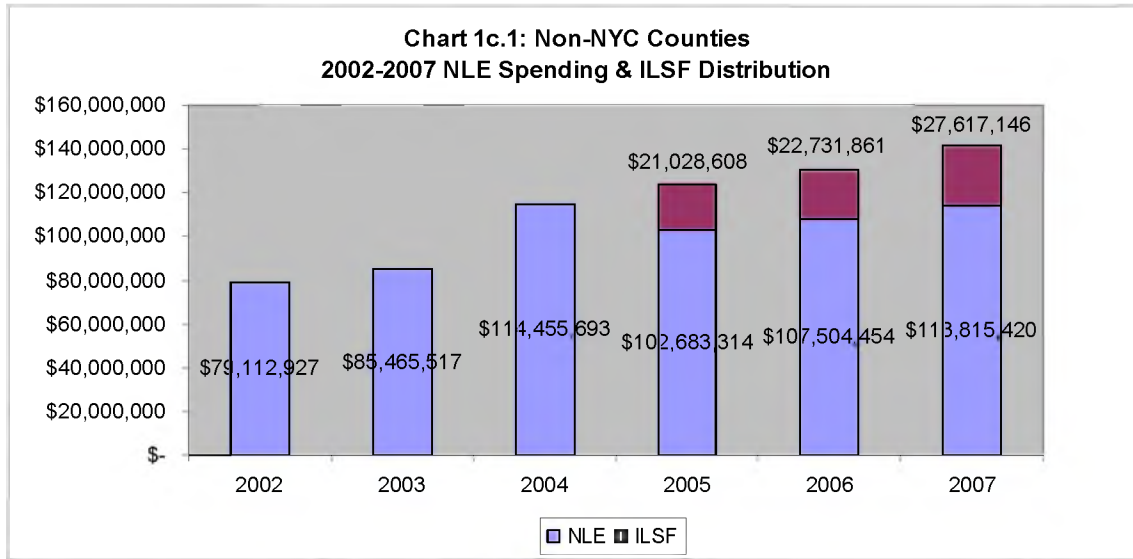
- 2005-2007 NYC NLE increased approximately \$15 million (11%).
- 2005-2007 NYC ILSF increased approximately \$10 million (32%).
- NYC accounts for approximately 58% of the total state NLE, therefore receives 58% of ILSF monies each year.



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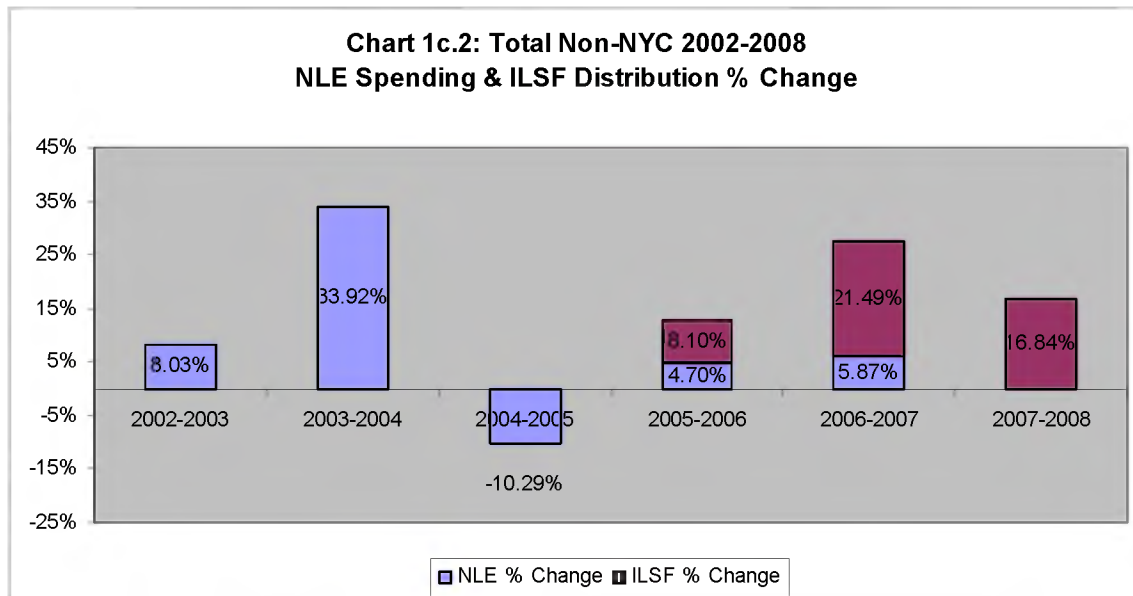
- 2006-2007 NYC NLE increased 1.77%.
- 2006-2007 NYC ILSF increased 27.5%.
- NYC need only make slight increases in NLE to receive larger percentage of ILSF because they account for such a large percentage of total state NLE.



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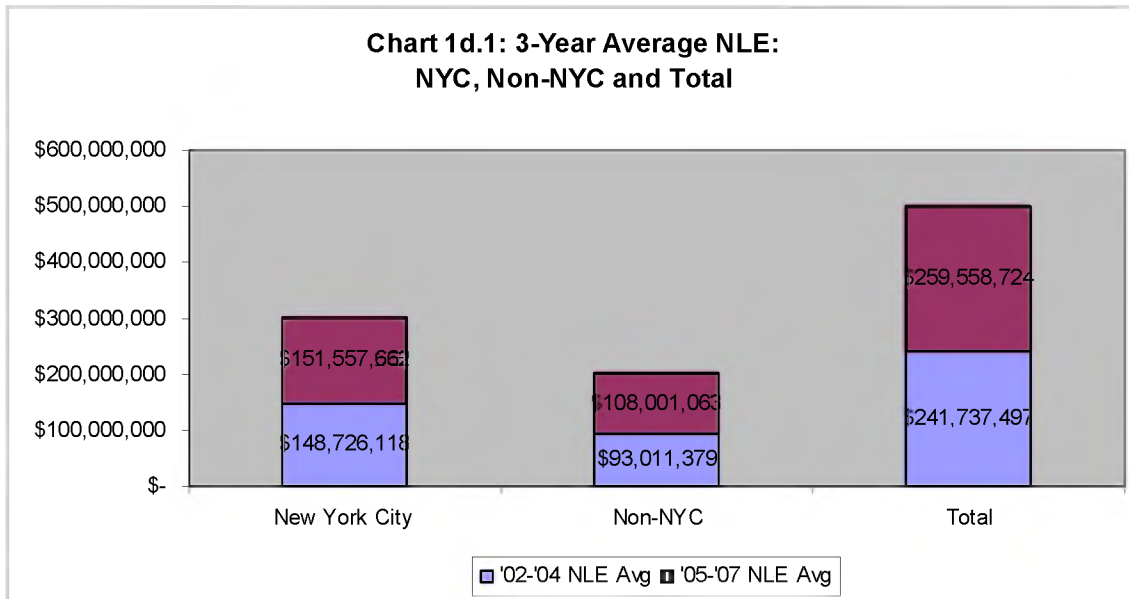
- 2005-2007 Non-NYC counties NLE increased approximately \$11 million (11%).
- 2005-2007 Non-NYC counties ILSF increased approximately \$7 million (31%).



