



## POLICY BRIEF

### Hold Harmless Education Finance Policies in the U.S.: A Survey

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*In producing the only 50-state survey of “hold harmless” school funding, Michelle Atherton and Meghan Rubado have confirmed that Pennsylvania is an outlier in the degree to which it relies on the practice of providing school districts with the same funding as in the previous year even if their student population has declined. In fact, Pennsylvania was the only state Michelle and Meghan could find that guarantees losing districts a share of any new funding that becomes available, a practice sometimes called “hold harmless plus.” As a result, per-student funding in districts with shrinking enrollments goes up even as the per-student funding of districts with growing enrollments declines. The authors have simultaneously catalogued states that our Basic Education Funding Commission may want to examine more closely for ways to mitigate or phase out hold harmless funding in the future, a goal that was espoused by a number of commission members at our symposium on this topic October 3 in Green Tree. Given the large unfunded pension liabilities and property tax pressures all districts face, there are policy as well as political reasons for not taking funds from districts that have benefitted from hold harmless. But as noted in a CORP Commentary last spring, hold harmless funding and the \$29 billion unfunded liability of the school pension system are the two large political costs of Pennsylvania school finance, and both must be forthrightly addressed if a fairer state formula is to be fully effective.*

One constant in the debate surrounding public education funding in Pennsylvania is discussion about the importance and relevance of the “hold harmless” provision in funding our 500 school districts. Act 31 of 1983 marked the end of the state’s 50% reimbursement guarantee, the arrival of the Equalized Subsidy for Basic Education (ESBE), in place for 10 years, and the adoption of the state’s first hold harmless provision. Under this provision, no district could receive less than it received the year before—it remains in place today. This also means that wealthy and shrinking districts are still guaranteed an increase in years when new funds are available.<sup>1</sup> The result? The inefficient allocation of scarce resources to districts that are shrinking in population or increasing in wealth, and the simultaneous denial of funds to growing and/or needier districts.

Keeping hold harmless funding in place appears to have been politically easier than shifting funds from shrinking to growing districts or raising taxes to help growing districts, thereby making funding more equitable. Although up-to-date student counts have been used to drive relatively small annual increments of new funds, 53% of the basic education subsidy for 2013-14 can be traced to FY 1990-91 data according to Penn State Education Professor William Hartman.

To inform the discussion surrounding what the Commonwealth might do about hold harmless funding, we gathered information about how the other 49 states handle aid guarantees to public school districts. Pennsylvania, we find, is a case unto itself. While 11 other states provide a hold harmless guarantee to school districts, no other state in the nation also guarantees districts with declining enrollment a share of new education revenues as is the practice in the Commonwealth. In other words, whatever new money is put into the basic education subsidy, even if a district is losing student population, that district is guaranteed a portion of those new dollars. One might call this “hold harmless plus.” Below, we provide a detailed summary of our survey methodology and results. In general, we find that hold harmless policies are most common in the Northeast and in states where the state share of public education revenues is relatively low.

#### Definition

Hold harmless provisions in state aid formulae are meant to restrict declines in revenues for school districts, and they may take a number of forms, including limits on the changes in state aid from year to year, supplemental funding for districts with declining enrollment, alternatives for calculating the state aid amount, or use of past enrollments in grant calculations (Toutkoushian & Michael 2008). For

1. By 1993, ESBE was abandoned and no district received an increase or cut based on actual student counts. Some growing districts did receive supplements, however.

the purposes of our study, we use a more limited definition of “hold harmless” that includes only those provisions that guarantee school districts basic education aid nearly equal to (95 percent or more), equal to, or greater than the absolute amount provided in the previous year or some earlier year. (See the definition of terms in the Appendix.) Provisions intended to mitigate funding losses in other ways, for example, by allowing districts with declining enrollment to use past year student counts, are classified as having “declining enrollment provisions” rather than hold harmless provisions.

### Results

Using a variety of online state documents, news stories, and conversations with staff at state departments of education, the 50 states break down into the following categories: neither hold harmless nor declining enrollment provision (no provision), declining enrollment provision, and hold harmless.

#### No Provision

Sixteen of the 50 states have no provision for hold harmless or declining enrollment. (See the map below.)

