

DATE:	July 25, 2019
SUBJECT:	Recapture Formula Changes and Reductions Under House Bill 3 (HB 3)
CATEGORY:	Funding Implications
NEXT STEPS:	Share with business and finance staff

House Bill (HB) 3 was passed by the 86th Legislature, 2019, and signed into law by Governor Abbott on June 11, 2019. As a result of HB 3, recapture was reduced by a variety of methods and is projected to be reduced over prior law by \$3.6 billion in the next biennium.

Today, the agency released a HB 3 in 30 Recapture webinar providing background on recapture, recapture formula changes as well as procedural changes for recapture required under HB 3. You can access that webinar and other resources at: <https://tea.texas.gov/hb3>.

This is not a notice that you are subject to recapture. This is general information provided to all LEAs about changes to the structure of recapture as a result of HB 3.

Overview of Recapture Formula Changes

The formula for recapture is now local revenue in excess of entitlement instead of on a wealth per WADA basis. Under HB 3, recapture and non-recapture school districts are treated more equitably, and districts only pay tier one recapture on the amount above their formula entitlement. HB 3 modifies local revenue subject to recapture to be local revenue in excess of entitlement and 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.

HB 3 reduces recapture in three primary ways:

- 1. The calculation of recapture is now based on local revenue in excess of entitlement instead of equalized wealth levels**
 - **CEI:** Disparities between recapture and non-recapture districts caused by the CEI have been eliminated
 - **Transportation:** Costs for transportation are now funded equally between recapture and non-recapture districts
 - **Entitlement prevails over recapture:** Districts are now guaranteed that recapture will not reduce revenue below their entitlement level (TEC, Section 48.257, HB 3 Enrolled Page 92)
- 2. Total entitlement increased – note the BA increase as well**
 - New allotments were created (Early Education Allotment, CCMR Bonus, Teacher Incentive Allotment, etc.)
 - Existing allotments were expanded (State Compensatory Education, special education, bilingual/dual language)
- 3. Lowered property tax rates**

- HB 3 lowered tax rates, resulting in fewer collections
- HB 3 contains a mechanism to lower future property tax rates

Other formula changes to recapture

The previous method to calculate recapture used prior year values to arrive at a proportional tax base reduction percentage. This percentage was applied to current year tax collections to arrive at recapture amount. This recapture formula created budget instability, i.e. surpluses and deficits. The shift to current year values aligns recapture with entitlement. More details forthcoming in correspondence regarding current year values.

Portions of income from the Permanent School Fund distributed to the Available School Fund (ASF) are intended to be provided to school districts on a per-student basis; however, prior to HB 3, not all districts benefited equally from the ASF. For non-recapture districts, this money counted toward the total entitlement funding a district receives. For recapture districts, the constitutional funds were often provided on top of the locally generated entitlement funding. To provide this funding more equitably under HB 3, all districts now receive ASF funding as the first method of finance before incorporating local and other state revenues into the funding calculations.

HB 3 also eliminates the benefit received by districts subject to reduced recapture based on information from the district in the 1992-93 school year over a five-year period, through the creation of the Equalized Wealth Transition Grant.

The increase in the basic allotment and other formula changes will mitigate recapture by an estimated \$3.6 billion over the next biennium.

Procedural changes for recapture

The early agreement credit under former Chapter 41 is repealed, with funding redirected to the basic allotment. Therefore, the September 1 deadline to submit contracts to reduce local revenue levels in order to receive the early agreement credit is no longer relevant.

Under HB 3, districts now have the option of making one lump-sum payment in August. The payment option to submit seven equal payments from February through August remains unchanged. Districts subject to recapture will select a payment option in the Excess Local Revenue subsystem of the online Foundation School Program (FSP) system to the Texas Education Agency (TEA) by January 15 annually.

Section 41.0041, Education Code, which provided certain districts the option of authorizing the Commissioner to withhold state aid in lieu of holding an election has been repealed. However, 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, which can be found in the Options and Procedures for Local Revenue in Excess of

Entitlement 2019–2020 School Year and on the Excess Local Revenue webpage at <http://tea.texas.gov/index2.aspx?id=25769817562>.

Options to Reduce Local Revenue in Excess of Entitlement

A district with local revenue in excess of entitlement has the following five options available to reduce the district's revenue level under TEC, Chapter 49.

- 1) Consolidation with another district as provided by Subchapter B
- 2) Detachment of territory as provided by Subchapter C
- 3) Purchase of average daily attendance credit as provided by Subchapter D ("Option 3")
- 4) Education of nonresident students as provided by Subchapter E ("Option 4")
- 5) Tax base consolidation with another district as provided by Subchapter F

Districts have historically selected Option 3. A voter election is required when exercising any form of Option 3 or Option 4. All districts notified as having a local revenue level in excess of entitlement must hold an election authorizing the purchase of attendance credit under Section 49.156, Education Code. Successful elections conducted under TEC former Chapter 41, carry over into TEC, Chapter 49.

How Does the State Use Recapture Revenue?

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).

Final Determination Regarding Payment of Excess Local Revenue

Each year, the TEA notifies school districts with local revenue levels estimated to exceed the tier two, level two guaranteed yield of \$49.28. However, 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 TEA will make a final determination regarding the payment of excess local revenue using the district's final enrollment, entitlement and local share under Chapter 48, final state certified property values for tax year 2019, adopted maintenance and operations (M&O) tax rate for tax year 2019, and M&O taxes collected by your district in 2019–2020.

Questions

If you have any questions related to this TAA on the formula or procedural changes for recapture required under HB 3, please contact the Division of State Funding by phone at (512) 463-9238 or by email at HB3info@tea.texas.gov.

Sincerely,

Leo Lopez, RTSBA,

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