

State Notes

TOPICS OF LEGISLATIVE INTEREST

Fall 2015



Upcoming Foundation Allowance Limitations: A Return of "20j" Kathryn Summers, Associate Director

From fiscal year (FY) 1999-2000 through FY 2008-09, the State School Aid Act contained an appropriation section referred to as "20j". The appropriation provided payments to districts whose foundation allowance growth was capped at no more than inflation, to enable them to receive the full dollar amount of the increase in the basic foundation grant that was given to all other districts. In FY 2009-10, Governor Jennifer Granholm vetoed the section, and although attempts were made in subsequent years to restore the funding, nothing materialized. Looking ahead to FY 2016-17, it is possible that a return to a "20j" scenario will occur. This article will examine in more detail the issue leading to the creation of the previous "20j" appropriation, review the circumstances likely to occur for FY 2016-17, and offer legislative options to address the issue, if desired, as well as discuss an existing appropriation of "supplemental" funding.

The Issue

Beginning with the implementation of Proposal A (the school financing reform measure adopted by the voters in 1994), Section 1211(3) of the Revised School Code (MCL 380.1211) has prohibited "hold-harmless" districts from collecting more than an inflationary increase in their per-pupil State and local revenue from one year to the next year. (Generally, a "hold-harmless" district is one whose foundation allowance in FY 1994-95 exceeded \$6,500 per pupil and the district therefore was allowed to levy additional "hold-harmless" millage on certain classes of property, although Public Act 216 of 2010 removed this designation from six school districts.¹ For FY 2014-15, there are 44 hold-harmless districts with statutory foundation allowances in excess of the hold-harmless threshold of \$8,099 (which is what the \$6,500 threshold has grown to since FY 1994-95).

The restriction in the School Code, combined with the same restriction in subsection 3(c) of the Section 20 of the School Aid Act (MCL 388.1620), means that if, in any given year, the dollar increase in the basic foundation allowance exceeds the inflation rate *when it is applied to a hold-harmless district's previous-year foundation allowance* (not when applied to the basic foundation allowance itself), the district cannot by law levy the number of mills necessary to receive the full dollar increase given in the basic foundation allowance. Instead, the statutory increase that may be given to a hold-harmless district is equal to the rate of inflation multiplied by *that district's* foundation allowance.

The First "Perfect Storm"

Other than FY 2016-17 as estimated, there were two years when the State of Michigan was experiencing very low inflation and when very large per-pupil foundation allowance dollar increases were provided to schools: FY 1999-2000 and FY 2000-01.

The following example illustrates the phenomenon that occurred during those two years. In FY 2000-01, the dollar increase appropriated for the basic foundation allowance was \$300. This meant that all school districts with foundation allowances below the State Maximum Foundation Allowance (which was \$7,500 that year) received the full \$300 increase in their funding because, at that time,

¹ [Senate Fiscal Agency summary of House Bill 6212 reflects P.A. 216 of 2010.](#)

the formula was not the current "2x" formula², but instead was one that gave the same per-pupil increase to every school district, regardless of the district's foundation allowance level. Inflation that year was only 2.8%.

As discussed above, according to Section 1211(3) of the Revised School Code, a hold-harmless district is able to levy mills only to reach a foundation allowance increase that is the lesser of inflation or the dollar increase in the basic foundation allowance. For example, a hypothetical hold-harmless district with a foundation allowance of \$10,000 in FY 2000-01 would have been capped at an increase of \$280 per pupil (which is equal to \$10,000 multiplied by inflation, or 2.8%). However, the increase in the basic foundation allowance, given to all districts that were not hold-harmless, was \$300. Without a change to the School Aid Act or Revised School Code, this hypothetical district would have received \$20 per pupil less than the increase given to all nonhold-harmless districts.

The Resolution at that Time - Section 20j

Public Act 119 of 1999 added Section 20j to the State School Aid Act, to take effect in FY 1999-2000. This section was enacted to enable hold-harmless districts to receive the full dollar amount of the increase in the basic foundation grant given to all other districts. In the above example, Section 20j allowed the State to make a payment to the district for the \$20 per pupil that the district would have been prohibited from raising locally due to Section 1211(3) of the Revised School Code.

There were 40 districts that received State funding calculated under Section 20j for FY 2008-09, totaling \$51.8 million. Again, this funding represented the difference between what the affected districts would have been capped at in any given year (inflation) and what the per-pupil basic foundation allowance increase was in that year. This was a cumulative calculation of those differences, whenever they occurred.

