

Office of School Finance

Excess Local Revenue (Recapture)



Legal References

Texas Education Code, §48.257, Local Revenue Level in Excess of Entitlement
TEC, Chapter 49, Options for Local Revenue Levels in Excess of Entitlement



Background Information

Texas Education Code (TEC) makes provisions for certain school districts to share their excess local tax revenue with other school districts. Excess local revenue is local revenue that exceeds a district's entitlement. The funds that are distributed by districts subject to these provisions are "recaptured" by the school finance system to assist with the financing of public education for all school districts.

Under former Chapter 41, Education Code, the wealth of a school district was measured in terms of the taxable value of property within the school district borders divided by the number of students in weighted average daily attendance (WADA). Recapture ensured that a district's property wealth per WADA did not exceed certain levels, known as equalized wealth levels.

As a result of the passage of House Bill (HB) 3 by the 86th Legislature, beginning in school year 2019–2020, recapture is now based on local revenue in excess of entitlement under TEC, §48.257, instead of equalized wealth levels. The formula changes to recapture under HB 3 significantly reduced recapture and eliminated certain disparities between recapture and non-recapture districts.

Year	Recapture Districts	Option 3	Option 4	Total
2013-2014	332	\$1,185,793,458	\$23,819,572	\$1,209,613,030
2014-2015	356	\$1,473,312,891	\$19,034,651	\$1,492,347,542
2015-2016	380	\$1,590,321,830	\$1,292,251	\$1,591,614,081
2016-2017	379	\$1,719,339,406	\$23,490	\$1,719,362,896
2017-2018	347	\$2,087,588,027	\$0	\$2,087,855,027
2018-2019**	371	\$2,832,275,872	\$0	\$2,832,275,872
2019-2020**	199	\$1,950,519,265	\$0	\$1,950,519,265

*Near Final

**Legislative Payment Estimate



Program Description

Excess local revenue, as determined under TEC, §48.257, is calculated by subtracting a district's tier one entitlement (and credit for appraisal costs) from its available school fund (ASF) distribution and local fund assignment.

Districts with Tier One excess local revenue and Tier Two (level two) excess local revenue, as established in TEC, §48.257, are notified annually by July 15. This notification allows districts to move forward with preparation for an election under TEC, Chapter 49, if necessary. Once district personnel are notified in mid-July, they must select an option for paying recapture costs by mid-January. Most purchase attendance credits from the state (Option 3) and few, if any, contract to educate nonresident students from a partner district (Option 4). Both of these options require voter approval.

Provisions in the TEC, §48.257(c), allow districts to offset the reduction of excess local revenue against Chapter 48 funds provided in Subchapter F. All districts will have the option to use state aid calculated under Subchapter F, Chapter 48, Education Code as an offset to their attendance credit for purposes of reducing their local revenue level. Districts using this option are required to submit the district intent/choice selection form and complete an Option 3 netting contract.

The most commonly chosen method of paying recapture is Option 3 (paying directly to the state). This option currently represents 100% of recapture. Funds received by the state from recapture are appropriated in the General Appropriations Act as a method of finance to help pay for the Foundation School Program (FSP).

Districts have the option of making seven equal payments, either to the state (Option 3) or to their partner districts (Option 4), from February through August, or making one lump-sum payment in August. During April, the commissioner evaluates the status of all recapture payments owed from prior school years. Districts with unpaid balances from prior school years are considered delinquent unless the amount due is received by May 31 of that year. If a district fails to fully comply with all requirements according to the contract submitted to and approved by the commissioner for a school year to reduce excess local revenue, the commissioner must take action to ensure that local revenue levels do not exceed entitlement (see the TEC, Chapter 49, Subchapter G, and the TEC, §49.303). The commissioner's action(s) to reduce local revenue levels for prior years becomes effective July 1 of the current school year.

The commissioner evaluates the status of districts with local revenue levels in excess of entitlement for the current school year. Districts are considered delinquent for any of the following reasons:

- failure to submit the required documentation,
- lack of compliance with the payment schedule as determined by statute under Option 3,
- failure to make the minimum recapture payments identified in the notification of delinquency.

Districts that have not met the requirements and provisions of Chapter 49 are not allowed to adopt a tax rate until the district's local revenue level in excess of entitlement has been reduced.

Note that the final determination of whether a school district will be required to make recapture payments is based on the district's tax effort and the extent to which the district's local revenue level exceeds the Tier One entitlement, or the Tier Two copper penny guaranteed yield of \$49.28, if the district is assessing copper pennies.

The Texas Education Agency (TEA) makes a final determination regarding the payment of recapture using the district's final enrollment, entitlement and local share under Chapter 48, final state certified property values for the current tax year, adopted maintenance and operations (M&O) tax rate for the current tax year, and M&O taxes collected by the district in the current tax year.



Contact for More Information

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