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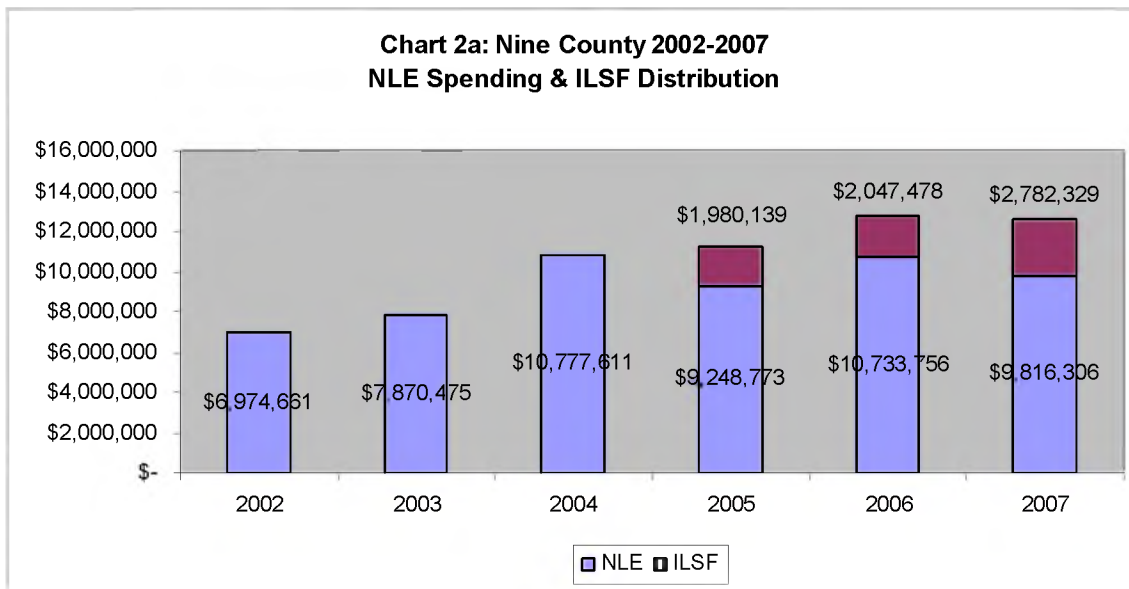
- 2006-2007 Non-NYC counties increased NLE by 5.87%.
- 2006-2007 Non-NYC counties increased ILSF by 21.49%.



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- Over the two separate 3 year periods, total state NLE increased 7%.
- Over the two separate 3 year periods, NYC average NLE increased 2%.
- Over the two separate 3 year periods, Non-NYC counties' average NLE increased 15%.
- Because NYC accounts for 58% of NLE, their small percentage increase brings down the overall state average increase in NLE.



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*Counties include: Albany, Allegany, Delaware, Fulton, Genesee, Herkimer, Rockland, Washington and Yates.

- For these nine counties, total NLE increased 41% from 2002-2007.
- For these nine counties, total ILSF increased 41% from 2005-2007.
- NLE has fluctuated between 2004 and 2007.

Table 2a: NLE Spending and ILSF Distribution
 Nine Counties **Not** Receiving 2008 ILSF Funds

COUNTY	2005 NLE Spending	2005 ILSF Distribution	2005 NLE Spend. ILSF Distr.	2006 NLE Spending	2006 ILSF Distribution	2006 NLE Spend. ILSF Distr.	2007 NLE Spending	2007 ILSF Distribution	2007 NLE Spend. ILSF Distr.
Albany	\$ 3,179,650	\$ 683,396	\$ 3,863,046	\$ 3,934,514	\$ 703,906	\$ 4,638,420	\$ 3,766,900	\$ 1,019,653	\$ 4,786,553
Allegany	\$ 531,303	\$ 84,019	\$ 615,322	\$ 539,666	\$ 117,619	\$ 657,285	\$ 486,882	\$ 139,959	\$ 626,841
Delaware	\$ 406,762	\$ 89,978	\$ 496,740	\$ 461,686	\$ 90,048	\$ 551,734	\$ 416,033	\$ 119,685	\$ 535,718
Fulton	\$ 314,240	\$ 59,488	\$ 373,728	\$ 537,854	\$ 69,566	\$ 607,420	\$ 470,688	\$ 139,261	\$ 609,949
Genesee	\$ 717,152	\$ 158,130	\$ 875,282	\$ 763,322	\$ 158,762	\$ 922,084	\$ 743,463	\$ 197,926	\$ 941,389
Herkimer	\$ 340,753	\$ 51,358	\$ 392,111	\$ 346,569	\$ 75,435	\$ 422,004	\$ 264,675	\$ 89,880	\$ 354,555
Rockland	\$ 3,164,031	\$ 723,385	\$ 3,887,416	\$ 3,461,292	\$ 700,448	\$ 4,161,740	\$ 3,054,647	\$ 897,405	\$ 3,952,052
Washington	\$ 379,668	\$ 80,518	\$ 460,186	\$ 456,415	\$ 84,050	\$ 540,465	\$ 401,782	\$ 118,294	\$ 520,076
Yates	\$ 215,214	\$ 49,865	\$ 265,079	\$ 232,438	\$ 47,644	\$ 280,082	\$ 211,237	\$ 60,266	\$ 271,503
Nine County Total	\$ 9,248,773	\$ 1,980,137	\$ 11,228,910	\$ 10,733,756	\$ 2,047,478	\$ 12,781,234	\$ 9,816,307	\$ 2,782,329	\$ 12,598,636
Total NYS NLE	\$ 244,924,822			\$ 264,053,972			\$ 271,399,431		
Total ILSF Distribution		\$ 51,551,719			\$ 54,221,048			\$ 67,765,000	
Total NLE & ILSF			\$ 296,476,541			\$ 318,275,020			\$ 339,164,431

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Table 2a.1: NLE Spending and ILSF Distribution- Change in Spending 2005-2007

COUNTY	2005-2007 \$ Change NLE & ILSF	2005-2007 % Change NLE & ILSF	2006-2007 \$ Change NLE & ILSF	2006-2007 % Change NLE & ILSF
Albany	\$ 923,507	23.91%	\$ 148,133	3.19%
Allegany	\$ 11,519	1.87%	\$ (30,444)	-4.63%
Delaware	\$ 38,978	7.85%	\$ (16,016)	-2.90%
Fulton	\$ 236,221	63.21%	\$ 2,529	0.42%
Genesee	\$ 66,107	7.55%	\$ 19,305	2.09%
Herkimer	\$ (37,556)	-9.58%	\$ (67,449)	-15.98%
Rockland	\$ 64,636	1.66%	\$ (209,688)	-5.04%
Washington	\$ 59,890	13.01%	\$ (20,389)	-3.77%
Yates	\$ 6,424	2.42%	\$ (8,579)	-3.06%
Nine County Total	\$ 1,369,726	12.20%	\$ (182,598)	-1.43%
Total NLE & ILSF	\$ 42,687,890	14.40%	\$ 20,889,411	6.56%

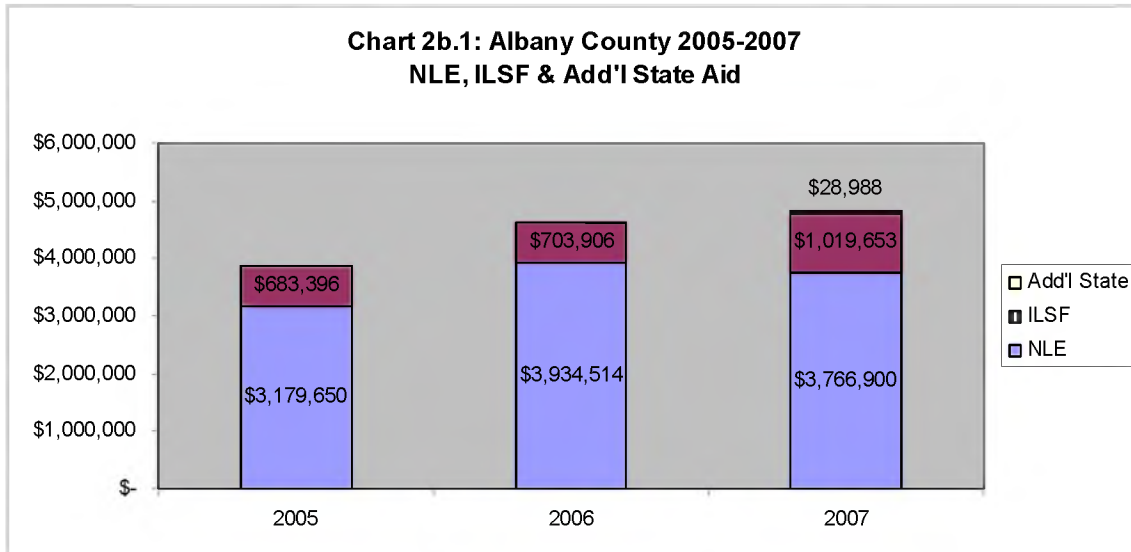
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Combined NLE & ILSF increased by 12.2% from 2005-2007.