In the years since FY 2000-01, the per-pupil increases in the basic foundation allowance have been lower than inflation compared with the foundation allowances of the hold-harmless districts, thereby not triggering the cap in the School Code. The funding for Section 20j, after its inception and before its veto, was fairly constant, changing only based on the number of pupils counted by the affected districts, and whether an eligible district fell "out of formula" (when its local funding exceeded its 20j payment). The effect of the Governor's veto of this funding was to reduce the affected districts' funding to the inflationary increases prescribed for FYs 1999-2000 and 2000-01, as capped by the School Code.

The Second Perfect Storm

Looking ahead to FY 2016-17, the consensus estimate for inflation (defined as the United States calendar year 2015 consumer price index) is 0.2%. If a dollar increase is provided in the basic foundation allowance during the budget process, hold-harmless districts will again be capped at the rate of inflation. For example, in Bloomfield Hills, where the FY 2015-16 foundation allowance is \$12,004, a 0.2% cap would mean a statutory increase of \$24. For Novi Schools, whose foundation allowance for FY 2015-16 is \$8,479, a 0.2% cap would mean a maximum increase of \$17. [Appendix A](#) lists the affected districts and their statutory caps.

² The "2x" formula was reinstated in FY 2007-08 to generally provide larger dollar increases to districts at the lower end of per-pupil funding than to those districts with higher foundation allowances.



Possible Resolutions This Time Around, If Desired

One way to get around this cap, if so desired, would be to create a new "categorical" (like the old 20j) and set aside money for the affected districts. (A categorical is a funding allocation for a specific purpose.) However, the funding in the new categorical would have to be separate from the foundation allowance because of the School Code cap. This, then, would mean that the section would stand alone and be subject to veto, as are all appropriations, but the perception could be that this would become a "supplemental" payment to a small group of districts, and therefore potentially more vulnerable to future reductions or elimination, which is what occurred with the previous 20j.

Another legislative option would be to remove the cap in the Revised School Code (and the corresponding cap in the School Aid Act). The cap was instituted at the time of Proposal A's implementation, to ensure that districts at the higher end of per-pupil funding received foundation allowance increases that did not exceed inflation. The thinking at the time was that the cap would continue to shrink the foundation allowance gap, but by capping the growth at the top instead of solely by bringing the bottom districts up.

The removal of this cap likely would require a three-quarters vote in each chamber of the Legislature and the Governor's signature. The reason a three-quarters vote would be needed is found in Article IX, Section 3 of the Michigan Constitution, which requires such a threshold for legislation increasing the statutory limit on property taxes for school operating purposes. Even if a foundation allowance increase exceeding inflation were entirely State-funded, and no increase in local property taxes would occur, the removal of the statutory millage cap in Section 1211 of the School Code likely would need the three-quarters vote, because the millage cap itself, regardless of actual mills levied, would be eliminated. This would create the potential for increased property taxes for school operating purposes at some point in the future, in the event State support of the foundation allowance were reduced. How the existing Legislature regards the policy of capping hold-harmless districts to inflationary increases likely will determine whether legislation to remove the cap will be pursued.

Side Issue of Section 20f

Beginning in FY 2013-14, and continuing through the enacted budget for FY 2015-16, a categorical similar in process to the old 20j has been appropriated in the School Aid Act, namely Section 20f, but for a different purpose. This categorical has been used to provide dollar increases to certain districts to ensure either a net positive gain when comparing changes in the foundation allowance to changes in certain categorical funding, or at least no net loss.

Specifically, in FY 2013-14, \$6.0 million was appropriated to ensure that every district received at least a \$5-per-pupil net increase in operational funding, when summing the positive changes in the foundation allowance and applicable equity payments, with the negative reduction districts saw under Section 147a, which provided financial relief for retirement costs. The concern before the addition of this new categorical was that while an increase was provided in the foundation allowance, the reduction under Section 147a for some districts more than offset the foundation allowance increase. Therefore, the Legislature and Governor enacted a section to ensure that all districts received at least a net \$5 increase in operational funding. The districts eligible for 20f adjustments are much the same as those that qualified for 20j funding.



Districts that received the adjustment for the first time in FY 2013-14 continued to receive the same per-pupil dollar payment in FY 2014-15, because if it were eliminated in FY 2014-15, then prior-year operational funding levels would have been reduced, and this was not desired by the Legislature or Governor. For FY 2015-16, the appropriation in the section will triple, from \$6.0 million to \$18.0 million. The first \$6.0 million is to continue the original net \$5-per-pupil operational increase from FY 2013-14, and then provide another net \$25 guarantee. The net \$25 guarantee is calculated by summing the positive changes in a district's foundation allowance for FY 2015-16 with any per-pupil At Risk gain, with the negative reduction districts will see from the elimination of the Best Practices and Pupil Performance categoricals (which were eliminated effective for the FY 2015-16 budget).

