

TTARA Webcast Update

February 15, 2018

TEXAS TAXPAYERS
TTARA
AND RESEARCH ASSOCIATION

400 West 15th Street, Suite 400
Austin, Texas 78701
512.472.8838
www.ttara.org



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Continuing Education Credits

We are pleased to offer 1 hour of continuing education credit for attorneys, accountants, and professionals in taxation with the State Bar of Texas, the Texas State Board of Public Accountancy, and the Institute for Professionals in Taxation.

Certificates of participation have been uploaded and can be found on the Gotowebinar toolbar on the right side of your screen under the “Handout” tab. You can download and place a copy in your files. If you have trouble locating the certificate, contact Ryan at ryan@ttara.org and he will send you a copy.

We will enter the State Bar of Texas credit, but accountants and tax professionals need to submit their credit to those organizations.

All data and information is the property of TTARA and we ask that in sharing this data you credit TTARA with the source of information.

Agenda

1. Dates of Interest
2. Fiscal Update
3. Governor's Property Tax Plan
4. Senate Select Committee on Property Tax Reform
5. Property for Sales Tax Swap
6. Texas Commission on Public School Finance
7. Senate Finance Committee
8. Comptroller Rules
9. Unclaimed Property
10. Wrap-Up

Future Webcasts

- Some members have asked that we move the time of our webcasts so we do not overlap the weekly conference call by the Council on State Taxation at 10:00 a.m.
- Unless we have substantial objection, future TTARA webcasts will be at 9:00 a.m. on the Thursdays currently scheduled

Webcast Schedule

- June 7
- September 13
- November 8

Save the Dates for Key 2018 TTARA Events

- **Dallas-Area Luncheon** - April 20, 2018, 11:30 a.m. - 1:00 p.m., La Cima Club, 5215 N. O'Connor Blvd., Ste. 2600, Irving, TX 75039
- **Houston-Area Luncheon** - April 26, 2018, 11:30 a.m. - 1:00 p.m., The Downtown Club, 1100 Caroline Street, Houston, TX 77002
- **Austin Golf Tournament** - May 7, 2018, 1:00 p.m. Shotgun Start at Falconhead Golf Club, 15201 Falconhead Blvd., Austin, TX 78738
- **Annual Meeting** - September 27 and 28, 2018, JW Marriott Austin, 110 E. 2nd St., Austin, TX 78701 (continuing education offered)