These are:

AZ, AR, DE, GA, HI, IA, IN, ME, MI, MN, MO, NM, SC, VA, WA, and WV

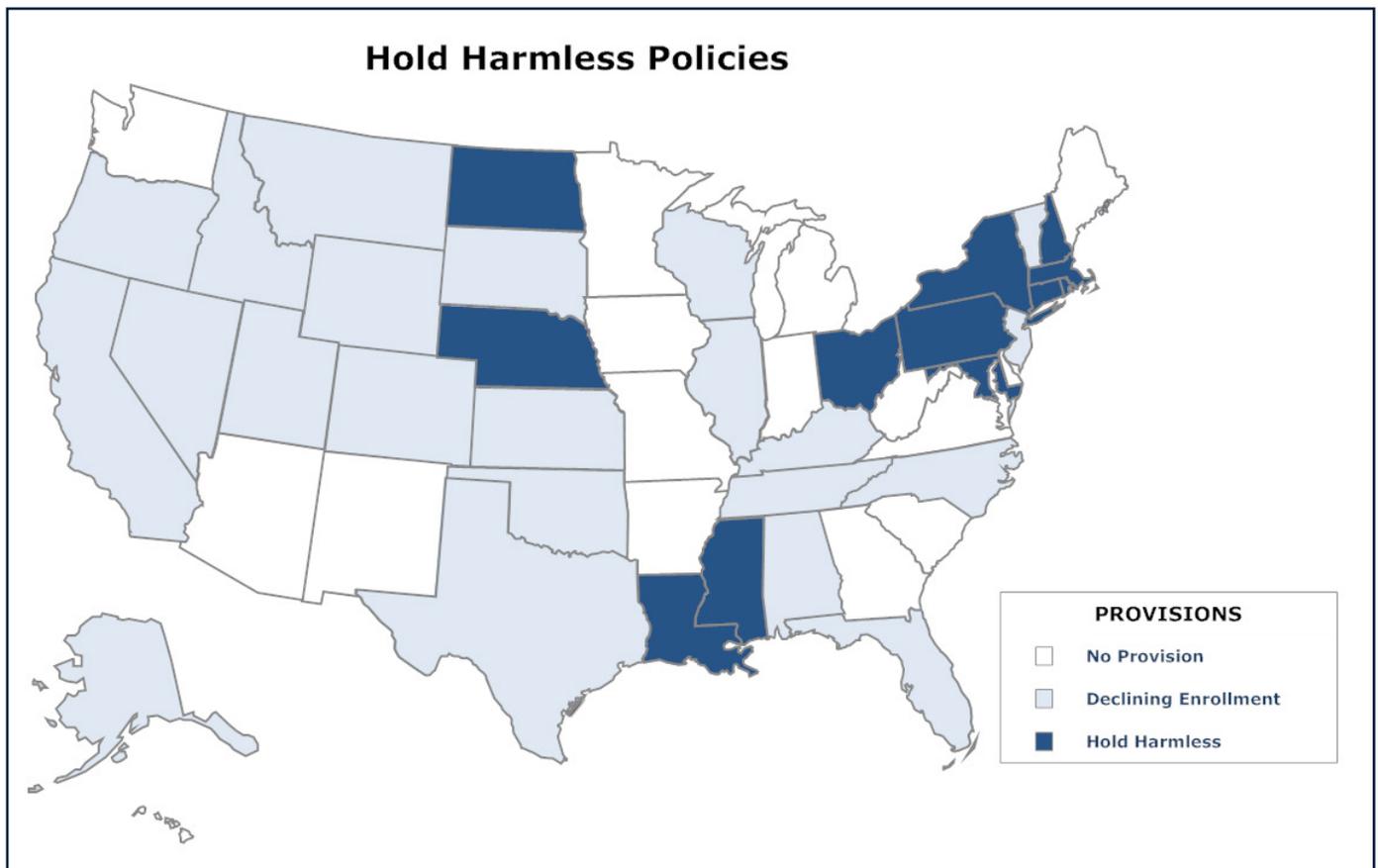
Generally, these states have funding formulae that use current or immediate past year enrollment counts to determine state aid and have no mechanism for mitigating funding losses for districts with declining enrollment. Here are some state examples:

**Michigan:** Recently, the state moved from using a mix of previous year, current year, and next year enrollment counts to using exclusively current and next year counts to determine state aid. This has made the financial effects of declining enrollment more immediately felt by shrinking districts.

**Hawaii:** Unlike the other states in this category, Hawaii has just one statewide school district where each student is given a funding package that then follows the student to whatever school he or she attends.

