

EDUCATION CODE

TITLE 2. PUBLIC EDUCATION

SUBTITLE I. SCHOOL FINANCE AND FISCAL MANAGEMENT

CHAPTER 41. EQUALIZED WEALTH LEVEL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 41.001. DEFINITIONS. In this chapter:

(1) "Equalized wealth level" means the wealth per student provided by Section 41.002.

(2) "Wealth per student" means the taxable value of property, as determined under Subchapter M, Chapter 403, Government Code, divided by the number of students in weighted average daily attendance.

(3) "Weighted average daily attendance" has the meaning assigned by Section 42.302.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1999, 76th Leg., ch. 396, Sec. 1.01, eff. Sept. 1, 1999.

Sec. 41.0011. COMPUTATION OF WEALTH PER STUDENT FOR 2015-2016 SCHOOL YEAR. Notwithstanding any other provision of this chapter, in computing a school district's wealth per student for the 2015-2016 school year, a school district's taxable value of property under Subchapter M, Chapter 403, Government Code, is determined as if the increase in the residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, and the additional limitation on tax increases under Section 1-b(d) of that article in effect for the 2015 tax year as proposed by S.J.R. 1, 84th Legislature, Regular Session, 2015, had been in effect for the 2014 tax year. This section expires September 1, 2016.

Added by Acts 2015, 84th Leg., R.S., Ch. 465 (S.B. 1), Sec. 10, eff. November 3, 2015.

This section was amended by the 85th Legislature. Pending publication of the current statutes, see S.B. 1353, 85th Legislature, Regular Session, for amendments affecting this

section.

Sec. 41.002. EQUALIZED WEALTH LEVEL. (a) A school district may not have a wealth per student that exceeds:

(1) the wealth per student that generates the amount of maintenance and operations tax revenue per weighted student available to a district with maintenance and operations tax revenue per cent of tax effort equal to the maximum amount provided per cent under Section 42.101(a) or (b), for the district's maintenance and operations tax effort equal to or less than the rate equal to the sum of the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year and any additional tax effort included in calculating the district's compressed tax rate under Section 42.101(a-1);

(2) the wealth per student that generates the amount of maintenance and operations tax revenue per weighted student available to the Austin Independent School District, as determined by the commissioner in cooperation with the Legislative Budget Board, for the first six cents by which the district's maintenance and operations tax rate exceeds the rate equal to the sum of the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year and any additional tax effort included in calculating the district's compressed tax rate under Section 42.101(a-1), subject to Section 41.093(b-1); or

(3) \$319,500, for the district's maintenance and operations tax effort that exceeds the amount of tax effort described by Subdivision (2).

(b) For purposes of this chapter, the commissioner shall adjust, in accordance with Section 42.2521, the taxable values of a school district that, due to factors beyond the control of the board of trustees, experiences a rapid decline in the tax base used in calculating taxable values.

(c) Repealed by Acts 1999, 76th Leg., ch. 396, Sec. 3.01(a), eff. Sept. 1, 1999.

(d) Expired.

(e) Notwithstanding Subsection (a), and except as provided by Subsection (g), in accordance with a determination of the commissioner, the wealth per student that a school district may have after exercising an option under Section 41.003(2) or (3) may not be less than the amount needed to maintain state and local revenue in an amount equal to state and local revenue per weighted student for maintenance and operation of the district for the 1992-1993 school year less the district's current year distribution per weighted student from the available school fund, other than amounts distributed under Chapter 31, if the district imposes an effective tax rate for maintenance and operation of the district equal to the greater of the district's current tax rate or \$1.50 on the \$100 valuation of taxable property.

(f) For purposes of Subsection (e), a school district's effective tax rate is determined by dividing the total amount of taxes collected by the district for the applicable school year less any amounts paid into a tax increment fund under Chapter 311, Tax Code, by the quotient of the district's taxable value of property, as determined under Subchapter M, Chapter 403, Government Code, divided by 100.

(g) The wealth per student that a district may have under Subsection (e) is adjusted as follows:

$$AWPS = WPS \times ((EWL/280,000 - 1) \times DTR/1.5) + 1$$

where:

"AWPS" is the district's wealth per student;

"WPS" is the district's wealth per student determined under Subsection (e);

"EWL" is the equalized wealth level; and

"DTR" is the district's adopted maintenance and operations tax rate for the current school year.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1997, 75th Leg., ch. 1071, Sec. 7, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 396, Sec. 1.02, 3.01(a), eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1187, Sec. 2.02, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1187, Sec. 2.03, eff. Sept. 1, 2002.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 5 (H.B. 1), Sec. 1.01, eff. May 31, 2006.

Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 44, eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 57.06, eff. September 28, 2011.

Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 3, eff. September 1, 2015.

Sec. 41.003. OPTIONS TO ACHIEVE EQUALIZED WEALTH LEVEL. A district with a wealth per student that exceeds the equalized wealth level may take any combination of the following actions to achieve the equalized wealth level:

(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;

(4) education of nonresident students as provided by Subchapter E; or

(5) tax base consolidation with another district as provided by Subchapter F.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1999, 76th Leg., ch. 396, Sec. 1.03, eff. Sept. 1, 1999.

Sec. 41.0031. INCLUSION OF ATTENDANCE CREDITS AND NONRESIDENTS IN WEIGHTED AVERAGE DAILY ATTENDANCE. In determining whether a school district has a wealth per student less than or equal to the equalized wealth level, the commissioner shall use:

(1) the district's final weighted average daily attendance; and

(2) the number of attendance credits a district purchases under Subchapter D or the number of nonresident students a district educates under Subchapter E for a school year.

Added by Acts 1999, 76th Leg., ch. 396, Sec. 1.04, eff. Sept. 1,

1999.

Sec. 41.004. ANNUAL REVIEW OF PROPERTY WEALTH. (a) Not later than July 15 of each year, using the estimate of enrollment under Section 42.254, the commissioner shall review the wealth per student of school districts in the state and shall notify:

(1) each district with wealth per student exceeding the equalized wealth level;

(2) each district to which the commissioner proposes to annex property detached from a district notified under Subdivision (1), if necessary, under Subchapter G; and

(3) each district to which the commissioner proposes to consolidate a district notified under Subdivision (1), if necessary, under Subchapter H.

(a-1) This subsection applies only if the constitutional amendment proposed by S.J.R. 1, 84th Legislature, Regular Session, 2015, is approved by the voters in an election held for that purpose. As soon as practicable after receiving revised property values that reflect adoption of the constitutional amendment, the commissioner shall review the wealth per student of districts in the state and revise as necessary the notifications provided under Subsection (a) for the 2015-2016 school year. This subsection expires September 1, 2016.