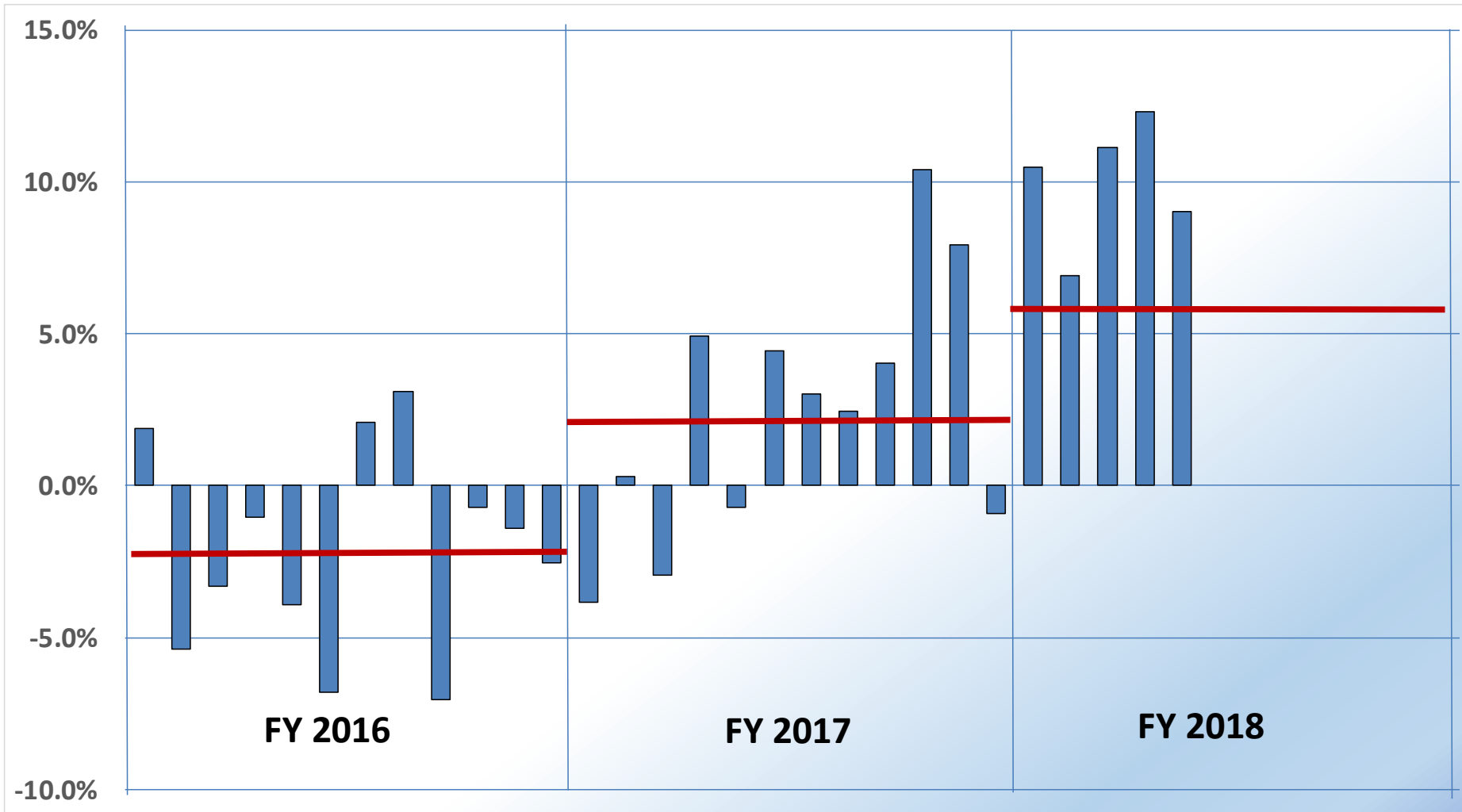
Fiscal Update

Current Revenues Healthy

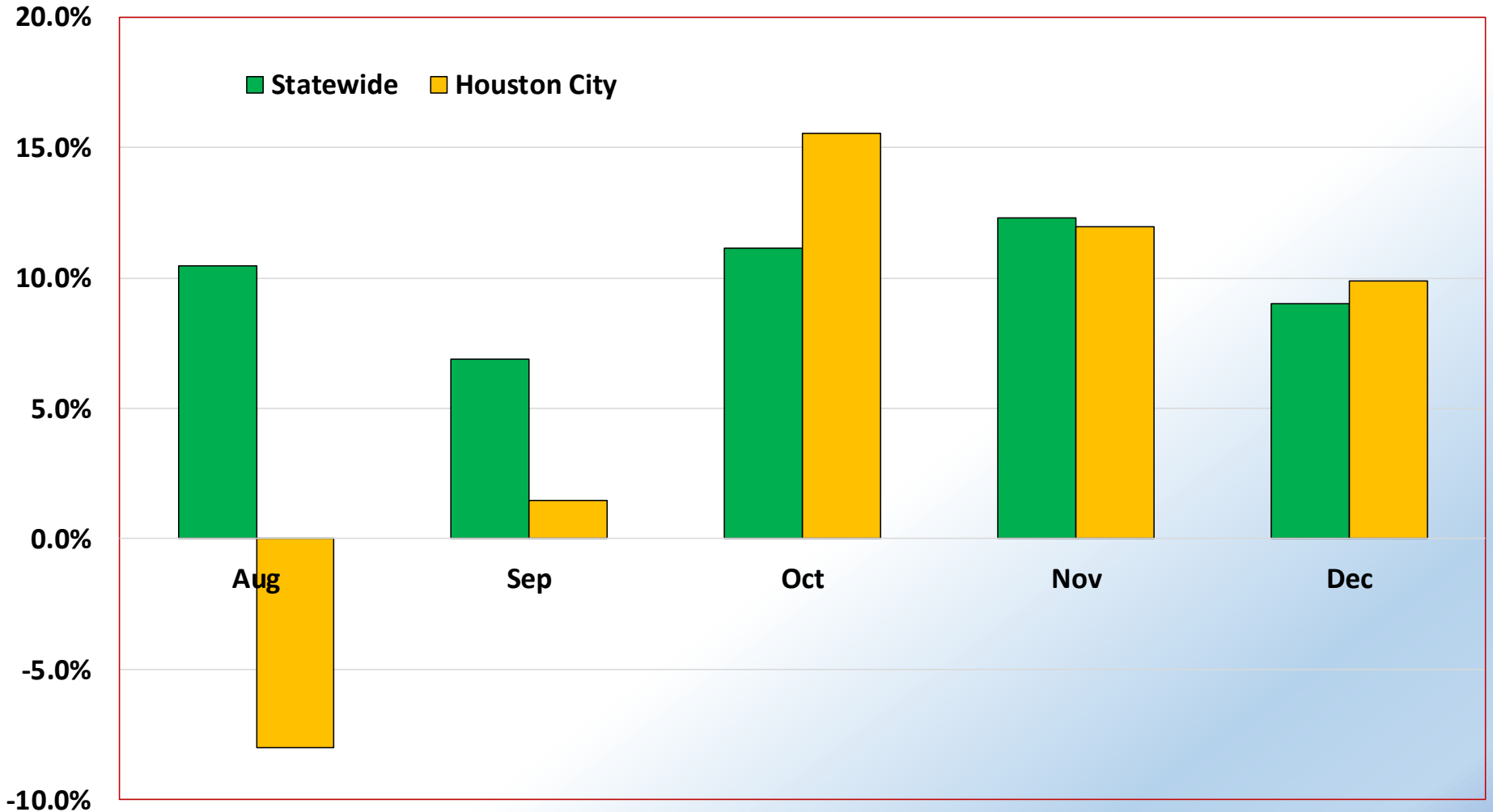
Tax	Projected 2018 Revenue	Projected Growth Rate	Current Growth Through 5 Months
General Sales Tax	\$30.4 bl	5.5 %	10.0 %
Motor Vehicle Sales Tax	\$5.0 bl	10.3 %	8.1 %
Oil Severance Tax	\$2.3 bl	9.8 %	45.5 %
Natural Gas Tax	\$0.9 bl	(9.5 %)	55.6 %