#### Declining Enrollment Provisions

Nearly half of states, 22 out of 50, have some kind of declining enrollment provision, easing the lower level of



state funding from one year to the next due to a drop in number of students. They are:

AK, AL, CA, CO, FL, ID, IL, KS, KY, MT, NC, NJ, NV, OK, OR, SD, TN, TX, UT, VT, WI, and WY

As one might guess, the states deal with declining enrollment in differing ways. Some examples follow.

**Alaska:** The state transitions districts over three years in steps, from 75%, to 50% to 25% of funding for the differing amount below the base year, so long as the number of students stays below the base year.

**Colorado:** For a district with fluctuating enrollment, funding is based on the average of up to three prior years' October pupil counts and the current year's October pupil count, therefore cushioning the impact of declining state funds over several years.

**Florida:** The declining enrollment supplement is determined by comparing the unweighted enrollment figure for the current year to the unweighted enrollment of the prior year. In those districts where there is a decline in unweighted enrollment, 25% of the decline is multiplied by the prior-year base funding per unweighted enrollment. This amount is the declining enrollment supplement for the district, essentially removing 25% of the impact from the decline in state revenues due to declining enrollment.

**Idaho:** In a given school year, if a district loses greater than 3% of their prior year's Average Daily Attendance (ADA), they are funded on the previous year's ADA minus 3%, effectively capping losses at 3%. They could lose more money if overall state funding for education declines, too.

**Nevada:** Schools with a declining enrollment may use either of the previous two years' Average Daily Membership (ADM), whichever is greater. Districts with a declining enrollment of less than 5% get one hold harmless year, but districts with a decline of 5% or more get two years to adjust to changes in funding.

### Hold Harmless Provisions

Just 12 states have some kind of hold harmless provision based on a guarantee of level funding from year to year without consideration for enrollment. Of these, three states are undergoing phase-outs of the practice.

**Active hold harmless:** CT, MA, MD, NE, NH, ND, NY, OH, PA

**Hold harmless phase-outs:** LA, MS, RI

**Louisiana:** After making adjustments to the Minimum Foundation Program in FY2000-2001, the state held harmless districts that were found to be "overfunded" based on the adjusted formula. The state began phasing out hold harmless funding in FY2007-08. Beginning in FY 2007-08, the hold harmless districts' additional funding is reduced by 1/10th each year until the hold harmless districts no longer receive additional funding beyond that which the formula provides. The revenue generated from the hold harmless phase-out was previously distributed (on a per-pupil basis) among non-hold harmless districts throughout the state. However, it is now part of the Top Gains program, which rewards districts for meeting or exceeding performance targets.

**Mississippi:** The Mississippi Adequate Education Program-MAEP has been in place since 1994. It has had some minor changes during the last 10 years, but for the most part remains as it was originally passed. A hold-harmless component exists within the formula and was originally 8%, but in 2014 the legislature reduced that amount to 6%. The component is based on holding a district to no less than the amount they received in 2002 plus some percentage on any funds that the MAEP formula replaced. Currently, only 7 districts out of 145 districts in the state benefit from this component. This percentage will continue to reduce 2% per year until reaching zero. By 2018, all districts will be on regular formula funding with no hold harmless.

**Rhode Island:** A hold harmless phase-out passed with a funding formula overhaul in 2010, with the effective date in FY 2012. The new formula included a seven-year transition period for districts with increases in funding and a 10-year transition for districts with decreases in funding. Therefore, districts have had a number of years to adjust for funding changes.

**Connecticut:** Here, hold harmless policy is in full effect with no planned phase-out. All districts are guaranteed an overall funding amount at least equal to the previous year. However, the Education Cost Sharing grant formula is used to determine how additional revenues will be distributed among districts. The formula is used to determine what each district should receive from the state, based on enrollment, including weights for poverty and English learners, as well as income and wealth factors. Then, depending on how far off the district's current year grant was from the formula calculation for the following year, the district receives some portion of additional funding. Districts that are underperforming on test scores and receiving a lower share of their formula calculation get a much larger share of the additional funding. Higher performing, wealthier districts often receive little or no additional funding year to year.