(b) If, before the dates provided by this subsection, a district notified under Subsection (a)(1) has not successfully exercised one or more options under Section 41.003 that reduce the district's wealth per student to a level equal to or less than the equalized wealth level, the commissioner shall order the detachment of property from that district as provided by Subchapter G. If that detachment will not reduce the district's wealth per student to a level equal to or less than the equalized wealth level, the commissioner may not detach property under Subchapter G but shall order the consolidation of the district with one or more other districts as provided by Subchapter H. An agreement under Section 41.003(1) or (2) must be executed not later than September 1 immediately following the notice under Subsection (a). An election for an option under Section 41.003(3), (4), or (5) must be ordered

before September 1 immediately following the notice under Subsection (a).

(b-1) This subsection applies only to a district that has not previously held an election under this chapter and is not eligible to reduce the district's wealth per student in the manner authorized by Section 41.0041. Notwithstanding Subsection (b), a district that enters into an agreement to exercise an option to reduce the district's wealth per student under Section 41.003(3), (4), or (5) for the 2015-2016 school year may request and, as provided by Section 41.0042(a), receive approval from the commissioner to delay the date of the election otherwise required to be ordered before September 1. This subsection expires September 1, 2016.

(c) A district notified under Subsection (a) may not adopt a tax rate for the tax year in which the district receives the notice until the commissioner certifies that the district has achieved the equalized wealth level.

(c-1) Notwithstanding Subsection (c), a district that receives approval from the commissioner to delay an election as provided by Subsection (b-1) may adopt a tax rate for the 2015 tax year before the commissioner certifies that the district has achieved the equalized wealth level. This subsection expires September 1, 2016.

(d) A detachment and annexation or consolidation under this chapter:

(1) is effective for Foundation School Program funding purposes for the school year that begins in the calendar year in which the detachment and annexation or consolidation is agreed to or ordered; and

(2) applies to the ad valorem taxation of property beginning with the tax year in which the agreement or order is effective.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1999, 76th Leg., ch. 396, Sec. 1.05, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 465 (S.B. 1), Sec. 11, eff.

June 15, 2015.

Sec. 41.0041. EFFECT OF STATE AID. (a) Notwithstanding any other provision of this chapter, if a school district's wealth per student exceeds the equalized wealth level for the first time in the 2006-2007 or a later school year, the commissioner may consider the district to have reduced its wealth per student to the equalized wealth level for any school year as provided by this section.

(b) When the commissioner initially identifies a school district under Section 41.004 as having a wealth per student for a school year that exceeds the equalized wealth level, the commissioner shall estimate:

(1) the amount of state revenue to which the district is entitled under Chapter 42 for that school year; and

(2) the cost to the district to purchase attendance credits under Subchapter D in an amount sufficient to reduce the district's wealth per student to the equalized wealth level for that school year.

(c) If the commissioner determines that the amount described by Subsection (b)(1) exceeds the amount described by Subsection (b)(2), the commissioner shall notify the district of the commissioner's determination. In lieu of exercising an option described by Section 41.003, the district's board of trustees may authorize the commissioner to withhold from the state revenue to which the district is entitled under Chapter 42 an amount equal to the amount described by Subsection (b)(2).

(d) In calculating the amount of state revenue to be withheld from a school district under this section, the commissioner shall calculate the cost for the district to reduce the district's wealth per student to the equalized wealth level using the final attendance and tax rate data for the school year and shall award the district any available credit or discount under Subchapter D as if the district had exercised the option under Section 41.003(3) in a timely manner. If the final amount calculated for the cost for the district to reduce the district's wealth per student to the equalized wealth level for a school year exceeds the amount of state revenue to which the district is

entitled under Chapter 42 for that year:

(1) the commissioner shall:

(A) withhold the entire amount of state revenue to which the district is entitled under Chapter 42 for that year; and

(B) withhold the additional amount of the cost for the district to reduce the district's wealth per student to the equalized wealth level for that year from the state revenue to which the district is entitled under Chapter 42 for a subsequent school year, or if the additional amount exceeds the amount of state revenue to which the district is entitled, add the difference to the cost of the attendance credits that the district must purchase in the subsequent year; and

(2) the district is not required to take any further action to reduce its wealth per student for that year.

(e) An action by the board of trustees of a school district authorizing the commissioner to withhold state revenue from the district under this section is valid without voter authorization.

Added by Acts 2007, 80th Leg., R.S., Ch. 335 (H.B. 3226), Sec. 1, eff. June 15, 2007.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 57.32(a)(1), eff. September 1, 2017.

Acts 2013, 83rd Leg., R.S., Ch. 1370 (S.B. 1658), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1370 (S.B. 1658), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1370 (S.B. 1658), Sec. 3, eff. September 1, 2013.

For expiration of this section, see Subsection (d).

Sec. 41.0042. TRANSITIONAL PROVISIONS: INCREASED HOMESTEAD EXEMPTION AND LIMITATION ON TAX INCREASES. (a) The commissioner shall approve a district's request under Section 41.004(b-1) to delay the date of an election required under this chapter if the commissioner determines that the district would not have a wealth per student that exceeds the equalized wealth level if

the constitutional amendment proposed by S.J.R. 1, 84th Legislature, Regular Session, 2015, were approved by the voters.

(b) The commissioner shall set a date by which each district that receives approval under this section must order the election.

(c) Not later than the 2016-2017 school year, the commissioner shall order detachment and annexation of property under Subchapter G or consolidation under Subchapter H as necessary to achieve the equalized wealth level for a district that receives approval under this section and subsequently:

(1) fails to hold the election; or

(2) does not receive voter approval at the election.

(d) This section expires September 1, 2017.

Added by Acts 2015, 84th Leg., R.S., Ch. 465 (S.B. 1), Sec. 12, eff. June 15, 2015.

Sec. 41.005. COMPTROLLER AND APPRAISAL DISTRICT COOPERATION. The chief appraiser of each appraisal district and the comptroller shall cooperate with the commissioner and school districts in implementing this chapter.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.006. RULES. (a) The commissioner may adopt rules necessary for the implementation of this chapter. The rules may provide for the commissioner to make necessary adjustments to the provisions of Chapter 42, including providing for the commissioner to make an adjustment in the funding element established by Section 42.302, at the earliest date practicable, to the amount the commissioner believes, taking into consideration options exercised by school districts under this chapter and estimates of student enrollments, will match appropriation levels.

(b) As necessary for the effective and efficient administration of this chapter, the commissioner may modify effective dates and time periods for actions described by this chapter.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1997, 75th Leg., ch. 1071, Sec. 8, eff. Sept. 1, 1997.