Herkimer County was the only county to see a decrease in combined NLE & ILSF from 2005-2007.

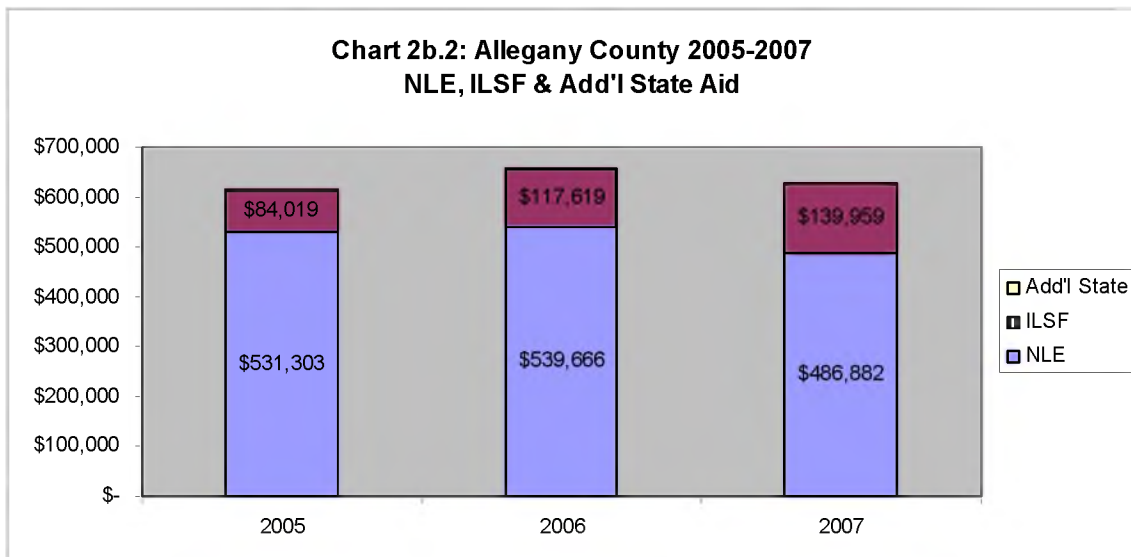
However, total combined NLE & ILSF decreased from 2006-2007 with only Albany, Fulton and Genesee counties experiencing increases.



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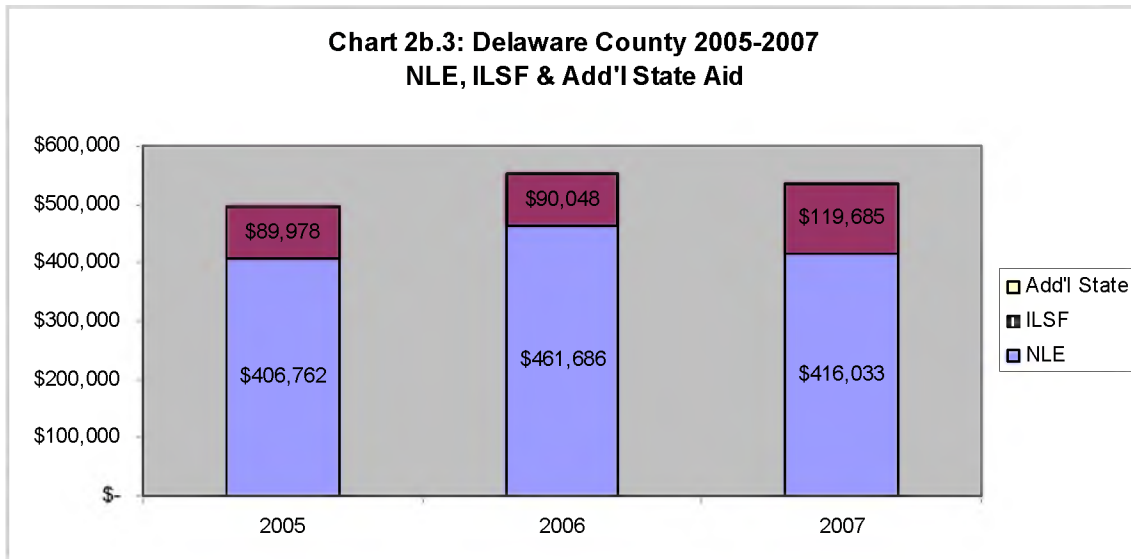
- Albany County NLE decreased by 4% from 2006-2007.
- Albany County ILSF increased by 45% from 2006-2007.
- Albany County NLE increased by 18% from 2005-2007.
- Albany County ILSF increased by 49% from 2005-2007.



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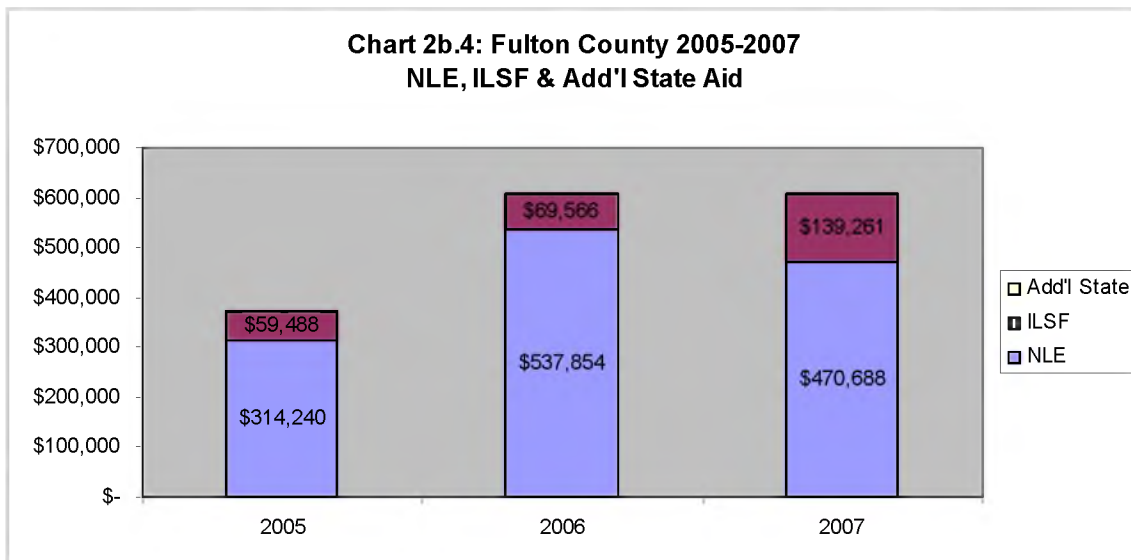
- Allegany County NLE decreased by 10% from 2006-2007.
- Allegany County ILSF increased by 19% from 2006-2007.
- Allegany County NLE decreased by 8% from 2005-2007.
- Allegany County ILSF increased by 67% from 2005-2007.



