

Center for Public Education



Research Brief

How States Implement Hold-Harmless Provisions in 2020 and 2021

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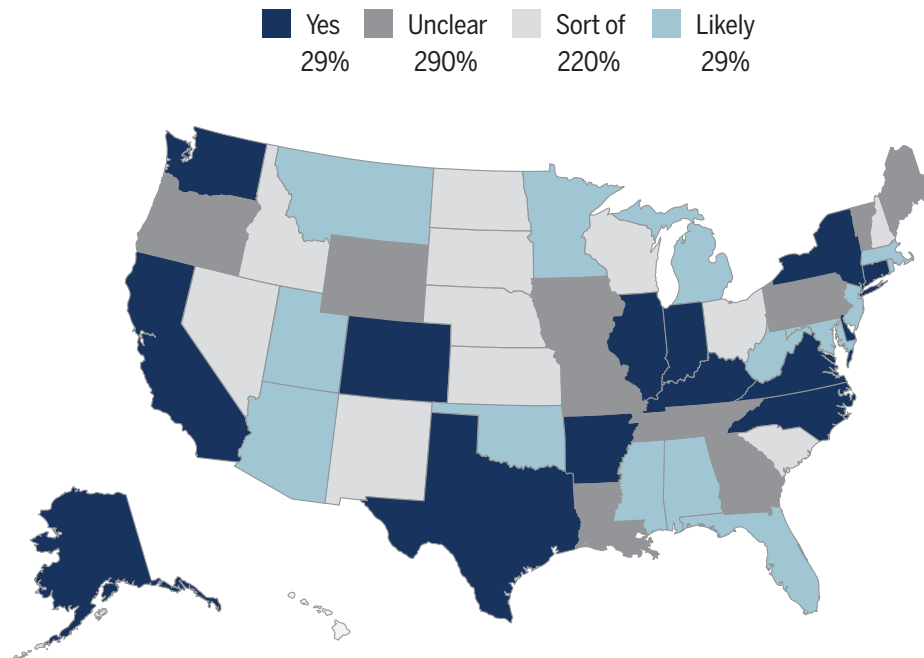
Introduction

Hold-harmless provisions in state aid formulas are meant to restrict declines in revenues for school districts. They may take several 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). In recent years, hold-harmless provisions have been criticized as “scarce dollars sent to some districts at the expense of others.” The results are believed to “undermine states’ own school funding equity goals” (Roza & Jarmolowski, 2020).

“Many state legislatures have overhauled their funding formulas in recent decades with the goal of distributing state and local dollars more equitably across districts, and funneling more to districts with higher student needs,” according to Roza and Jarmolowski (2020). However, due to the COVID-19 pandemic, school districts across the country are experiencing a decrease in student enrollments, while states face reduced revenues and budget deficits in education. Therefore, hold-harmless provisions become an option for policymakers to meet the financial challenges created by the pandemic.

The National School Boards Association’s Center for Public Education (CPE) analyzed multiple online sources (e.g., state governments, state departments of education, state school boards associations, local news). We found that nearly three in five states have implemented hold-harmless provisions or are likely to implement hold-harmless provisions in the 2020-21 school year (Figure 1). In 11 states, there are some types of hold-harmless provisions embedded in basic grants for schools. In 10 states, it is unclear whether hold-harmless provisions will be implemented.

Figure 1. Status of Implementing Funding “Hold Harmless” Provision: 2020



Which States Have Implemented Hold-Harmless Provisions for the 2020-21 School Year?

By the end of October 2020, 14 states have implemented hold-harmless provisions to ensure funding for public schools (Table 1).

The following are some characteristics of states that have clear information about hold-harmless provisions:

- Use average daily attendance (ADA) or average daily membership (ADM) as a specific measure to address hold harmless — Alaska, Arkansas, California, North Carolina, Texas, and Virginia.
- Set limits on the changes in state aid for the 2020-21 school year — Delaware, Illinois, and Kentucky.
- Provide supplemental funding for districts with declining enrollment — Colorado, Connecticut, New York, and Washington.
- Approve alternatives related to school funds — Indiana.

