

Amend **CSHB 3646** by inserting the following new SECTION, appropriately numbered, and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Notwithstanding any other provision of this Act, Sections 12.1331 and 21.402(c-1), Education Code, as added by this Act, are expressly contingent on a determination by the commissioner of education that payment of wage and salary increases and associated benefits required by those sections are allowable uses of federal funds received by school districts and open-enrollment charter schools under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) and appropriated as part of the Foundation School Program. The commissioner may not make a determination under this subsection until the state's application to spend funds under the American Recovery and Reinvestment Act of 2009 has been approved by the United States government. The commissioner shall promptly notify school districts and open-enrollment charter schools of that determination. A determination by the commissioner under this subsection is final and may not be appealed.

(b) A school district or open-enrollment charter school may enter into an employment contract or agreement that is contingent on a determination of the commissioner of education under Subsection (a) of this section.

(c) The commissioner of education by rule may determine the applicable minimum salary schedule for use by school districts during the 2010-2011 state fiscal biennium following a determination under Subsection (a) of this section. If the commissioner determines that federal funds received by school districts and open-enrollment charter schools under the American Recovery and Reinvestment Act of 2009 may not be used for purposes of Sections 12.1331 and 21.402(c-1), Education Code, as added by this Act, those amendments have no effect in determining the salary required to be paid to an employee of a school district or open-enrollment charter school.