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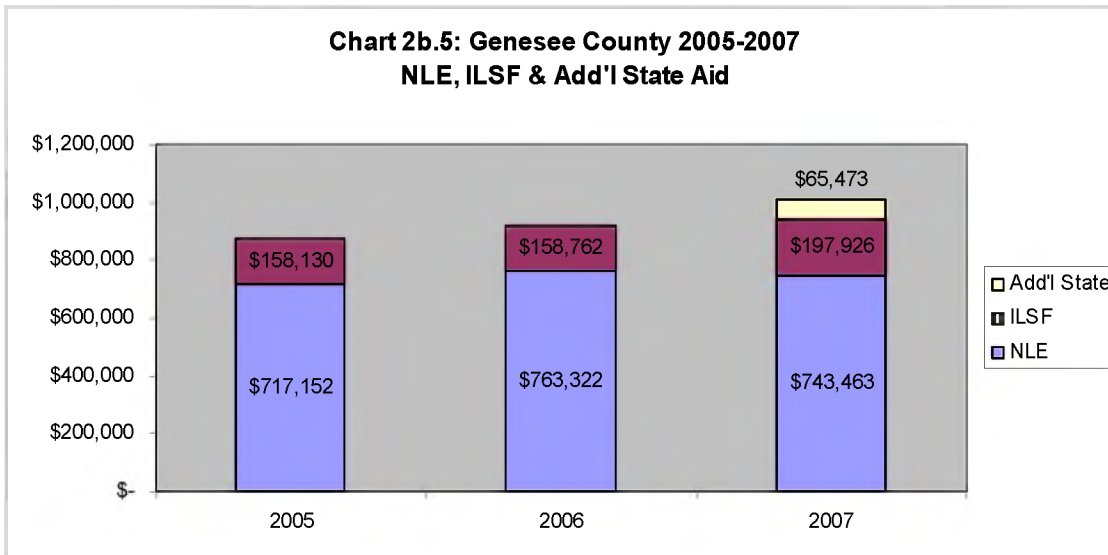
- Delaware County NLE decreased by 10% from 2006-2007.
- Delaware County ILSF increased by 33% from 2006-2007.
- Delaware County NLE increased by 2% from 2005-2007.
- Delaware County ILSF increased by 33% from 2005-2007.



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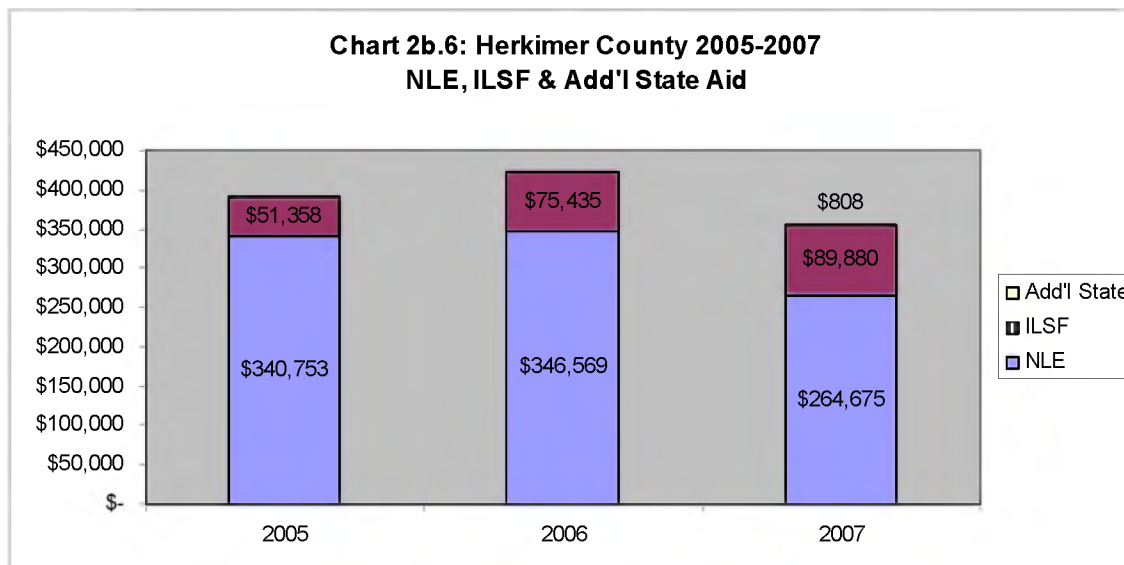
- Fulton County NLE decreased by 12% from 2006-2007.
- Fulton County ILSF increased by 100% from 2006-2007.
- Fulton County NLE increased by 50% from 2005-2007.
- Fulton County ILSF increased by 134% from 2005-2007.



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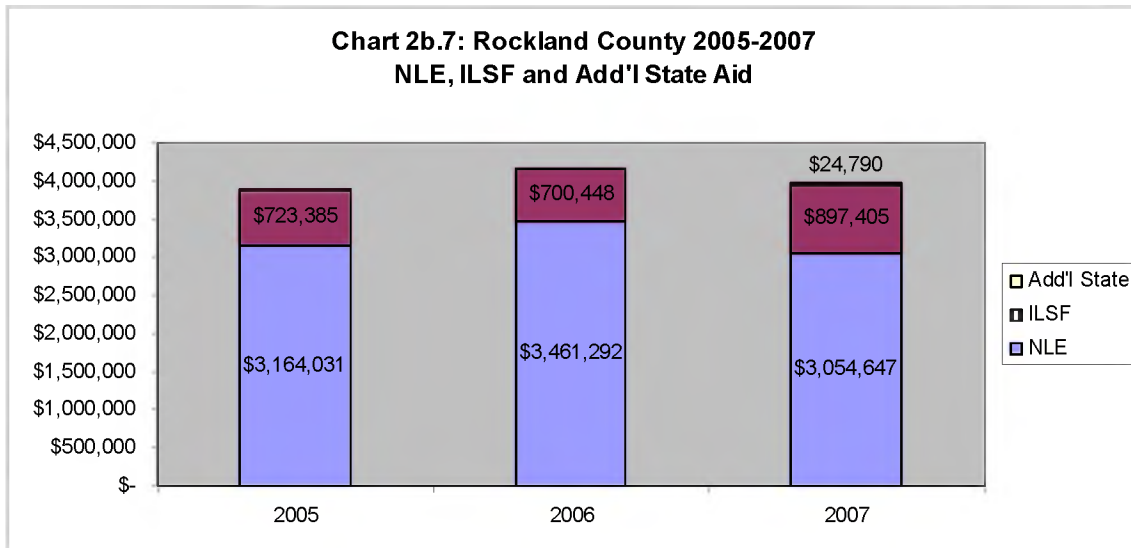
- Genesee County NLE decreased by 3% from 2006-2007.
- Genesee County ILSF increased by 25% from 2006-2007.
- Genesee County NLE increased by 4% from 2005-2007.
- Genesee County ILSF increased by 25% from 2005-2007.



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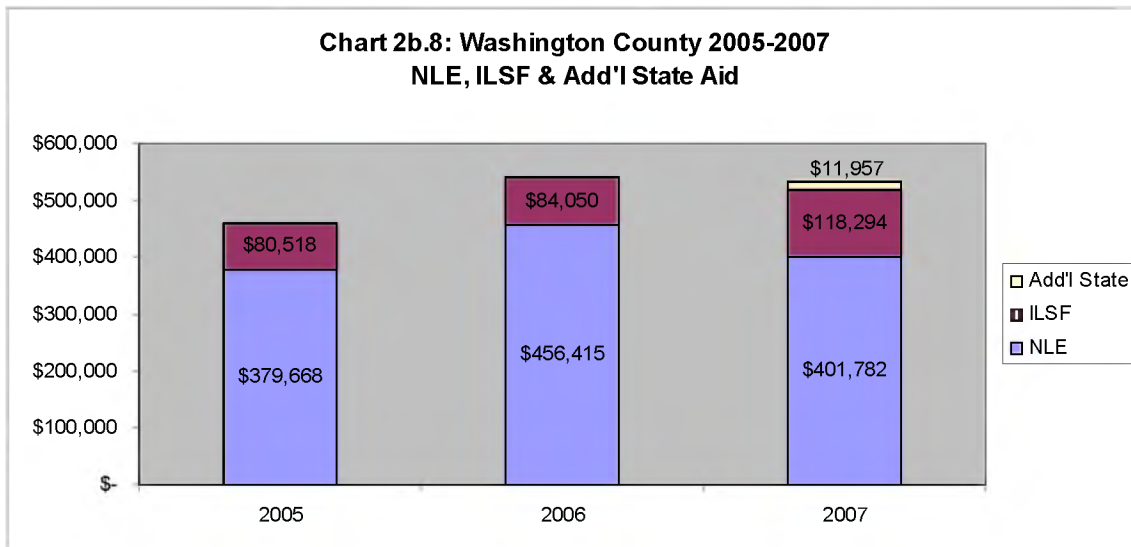
- Herkimer County NLE decreased by 24% from 2006-2007.
- Herkimer County ILSF increased by 19% from 2006-2007.
- Herkimer County NLE decreased by 22% from 2005-2007.
- Herkimer County ILSF increased by 75% from 2005-2007.