Which States are Likely to Implement Hold-Harmless Provisions for the 2020-21 School Year?

In 14 states, hold-harmless provisions have been addressed and are more likely to be implemented this school year.

- In Alabama, Arizona, Florida, Maryland, Michigan, Minnesota, Montana, New Mexico, Oklahoma, and West Virginia, policymakers and school leaders have proposed or planned to implement hold-harmless provisions in the 2020-21 school year.
- In Mississippi, Rhode Island, and Utah, some hold-harmless provisions have been used, but it is unclear whether these provisions will be extended and/or expanded in 2020-21.
- In Massachusetts, the state funding formula includes hold-harmless provisions for FY 2020, but a recent proposal was to eliminate hold-harmless and minimum aid.

Which States Have Some Type of Hold-Harmless Provision?

In 11 states, there are various types of hold-harmless provisions embedded in basic grants for schools.

- In Idaho, Nebraska, Nevada, and Ohio, there are some financial aids to support schools during transitional periods or reduced student attendance caused by unexpected situations (e.g., storm, flood, quarantine, health-related issues).
- In Kansas, New Hampshire, New Jersey, and North Dakota, hold-harmless provisions target rural areas, high-poverty school districts, and disadvantaged students.
- In South Carolina, hold-harmless provisions focus on using reserve funds to pay for teacher pay raises.
- In South Dakota, each school district has been assigned a hold harmless base amount, based on the largest of its previous three years of collections.
- In Wisconsin, the small amount of “hold harmless” aid prevents districts from seeing more than a 15% reduction in aid from one year to the next.

Why Do Hold-Harmless Provisions Play a Role in 2020?

Due to the pandemic, reduced state revenues in public education were estimated to range between 10% and

20%, according to the Learning Policy Institute (LPI). To hold school districts harmless for a 10% reduction in state revenues, the federal government needs to increase federal aid for schools by \$21 billion in FY21. The decreases in state revenues are likely to be even larger in FY22, and education advocates are asking for \$200 billion over the next three years.

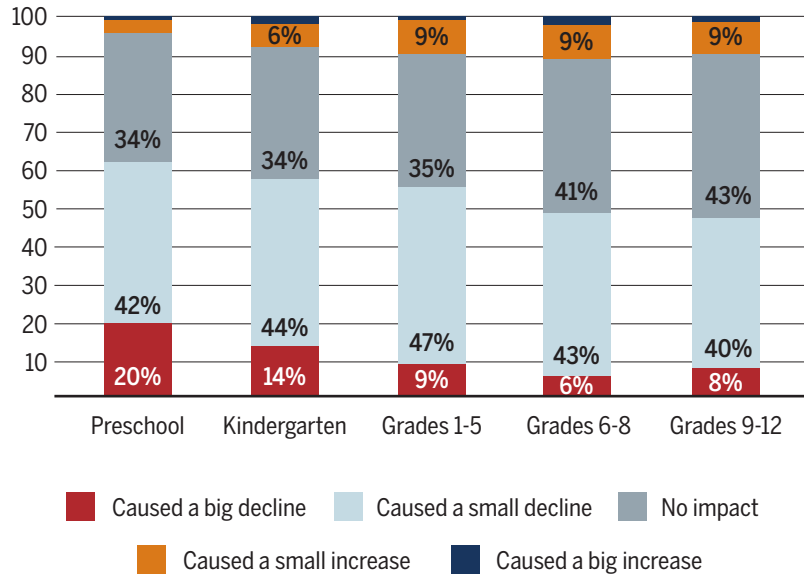
In addition to asking for federal funding, LPI recommends that states provide increased flexibility for schools, such as prioritizing formula funding rather than categorical programs to allow school districts greater freedom. Regardless of what the change would be in a school funding formula, policymakers need to consider that nationwide, public K-12 schools are losing students because of the challenging circumstances created by the pandemic. Recently, the media have widely reported that states and school districts are witnessing a substantial decrease in student enrollment at the beginning of the 2020-21 school year.