Monthly State Sales Tax Growth

(Percent Change from Same Month Previous Year)



Monthly Sales Tax: Texas and Houston



Fiscal Assessment: February 2018

- When 2018-19 Budget was certified, structural gap going forward was estimated at \$8 billion, including \$2 billion shortfall in Medicaid.
- Currently, revenue growth is exceeding projections for three reasons:
 1. Improved outlook for oil and gas industry
 2. Hurricane Harvey recovery
 3. General economic performance
- Improved revenue collections will help reduce structural gap...

...but not enough to alter the outlook for a very tight budget session in 2019.

That means no surplus revenue will be available for tax cuts—franchise, property or other*

* Assuming oil prices don't go to \$100 a barrel

Interim Charges

An interim charge is the assignment of a particular research topic to a committee, often in anticipation of future legislation.

Charges are assigned to committees by each chamber's presiding officer—the Speaker and the Lt. Governor.

House and Senate charges show heavy focus on Hurricane Harvey, aftermath and recovery.

House Select Committee on Economic Competitiveness

Byron Cook, Chair

Senfronia Thompson

Sarah Davis

Joe Moody

Angie Chen Button

Charlie Geren

Rene Oliveira

The committee will look at issues such as workforce readiness, infrastructure and state and local economic development tools. The committee will also study the reasons that employers give for choosing, or not choosing, to do business in a particular state.

Hearings were held in November and December for invited testimony only (TTARA testified in November).

Final report initially due by December 12, 2017, but the deadline was extended indefinitely.

Governor's Property Tax Reform Plan

Governor's Property Tax Reform Plan

- Announcement on January 16
- Two major reform proposals: restraining growth of property taxes and addressing local debt
- Plan is available at www.gregabbott.com/propertytaxes/

Property Tax Growth

- Limitation on property tax levies for all taxing units, including school districts, to 2.5 percent per year (except for new construction)
- Supermajority vote of 2/3's required of governing body and public vote to exceed 2.5 percent

Governor's Property Tax Reform Plan, continued

Property Tax Growth

- Revenue increases in excess of 2.5 percent only for first responder and teacher compensation or critical infrastructure such as roads, bridges, and classrooms, and may not exceed the statewide increase in population plus inflation as calculated by the Comptroller
- Prohibition for Legislature to impose unfunded mandates on cities and counties (funded mandates okay)

Governor's Property Tax Reform Plan, continued

Property Tax Growth

- Requirement that appraisal district boards of directors be composed of elected officials and prohibition against taxing unit employees serving in any capacity with an appraisal district or appraisal review board
- Improvements to the appraisal and protest process through more appraisal review board and arbitrator training, procedural changes, and a prohibition against value increases by appraisal review boards as a result of protests
- Real-time tax notices for taxpayers to be informed of proposed tax rates and hearings and creation of a comprehensive information source for tax rates by the Comptroller

Governor's Property Tax Reform Plan, continued

Local Debt

- Requirement that certain information about bond or debt proposals be included on election ballots
- Prohibition against the use of debt for non-specified purposes
- Restrictions on certificates of obligation
- Requirement that a 2/3 supermajority vote of both the governing body and the voters must approve and issue new debt