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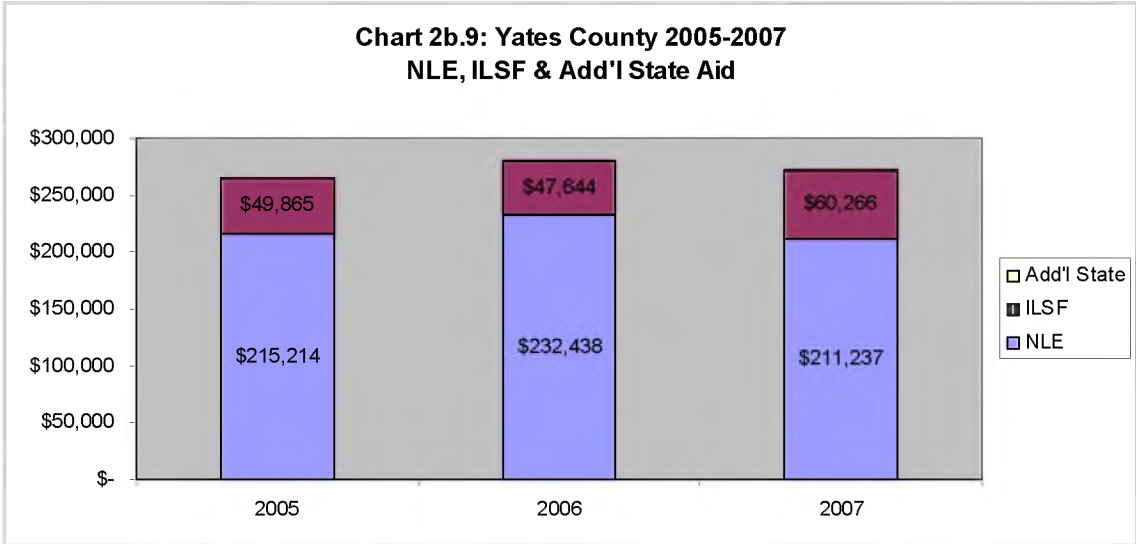
- Rockland County NLE decreased by 12% from 2006-2007.
- Rockland County ILSF increased by 28% from 2006-2007.
- Rockland County NLE decreased by 3% from 2005-2007.
- Rockland County ILSF increased by 24% from 2005-2007.



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- Washington County NLE decreased by 12% from 2006-2007.
- Washington County ILSF increased by 41% from 2006-2007.
- Washington County NLE increased by 6% from 2005-2007.
- Washington County ILSF increased by 47% from 2005-2007.



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- Yates County NLE decreased by 9% from 2006-2007.
- Yates County ILSF increased by 26% from 2006-2007.
- Yates County NLE decreased by 2% from 2005-2007.
- Yates County ILSF increased by 21% from 2005-2007.

Table 2b: 2006-2007 NLE Compared to 2007-2008 ILSF Distribution
 Nine Counties **Not** Receiving 2008 ILSF Funds

COUNTY	2006 NLE	2007 NLE	2007 NLE % of Total	2006-2007 NLE \$ change	2006-2007 NLE % Change	2007 ILSF Distribution	2008 ILSF Held in Reserve	2007-2008 ILSF \$ Change	2007-2008 ILSF % Change
Albany	\$ 3,934,514	\$ 3,766,900	1.39%	\$ (167,614)	-4.26%	\$ 1,019,653	\$ 1,067,955	\$ 48,302	4.74%
Allegany	\$ 539,666	\$ 486,882	0.18%	\$ (52,784)	-9.78%	\$ 139,959	\$ 138,036	\$ (1,923)	-1.37%
Delaware	\$ 461,686	\$ 416,033	0.15%	\$ (45,653)	-9.89%	\$ 119,685	\$ 117,950	\$ (1,735)	-1.45%
Fulton	\$ 537,854	\$ 470,688	0.17%	\$ (67,166)	-12.49%	\$ 139,261	\$ 133,445	\$ (5,816)	-4.18%
Genesee	\$ 763,322	\$ 743,463	0.27%	\$ (19,859)	-2.60%	\$ 197,926	\$ 210,779	\$ 12,853	6.49%
Herkimer	\$ 346,569	\$ 264,675	0.10%	\$ (81,894)	-23.63%	\$ 89,880	\$ 75,038	\$ (14,842)	-16.51%
Rockland	\$ 3,461,292	\$ 3,054,647	1.13%	\$ (406,645)	-11.75%	\$ 897,405	\$ 866,024	\$ (31,381)	-3.50%
Washington	\$ 456,415	\$ 401,782	0.15%	\$ (54,633)	-11.97%	\$ 118,294	\$ 113,909	\$ (4,385)	-3.71%
Yates	\$ 232,438	\$ 211,237	0.08%	\$ (21,201)	-9.12%	\$ 60,266	\$ 59,888	\$ (378)	-0.63%
Nine County Total	\$ 10,733,756	\$ 9,816,307	3.62%	\$ (917,449)	-8.55%	\$ 2,782,329	\$ 2,783,024	\$ 695	0.02%
Total NLE	\$ 264,053,972	\$ 271,399,431	100.00%	\$ 7,345,459	2.78%				
Total ILSF						\$ 67,765,000	\$ 76,944,551	\$ 9,179,551	13.55%

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- Nine counties comprise 3.62% of total state 2007 NLE.
- All nine counties experienced a decrease in NLE in 2007 compared to 2006 (23%)
- Only Albany and Genesee counties experienced an increase in 2008 ILSF compared to 2007 ILSF.

Table 3a: Increase in average NLE post-assigned counsel increase

COUNTY	2002-2004 AVG NLE	2005-2007 AVG NLE	AVG NLE \$ Change	AVG NLE % Change	2005-2007 3 YR DIFF
Albany	\$ 2,999,728	\$ 3,627,021	\$ 627,293	20.91%	\$ 587,250
Allegany	\$ 385,096	\$ 519,284	\$ 134,188	34.85%	\$ (44,421)
Delaware	\$ 319,839	\$ 428,160	\$ 108,321	33.87%	\$ 9,271
Fulton	\$ 267,145	\$ 440,927	\$ 173,782	65.05%	\$ 156,448
Genesee	\$ 683,471	\$ 741,312	\$ 57,842	8.46%	\$ 26,311
Herkimer	\$ 202,581	\$ 317,332	\$ 114,752	56.64%	\$ (76,078)
Rockland	\$ 3,148,979	\$ 3,226,657	\$ 77,678	2.47%	\$ (109,384)
Washington	\$ 325,649	\$ 412,621	\$ 86,972	26.71%	\$ 22,112
Yates	\$ 208,428	\$ 219,630	\$ 11,202	5.37%	\$ (3,977)
Nine County Total	\$ 8,540,916	\$ 9,932,945	\$ 1,392,029	16.30%	\$ 567,532

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In the 3 years post assigned counsel increase (2005-2007), average NLE increased 16.3% for these nine counties compared to NLE 2002-2004.

However, from 2005-2007, Allegany, Herkimer, Rockland and Yates counties experienced an overall decrease in NLE.