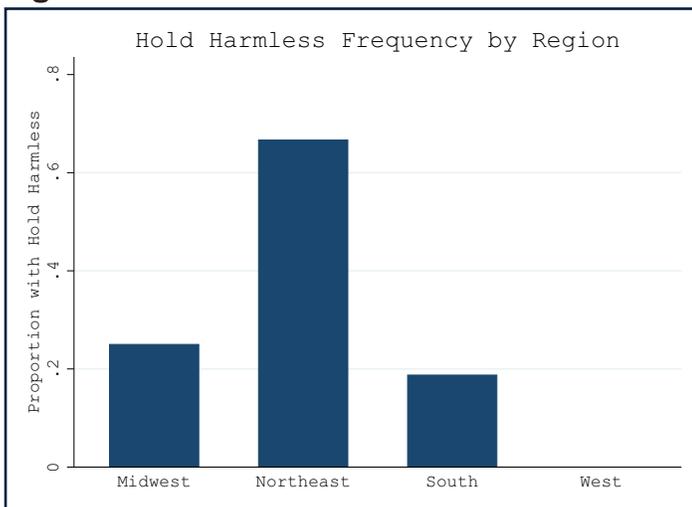
### A Note on Policy Distribution

We compared across states to determine whether any particular factors seemed to predict hold harmless status. For example, we checked to see whether there were regional clusters of hold harmless policies and whether political or financial variables seemed to be associated with this policy. We should note that the survey represents a snapshot in time, and therefore, a state’s coding in this project does not provide a complete picture of its history with hold harmless policy. Here are examples of factors that appear to have some association with a state’s hold harmless status.

**Region:** There is a clear relationship between region and hold harmless policy (Figure 1). States in the Northeast are significantly more likely to have true hold harmless policies ( $p < .05$ ). States in the West are significantly less likely to have them. Of the nine Census-designated Northeast states, six have hold harmless policies. None of the 13 states in the West have them. (Again, see the map on page 2.)

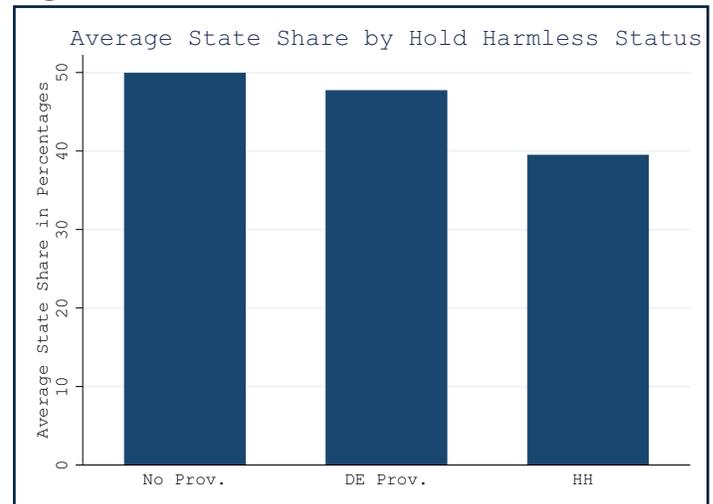
**State share percentage of total revenues:** State share is also significantly associated with hold harmless status ( $p < .05$ ). The relationship with state share is negative – that is, hold harmless states are likely to have significantly lower state shares (Figure 2). States with hold harmless policies had an average state share of 39.5% while states with no provision had an average state share of 50%.

Figure 1



Political culture, a concept developed by the late political scientist Daniel Elazar, also was associated with hold harmless status. Elazar’s typology identifies states as predominantly individualistic, moralistic, or traditionalistic. Individualistic states, including Pennsylvania, tend to view politics as a process of market-style deal making rather than achieving an overarching public good; moralistic states view the end of politics as achieving a public good; traditionalistic states value maintenance of the status quo, often in favor of politi-

Figure 2



cal or economic elites. Nearly half of individualistic states had hold harmless policies, while just 10% of moralistic and 10% of traditionalistic states had such policies.

We tested to see whether other factors seemed to predict hold harmless status. State population, professionalization of the state legislature, competitiveness in elections and state political control, and the percent of population that live in urban areas all were unrelated to hold harmless status by conventional standards of statistical significance.

### Appendix

#### Definition of Terms

To code the hold harmless status of each state, we consulted a range of available online documents, including legislative bills, media reports, and academic reports. For those states with policies easily deciphered with these documents, we coded without making human contact. For those states with more complex systems, or a lack of online information, we emailed and/or called appropriate contacts, typically within the states’ departments of education. In total, we contacted 35 states to obtain information regarding hold harmless status.