Senate Select Committee on Property Tax Reform

Senate Select Committee on Property Tax Reform

Meeting held in Houston on February 1 to consider:

***Hurricane Harvey Response** - Evaluate how property tax law can advance disaster recovery and ensure taxpayer protection from excessive taxation and spending; and study statutory changes to allow disaster spending from TIRZ funds for infrastructure recovery*

- Invited testimony from TTARA, Texas Association of Appraisal Districts, Galveston County Tax Assessor-Collectors, Chief Appraisers of Harris County and Fort Bend County, Fort Bend County Commissioner, and taxpayers on reappraisal of property damaged in a disaster
- Consideration of an exemption process rather than reappraisal based on percentage damage determined by FEMA

Senate Select Committee on Property Tax Reform

- Considerable public testimony on Tax Increment Financing Zones under Tax Code Chapter 311
- Concern about property taxes controlled by non-elected governing bodies
- Interest in formation and dissolution policies for the zones
- Discussion of debt level and use of funds, as well as possible use of funds for disaster recovery locally

No hearings scheduled for other Select Committee charges: (1) voter engagement in local government decisions; (2) tax rate and appraisal reform; (3) property tax data; and (4) feasibility of a sales tax for property tax swap

Property for Sales Tax Swap

Senate Select Committee on Property Tax Reform

Study the feasibility of replacing the property tax with sales tax or other consumption tax revenue, with emphasis on school maintenance and operations tax. Evaluate whether some local property taxes lend themselves to a swap more than others. Quantify the short-term and long-term economic effects of a tax swap. Identify a target property tax rate and evaluate how to reach that target with a consumption tax swap.

TTARA Commentary

Guest Editorial

Bad Math: Replacing property taxes with higher sales taxes doesn't add up for Texans

<https://www.tribtalk.org/2018/02/05/bad-math-replacing-property-taxes-with-higher-sales-taxes-doesnt-add-up-for-texans/>

Policy Briefing at the Capitol – 2/17/16

The Property Tax Swap: What's Really Involved?

<http://www.ttara.org/files/document/file-56c4aaa29ce95.pdf>

The Numbers

2016 Tax Year Property Taxes

Total.....\$56.1B

School.... 29.9

City..... 9.5

County... 9.0

SPDs..... 8.0

2017 Sales Taxes

Total\$37.2B

State..... 28.9

City 5.4

MTA 1.9

Other Local..... 1.0

Sales Tax Replacement Rates (State and local combined)

Current total rate: 8.25%

All property taxes – \$56.1B – 25%

School M&O taxes – \$23.7B – 14.5%

All school taxes – \$29.9B – 16%

Exemptions & Exclusions

Comptroller's *Tax Exemptions and Tax Incidence Report* (2/17)

<https://comptroller.texas.gov/transparency/reports/tax-exemptions-and-incidence/2017/96-463.pdf>

Exemptions – \$34.6B

- Manufacturing \$14.8B (raw materials, utilities, M&E)
- Taxed by other law – \$13.4B (vehicles, motor fuels, insurance premiums)
- Consumer Items – \$4.1B (groceries, utilities, drugs)

Service Exclusions – \$7.1B

- Professional – \$1.3B (lawyers, accountants, architects, engineers)
- Business – \$1.9B (labor, freight hauling, computer programming)
- Health care – \$2.3B (medical, dental)
- Housing – \$0.5B (home construction, repair & remodeling, realtors)

Questions

- State or Local Tax?
- If state tax, how distributed?
- Local enrichment?
- What about debt?



Consequences

- Highest sales tax in nation by far
- Rampant tax avoidance
- Texas less business friendly
- Taxing business to business transactions creates tax pyramiding
- Eliminates sales tax as option to address fiscal difficulties
- Less stable local revenue
- Loss of local fiscal control



Texas Commission on Public School Finance



Texas Commission on Public School Finance

HB 21 by Huberty created a **13-member “Texas Commission on Public School Finance”** to make recommendations for improvements to the current public school finance system. The Commission’s report is due on December 31, 2018.

4 Governor appointees

1. **Scott Brister**, Andrews Kurth Kenyon, Former Texas Supreme Court Justice, **CHAIR**
2. **Melissa Martin**, C&T Teacher, Galena Park ISD
3. **Elvira Reyna**, First Hispanic Republican Legislator
4. **Todd Williams**, The Commit Partnership, Dallas County

One State Board of Education member

Keven Ellis, Chiropractor from Lufkin, **VICE CHAIR**

Texas Commission on Public School Finance (cont.)