**Table 3b: Averaging Test
Nine Counties Not Receiving 2008 ILSF Funds**

COUNTY	2004 NLE	2005 NLE	2006 NLE	2007 NLE	2004-2006 3 yr Average	2007 NLE More than 04-'06 NLE Avg
Albany †	\$ 3,719,627	\$ 3,179,650	\$ 3,934,514	\$ 3,766,900	\$ 3,611,264	<i>\$155,636</i>
Allegany	\$ 457,306	\$ 531,303	\$ 539,666	\$ 486,882	\$ 509,425	-\$22,543
Delaware	\$ 489,737	\$ 406,762	\$ 461,686	\$ 416,033	\$ 452,728	-\$36,695
Fulton †	\$ 323,787	\$ 314,240	\$ 537,854	\$ 470,688	\$ 391,960	<i>\$78,728</i>
Genesee	\$ 860,681	\$ 717,152	\$ 763,322	\$ 743,463	\$ 780,385	-\$36,922
Herkimer	\$ 279,534	\$ 340,753	\$ 346,569	\$ 264,675	\$ 322,285	-\$57,610
Rockland	\$ 3,937,283	\$ 3,164,031	\$ 3,461,292	\$ 3,054,647	\$ 3,520,869	-\$466,222
Washington	\$ 438,249	\$ 379,668	\$ 456,415	\$ 401,782	\$ 424,777	-\$22,995
Yates	\$ 271,407	\$ 215,214	\$ 232,438	\$ 211,237	\$ 239,686	-\$28,449
Nine County Total	\$ 10,777,611	\$ 9,248,773	\$ 10,733,756	\$ 9,816,307	\$ 10,253,380	-\$437,073
Total NYS NLE	\$ 280,588,598	\$ 244,924,822	\$ 264,053,972	\$ 271,399,431	\$ 263,189,131	<i>\$8,210,300</i>
Total ILSF Distribution		\$ 51,551,719	\$ 54,221,048			

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† County would be cured with 3 year average

* Bold Italics indicates counties who would be cured with the averaging fix.

The proposed averaging test would only retrospectively cure two counties, Albany and Fulton.

**Table 3c: Loss of Partial ILSF
Nine Counties Currently Not Receiving 2008 ILSF Funds**

**This calculation assumes that counties *did not spend any* of their 2007 ILSF funds on improvement; therefore full amount subtracted.

COUNTY	2007 NLE	2007 % NLE	2007 ILSF Distribution	2007 NLE minus 2007 Distr.	2007 % NLE Recalc.	2008 ILSF Distribution Recalculated	2008 ILSF Held in Reserve	\$ Lost with NLE Recalculation	% ILSF Lost with NLE Recalc.
Albany †	\$ 3,766,900	1.39%	\$ 1,019,653	\$ 2,747,247	1.01%	\$ 778,873	\$ 1,067,955	\$ 289,082	-27.07%
Allegany	\$ 486,882	0.18%	\$ 139,959	\$ 346,923	0.13%	\$ 98,356	\$ 138,036	\$ 39,680	-28.75%
Delaware	\$ 416,033	0.15%	\$ 119,685	\$ 296,348	0.11%	\$ 84,018	\$ 117,950	\$ 33,932	-28.77%
Fulton †	\$ 470,688	0.17%	\$ 139,261	\$ 331,427	0.12%	\$ 93,963	\$ 133,445	\$ 39,482	-29.59%
Genesee	\$ 743,463	0.27%	\$ 197,926	\$ 545,537	0.20%	\$ 154,665	\$ 210,779	\$ 56,114	-26.62%
Herkimer	\$ 264,675	0.10%	\$ 89,880	\$ 174,795	0.06%	\$ 49,556	\$ 75,038	\$ 25,482	-33.96%
Rockland	\$ 3,054,647	1.13%	\$ 897,405	\$ 2,157,242	0.79%	\$ 611,600	\$ 866,024	\$ 254,424	-29.38%
Washington	\$ 401,782	0.15%	\$ 118,294	\$ 283,488	0.10%	\$ 80,372	\$ 113,909	\$ 33,537	-29.44%
Yates	\$ 211,237	0.08%	\$ 60,266	\$ 150,971	0.06%	\$ 42,802	\$ 59,888	\$ 17,086	-28.53%
Nine County Total	\$ 9,816,307	3.62%	\$ 2,782,329	\$ 7,033,978	2.59%	\$ 1,994,206	\$ 2,783,024	\$ 788,818	-28.34%
Total NYS NLE	\$ 271,399,431								
Total ILSF Distr. 3/31/08							\$ 76,944,551		

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† County would be cured with 3 year average.

"2007 NLE minus 2007 Distr." The difference between their 2007 NLE and the 2007 ILSF Distribution.

"2007 % NLE recalc." The recalculation of the % of total NLE based on the reduction of the county's NLE.

"2008 ILSF Distribution Recalculated" The recalculation of the ILSF based on the new NLE percentage.

"2008 ILSF Held in Reserve" The amount OSC states is being held for these counties if they meet MOE.

"\$ Lost with NLE Recalculation" The difference between amount held in reserve and amount that would be received based on recalculated NLE percentage.

If these nine counties couldn't justify their entire 2007 ILSF expenditures, they would lose \$788,818 with the *recalculation* of their 2007 NLE and 2008 ILSF.

Table 3d: Actual 2007 NLE Compared to Projected 2007 NLE Calculated with Inflation Rate