Sec. 41.007. COMMISSIONER TO APPROVE SUBSEQUENT BOUNDARY CHANGES. A school district that is involved in an action under this chapter that results in boundary changes to the district or in the consolidation of tax bases is subject to consolidation, detachment, or annexation under Chapter 13 only if the commissioner certifies that the change under Chapter 13 will not result in a district with a wealth per student that exceeds the equalized wealth level. Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.008. HOMESTEAD EXEMPTIONS. (a) The governing board of a school district that results from consolidation under this chapter, including a consolidated taxing district under Subchapter F, for the tax year in which the consolidation occurs may determine whether to adopt a homestead exemption provided by Section 11.13, Tax Code, and may set the amount of the exemption, if adopted, at any time before the school district adopts a tax rate for that tax year. This section applies only to an exemption that the governing board of a school district is authorized to adopt or change in amount under Section 11.13, Tax Code.

(b) This section prevails over any inconsistent provision of Section 11.13, Tax Code, or other law. Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.009. TAX ABATEMENTS. (a) A tax abatement agreement executed by a school district that is involved in consolidation or in detachment and annexation of territory under this chapter is not affected and applies to the taxation of the property covered by the agreement as if executed by the district within which the property is included.

(b) The commissioner shall determine the wealth per student of a school district under this chapter as if any tax abatement agreement executed by a school district on or after May 31, 1993, had not been executed. Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.010. TAX INCREMENT OBLIGATIONS. The payment of tax

increments under Chapter 311, Tax Code, is not affected by the consolidation of territory or tax bases or by annexation under this chapter. In each tax year a school district paying a tax increment from taxes on property over which the district has assumed taxing power is entitled to retain the same percentage of the tax increment from that property that the district in which the property was located before the consolidation or annexation could have retained for the respective tax year.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.011. CONTINGENCY. (a) If any of the options described by Section 41.003 as applied to a school district are held invalid by a final decision of a court of competent jurisdiction, a school district is entitled to exercise any of the remaining valid options in accordance with a schedule approved by the commissioner.

(b) If a final order of a court of competent jurisdiction should hold each of the options provided by Section 41.003 invalid, the commissioner shall act under Subchapter G or H to achieve the equalized wealth level only after notice and hearing is afforded to each school district affected by the order. The commissioner shall adopt a plan that least disrupts the affected school districts. If because the exigency to adopt a plan prevents the commissioner from giving a reasonable time for notice and hearing, the commissioner shall timely give notice to and hold a hearing for the affected school districts, but in no event less than 30 days from time of notice to the date of hearing.

(c) If a final order of a court of competent jurisdiction should hold an option provided by Section 41.003 invalid and order a refund to a district of any amounts paid by a district choosing that option, the amount shall be refunded but held in reserve and not expended by the district until released by order of the commissioner. The commissioner shall order the release immediately on the commissioner's determination that, through one of the means provided by law, the district has achieved the equalized wealth level. The amount released shall be deducted from any state aid payable to the district according to a schedule adopted by the commissioner.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.012. DATE OF ELECTIONS. An election under this chapter for voter approval of an agreement entered by the board of trustees shall be held on a Tuesday or Saturday not more than 45 days after the date of the agreement. Section 41.001, Election Code, does not apply to the election.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

For expiration of this section, see Subsection (c).

Sec. 41.0121. TRANSITIONAL ELECTION DATES. (a) This section applies only to an election under this chapter that occurs during the 2015-2016 school year.

(b) Section 41.012 does not apply to a district that receives approval of a request under Section 41.0042. The district shall hold the election on a Tuesday or Saturday on or before a date specified by the commissioner. Section 41.001, Election Code, does not apply to the election.

(c) This section expires September 1, 2016.

Added by Acts 2015, 84th Leg., R.S., Ch. 465 (S.B. 1), Sec. 13, eff. June 15, 2015.

Sec. 41.013. PROCEDURE. (a) Except as provided by Subchapter G, a decision of the commissioner under this chapter is appealable under Section 7.057.

(b) Any order of the commissioner issued under this chapter shall be given immediate effect and may not be stayed or enjoined pending any appeal.

(c) Chapter 2001, Government Code, does not apply to a decision of the commissioner under this chapter.

(d) On the request of the commissioner, the secretary of state shall publish any rules adopted under this chapter in the Texas Register and the Texas Administrative Code.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

SUBCHAPTER B. CONSOLIDATION BY AGREEMENT

Sec. 41.031. AGREEMENT. The governing boards of any two or more school districts may consolidate the districts by agreement in accordance with this subchapter to establish a consolidated district with a wealth per student equal to or less than the equalized wealth level. The agreement is not effective unless the commissioner certifies that the consolidated district, as a result of actions taken under this chapter, will have a wealth per student equal to or less than the equalized wealth level.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.032. GOVERNING LAW. Except to the extent modified by the terms of the agreement, the consolidated district is governed by the applicable provisions of Subchapter D, Chapter 13, other than a provision requiring consolidating districts to be contiguous. The agreement may not be inconsistent with the requirements of this subchapter.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.033. GOVERNANCE PLAN. (a) The agreement among the consolidating districts may include a governance plan designed to preserve community-based and site-based decision making within the consolidated district, including the delegation of specific powers of the governing board of the district other than the power to levy taxes, including a provision authorized by Section 13.158(b).

(b) The governance plan may provide for a transitional board of trustees during the first year after consolidation, but beginning with the next year the board of trustees must be elected from within the boundaries of the consolidated district. If the consolidating districts elect trustees from single-member districts, the consolidated district must adopt a plan to elect its board of trustees from single-member districts.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2003, 78th Leg., ch. 201, Sec. 29, eff. Sept. 1, 2003.

Sec. 41.034. INCENTIVE AID. (a) For the first and second school years after creation of a consolidated district under this

subchapter, the commissioner shall adjust allotments to the consolidated district to the extent necessary to preserve the effects of an adjustment under Section 42.102, 42.103, or 42.105 to which either of the consolidating districts would have been entitled but for the consolidation.

(b) Except as provided by Subsection (c), a district receiving incentive aid payments under this section is not entitled to incentive aid under Subchapter G, Chapter 13.

(c) Four or more districts that consolidate into one district under this subchapter within a period of one year may elect to receive incentive aid under this section or to receive incentive aid for not more than five years under Subchapter G, Chapter 13. Incentive aid under this subsection may not provide the consolidated district with more revenue in state and local funds than the district would receive at the equalized wealth level.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

SUBCHAPTER C. DETACHMENT AND ANNEXATION BY AGREEMENT

Sec. 41.061. AGREEMENT. (a) By agreement of the governing boards of two school districts, territory may be detached from one of the districts and annexed to the other district if, after the action:

(1) the wealth per student of the district from which territory is detached is equal to or less than the equalized wealth level; and

(2) the wealth per student of the district to which territory is annexed is not greater than the greatest level for which funds are provided under Subchapter F, Chapter 42.