- Orange County (Florida) has 8,000 students “missing.”
- The Miami-Dade County public schools (Florida) have 16,000 fewer students than last year.
- The student enrollment of Los Angeles Unified school district (California) — the nation’s second-largest school system — is down nearly 11,000.
- Charlotte-Mecklenburg in North Carolina has 5,000 “missing” students.
- Connecticut student enrollment has declined 3% amid the pandemic.
- In Wisconsin, public school enrollment is down 3% for the 2020-21 school year.
- Across North Carolina’s public school districts, average daily membership (ADM) is down 5% since last year.
- In Virginia, about 37,000 fewer students enrolled in public schools this fall, according to an estimate from the Virginia Association of School Superintendents.
- In Washington state, public K-12 schools saw a 2.8% drop in enrollment in September 2020, which translates into nearly 31,000 students out of nearly 1.1 million total, compared with the same time in 2019.
- Utah State Board of Education reports that K-12 enrollment in the state has experienced a significant decrease. The change is the result of a larger migration of students transferring to homeschool or private school than in previous years.

Additionally, the EdWeek Research Center conducted a nationally representative online survey (8/26-28/2020) and found that more than half of school and district leaders say that the pandemic has led to enrollment declines in preschool, kindergarten, and grades 1-5. Nearly half say the same for the secondary grades. The trend is most pronounced in preschool, where 1 in 5 educators say they’re seeing significant declines, a finding that raises questions about the long-term impacts of children missing out on this critical period of education (Figure 2).

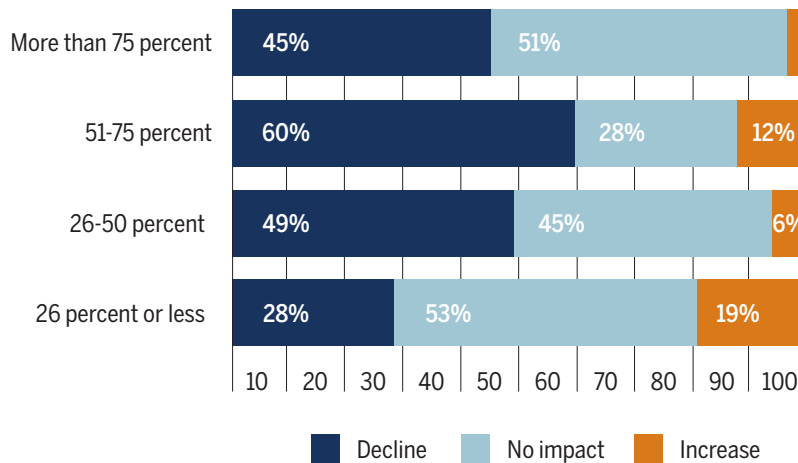
The same survey data also show that school leaders in higher-poverty districts are significantly more likely to report enrollment declines in the high school and elementary grades during COVID-19 compared with their peers in lower-poverty districts. In contrast, leaders in lower-poverty districts are even more likely to report enrollment increases at those grade levels (Figure 3). In some states (e.g., Utah), student enrollments in charter schools were reported to be increasing, whereas most public school districts reported a decrease in average daily attendance (ADA) or average daily membership (ADM).

Figure 2. How, if at all, is COVID-19 impacting student enrollment in the following grade levels fall?



NOTE: TOTALS MAY NOT ADD UP TO 100 DUE TO ROUNDING
 SOURCE: EDWEEK RESEARCH CENTER SURVEY, 2020

Figure 3. COVID-19's impact on fall 2020 enrollment in grades 9-12 by district rate of free/reduced-price meals



*Results show responses from participants and district leaders.
 NOTE: TOTALS MAY NOT ADD UP TO 100 DUE TO ROUNDING.
 SOURCE: EDWEEK RESEARCH CENTER SURVEY, 2020.

