The Texas Education Agency (TEA) proposes amendments to §§62.1001, 62.1011, 62.1031, and 62.1051 and the repeal of §62.1041, concerning equalized wealth level. The proposed rule actions would implement the requirements of the Texas Education Code (TEC), §49.006, as transferred, redesignated, and amended by House Bill (HB) 3, 86th Texas Legislature, 2019. The proposed rule actions would implement House Bill (HB) 3, 86th Texas Legislature, 2019, by removing an outdated provision and updating references to statute.

BACKGROUND INFORMATION AND JUSTIFICATION: In 1993, the 73rd Texas Legislature created the current wealth equalization system in TEC, Chapter 36. Subsequently in 1995, the 74th Texas Legislature moved the wealth equalization provisions in the TEC from Chapter 36 to Chapter 41. At that same time, TEC, Chapter 16, pertaining to the Foundation School Program, was recodified as Chapter 42. In 2019, the 86th Texas Legislature, moved the wealth equalization provisions in the TEC from Chapter 41 to Chapter 49, Options for Local Revenue Levels in Excess of Entitlement.

The proposed revisions would amend 19 TAC §62.1001, Authority of Trustees; Duration of Agreements; §62.1011, Election Duties of Board of Trustees; §62.1031, Date of Agreement for Purposes of Determining Election Date; and §62.1051, Definition of Parcel Detached and Annexed by Commissioner, to modify statutory references to correspond to current codification. The proposed revisions would also repeal 19 TAC §62.1041, Weighted Students in Average Daily Attendance for Purposes of Tax Rate Rollback, to remove an outdated provision. The tax rollback calculation in TEC, Chapter 49, does not use weighted average attendance.

Additionally, the subchapter title would be updated to Commissioner's Rules Concerning Options for Local Revenue Levels in Excess of Entitlement.

FISCAL IMPACT: Leo Lopez, associate commissioner for school finance/chief school finance officer, has determined that for the first five-year period the proposal is in effect there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would repeal an existing regulation. The proposed repeal of 19 TAC §62.1041 would remove outdated provisions. The tax rollback calculation does not use weighted average daily attendance.

The proposed revisions would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not expand or limit an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Mr. Lopez has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposed amendments to 19 TAC §§62.1001, 62.1011, 62.1031, and 62.1051 would ensure references to statute reflect recent legislation. The
proposed repeal of 19 TAC §62.1041 would remove outdated provisions. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no data or reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: The TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins October 25, 2019, and ends November 25, 2019. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the Texas Register on October 25, 2019. A form for submitting public comments is available on the TEA website at https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/. Comments on the proposal may also be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701.

STATUTORY AUTHORITY. The amendments are proposed under Texas Education Code (TEC), §49.006, as transferred, redesignated, and amended by House Bill 3, 86th Texas Legislature, 2019, which authorizes the commissioner of education to adopt rules necessary for the implementation of TEC, Chapter 49, Options for Local Revenue Levels in Excess of Entitlement.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §49.006, as transferred, redesignated, and amended by HB 3, 86th Texas Legislature, 2019.

§62.1001. Authority of Trustees; Duration of Agreements.

(a) Trustees of independent school districts may not delegate their authority to enter into agreements necessary to achieve the purposes of the Texas Education Code, Chapter 49 (Chapter 41). Nor may the trustees authorize any exclusive franchises on the right to negotiate on behalf of the district.

(b) Consolidations under the Texas Education Code, Chapter 49 (Chapter 41), Subchapter B; detachments and annexations under Subchapter C; and tax base consolidations under Subchapter F are permanent in duration and districts may not enter into agreements that purport to limit the duration of the agreement. Nor may the parties create by agreement any right to cancel the agreement.

§62.1011. Election Duties of Board of Trustees.

For the purposes of an election ordered under the Texas Education Code, Chapter 49 (Chapter 41), the board of trustees that orders the election shall perform any applicable duty assigned to the county judge or to the county commissioners court under the Texas Education Code, Chapter 13.

§62.1031. Date of Agreement for Purposes of Determining Election Date.

For the purposes of the Texas Education Code, §49.012 (§41.012), the date of an agreement entered by the board of trustees of a school district under the Texas Education Code, Chapter 49 (Chapter 41), Subchapter E or F, is the date that the agreement is certified by the commissioner of education.

§62.1051. Definition of Parcel Detached and Annexed by Commissioner.

For the purposes of implementing the Texas Education Code, Chapter 49 (Chapter 41), Subchapter G, a parcel shall be defined as one or more separately described items of real property, together with the improvements and personal property located on the property, that have the same taxable situs or that are:

(1) contiguous to each other;
(2) used as a unit or subject to the same predominant use; and
(3) located within the boundaries of a single school district.
STATUTORY AUTHORITY. The repeal is proposed under Texas Education Code (TEC), §49.006, as transferred, redesignated, and amended by House Bill 3, 86th Texas Legislature, 2019, which authorizes the commissioner of education to adopt rules necessary for the implementation of TEC, Chapter 49, Options for Local Revenue Levels in Excess of Entitlement.

CROSS REFERENCE TO STATUTE. The repeal implements Texas Education Code, §49.006, as transferred, redesignated, and amended by HB 3, 86th Texas Legislature, 2019.

§62.1041. Weighted Students in Average Daily Attendance for Purposes of Tax Rate Rollback.