(b) The agreement is not effective unless the commissioner certifies that, after all actions taken under this chapter, the wealth per student of each district involved will be equal to or less than the applicable level permitted by Subsection (a).

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.062. GOVERNING LAW. Except to the extent of any conflict with this chapter and except for any requirement that

detached property must be annexed to a school district that is contiguous to the detached territory, the annexation and detachment is governed by Chapter 13.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.063. ALLOCATION OF APPRAISED VALUE OF DIVIDED UNIT. If portions of a parcel or other item of property are located in different school districts as a result of a detachment and annexation under this subchapter, the parcel or other item of property shall be appraised for taxation as a unit, and the agreement shall allocate the taxable value of the property between the districts.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.064. ALLOCATION OF INDEBTEDNESS. The annexation agreement may allocate to the receiving district any portion of the indebtedness of the district from which the territory is detached, and the receiving district assumes and is liable for the allocated indebtedness.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.065. NOTICE. As soon as practicable after the agreement is executed, the districts involved shall notify each affected property owner and the appraisal district in which the affected property is located.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

SUBCHAPTER D. PURCHASE OF ATTENDANCE CREDIT

Sec. 41.091. AGREEMENT. A school district with a wealth per student that exceeds the equalized wealth level may execute an agreement with the commissioner to purchase attendance credits in an amount sufficient, in combination with any other actions taken under this chapter, to reduce the district's wealth per student to a level that is equal to or less than the equalized wealth level.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.092. CREDIT. (a) For each credit purchased, the weighted average daily attendance of the purchasing school district is increased by one student in weighted average daily attendance for purposes of determining whether the district exceeds the equalized wealth level.

(b) A credit is not used in determining a school district's scholastic population, average daily attendance, or weighted average daily attendance for purposes of Chapter 42 or 43.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.093. COST. (a) Subject to Subsection (b-1), the cost of each credit is an amount equal to the greater of:

(1) the amount of the district's maintenance and operations tax revenue per student in weighted average daily attendance for the school year for which the contract is executed; or

(2) the amount of the statewide district average of maintenance and operations tax revenue per student in weighted average daily attendance for the school year preceding the school year for which the contract is executed.

(b) For purposes of this section, a school district's maintenance and operations tax revenue does not include any amounts paid into a tax increment fund under Chapter 311, Tax Code.

(b-1) If the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302(a-1)(1) for which state funds are appropriated for a school year is an amount at least equal to the amount of revenue per weighted student per cent of tax effort available to the Austin Independent School District, as determined by the commissioner in cooperation with the Legislative Budget Board, the commissioner, in computing the amounts described by Subsections (a)(1) and (2) and determining the cost of an attendance credit, shall exclude maintenance and operations tax revenue resulting from the tax rate described by Section 41.002(a)(2).

(c) The cost of an attendance credit for a school district is computed using the final tax collections of the district.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1997, 75th Leg., ch. 592, Sec. 1.02, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1071, Sec. 9, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 396, Sec. 1.06, eff. Sept. 1, 1999.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 5 (H.B. 1), Sec. 1.02, eff. May 31, 2006.

Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 45, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 4, eff. September 1, 2015.

Sec. 41.0931. DISASTER REMEDIATION COSTS. (a) This section applies only to a district all or part of which is located in an area declared a disaster area by the governor under Chapter 418, Government Code, and that incurs disaster remediation costs as a result of the disaster.

(b) Subject to Subsection (c), for the two-year period following the date of the governor's initial proclamation or executive order declaring a state of disaster, the total amount required to be paid by a district for attendance credits under Section 41.093 is reduced by the amount of any disaster remediation costs that the district pays during that period and does not anticipate recovering through insurance proceeds, federal disaster relief payments, or another similar source of reimbursement.

(b-1) Expired.

(c) To receive a reduction under this section, a district must provide the commissioner with acceptable documentation of disaster remediation costs paid by the district.

(d) The commissioner shall adopt rules necessary to implement this section, including rules defining "disaster remediation costs" for purposes of this section and specifying the type of documentation required under Subsection (c).

(e) Notwithstanding any other provision of this section, the commissioner may permit a district to use funds available to the district as a result of a reduction under this section to pay the costs of replacing a facility instead of repairing the facility. The commissioner shall ensure that a district that

elects to replace a facility does not receive a reduction that exceeds the lesser of:

(1) the amount that would be available to the district if the facility were repaired; or

(2) the amount necessary to replace the facility.

Added by Acts 2009, 81st Leg., R.S., Ch. 1006 (H.B. 4102), Sec. 3, eff. June 19, 2009.

Sec. 41.094. PAYMENT. (a) A school district shall pay for credits purchased in equal monthly payments as determined by the commissioner beginning February 15 and ending August 15 of the school year for which the agreement is in effect.

(a-1) Notwithstanding Subsection (a), a district that receives approval of a request under Section 41.0042 shall pay for credits purchased in equal monthly payments as determined by the commissioner beginning March 15, 2016, and ending August 15, 2016. This subsection expires September 1, 2016.

(b) Receipts shall be deposited in the state treasury and may be used only for foundation school program purposes.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 465 (S.B. 1), Sec. 14, eff. June 15, 2015.

Sec. 41.095. DURATION. An agreement under this section is valid for one school year and, subject to Section 41.096, may be renewed annually.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.096. VOTER APPROVAL. (a) After first executing an agreement under this section, the board of trustees shall order and conduct an election, in the manner provided by Sections 13.003(d)-(g), to obtain voter approval of the agreement.

(b) The ballot shall be printed to permit voting for or against the proposition: "Authorizing the board of trustees of _____ School District to purchase attendance credits from the state with local tax revenues."

(c) The proposition is approved if the proposition receives a favorable vote of a majority of the votes cast. If the proposition is approved, the agreement executed by the board is ratified, and the board has continuing authority to execute agreements under this subchapter on behalf of the district without further voter approval.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.097. CREDIT FOR APPRAISAL COSTS. (a) The total amount required under Section 41.093 for a district to purchase attendance credits under this subchapter for any school year is reduced by an amount equal to the product of the district's total costs under Section 6.06, Tax Code, for the appraisal district or districts in which it participates multiplied by a percentage that is computed by dividing the total amount required under Section 41.093 by the total amount of taxes imposed in the district for that year less any amounts paid into a tax increment fund under Chapter 311, Tax Code.