Declining student enrollment is a major concern for school leaders because it is directly related to school funding based on per pupil expenditures. Ensuring a funding level equal to what was in place before the pandemic is paramount in the 2020-21 school year, particularly for high-need districts serving historically underserved students. Adding hold-harmless clauses to school funding formulas may lessen the blow to districts that stand to lose money. Additionally, it is essential to consider the long-term school transformation strategies that will provide every student with equitable learning opportunities.

Table 1. States That Have Implemented Hold-Harmless Provisions in the 2020-21 School Year

State	Hold-harmless provisions
Alaska (ADM)	If a school district’s ADM adjusted for school size decreases by 5% or more from one fiscal year to the next fiscal year, the school district may use the last fiscal year before the decrease as a base fiscal year to offset the decrease.
Arkansas (ADM)	Declining enrollment funding is equal to the three-quarter ADM of the prior year, subtracted from the average of the three-quarter ADMs of the prior fiscal year and the fiscal year prior to the prior fiscal year, multiplied by the current per-student foundation funding amount.
California (ADA)	Average Daily Attendance (ADA) Hold Harmless. Extends the ADA hold harmless to the 2020-21 school year, contingent on student engagement reporting and local continuity of learning plans.
Colorado	Factors considered in public school finance formula for 2020-21 include Size Factor, which is to compensate districts lacking enrollment-based economies of scale.
Connecticut	According to the state education aid formula, alliance Districts that would otherwise receive a decrease in aid are permanently held harmless at their fiscal year 2017 ECS grant amounts. Current formula uses both the original and updated Alliance District lists, resulting in 33 districts being held harmless.
Delaware	In the current fiscal year, schools that were eligible last year but no longer meet the eligibility criteria shall continue to receive an allocation equivalent to the prior fiscal year as a hold harmless.
Illinois	A 2017 bill maintains a per-district hold harmless until the 2020-21 school year and then moves to a per-pupil hold harmless based on a three-year rolling average of enrollment. The amendment to House Bill 2170 was filed on January 11, 2021, and pointed out that school funds “shall be held harmless by establishing a Base Funding Guarantee equal to the per pupil kindergarten through grade 12 funding received in the prior fiscal year (https://ilga.gov/legislation/101/HB/10100HB2170sam003.htm).”
Indiana	“Hold harmless” legislation has been approved to not penalize schools for a drop in test scores on the new ILEARN test; and a bill to allow schools to move away from using test scores in teacher evaluations. SB2 is a bill that provides a two-year hold harmless for school district accountability consequences and teacher evaluations from Indiana’s Learning Evaluation Assessment Readiness Network (I-LEARN) scores.
Kentucky	A modified hold-harmless guarantee is established in fiscal year 2020-2021 which provides that every local school district shall receive at least the same amount of SEEK state funding per pupil as was received in fiscal year 1991-1992.
New York	New York State holds every district harmless in the enacted budget, which is good for all New York children and families.

State	Hold-harmless provisions
North Carolina (ADM)	ADM hold harmless (Section 3.1): For the 2020-2021 fiscal year, the SBE shall determine the allocations for average daily membership (ADM) to applicable public school units by using the higher of the actual or anticipated (allotted) ADM. After funding adjustments are made, the SBE shall not reduce allotments for local school administrative units due to the difference between actual and anticipated (allotted) ADM.
Texas (ADA)	TEA has instituted an ADA hold harmless measure, which is available to most school districts including South San Antonio ISD, that was recently extended through the first 18 weeks of the 2020-2021 academic year (fiscal 2021).
Virginia (ADM)	The state House and Senate agreed to the compromise budget that included student enrollment hold harmless language (ADM). These two actions will save public schools from deep and significant cuts to our current school year budgets.
Washington	The state Legislature approved “hold harmless” funding for certain school districts for school years 2019-20 and 2020-21 only. This means that all schools will see an increase in total school funding in those years. Bills passed in the final moments of the 2019 legislative session, including the levy bill and the state budget affect this calculation, so no current estimates exist for this funding.