4 Lt. Governor appointees

1. **Sen. Larry Taylor** (R-Friendswood), Chair, Senate Education Committee
2. **Sen. Paul Bettencourt** (R-Houston)
3. **Sen. Royce West** (D-Dallas)
4. **Doug Killian**, Superintendent, Pflugerville ISD

4 Speaker appointees

1. **Rep. Dan Huberty** (R-Houston), Chair, House Public Education Committee
2. **Rep. Diego Bernal** (D-San Antonio)
3. **Rep. Ken King** (R-Canadian)
4. **Nicole Conley Johnson**, Chief Financial Officer, Austin ISD

Texas Commission on Public School Finance (cont.)

Chairman Scott Brister

- ✓ The Commission's work needs to begin with determining what **results** the state expects from the school system, and then develop a system that will achieve those results.
- ✓ Focus on **outputs** rather than inputs.
- ✓ He hopes the Commission will be willing to “think outside the box” or at least “reorganize inside the box.”

Texas Commission on Public School Finance (cont.)

Have formed three working groups. Members were to sign up this week for one of them.

1. **Revenues** – Potential revenue sources other than the property tax, recapture, equalization
2. **Existing Formulas** – Formula elements, facilities, charter schools; examine changes within existing resources
3. **Driving Outcomes** – Goals for public education, strategies to obtain those goals, improve teacher quality, implement best practices

Texas Commission on Public School Finance (cont.)

Invited Testimony

- **Craig Enoch, Former Texas Supreme Court Justice**
 - ✓ The school finance system should be designed to produce desired outcomes. Focus on **outputs**, not on inputs.
 - ✓ Despite increased funding to school districts every year, there has been **no significant increase** in student outcomes on tests such as the SAT and ACT.
 - ✓ There is **no correlation** between funding per pupil and performance.
- **Lloyd Potter, Texas State Demographer**
 - ✓ Texas population is growing faster than any other state, and grew by 12.6% between 2010-2017.
 - ✓ The bulk of population increase in Texas until 2030 will be children and Hispanic families.

Texas Commission on Public School Finance (cont.)

Invited Testimony (cont.)

- **Commissioner of Education Mike Morath**

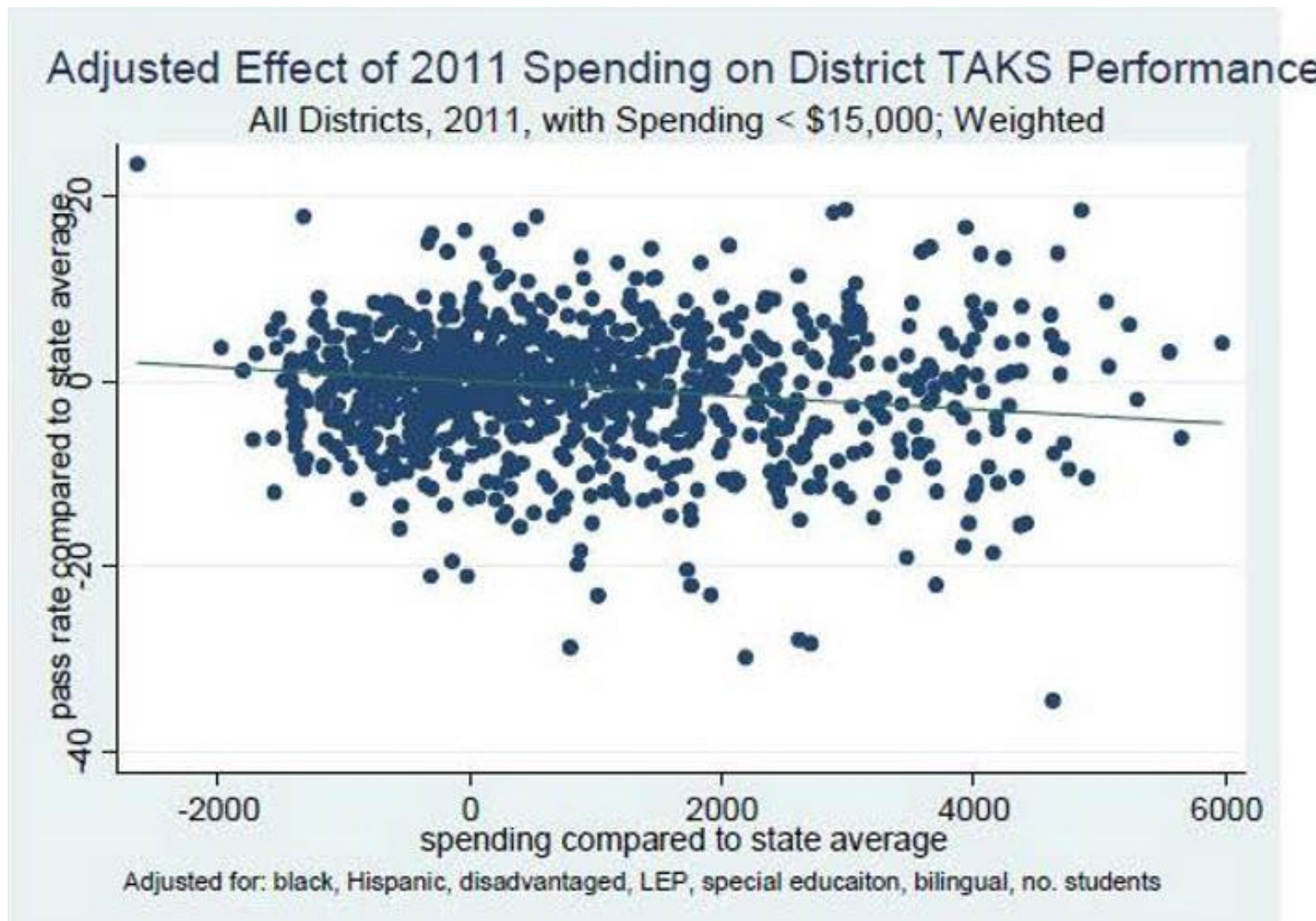
- ✓ Reviewed several scatter-point graphs illustrating revenue per student compared to district student achievement relative to student poverty.
- ✓ Found **no statistical correlation** between amount of money spent and student performance.