(b) A school district is entitled to a reduction under Subsection (a) beginning with the 1996-1997 school year. For that school year, the reduction to which a district is entitled is the sum of the amounts computed under Subsection (a) for the 1993-1994, 1994-1995, 1995-1996, and 1996-1997 school years. If that amount exceeds the total amount required under Section 41.093 for the 1996-1997 school year, the difference is carried forward and the total amount required under Section 41.093 is reduced each subsequent school year until the total amount of the credit has been applied to such reductions.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1997, 75th Leg., ch. 1071, Sec. 10, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 648 (H.B. 1010), Sec. 3, eff. January 1, 2008.

Sec. 41.098. EARLY AGREEMENT CREDIT. A district that submits a signed agreement under this subchapter to the

commissioner before September 1 of the school year for which the agreement is made may reduce the total amount required to be paid for attendance credits under Section 41.093 by the lesser of four percent or \$80 per credit purchased.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.0981. TRANSITIONAL EARLY AGREEMENT CREDIT. Notwithstanding Section 41.098, a district that receives approval of a request under Section 41.0042 may receive the early agreement credit described by Section 41.098 for the 2015-2016 school year if the district orders the election and obtains voter approval not later than the date specified by the commissioner. This section expires September 1, 2016.

Added by Acts 2015, 84th Leg., R.S., Ch. 465 (S.B. 1), Sec. 15, eff. June 15, 2015.

Sec. 41.099. LIMITATION. (a) Sections 41.002(e), 41.094, 41.097, and 41.098 apply only to a district that:

(1) executes an agreement to purchase all attendance credits necessary to reduce the district's wealth per student to the equalized wealth level;

(2) executes an agreement to purchase attendance credits and an agreement under Subchapter E to contract for the education of nonresident students who transfer to and are educated in the district but who are not charged tuition; or

(3) executes an agreement under Subchapter E to contract for the education of nonresident students:

(A) to an extent that does not provide more than 10 percent of the reduction in wealth per student required for the district to achieve a wealth per student that is equal to or less than the equalized wealth level; and

(B) under which all revenue paid by the district to other districts, in excess of the reduction in state aid that results from counting the weighted average daily attendance of the students served in the contracting district, is required to be used for funding a consortium of at least three districts in a county with a population of less than 40,000 that is formed to support a

technology initiative.

(b) A district that executes an agreement under Subsection (a)(3) must pay full market value for any good or service the district obtains through the consortium.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1997, 75th Leg., ch. 1071, Sec. 11, eff. Sept. 1, 1997.

SUBCHAPTER E. EDUCATION OF NONRESIDENT STUDENTS

Sec. 41.121. AGREEMENT. (a) The board of trustees of a district with a wealth per student that exceeds the equalized wealth level may execute an agreement to educate the students of another district in a number that, when the weighted average daily attendance of the students served is added to the weighted average daily attendance of the contracting district, is sufficient, in combination with any other actions taken under this chapter, to reduce the district's wealth per student to a level that is equal to or less than the equalized wealth level. The agreement is not effective unless the commissioner certifies that the transfer of weighted average daily attendance will not result in any of the contracting districts' wealth per student being greater than the equalized wealth level and that the agreement requires an expenditure per student in weighted average daily attendance that is at least equal to the amount per student in weighted average daily attendance required under Section [41.093](#).

(b) Expired.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. [3646](#)), Sec. 46, eff. September 1, 2009.

Sec. 41.122. VOTER APPROVAL. (a) After first executing an agreement under this subchapter other than an agreement under Section [41.125](#), the board of trustees of the district that will be educating nonresident students shall order and conduct an election, in the manner provided by Sections [13.003](#)(d)-(g), to obtain voter

approval of the agreement.

(b) The ballot shall be printed to permit voting for or against the proposition: "Authorizing the board of trustees of _____ School District to educate students of other school districts with local tax revenues."

(c) The proposition is approved if the proposition receives a favorable vote of a majority of the votes cast. If the proposition is approved, the agreement executed by the board is ratified, and the board has continuing authority to execute agreements under this subchapter on behalf of the district without further voter approval.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2003, 78th Leg., ch. 61, Sec. 5, eff. Sept. 1, 2003.

Sec. 41.123. WADA COUNT. For purposes of Chapter 42, students served under an agreement under this subchapter are counted only in the weighted average daily attendance of the district providing the services, except that students served under an agreement authorized by Section 41.125 are counted in a manner determined by the commissioner.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2003, 78th Leg., ch. 61, Sec. 6, eff. Sept. 1, 2003.

This section was amended by the 85th Legislature. Pending publication of the current statutes, see H.B. 3526 and S.B. 810, 85th Legislature, Regular Session, for amendments affecting this section.

Sec. 41.124. TRANSFERS. (a) The board of trustees of a school district with a wealth per student that exceeds the equalized wealth level may reduce the district's wealth per student by serving nonresident students who transfer to the district and are educated by the district but who are not charged tuition. A district that exercises the option under this subsection is not required to execute an agreement with the school district in which a transferring student resides and must certify to the commissioner that the district has not charged or received tuition for the transferring students.

(b) A school district with a wealth per student that exceeds the equalized wealth level that pays tuition to another school district for the education of students that reside in the district may apply the amount of tuition paid toward the cost of the option chosen by the district to reduce its wealth per student. The amount applied under this subsection may not exceed the amount determined under Section 41.093 as the cost of an attendance credit for the district. The commissioner may require any reports necessary to document the tuition payments.

(c) A school district that receives tuition for a student from a school district with a wealth per student that exceeds the equalized wealth level may not claim attendance for that student for purposes of Chapters 42 and 46 and the instructional materials allotment under Section 31.0211.

Added by Acts 1999, 76th Leg., ch. 396, Sec. 1.07, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 7.012, eff. September 1, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 6 (S.B. 6), Sec. 64, eff. July 19, 2011.

Sec. 41.125. CAREER AND TECHNOLOGY EDUCATION PROGRAMS. (a) The board of trustees of a school district with a wealth per student that exceeds the equalized wealth level may reduce the district's wealth per student by executing an agreement to provide students of one or more other districts with career and technology education through a program designated as an area program for career and technology education.

(b) The agreement is not effective unless the commissioner certifies that:

(1) implementation of the agreement will not result in any of the affected districts' wealth per student being greater than the equalized wealth level; and

(2) the agreement requires the district with a wealth per student that exceeds the equalized wealth level to make expenditures benefiting students from other districts in an amount

at least equal to the amount that would be required for the district to purchase the number of attendance credits under Subchapter D necessary, in combination with any other actions taken under this chapter other than an action under this section, to reduce the district's wealth per student to a level that is equal to or less than the equalized wealth level.

Added by Acts 2003, 78th Leg., ch. 61, Sec. 7, eff. Sept. 1, 2003.