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Table 2. States That Are Likely to Implement Hold-Harmless Provisions in the 2020-21 School Year

State	
Alabama	If final ADM (Average Daily Membership) numbers are down as early numbers were, the School Superintendent of Alabama (SSA) will support some type of hold harmless solution to prevent overcrowded kindergarten classrooms across the state.
Arizona	The Governor announced a plan that includes \$200 million for remote learning and to hold schools harmless for enrollment declines, \$40 million for broadband and \$20 million to bring in extra help for high-needs schools.
Florida	In 2019-2020, state funds included “Hold Harmless” for Declining Enrollment, or for 25% of the decline between prior and current year Full Time Equivalent (FTE) students, but not included in 2020-2021. Some school districts expressed their concerns and expected to extend “Hold Harmless” to be included.
Maryland	The state has a Declining Enrollment Grant. It assists smaller districts with declining enrollment by providing a state grant equal to 50% of the decrease in state education aid from the prior year. Only two districts meet the grant program’s eligibility criteria. The Governor’s budget includes additional State Aid “Hold Harmless” funding in FY2020.
Massachusetts	The state funding commitment includes Chapter 70 increases for inflation and enrollment that will keep all school districts at foundation, under the law as it existed for FY2020, increasing total funding. This increase comes in addition to approximately \$450 million in new federal supports for K–12 schools to assist with educating students during the pandemic. However, a report (9/14/2020) from the Massachusetts Business Alliance for Education and Greater Boston Chamber of Commerce proposed a phaseout of hold harmless and minimum aid and ending certain aid paid to wealthier districts.
Michigan	Michigan legislators are likely to implement budget stabilization funding (or “hold harmless” funding) for districts, a provision that could be unfair to schools that have attracted more students because of their effective responses to the pandemic.
Minnesota	The Governor recommends that the tuition payments made to the serving district for open enrolled students be reduced from 90% to 85% of unfunded costs for FY 2020 and to 80% for FY 2021 and later, with the state covering the reduction in tuition revenue for charter schools so they are held harmless.
Mississippi	The state has a 2007 bill about “hold harmless” using Average Daily Attendance (ADA) to pre-Hurricane Katrina levels for the coastal districts, but it is unclear whether this bill or similar bill will be implemented in the 2020-21 school year.

State	
Montana	Montana School Boards Association is working to get some help from the state legislature in the upcoming session. The action proposed is for districts to be “held harmless” in their budgets for at least the 2020 school year. The idea is to possibly have districts receive state funding based on last year’s enrollment numbers.
New Mexico	The phrase “hold harmless” was used frequently by school officials, and the state is seeking to include the phrase in next year’s general appropriation bill so the state can determine funding based on 2019-20 enrollment figures if they are higher than the current ones.
Oklahoma	The Governor and state Legislature made efforts to hold state agency budgets harmless the remainder of the current fiscal year. This stability will enable schools to begin preparing for rough roads ahead next fiscal year and beyond.
Rhode Island	The FY 2020 enacted budget includes a total of \$1.9 million for those districts that were underpaid in FY 2019 and holds harmless districts that were overpaid. Distributions based on student or teacher population, hold-harmless guarantees and minimum increases are “disequalizing.” This means that community and student wealth are not considered in the allocation of aid.
Utah	The Minimum School Program (MSP) funds are allocated primarily according to “prior year” plus “growth” subject to a “hold harmless” provision. The “hold harmless” provision is when growth is negative, prior year ADM is not reduced.
West Virginia	The president of the superintendent’s association in the state said it plans to ask legislators to agree to a “hold harmless clause” in funding schools for 2020-2021.