Section 20f is a separate appropriation from the foundation allowance, much like the old 20j that was vetoed in FY 2009-10. Because it is separate, it may be vulnerable to the same pressures that the previous section experienced. The per-pupil adjustments funded under Section 20f could be rolled into the affected districts' base foundation allowances only if or when the total dollar increase of the adjustment did not exceed inflation, due to the cap in the Revised School Code, and only if or when desired by policymakers.

Conclusion

While the FY 2015-16 budget has just taken effect, looking ahead, FY 2016-17 will pose challenges to foundation allowance growth for "hold-harmless" districts. The Revised School Code limits the growth in those districts' foundation allowances to no more than the rate of inflation, which is estimated to be 0.2% for the affected year. Legislators have options to provide additional funding to such districts, if desired, but the additional funding would need to remain separate from the statutory foundation allowance, or the statutory cap could be removed with legislative action and the Governor's signature, but may require a three-quarters vote. It is hoped that this article provides advance notice of this issue likely to occur in School Aid.

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Appendix A

County	Code	District Name	FY 2015-16 Foundation Allowance	Estimated FY 2016-17 Statutory Cap
Alger County	02020	Burt Township School District	\$10,067	\$20
Allegan County	03080	Saugatuck Public Schools	\$8,200	\$16
Berrien County	11200	New Buffalo Area Schools	\$10,004	\$20
Berrien County	11340	Bridgman Public Schools	\$8,225	\$16
Charlevoix County	15010	Beaver Island Community School	\$10,273	\$20
Chippewa County	17050	Detour Area Schools	\$8,960	\$18
Chippewa County	17160	Whitefish Township Schools	\$10,941	\$22
Eaton County	23490	Oneida Township S/D #3	\$10,683	\$21
Emmet County	24020	Harbor Springs School District	\$8,357	\$17
Huron County	32130	Port Hope Community Schools	\$8,875	\$18
Huron County	32260	Colfax Township S/D #1F	\$8,734	\$17
Eaton County	33215	Waverly Community Schools	\$8,553	\$17
Keweenaw County	42030	Grant Township S/D #2	\$12,406	\$25
Leelanau County	45040	Northport Public School District	\$8,968	\$18
Mackinac County	49020	Bois Blanc Pines School District	\$15,556	\$31
Mackinac County	49110	Mackinac Island Public Schools	\$11,277	\$22
Macomb County	50010	Center Line Public Schools	\$9,503	\$19
Macomb County	50200	South Lake Schools	\$8,874	\$18
Macomb County	50230	Warren Consolidated Schools	\$9,006	\$18
Macomb County	50240	Warren Woods Public Schools	\$8,638	\$17
Marquette County	52110	Republic-Michigamme Schools	\$8,469	\$17
Marquette County	52160	Wells Township School District	\$8,841	\$18
Midland County	56010	Midland Public Schools	\$8,291	\$16
Monroe County	58080	Jefferson Schools (Monroe)	\$11,180	\$22
Oakland County	63010	Birmingham Public Schools	\$11,924	\$24
Oakland County	63040	Royal Oak Schools	\$8,758	\$17
Oakland County	63060	Southfield Public School District	\$10,971	\$22
Oakland County	63080	Bloomfield Hills Schools	\$12,004	\$24
Oakland County	63100	Novi Community School District	\$8,479	\$17
Oakland County	63150	Troy School District	\$8,955	\$18
Oakland County	63160	West Bloomfield School District	\$8,796	\$17
Oakland County	63200	Farmington Public School District	\$10,045	\$20
Oakland County	63280	Lamphere Public Schools	\$10,429	\$21
Oakland County	63290	Walled Lake Consolidated Schools	\$8,315	\$16
Van Buren County	80040	Covert Public Schools	\$9,334	\$19
Van Buren County	80240	Bangor Township S/D #8	\$8,179	\$16
Washtenaw County	81010	Ann Arbor Public Schools	\$9,170	\$18
Wayne County	82030	Dearborn City School District	\$8,482	\$17
Wayne County	82045	Melvindale-North Allen Park Schools	\$8,675	\$17
Wayne County	82055	Grosse Pointe Public Schools	\$9,864	\$20
Wayne County	82120	River Rouge, School District of The City of	\$8,505	\$17
Wayne County	82130	Romulus Community Schools	\$8,542	\$17
Wayne County	82155	Trenton Public Schools	\$8,426	\$17
Wayne County	82300	Grosse Ile Township Schools	\$8,474	\$17