COUNTY	2005 NLE	2006 NLE	2007 NLE	2006-2007 NLE \$ Change	2006-2007 NLE % Change	Projected 2007 NLE 2006 mult by infl. 3.24%	2007 NLE less than 2006NLE * INFL †
Albany	\$ 3,179,650	\$ 3,934,514	\$ 3,766,900	\$ (167,614)	-4.26%	\$ 4,061,992	\$ (295,092)
Allegany	\$ 531,303	\$ 539,666	\$ 486,882	\$ (52,784)	-9.78%	\$ 557,151	\$ (70,269)
Broome *	\$ 2,752,434	\$ 3,440,224	\$ 3,442,208	\$ 1,984	0.06%	\$ 3,551,687	\$ (109,479)
Cattaraugus	\$ 997,490	\$ 1,073,229	\$ 1,133,310	\$ 60,081	5.60%	\$ 1,108,002	\$ 25,308
Cayuga	\$ 490,907	\$ 548,020	\$ 571,517	\$ 23,497	4.29%	\$ 565,776	\$ 5,741
Chautauqua	\$ 1,366,695	\$ 1,263,778	\$ 1,289,187	\$ 25,409	2.01%	\$ 1,304,724	\$ (15,537)
Chemung	\$ 1,173,902	\$ 1,416,588	\$ 1,458,018	\$ 41,430	2.92%	\$ 1,462,485	\$ (4,467)
Chenango	\$ 371,938	\$ 374,055	\$ 388,034	\$ 13,979	3.74%	\$ 386,174	\$ 1,860
Clinton *	\$ 1,209,868	\$ 1,188,869	\$ 1,190,696	\$ 1,827	0.15%	\$ 1,227,388	\$ (36,692)
Columbia	\$ 682,263	\$ 823,325	\$ 670,596	\$ (152,729)	-18.55%	\$ 850,001	\$ (179,405)
Cortland	\$ 661,110	\$ 662,337	\$ 831,837	\$ 169,500	25.59%	\$ 683,797	\$ 148,040
Delaware	\$ 406,762	\$ 461,686	\$ 416,033	\$ (45,653)	-9.89%	\$ 476,645	\$ (60,612)
Dutchess	\$ 3,300,092	\$ 3,872,947	\$ 3,928,101	\$ 55,154	1.42%	\$ 3,998,430	\$ (70,329)
Erie	\$ 6,884,832	\$ 7,813,825	\$ 7,831,959	\$ 18,134	0.23%	\$ 8,066,993	\$ (235,034)
Essex	\$ 462,794	\$ 477,194	\$ 501,680	\$ 24,486	5.13%	\$ 492,655	\$ 9,025
Franklin	\$ 380,192	\$ 323,175	\$ 485,849	\$ 162,674	50.34%	\$ 333,646	\$ 152,203
Fulton	\$ 314,240	\$ 537,854	\$ 470,688	\$ (67,166)	-12.49%	\$ 555,280	\$ (84,592)
Genesee	\$ 717,152	\$ 763,322	\$ 743,463	\$ (19,859)	-2.60%	\$ 788,054	\$ (44,591)
Greene	\$ 550,804	\$ 508,709	\$ 644,623	\$ 135,914	26.72%	\$ 525,191	\$ 119,432
Hamilton	\$ 81,501	\$ 67,825	\$ 88,963	\$ 21,138	31.17%	\$ 70,023	\$ 18,940
Herkimer	\$ 340,753	\$ 346,569	\$ 264,675	\$ (81,894)	-23.63%	\$ 357,798	\$ (93,123)
Jefferson	\$ 972,342	\$ 978,623	\$ 1,021,960	\$ 43,337	4.43%	\$ 1,010,330	\$ 11,630
Lewis	\$ 201,660	\$ 220,097	\$ 252,928	\$ 32,831	14.92%	\$ 227,228	\$ 25,700
Livingston	\$ 467,675	\$ 475,455	\$ 562,645	\$ 87,190	18.34%	\$ 490,860	\$ 71,785
Madison	\$ 457,232	\$ 504,665	\$ 517,393	\$ 12,728	2.52%	\$ 521,016	\$ (3,623)
Monroe	\$ 7,695,553	\$ 8,027,540	\$ 8,102,406	\$ 74,866	0.93%	\$ 8,287,632	\$ (185,226)
Montgomery	\$ 343,939	\$ 436,665	\$ 467,046	\$ 30,381	6.96%	\$ 450,813	\$ 16,233
Nassau	\$ 7,349,760	\$ 7,525,866	\$ 9,293,710	\$ 1,767,844	23.49%	\$ 7,769,704	\$ 1,524,006
Niagara	\$ 1,649,268	\$ 1,653,888	\$ 1,656,327	\$ 2,439	0.15%	\$ 1,707,474	\$ (51,147)
Oneida	\$ 2,613,961	\$ 2,384,467	\$ 2,606,924	\$ 222,457	9.33%	\$ 2,461,724	\$ 145,200
Onondaga	\$ 4,987,501	\$ 5,012,930	\$ 5,028,250	\$ 15,320	0.31%	\$ 5,175,349	\$ (147,099)
Ontario	\$ 1,437,104	\$ 1,292,336	\$ 1,422,889	\$ 130,553	10.10%	\$ 1,334,208	\$ 88,681
Orange	\$ 3,852,582	\$ 2,718,377	\$ 3,682,369	\$ 963,992	35.46%	\$ 2,806,452	\$ 875,917
Orleans	\$ 433,259	\$ 457,133	\$ 496,630	\$ 39,497	8.64%	\$ 471,944	\$ 24,686
Oswego *	\$ 929,783	\$ 1,054,130	\$ 1,055,354	\$ 1,224	0.12%	\$ 1,088,284	\$ (32,930)
Otsego	\$ 713,943	\$ 903,464	\$ 916,249	\$ 12,785	1.42%	\$ 932,736	\$ (16,487)
Putnam *	\$ 612,390	\$ 698,105	\$ 698,311	\$ 206	0.03%	\$ 720,724	\$ (22,413)
Rensselaer	\$ 1,295,022	\$ 1,310,104	\$ 1,365,104	\$ 55,000	4.20%	\$ 1,352,551	\$ 12,553
Rockland	\$ 3,164,031	\$ 3,461,292	\$ 3,054,647	\$ (406,645)	-11.75%	\$ 3,573,438	\$ (518,791)
St. Lawrence	\$ 1,319,520	\$ 1,365,164	\$ 1,403,325	\$ 38,161	2.80%	\$ 1,409,395	\$ (6,070)
Saratoga	\$ 877,792	\$ 1,010,021	\$ 1,061,733	\$ 51,712	5.12%	\$ 1,042,746	\$ 18,987
Schenectady	\$ 2,365,079	\$ 2,540,417	\$ 2,567,618	\$ 27,201	1.07%	\$ 2,622,727	\$ (55,109)
Schoharie	\$ 352,914	\$ 256,333	\$ 364,542	\$ 108,209	42.21%	\$ 264,638	\$ 99,904
Schuyler	\$ 249,790	\$ 234,669	\$ 238,094	\$ 3,425	1.46%	\$ 242,272	\$ (4,178)
Seneca	\$ 331,563	\$ 310,490	\$ 368,980	\$ 58,490	18.84%	\$ 320,550	\$ 48,430
Steuben	\$ 1,032,860	\$ 1,037,514	\$ 1,047,626	\$ 10,112	0.97%	\$ 1,071,129	\$ (23,503)
Suffolk	\$ 9,356,065	\$ 9,625,445	\$ 10,483,032	\$ 857,587	8.91%	\$ 9,937,309	\$ 545,723
Sullivan	\$ 1,334,312	\$ 1,344,845	\$ 1,348,555	\$ 3,710	0.28%	\$ 1,388,418	\$ (39,863)
Tioga *	\$ 316,532	\$ 345,939	\$ 346,920	\$ 981	0.28%	\$ 357,147	\$ (10,227)
Tompkins	\$ 1,282,883	\$ 1,455,548	\$ 1,462,929	\$ 7,381	0.51%	\$ 1,502,708	\$ (39,779)
Ulster	\$ 1,837,947	\$ 2,043,984	\$ 1,968,069	\$ (75,915)	-3.71%	\$ 2,110,209	\$ (142,140)
Warren	\$ 760,375	\$ 769,640	\$ 773,511	\$ 3,871	0.50%	\$ 794,576	\$ (21,065)
Washington	\$ 379,668	\$ 456,415	\$ 401,782	\$ (54,633)	-11.97%	\$ 471,203	\$ (69,421)
Wayne	\$ 1,178,978	\$ 1,135,229	\$ 1,396,095	\$ 260,866	22.98%	\$ 1,172,010	\$ 224,085
Westchester	\$ 13,214,260	\$ 15,244,940	\$ 15,308,839	\$ 63,899	0.42%	\$ 15,738,876	\$ (430,037)
Wyoming	\$ 243,875	\$ 244,627	\$ 256,173	\$ 11,546	4.72%	\$ 252,553	\$ 3,620
Yates	\$ 215,214	\$ 232,438	\$ 211,236	\$ (21,202)	-9.12%	\$ 239,969	\$ (28,733)
New York City	\$ 142,241,508	\$ 154,847,466	\$ 157,584,011	\$ 2,736,545	1.77%	\$ 159,864,524	\$ (2,280,513)
Non-NYC Total	\$ 102,683,314	\$ 109,206,506	\$ 113,815,420				
Total	\$ 244,924,822	\$ 264,053,972	\$ 271,399,431				

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† Numbers in parentheses indicate that actual 2007 NLE **failed** to meet 3.24% inflation rate.

Colored rows represent counties that provide public defender services solely through an assigned counsel program. Because assigned counsel fees are set by statute, they do not rise with inflation.

* Counties whose 2007 NLE exceeded their 2006 NLE by less than \$2,000.