- **Leo Lopez, TEA Chief School Finance Officer**

- ✓ Gave an overview of the current Texas school finance system.

Texas Commission on Public School Finance (cont.)

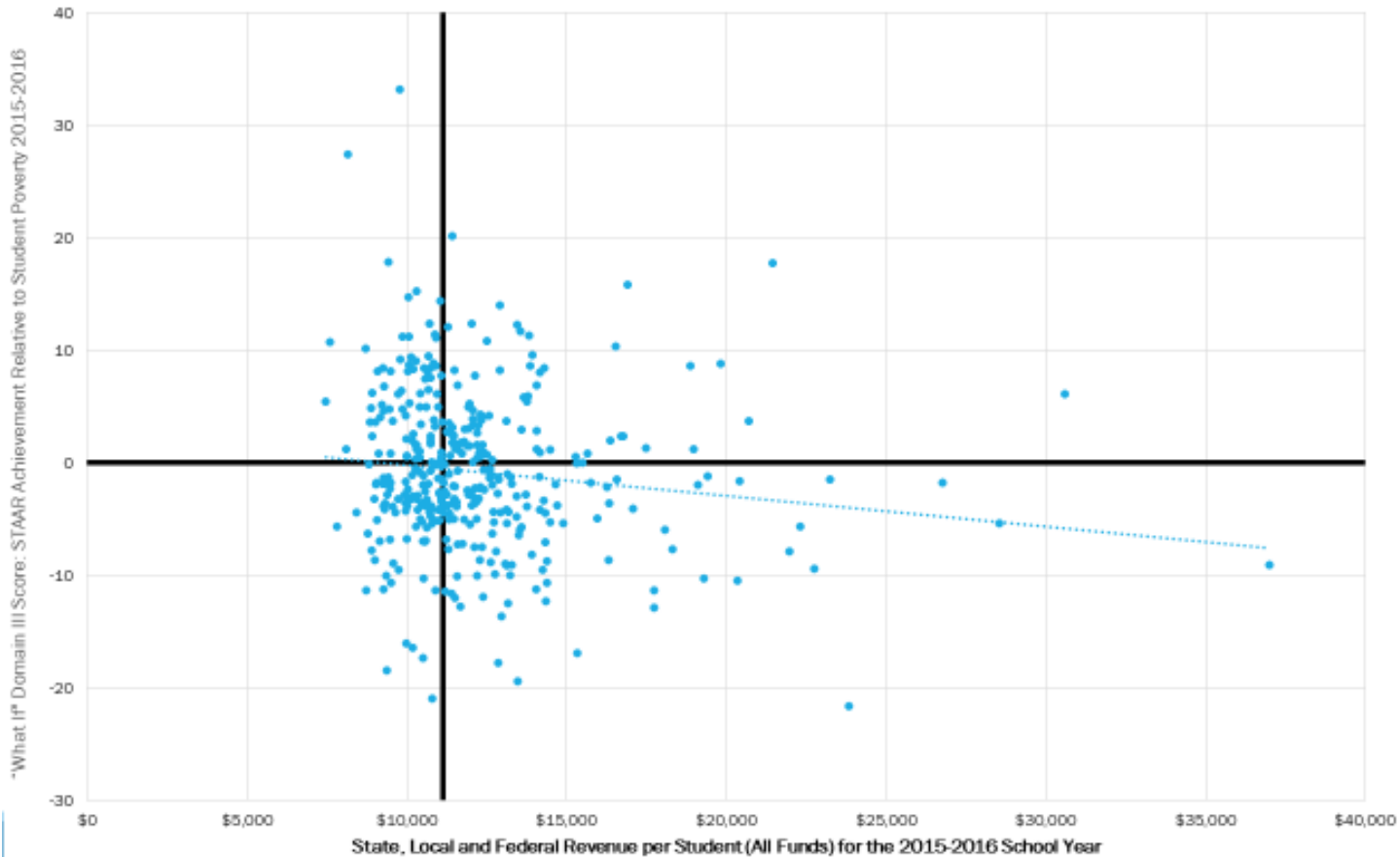
Justice Craig Enoch's Slide



Texas Commission on Public School Finance (cont.)



District "Performance" Relative to Per Student Funding for
Below Average Taxation Districts & Above Average Student Poverty Districts*



Academic Performance for only those districts and charters with:

- 1) maintenance and operations (M&O) local property tax rates at or below the state average of \$1.0812 per \$100 of taxable property valuation (which includes all charters, funded at that average), and
- 2) population of economically disadvantaged students higher than state average of 59%

362 districts & charters featured

Texas Commission on Public School Finance (cont.)

Invited Testimony (cont.)

- **Raymund Paredes, Commissioner of the Texas Higher Education Coordinating Board**
 - ✓ Texas schools are not adequately preparing students for college.
 - ✓ His goal is that 60% of graduating high school students hold a post secondary credential or degree by 2030.
- **Andres Alcantar, Chair of the Texas Workforce Commission**
 - ✓ Texas is enjoying robust job creation and needs well educated students especially in Math and Technology for the jobs being created.

Texas Commission on Public School Finance (cont.)

Invited Testimony (cont.)

- **Mathew Chingos, the Urban Institute**

- ✓ Relative to other states with demographically-similar students, Texas produces **above-average results** in reading, and nation-leading results in math (NAEP).

- **Zahava Stadler, EdBuild**

- ✓ All of the elements in Texas formulas are used by a number of other states, and revenue per student produced in Texas is about mid-range.
- ✓ Several of the Texas formulas elements, however, are based on **very old data** – more so than any other state.
- ✓ Texas gives more weight to **district-level adjustments** compared to student weights than any other state (ie. the small district adjustment).

Texas Commission on Public School Finance (cont.)

Invited Testimony (cont.)

- **Emily Parker, Education Commission of the States**
 - ✓ 34 states use funding formulas similar to Texas.
 - ✓ 43 states provide additional funds for **at risk students**.
 - ✓ 46 states provide additional funds for **English Language Learners**.
- **Lori Taylor, Mosbacher Institute for Trade, Economics, and Public Policy, Texas Smart Schools Initiative, TAMU**
 - ✓ **Competition** fosters efficiency (public school choice, charter schools).
 - ✓ Texas school district **budget practices** foster inefficiency - receive more revenue than budgeted, spend the overage rather than reducing the budget.
 - ✓ Paying teachers based on **years of experience** is inefficient.

Texas Commission on Public School Finance (cont.)

Scheduled Future Meetings
Room 1-104, William B. Travis Building
1701 Congress Ave., Austin, TX

- **February 22** – Successful schools and educational programs that have proven effective
- **March 7** – Teacher retention and compensation
- **March 23 – Public testimony** will be taken

Coming Soon:
An Introduction to School Finance in
Texas, 4th Edition



Senate Finance Committee



Senate Finance Committee

February 20 Agenda

- **Property Tax on Business Personal Property:** *Evaluate the property tax as it applies to business personal property and the current \$500 exemption. Quantify the economic effect of taxing business personal property and determine whether the tax places Texas at a competitive disadvantage relative to other states. Evaluate the burden on taxpayers and local governments of administering the property tax on business personal property and determine whether the current \$500 exemption should be increased.*
- **Interest Rate Disparity:** *Evaluate the rate of interest charged on delinquent property taxes and delinquent state taxes, compared to the rate of interest paid on property tax refunds and state tax refunds.*
 - *Evaluate the effect of interest rate disparity on the assessment decisions of governments and the payment decisions of taxpayers.*
 - *Quantify the amount by which state and local governments profit from interest rate disparity.*
 - *Identify best practices among other states regarding interest rates charged and paid.*
 - *Recommend a plan and timeline to reduce interest rate disparity.*