SUBCHAPTER F. TAX BASE CONSOLIDATION

Sec. 41.151. AGREEMENT. The board of trustees of two or more school districts may execute an agreement to conduct an election on the creation of a consolidated taxing district for the maintenance and operation of the component school districts. The agreement is subject to approval by the commissioner. The agreement is not effective unless the commissioner certifies that the consolidated taxing district will have a wealth per student equal to or less than the equalized wealth level after all actions taken under this chapter.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.152. DATE OF ELECTION. Any agreement under this subchapter must provide for the ordering of an election to be held on the same date in each district.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.153. PROPOSITION. (a) The ballot shall be printed to permit voting for or against the proposition: "Creation of a consolidated taxing district composed of the territory of _____ school districts, and authorizing the levy, assessment, and collection of annual ad valorem taxes for the maintenance of the public free schools within that taxing district at a rate not to exceed \$_____ on the \$100 valuation of taxable property."

(b) The rate to be included in the proposition shall be provided by the agreement among the districts but may not exceed the maximum rate provided by law for independent school districts.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.154. APPROVAL. The proposition is approved only if the proposition receives a favorable vote of the majority of the votes cast within each participating school district.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.155. CONSOLIDATED TAXING DISTRICT. A consolidated taxing district is a school district established for the limited purpose of exercising the taxing power authorized by Section 3, Article VII, Texas Constitution, and distributing the revenue to its component school districts.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.156. GOVERNANCE. (a) The consolidated taxing district is governed by the boards of the component school districts acting jointly.

(b) Any action taken by the joint board must receive a favorable vote of a majority of each component district's board of trustees.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.157. MAINTENANCE TAX. (a) The joint board shall levy a maintenance tax for the benefit of the component school districts not later than September 1 of each year or as soon thereafter as practicable.

(b) Each component district shall bear a share of the costs of assessing and collecting taxes in proportion to the component district's share of weighted average daily attendance in the consolidated taxing district.

(c) A component district may not levy an ad valorem tax for the maintenance and operation of the schools.

(d) Notwithstanding Section 45.003, the consolidated taxing district may levy, assess, and collect a maintenance tax for the benefit of the component districts at a rate that exceeds \$1.50 per \$100 valuation of taxable property to the extent necessary to pay contracted obligations on the lease purchase of permanent

improvements to real property entered into on or before May 12, 1993. The proposition to impose taxes at the necessary rate must be submitted to the voters in the manner provided by Section 45.003. Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.158. REVENUE DISTRIBUTION. The consolidated taxing district shall distribute maintenance tax revenue to the component districts on the basis of the number of students in weighted average daily attendance in the component districts. Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.159. TAXES OF COMPONENT DISTRICTS. (a) The governing board of a component school district of a consolidated taxing district that has consolidated for maintenance and operation purposes only may issue bonds and levy, pledge, and collect ad valorem taxes within that component district sufficient to pay the principal of and interest on those bonds as provided by Chapter 45.

(b) A component district levying an ad valorem tax under this section or Section 41.160(b)(1) is entitled to the guaranteed yield provided by Subchapter F, Chapter 42, for that portion of its tax rate that, when added to the maintenance tax levied by the consolidated taxing unit, does not exceed the limitation provided by Section 42.303.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.160. OPTIONAL TOTAL TAX BASE CONSOLIDATION. (a) An agreement executed under Section 41.151 may provide for total tax base consolidation instead of consolidation for maintenance and operation purposes only.

(b) Under an agreement providing for total tax base consolidation:

(1) the component districts may not levy maintenance or bond taxes, except to the extent necessary to retire bonds and other obligations issued before the effective date of the consolidation;

(2) the joint board may issue bonds and levy, pledge, and collect ad valorem taxes sufficient to pay the principal of and

interest on those bonds, and issue refunding bonds, as provided by Chapter 45 for independent school districts; and

(3) to the end of the ballot proposition required under Section 41.153(a) shall be added ", and further to create a consolidated tax base for the repayment of all bonded indebtedness issued by the joint board of the taxing district after the effective date of the consolidation and to authorize the joint board to levy, pledge, and collect ad valorem taxes at a rate sufficient to pay the principal of and interest on those bonds."

(c) Under an agreement providing for total tax base consolidation:

(1) the component districts may provide for the consolidated taxing district to assume all of the indebtedness of all component districts; and

(2) to the end of the ballot proposition required by Section 41.153(a) shall be added ", and further to create a consolidated tax base for the repayment of all bonded indebtedness issued by the joint board of the taxing district or previously issued by the component school districts and to authorize the joint board to levy, pledge, and collect ad valorem taxes at a rate sufficient to pay the principal of and interest on those bonds."

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

SUBCHAPTER G. DETACHMENT AND ANNEXATION BY COMMISSIONER

Sec. 41.201. DEFINITION. In this subchapter, "mineral property" means a real property mineral interest that has been severed from the surface estate by a mineral lease creating a determinable fee or by a conveyance that creates an interest taxable separately from the surface estate. A mineral property includes each royalty interest, working interest, or other undivided interest in the mineral property.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.202. DETERMINATION OF TAXABLE VALUE. (a) For purposes of this subchapter, the taxable value of an individual parcel or other item of property and the total taxable value of

property in a school district resulting from the detachment of property from or annexation of property to that district is determined by applying the appraisal ratio for the appropriate category of property determined under Subchapter M, Chapter 403, Government Code, for the preceding tax year to the taxable value of the detached or annexed property determined under Title 1, Tax Code, for the preceding tax year.

(b) For purposes of this subchapter, the taxable value of all or a portion of a parcel or item of real property includes the taxable value of personal property having taxable situs at the same location as the real property.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.203. PROPERTY SUBJECT TO DETACHMENT AND ANNEXATION.

(a) Only the following property may be detached and annexed under this subchapter:

(1) a mineral property;

(2) real property used in the operation of a public utility, including a pipeline, pipeline gathering system, or railroad or other rail system; and

(3) real property used primarily for industrial or other commercial purposes, other than property used primarily for agriculture or for residential purposes.

(b) If a final judgment of a court determines that a mineral interest may not be annexed and detached as provided by this subchapter without an attendant annexation and detachment of the surface estate or any other interest in the same land, the detachment and annexation of a mineral interest under this subchapter includes the surface estate and each other interest in the land covered by the mineral interest.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.204. TAXATION OF PERSONAL PROPERTY. Personal property having a taxable situs at the same location as real property detached and annexed under this subchapter is taxable by the school district to which the real property is annexed.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.205. DETACHMENT OF PROPERTY. (a) The commissioner shall detach property under this section from each school district from which the commissioner is required under Section 41.004 to detach property under this subchapter.