States were coded into three categories: hold harmless, declining enrollment provision, or no provision. If the state had a guaranteed overall funding level of 95% or more of either the preceding year or some selected past year (typically the year of a funding formula change), we coded the it “hold harmless.” If the state had a system for delaying or softening the impact of enrollment decline, such as allowing declining districts to use a rolling average or past year pupil count for funding calculation, the state was coded as “declining enrollment provision.” If the state had no system for guaranteeing funding or otherwise mitigating the impact of declining enrollment, the state was coded as “no provision.”

Several states did not fit neatly into our imposed categories. Missouri, for example, holds districts harmless for the previous year per pupil dollar amount, but not overall funding. States with this system were not coded as hold harmless since overall funding reductions could occur as a result of enrollment decline.

California, which rolled out a new formula in 2013-14, holds districts harmless to their 2012-13 per-pupil funding levels. So, a district cannot lose per-pupil funding due to the new formula but can lose funding due to an enrollment decline. Districts are held harmless for the overall funding levels of “categorical programs.” In these supplemental funding areas, a district cannot lose funding due to an enrollment decline. California is coded as having a DEP because it allows districts to use the greater of current or previous year enrollment for funding calculations.

Nebraska, coded as hold harmless, has a unique funding system that distinguishes between “needs side” and “resource side” calculations. Needs side calculations are guaranteed not to drop below previous year, regardless of enrollment decline. However, resource side calculations may be adjusted for property value increases that could result in an overall decline in funding. Since a potential funding drop cannot be tied to enrollment changes, we coded Nebraska as hold harmless.

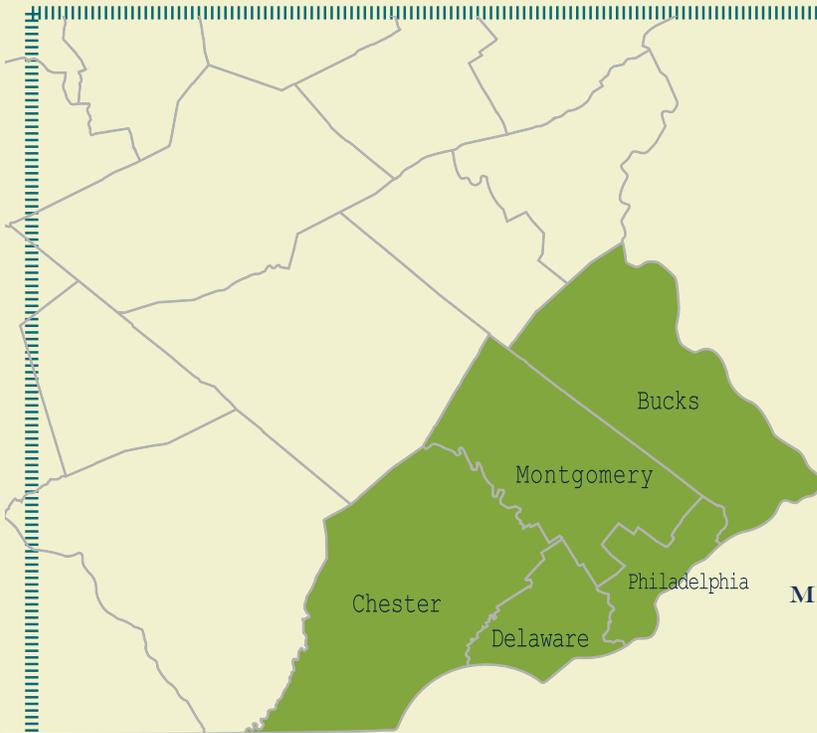
New Jersey has a hold harmless policy which has not been funded in recent years, but the policy does not apply to districts that have lost more than 5% of enrollment since 2008. Those districts are held harmless for the 5% loss, but lose funding associated with any enrollment loss over that 5%. We code New Jersey as having a declining enrollment provision.

Finally, Wisconsin has what it calls “Special Adjustment Aid,” which guarantees no district loses more than 15% of total funding year to year for any reason. Given that this amount is much lower than the 95% cutoff for hold harmless status, we code this state as having a “declining enrollment provision.” We reason that a district with sharp and sudden enrollment decline could receive some benefit from this provision.

### Sources

Elazar, Daniel. 1966. *American Federalism: A View from the States*. New York: Thomas Y. Crowell.

Toutkoushian, Robert K., and Robert S. Michael. 2008. “The Impacts of School Funding Formula Modifications on Equity, Fiscal Neutrality, and Adequacy.” *Journal of Education Finance*. 33(4): 352-380.



## Center on Regional Politics

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