TTARA Comments on Business Personal Property Taxation

- Texas' property tax is characterized by high rates and a broad base putting us at a competitive disadvantage to other states
 - **Business personal property:** 8 states exempt it, 13 states tax it on a ratio basis, and 29 states (including Texas) tax it fully.
 - **Business inventories:** Texas is one of only 10 states that fully tax inventories.
- Texas should increase the \$500 exemption for business personal property AND the \$500 exemption for minerals interests, but only in consideration of the costs of administering the tax

Interest Rate Disparity

- State and local taxpayers owe interest at a substantially higher rate on delinquent taxes than are owed to them on refunds.
- Penalties are in place to discourage bad behavior, but interest should simply be based on the time value of money and be the same for taxing jurisdictions and taxpayers alike.
- The disparity is particularly egregious because the state generally requires disputed amounts to be paid in order to contest the tax in court.
- Taxes paid under protest should be held in trust and not be available for general purpose spending.

- TTARA's draft testimony is available on our website:
 - [Business personal property taxation](#)
 - [Interest rate disparity](#)
- If you have any thoughts we should add to our testimony on business personal property or inventory taxation, or on the disparity in interest rates, please contact Dale Craymer at dcraymer@ttara.org

Comptroller Rules



Comptroller Rule Drafts

3.15 Fraud Penalty

- Proposed rule lists different individuals whose actions may be imputed to a taxpayer when determining fraud
- Several recent Comptroller's Decisions at hearings have limited who may commit fraud
- Proposed rule clarifies when the fraud penalty may be applied and more aligns Comptroller policy with statute and common law
- Impacts pending and future cases

Comptroller Rule Drafts, *continued*

3.355 Insurance Services

- Proposed rule implements SB 1083 (85th)
- SB 1083 exempted public accounting firms from sales tax on insurance services as long as less than 1% of total firm revenue is from insurance services
- Prevents a CPA firm's services to be taxed because it conducted a small amount of work falling under the definition of "insurance services," a taxable service under the sales tax code
- The rule draft follows the language in the statute

Comptroller Rule Drafts, *continued*

3.364 Professional Employee Services

- Proposal implements SB 745 (85th)
- SB 745 was filed in response, in part at least, to the *Allstate v. Hegar* case in which the court found Allstate was entitled to a refund of sales tax paid for temporary employees at Allstate's facilities
- SB 745 changed the statute to prevent an expansion of what is considered nontaxable services
- The rule draft follows the language in the statute

Comptroller Rule Drafts, *continued*

3.364 Professional Employee Services, cont.

- Changes the temporary services described in the rule/statute from nontaxable to an exemption
- Prohibits the host employer from acquiring any supplies or equipment from the temporary employment service
- Requires the host employer to have the sole right to supervise the temporary employee instead of only general supervision

Comptroller Rule Drafts, *continued*

3.588 Margin: Costs of Goods Sold

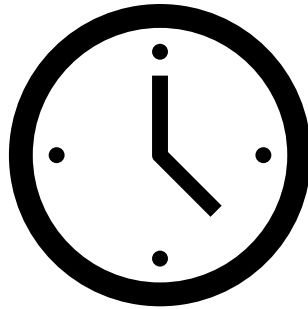
- Incorporates language from HB 500 (83rd) relating to movie theaters and pipelines
- Implements changes to comply with the recent court decisions in *CGG Veritas*, *Newpark*, and *Sunstate*
- The public comment period is over and the Comptroller is preparing the proposed rule for adoption

Unclaimed Property

Unclaimed Property

- Concerns about unclaimed property audits
- We are in discussions with the Comptroller's office
- Contact me with any concerns or questions:
mmigliore@ttara.org or 512-472-8838

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Thanks for Joining Us!

If you have any questions or comments, please feel free to contact TTARA staff.

Franchise Tax & State Budget: Dale Craymer

dcraymer@ttara.org

Property Tax: Debbie Cartwright

dcartwright@ttara.org

Sales & Property Tax: John Kennedy

jkennedy@ttara.org

Franchise Tax, Sales Tax & Budget: Matt Migliore

mmigliore@ttara.org

School Finance: Sheryl Pace

space@ttara.org

Communications: Ryan Ash

ryan@ttara.org

Office Manager: Betty Wranischar

bwranischar@ttara.org

Membership: Cindy Ferguson

cferguson@ttara.org