(b) The commissioner shall detach from each school district covered by Subsection (a) one or more whole parcels or items of property in descending order of the taxable value of each parcel or item, beginning with the parcel or item having the greatest taxable value, until the school district's wealth per student is equal to or less than the equalized wealth level, except as otherwise provided by Subsection (c).

(c) If the detachment of whole parcels or items of property, as provided by Subsection (a) would result in a district's wealth per student that is less than the equalized wealth level by more than \$10,000, the commissioner may not detach the last parcel or item of property and shall detach the next one or more parcels or items of property in descending order of taxable value that would result in the school district having a wealth per student that is equal to or less than the equalized wealth level by not more than \$10,000.

(d) Notwithstanding Subsections (a), (b), and (c), the commissioner may detach only a portion of a parcel or item of property if:

(1) it is not possible to reduce the district's wealth per student to a level that is equal to or less than the equalized wealth level under this subchapter unless some or all of the parcel or item of property is detached and the detachment of the whole parcel or item would result in the district from which it is detached having a wealth per student that is less than the equalized wealth level by more than \$10,000; or

(2) the commissioner determines that a partial detachment of that parcel or item of property is preferable to the detachment of one or more other parcels or items having a lower taxable value in order to minimize the number of parcels or items of property to be detached consistent with the purposes of this chapter.

Sec. 41.206. ANNEXATION OF PROPERTY. (a) The commissioner shall annex property detached under Section 41.205 to school districts eligible for annexation in accordance with this section. A school district is eligible for annexation of property to it under this subchapter only if, before any detachments or annexations are made in a year, the district's wealth per student is less than the greatest level for which funds are provided under Subchapter F, Chapter 42.

(b) Property may be annexed to a school district without regard to whether the property is contiguous to other property in that district.

(c) The commissioner shall annex property detached from school districts beginning with the property detached from the school district with the greatest wealth per student before detachment, and continuing with the property detached from each other school district in descending order of the district's wealth per student before detachment.

(d) The commissioner shall annex the parcels or items of property detached from a school district to other school districts that are eligible for annexation of property in descending order of the taxable value of each parcel or item according to the following priorities:

(1) first, to the eligible school districts assigned to the same county as the school district from which the property is detached whose total adopted tax rate for the preceding tax year does not exceed by more than \$0.15 the total tax rate adopted for that year by the school district from which the property is detached;

(2) second, to the eligible school districts served by the same regional education service center as the district from which the property is detached whose total adopted tax rate for the preceding tax year does not exceed by more than \$0.10 the total tax rate adopted for that year by the school district from which the property is detached; and

(3) third, to other eligible school districts whose

total adopted tax rate for the preceding tax year does not exceed by more than \$0.05 the total tax rate adopted for that year by the school district from which the property is detached.

(e) If the districts identified by Subsection (d) for a school district are insufficient to annex all the property detached from the school district, the commissioner shall increase, for purposes of this section, all the maximum difference in tax rates allowed under Subsection (d) in increments of \$0.01 until the districts are identified that are sufficient to annex all the property detached from the district.

(f) If only one school district is eligible to annex property detached from a school district within a priority group established by Subsections (d) and (e), the commissioner shall annex property to that district until it reaches a wealth per student equal as nearly as possible to the greatest level for which funds are provided under Subchapter F, Chapter 42, by annexing whole parcels or items of property. Any remaining detached property shall be annexed to eligible school districts in the next priority group as provided by this section.

(g) If more than one school district is eligible to annex property detached from a school district within a priority group established by Subsections (d) and (e), the commissioner shall first annex property to the district within the priority group to which could be annexed the most taxable value of property without increasing its wealth per student above the greatest level for which funds are provided under Subchapter F, Chapter 42, until that district reaches a wealth per student equal as nearly as possible to the greatest level for which funds are provided under Subchapter F, Chapter 42, by annexing whole parcels or items of property. Then any additional detached property shall be annexed in the same manner to other eligible school districts in the same priority group in descending order of capacity to receive taxable value of annexed property without increasing the district's wealth per student above the greatest level for which funds are provided under Subchapter F, Chapter 42. If every school district in a priority group reaches a wealth per student equal to the greatest level for which funds are provided under Subchapter F, Chapter 42, as nearly

as possible, the remaining detached property shall be annexed to school districts in the next priority group in the manner provided by this section.

(h) For purposes of this section, a portion of a parcel or item of property detached in that subdivided form from a school district is treated as a whole parcel or item of property.

(i) The commissioner may order the annexation of a portion of a parcel or item of property, including a portion of property treated as a whole parcel or item under Subsection (h), if:

(1) the annexation of the whole parcel or item would result in the district eligible to receive it in the appropriate priority order provided by this section having a wealth per student greater than \$10,000 more than the greatest level for which funds are provided under Subchapter F, Chapter 42; or

(2) the commissioner determines that annexation of portions of the parcel or item would reduce disparities in district wealth per student more efficiently than would be possible if the parcel or item were annexed as a whole.

(j) The commissioner may modify the priorities established by this section as the commissioner considers reasonable to minimize or reduce the number of school districts to which the property detached from a school district is annexed, to minimize or reduce the geographic dispersal of property in a school district, to minimize or reduce disparities in school district wealth per student that would otherwise result, or to minimize or reduce any administrative burden or expense.

(k) For purposes of this section, a school district is assigned to a county if the school district is assigned to that county in the 1992-1993 Texas School Directory published by the Central Education Agency.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.207. LIMITATIONS ON DETACHMENT AND ANNEXATION. The commissioner may detach and annex property under this subchapter only if:

(1) the property is not exempt from ad valorem taxation under Section 11.20 or 11.21, Tax Code; and

(2) the property does not contain a building or structure owned by the United States, this state, or a political subdivision of this state that is exempt from ad valorem taxation under law.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.208. ORDERS AND NOTICE. (a) The commissioner shall order any detachments and annexations of property under this subchapter not later than November 8 of each year.

(a-1) Notwithstanding Subsection (a), for the 2015-2016 school year, the commissioner shall order any detachments and annexations of property under this subchapter as soon as practicable after the canvass of the votes on the constitutional amendment proposed by S.J.R. 1, 84th Legislature, Regular Session, 2015. This subsection expires September 1, 2016.

(b) As soon as practicable after issuing the order under Subsection (a), the commissioner shall notify each affected school district and the appraisal district in which the affected property is located of the determination.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 465 (S.B. 1), Sec. 16, eff. June 15, 2015.

Sec. 41.209. TREATMENT OF SUBDIVIDED PROPERTY. (a) If the commissioner orders the detachment or annexation of a portion of a parcel or item of property under this subchapter, the order shall specify the portion of the taxable value of the property to be detached or annexed and may, but need not, describe the specific area of the parcel or item to be detached or annexed.