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Table 3. States That Have Other Types of Hold-Harmless Provisions

State	
Idaho	When a school is closed, or if a school remains open but attendance is significantly reduced because of storm, flood, failure of the heating plant, loss or damage to the school building, quarantine or order of any city, county or state health agency, or for reason believed by the board of trustees to be in the best interests of the health, safety or welfare of the pupils, the board of trustees having certified to the state department of education the cause and duration of such closure or impacted attendance, the ADA for such day or days of closure or impacted attendance shall be considered as being the same as for the days when the school actually was in session or when attendance was not impacted.
Kansas	The state expects the economic effects of the pandemic on Kansas jobs and income will increase the number of students qualifying for free meals, which is the number used in each district to determine at-risk weighting funds for student assistance programs. If at-risk enrollment increases, additional funding will have to be added or the BASE amount prorated. BASE aid per pupil is multiplied by weighted enrollment to determine each district's general fund budget.
New Hampshire	The state Stabilization Grants have been designed to ensure no communities would receive lower funding levels than received under the prior formula's calculations.
Nebraska	Transitional aid and the ability to override levies would be available to help the shrinkage of school funds, but neither guarantees schools will be held harmless. Transitional aid would only replace lost spending ability relative to the prior year and not allow for the growing needs of a district.
Nevada	<p>The 2019 Legislature established a hold harmless provision to protect school districts from an unexpected loss in revenues as the State transitions from the Nevada Plan to the Pupil Centered Funding Plan (PCFP).</p> <p>If a school district will receive less funding under the PCFP than it received in FY 2020, then the funding for the school district will be reset to the FY 2020 amount.</p> <p>If a school district receives funding under the hold harmless provision, the school district will also be granted flexibility to reapportion funding between its adjusted base per pupil funding and weighted funding, more closely mirroring the school district's FY 2020 budget.</p>
New Jersey	All districts are protected from severe loss of Title I funding through hold-harmless provisions of the legislation which mandates that eligible districts receive no less than 85% of the amount they received in the previous year.

State	
North Dakota	<p>The state funding formula has a “hold harmless” clause, which protects smaller districts that are losing students.</p> <p>Basically, districts with declining enrollments are given the option to continue to get the per pupil payment they received in 2012-13, or switch to the formula – whichever amount is higher.</p> <p>In 2020, the Legislature changed that aid baseline from the 2012-13 level to the 2017-18 level, which is \$9,646 per student. Districts will still be able to choose whether to stay at the baseline amount or switch to the formula.</p>
Ohio	<p>The state has temporary transitional aid provided to districts in FY 2018 and FY 2019 to guarantee 100% of their FY 2017 state aid, except for certain districts that lost enrollment in recent years.</p> <p>If, between FY 2014 and FY 2016, a district’s total ADM decreased by 10% or more, the district is guaranteed 95% of the district’s FY 2017 foundation aid (less exempt components) in both FY 2018 and FY 2019.</p> <p>If a district’s total ADM decreased between 5% and 10%, the district is guaranteed a scaled amount between 95% and 100% of the district’s FY 2017 foundation aid.</p> <p>Seven (1.1%) districts were guaranteed 95% of their FY 2017 foundation aid because they lost 10% or more in enrollment while 93 (15.2%) were guaranteed a scaled amount between 95% and 100%.</p>
South Carolina	<p>(SDE: School District Hold Harmless) If there is not an increase in state support for school districts that is disbursed through the Education Finance Act formula pursuant to Provision 1.3 in this Act, any district that must use reserve funds to pay for teacher pay raises, to include step increases, shall be held harmless from the local school district’s reserve fund requirement provisions in the Fiscal Accountability Act for Fiscal Year 2020-21 and upon approval by the Department of Education.</p>
South Dakota	<p>Each school district has been assigned a hold harmless base amount, based on the greatest of its previous three years of collections. This base will be stepped down over five years, at 20% per year.</p> <p>Each year, any other revenue collected beyond the “hold harmless base” will be counted as local effort and therefore equalized across districts through the funding formula. At that point, these revenue sources will be treated in the same way as local property taxes.</p>
Wisconsin	<p>The general school aid amounts for school districts are calculated using student counts and year-end financial data from the previous school year (2019-20). The small amount “hold harmless” aid prevents districts from seeing more than a 15% reduction in aid from one year to the next, and will go to 49 districts this year.</p>