Note: Inflation data from www.inflationdata.com

Table 3e: Averaging Test using Projected 2008 NLE based on 3% Inflation Increase over 2007 NLE

County	NLE 2005	NLE 2006	NLE 2007	3.0% infl rate Hypo 2008 NLE 07NLE*INFL	2005-2007 Avg NLE	Avg Test Hypo 2008 minus avg 05-'07 NLE
Albany	\$ 3,179,650	\$ 3,934,514	\$ 3,766,900	\$ 3,879,907	\$ 3,627,021	\$ 252,886
Allegany	\$ 531,303	\$ 539,666	\$ 486,882	\$ 501,488	\$ 519,284	\$ (17,975)
Broome	\$ 2,752,434	\$ 3,440,224	\$ 3,442,208	\$ 3,545,474	\$ 3,211,622	\$ 333,852
Cattaraugus	\$ 997,490	\$ 1,073,229	\$ 1,133,310	\$ 1,167,309	\$ 1,068,010	\$ 99,300
Cayuga	\$ 490,907	\$ 548,020	\$ 571,517	\$ 588,663	\$ 536,815	\$ 51,848
Chautauqua	\$ 1,366,695	\$ 1,263,778	\$ 1,289,187	\$ 1,327,863	\$ 1,306,553	\$ 21,309
Chemung	\$ 1,173,902	\$ 1,416,588	\$ 1,458,018	\$ 1,501,759	\$ 1,349,503	\$ 152,256
Chenango	\$ 371,938	\$ 374,055	\$ 388,034	\$ 399,675	\$ 378,009	\$ 21,666
Clinton	\$ 1,209,868	\$ 1,188,869	\$ 1,190,696	\$ 1,226,417	\$ 1,196,478	\$ 29,939
Columbia	\$ 682,263	\$ 823,325	\$ 670,596	\$ 690,714	\$ 725,395	\$ (34,681)
Cortland	\$ 661,110	\$ 662,337	\$ 831,837	\$ 856,792	\$ 718,428	\$ 138,364
Delaware	\$ 406,762	\$ 461,686	\$ 416,033	\$ 428,514	\$ 428,160	\$ 354
Dutchess	\$ 3,300,092	\$ 3,872,947	\$ 3,928,101	\$ 4,045,944	\$ 3,700,380	\$ 345,564
Erie	\$ 6,884,832	\$ 7,813,825	\$ 7,831,959	\$ 8,066,918	\$ 7,510,205	\$ 556,712
Essex	\$ 462,794	\$ 477,194	\$ 501,680	\$ 516,730	\$ 480,556	\$ 36,174
Franklin	\$ 380,192	\$ 323,175	\$ 485,849	\$ 500,424	\$ 396,405	\$ 104,019
Fulton	\$ 314,240	\$ 537,854	\$ 470,688	\$ 484,809	\$ 440,927	\$ 43,881
Genesee	\$ 717,152	\$ 763,322	\$ 743,463	\$ 765,767	\$ 741,312	\$ 24,455
Greene	\$ 550,804	\$ 508,709	\$ 644,623	\$ 663,962	\$ 568,045	\$ 95,916
Hamilton	\$ 81,501	\$ 67,825	\$ 88,963	\$ 91,632	\$ 79,430	\$ 12,202
Herkimer	\$ 340,753	\$ 346,569	\$ 264,675	\$ 272,615	\$ 317,332	\$ (44,717)
Jefferson	\$ 972,342	\$ 978,623	\$ 1,021,960	\$ 1,052,619	\$ 990,975	\$ 61,644
Lewis	\$ 201,660	\$ 220,097	\$ 252,928	\$ 260,516	\$ 224,895	\$ 35,621
Livingston	\$ 467,675	\$ 475,455	\$ 562,645	\$ 579,524	\$ 501,925	\$ 77,599
Madison	\$ 457,232	\$ 504,665	\$ 517,393	\$ 532,915	\$ 493,097	\$ 39,818
Monroe	\$ 7,695,553	\$ 8,027,540	\$ 8,102,406	\$ 8,345,478	\$ 7,941,833	\$ 403,645
Montgomery	\$ 343,939	\$ 436,665	\$ 467,046	\$ 481,057	\$ 415,883	\$ 65,174
Nassau	\$ 7,349,760	\$ 7,525,866	\$ 9,293,710	\$ 9,572,521	\$ 8,056,445	\$ 1,516,076
Niagara	\$ 1,649,268	\$ 1,653,888	\$ 1,656,327	\$ 1,706,017	\$ 1,653,161	\$ 52,856
Oneida	\$ 2,613,961	\$ 2,384,467	\$ 2,606,924	\$ 2,685,132	\$ 2,535,117	\$ 150,014
Onondaga	\$ 4,987,501	\$ 5,012,930	\$ 5,028,250	\$ 5,179,098	\$ 5,009,560	\$ 169,537
Ontario	\$ 1,437,104	\$ 1,292,336	\$ 1,422,889	\$ 1,465,576	\$ 1,384,110	\$ 81,466
Orange	\$ 3,852,582	\$ 2,718,377	\$ 3,682,369	\$ 3,792,840	\$ 3,417,776	\$ 375,064
Orleans	\$ 433,259	\$ 457,133	\$ 496,630	\$ 511,529	\$ 462,341	\$ 49,188
Oswego	\$ 929,783	\$ 1,054,130	\$ 1,055,354	\$ 1,087,015	\$ 1,013,089	\$ 73,926
Otsego	\$ 713,943	\$ 903,464	\$ 916,249	\$ 943,736	\$ 844,552	\$ 99,184
Putnam	\$ 612,390	\$ 698,105	\$ 698,311	\$ 719,260	\$ 669,602	\$ 49,658
Rensselaer	\$ 1,295,022	\$ 1,310,104	\$ 1,365,104	\$ 1,406,057	\$ 1,323,410	\$ 82,647
Rockland	\$ 3,164,031	\$ 3,461,292	\$ 3,054,647	\$ 3,146,286	\$ 3,226,657	\$ (80,370)
St. Lawrence	\$ 1,319,520	\$ 1,365,164	\$ 1,403,325	\$ 1,445,425	\$ 1,362,670	\$ 82,755
Saratoga	\$ 877,792	\$ 1,010,021	\$ 1,061,733	\$ 1,093,585	\$ 983,182	\$ 110,403
Schenectady	\$ 2,365,079	\$ 2,540,417	\$ 2,567,618	\$ 2,644,647	\$ 2,491,038	\$ 153,609
Schoharie	\$ 352,914	\$ 256,333	\$ 364,542	\$ 375,478	\$ 324,596	\$ 50,882
Schuyler	\$ 249,790	\$ 234,669	\$ 238,094	\$ 245,237	\$ 240,851	\$ 4,386
Seneca	\$ 331,563	\$ 310,490	\$ 368,980	\$ 380,049	\$ 337,011	\$ 43,038
Steuben	\$ 1,032,860	\$ 1,037,514	\$ 1,047,626	\$ 1,079,055	\$ 1,039,333	\$ 39,721
Suffolk	\$ 9,356,065	\$ 9,625,445	\$ 10,483,032	\$ 10,797,523	\$ 9,821,514	\$ 976,009
Sullivan	\$ 1,334,312	\$ 1,344,845	\$ 1,348,555	\$ 1,389,012	\$ 1,342,571	\$ 46,441
Tioga	\$ 316,532	\$ 345,939	\$ 346,920	\$ 357,328	\$ 336,464	\$ 20,864
Tompkins	\$ 1,282,883	\$ 1,455,548	\$ 1,462,929	\$ 1,506,817	\$ 1,400,453	\$ 106,364
Ulster	\$ 1,837,947	\$ 2,043,984	\$ 1,968,069	\$ 2,027,111	\$ 1,950,000	\$ 77,111
Warren	\$ 760,375	\$ 769,640	\$ 773,511	\$ 796,716	\$ 767,842	\$ 28,874
Washington	\$ 379,668	\$ 456,415	\$ 401,782	\$ 413,835	\$ 412,622	\$ 1,214
Wayne	\$ 1,178,978	\$ 1,135,229	\$ 1,396,095	\$ 1,437,978	\$ 1,236,767	\$ 201,211
Westchester	\$ 13,214,260	\$ 15,244,940	\$ 15,308,839	\$ 15,768,104	\$ 14,589,346	\$ 1,178,758
Wyoming	\$ 243,875	\$ 244,627	\$ 256,173	\$ 263,858	\$ 248,225	\$ 15,633
Yates	\$ 215,214	\$ 232,438	\$ 211,236	\$ 217,573	\$ 219,629	\$ (2,056)
New York City	\$ 142,241,508	\$ 154,847,466	\$ 157,584,011	\$ 162,311,531	\$ 151,557,662	\$ 10,753,870
Non-NYC Total	\$ 102,683,314	\$ 109,206,506	\$ 113,815,420			
Total	\$ 244,924,822	\$ 264,053,972	\$ 271,399,431			

New York State Defenders Association

4/25/2008

* Numbers in parentheses indicate that Projected 2008 NLE failed to exceed average 2005-2007 NLE.

** Uses a hypothetical 3% inflation rate for 2008.