(b) If an order for the detachment or annexation of a portion of a parcel or item of property does not describe the specific area of the parcel or item to be detached or annexed, the commissioner, as soon as practicable after issuing the order, shall determine the specific area to be detached or annexed and shall certify that determination to the appraisal district for the county in which the property is located.

(c) If portions of a parcel or item of property are located in two or more school districts as the result of a detachment or annexation, the parcel or item shall be appraised for taxation as a unit, and the commissioner shall determine the portion of the taxable value of the property that is located in each of those school districts based on the square footage of the property, or any other reasonable method adopted by the commissioner.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.210. DUTIES OF CHIEF APPRAISER. (a) The chief appraiser of each appraisal district shall cooperate with the commissioner in administering this subchapter. The commissioner may require the chief appraiser to submit any reports or provide any information available to the chief appraiser in the form and at the times required by the commissioner.

(b) As soon as practicable after the detachment and annexation of property, the chief appraiser of the appraisal district in which the property is located shall send a written notice of the detachment and annexation to the owner of any property taxable in a different school district as a result of the detachment and annexation. The notice must include the name of the school district by which the property is taxable after the detachment and annexation.

(c) The commissioner may reimburse an appraisal district for any costs incurred in administering this subchapter and may condition the reimbursement or the amount of the reimbursement on the timely submission of reports or information required by the commissioner or the satisfactory performance of any other action required or requested by the commissioner.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 648 (H.B. [1010](#)), Sec. 4, eff. January 1, 2008.

Sec. 41.211. STUDENT ATTENDANCE. A student who is a resident of real property detached from a school district may choose to attend school in that district or in the district to which

the property is annexed. For purposes of determining average daily attendance under Section 42.005, the student shall be counted in the district to which the property is annexed. If the student chooses to attend school in the district from which the property is detached, the state shall withhold any foundation school funds from the district to which the property is annexed and shall allocate to the district in which the student is attending school those funds and the amount of funds equal to the difference between the state funds the district is receiving for the student and the district's cost in educating the student.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.212. BOND TAXES. Property detached from a school district is released from the obligation for any tax to pay principal and interest on bonds authorized by the district before detachment. The property is subject to any tax to pay principal or interest on bonds authorized by the district to which the property is annexed whether authorized before or after annexation.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.213. DETERMINATION BY COMMISSIONER FINAL. A decision or determination of the commissioner under this subchapter is final and not appealable.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

SUBCHAPTER H. CONSOLIDATION BY COMMISSIONER

Sec. 41.251. COMMISSIONER ORDER. If the commissioner is required under Section 41.004 to order the consolidation of districts, the consolidation is governed by this subchapter. The commissioner's order shall be effective on a date determined by the commissioner, but not later than the earliest practicable date after November 8.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.252. SELECTION CRITERIA. (a) In selecting the districts to be consolidated with a district that has a property

wealth greater than the equalized wealth level, the commissioner shall select one or more districts with a wealth per student that, when consolidated, will result in a consolidated district with a wealth per student equal to or less than the equalized wealth level. In achieving that result, the commissioner shall give priority to school districts in the following order:

(1) first, to the contiguous district that has the lowest wealth per student and is located in the same county;

(2) second, to the district that has the lowest wealth per student and is located in the same county;

(3) third, to a contiguous district with a property wealth below the equalized wealth level that has requested the commissioner that it be considered in a consolidation plan;

(4) fourth, to include as few districts as possible that fall below the equalized wealth level within the consolidation order that have not requested the commissioner to be included;

(5) fifth, to the district that has the lowest wealth per student and is located in the same regional education service center area; and

(6) sixth, to a district that has a tax rate similar to that of the district that has a property wealth greater than the equalized wealth level.

(b) The commissioner may not select a district that has been created as a result of consolidation by agreement under Subchapter B to be consolidated under this subchapter with a district that has a property wealth greater than the equalized wealth level.

(c) In applying the selection criteria specified by Subsection (a), if more than two districts are to be consolidated, the commissioner shall select the third and each subsequent district to be consolidated by treating the district that has a property wealth greater than the equalized wealth level and the district or districts previously selected for consolidation as one district.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.253. GOVERNANCE. (a) Until the initial trustees elected as provided by Subsection (b) have qualified and taken

office, a district consolidated under this subchapter is governed by a transitional board of trustees consisting of the board of trustees of the district having the greatest student membership on the last day of the school year preceding the consolidation plus one member of the board of trustees of each other consolidating district selected by that board.

(b) The transitional board of trustees shall divide the consolidated district into nine single-member trustee districts in accordance with the procedures provided by Section 11.052. The transitional board shall order an election for the initial board of trustees to be held on the first May uniform election date after the effective date of a consolidation order.

(c) Members of the board of trustees of a consolidated district serve staggered terms of office for four years.

(d) Section 13.156 applies to districts consolidated under this subchapter.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2001, 77th Leg., ch. 340, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 471 (H.B. 57), Sec. 4, eff. October 1, 2005.

Sec. 41.254. DISSOLUTION OF CONSOLIDATED DISTRICT. (a) If the legislature abolishes ad valorem taxes for public school maintenance and operations and adopts another method of funding public education, the board of trustees of a consolidated district created under this subchapter may dissolve the consolidated district, provided that the dissolution is approved by a majority of those voters residing within the district participating in an election called for the purpose of approving the dissolution of the consolidated school district.

(b) If a consolidated district is dissolved, each of the former districts is restored as a separate district and is classified as an independent district.

(c) Title to real property of the consolidated district is allocated to the restored district in which the property is

located. Title to proportionate shares of the fund balances and personal property of the consolidated district, as determined by Subsection (e), are allocated to each restored district.

(d) Each of the restored districts assumes and is liable for:

(1) indebtedness of the consolidated district that relates to real property allocated to the district; and

(2) a proportionate share, as determined by Subsection (e), of indebtedness of the consolidated district that does not relate to real property.

(e) A restored district's proportionate share of fund balances, personal property, or indebtedness is equal to the proportion that the number of students in average daily attendance in the restored district bears to the number of students in average daily attendance in the consolidated district.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.255. FUND BALANCES. Fund balances of a school district consolidated under this subchapter may be used only for the benefit of the schools within the district that generated the funds.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.256. EMPLOYMENT CONTRACTS. A consolidated district created under this subchapter shall honor an employment contract entered into by a consolidating district.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 41.257. APPLICATION OF SMALL AND SPARSE ADJUSTMENTS AND TRANSPORTATION ALLOTMENT. The budget of the consolidated district must apply the benefit of the adjustment or allotment to the schools of the consolidating district to which Section [42.103](#), [42.105](#), or [42.155](#) would have applied in the event that the consolidated district still qualifies as a small or sparse district.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.