Excess Local Revenue FAQ

(As of January 6, 2023)

1. **How does the Texas Education Agency (TEA) identify districts with local revenue in excess of entitlement?**

   Annually, on or before approximately July 15, the TEA notifies school districts with local revenue estimated to exceed the Tier Two (Level Two) guaranteed yield of $49.28. As established in the TEC, §48.269, determinations of excess local revenue are based on estimates of enrollment and estimated property values.

2. **Once my district is officially identified in July, what do I need to do to receive permission to adopt a tax rate?**

   Districts identified with excess local revenue must complete and submit the following to the TEA via the Excess Local Revenue subsystem of the online Foundation School Program (FSP) system:

   1. District intent/choice selection form indicating which option the district intends to use to reduce local revenue in excess of entitlement is due September 1.
   2. The contract that informs the TEA which option(s) the district has chosen to reduce its local revenue level in excess of entitlement: Agreement for the Purchase of Attendance Credit (Netting Chapter 48 Funding) is due September 1. Agreement for the Purchase of Credit is due January 15.
   3. The CAD Cost, District Partner Data & Payment Options form is due January 15.

   (If the calendar date falls on a weekend, federal or state holiday, the effective date is the business day preceding the weekend or holiday.)

3. **Does the contract require board approval?**

   Yes. The contract must be approved annually by the board. Districts submit the Option 3 Contract via the Excess Local Revenue subsystem, each year the district school board must delegate the authority to obligate the school district under the TEC, Chapter 49 to the superintendent. The following language is required to be recorded in the board minutes and the board minutes must be uploaded via the Excess Local Revenue subsystem of the online FSP System:

   "For the 20XX–20XX school year, we delegated contractual authority to obligate the school district under Texas Education Code (TEC) §11.1511(c)(4) to the superintendent, solely for the purpose of obligating the district under TEC, §48.257, and TEC, Chapter 49, Subchapters A and D, and the rules adopted by the commissioner of education as authorized under TEC, 49.006. This included approval of the Agreement for the Purchase of Attendance Credit or the Agreement for the Purchase of Attendance Credit (Netting Chapter 48 Funding)."

4. **What is the purpose of the sample contracts in the Options and Procedures for Local Revenue in Excess of Entitlement manual?**

Districts using Option 3 (purchasing attendance credit or reducing state aid under Chapter 48) or Option 4 (contracting to educate nonresident students from another district) must complete and submit the Option 3 Contract (Agreement for the Purchase of Attendance Credit or Agreement for the Purchase of Attendance Credit (Netting Chapter 48 Funding)) via the Excess Local Revenue subsystem of the online FSP System or mail the original contract by certified mail to the TEA. The paper copy of the contract may be used in the district's board packet.

5. **What is the difference between Option 3 (Agreement to Purchase Attendance Credits) and Option 3 (Netting Chapter 48 Funding)?**

With Option 3 (Agreement to Purchase Attendance Credits), the district will receive state aid payments beginning in September. The district will either make seven equal recapture payments in February through August or one lump-sum payment by August 15. The agreement is subject to the approval of the voters of the district as provided by the TEC, §49.156. Districts using this option are required to submit the district intent/choice selection form and complete an Option 3 contract.

With Option 3 netting, the estimated recapture will be withheld from state aid payments under Chapter 48 that are scheduled to begin in September. Provisions in the TEC, §48.257(c), allow districts to offset the reduction of excess local revenue against Chapter 48 funds. All districts will have the option to use state aid calculated under, Chapter 48, Education Code, that is not described by the TEC §48.266(a)(3) 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 to complete an Option 3 netting contract. If your district does not qualify for the offset provision and has not previously received voter authorization to purchase attendance credit, your district must conduct an election.

6. **How does my district make payments to the TEA under Option 3?**

A district has two options for making recapture payments. Option 1 is to make seven equal monthly payments beginning February 15 and ending August 15, and Option 2 is to make one lump-sum payment by August 15. Wiring instructions are located here: https://tea.texas.gov/sites/default/files/comptroller_instructions_for_wiring_funds_recapture.pdf.

7. **How does our district settle up with the TEA once final data are available to calculate the cost of recapture?**

The district will undergo two rounds of settle-up with the TEA. The first is associated with the Near-Final Cost of Recapture Report in September following the relevant school year, and the second is associated with the Final Cost of Recapture Report the following May. The Near-final report will include all final data elements except final tax collections, which will be incorporated into the May Final Report from the J-1 schedule of the district's annual financial report. Near-final settle-up recapture balances are due by October 15, and Final settle-up recapture balances are due by May 31.

8. **Are recapture payments from school districts used to fund other functions of the budget?**

No. Recaptured funds are appropriated in the General Appropriations Act as a method of finance to help pay for the Foundation School Program (FSP). The TEC, 49.154(b) states that, “Receipts shall be deposited in the state treasury and may be used only for foundation school program purposes.”