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Table 4. States without clear information about hold-harmless provisions

State	
Wyoming	The State Superintendent is exploring her ability to hold districts harmless from any financial reduction caused by instructional day loss.
Georgia	A proposed boost of \$144 million covers student enrollment growth and routine adjustments in teachers' salaries through the Quality Basic Education (QBE) formula, the state's method for calculating K-12 funding.
Iowa	The majority of a school district's general fund budget is calculated by using the district's cost per pupil (DCPP) times the weighted enrollment. The formula is based on Percentage of pupils by district enrolled in grades 1-6 who are eligible for free and reduced price meals, and Budget enrollment of the school district.
Louisiana	The Minimum Foundation Program (MFP) formula for the 2020-21 school year increases the amount of state funds allocated to public schools by approximately \$80 million. The approved MFP includes a 2.75% increase to the statewide base per pupil amount, from \$4,015 to \$4,125. The increase includes a provision that requires schools and school districts where the average annual teacher salary is below the Southern Regional Education Board (SREB) average to dedicate half of the increase to teacher pay raises.
Maine	Per-pupil weights to provide additional student resources for Economically Disadvantaged, which includes an additional targeted weight of 5%, English Language Learners, Student Assessment, Instructional Technology, PK -2 students and an adjustment for Isolated Small Schools. Minimum subsidy, minimum special education, special education hardship, minimum debt service and minimum economically disadvantaged adjustments
Missouri	Section 163.031.7, RSMo was waived. The bill grants some school districts — often small or low-income — a "hold harmless" status so they won't be affected by a budget shortfall. This waiver means "hold harmless" school districts — 191 of Missouri's 518 districts — will also face cuts. All school districts, including charter schools, will have a proportionate share of the withholds. Without this waiver, districts that are not hold harmless would have received more significant cuts.
Oregon	Enrollment or withdrawal of a student will not impact a school district's or public charter school's ADM during the time of school closure. State School Fund allocations for the remainder of the 2019-2020 school year will be based on the school district's and charter school's ADM in the 2nd period ADM data collection as of December 31, 2019. ADM reporting for the 2020-21 SSF would follow normal procedures until further notice.
Pennsylvania	According to the House Appropriations Committee, \$150 million from the Coronavirus Relief Fund and \$49.8 million from the State Education Agency portion of the Elementary and Secondary School Emergency Relief Fund for schools in the 2020-21 year.

State	
Tennessee	The Governor called for holding teachers and schools harmless from negative consequences associated with accountability measures this school year.
Vermont	Small school districts operating at least one school are eligible for a small schools support grant if the two-year average enrollment is less than 100 or if the average grade size is 20 or fewer. Districts receiving a support grant are also eligible for a small schools financial stability grant if there is a 10% decrease in the two-year average enrollment in any one year.

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The National School Boards Association (NSBA) is the leading advocate for public education. For 80 years, we have been leading the effort to support and enhance public education. We are succeeding in creating the best possible environment in which students can realize their dreams.

NSBA is a federation of 49 state associations and the U.S. territory of the Virgin Islands, representing their more than 90,000 school board officials. These local officials govern more than 13,600 local school districts serving more than 50 million public school students. Working with and through our state associations, and serving as their Washington, D.C., office, NSBA advocates for equity and excellence in public education through school board governance.

We believe public education is America's most vital institution. It is a civil right necessary to the dignity and freedom of the American people, and all children deserve equal access to an education that allows them to reach their potential.

In pursuit of these beliefs, NSBA and our members will continue to lead the national conversation about public education, advocate for public policies that ensure all students everywhere have access to a great public education where they live, create a better understanding of the importance of school boards and the benefits of local governance, and enhance the effectiveness of school boards.