



Taxes and the 84th Legislature: What the Did, and What they Didn't

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President**

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About TTARA

- The Texas Taxpayers and Research Association is Texas' pre-eminent taxpayer organization
- A non-profit working in support of conservative fiscal policy
- Over 200 members across all major industries
- TTARA does not engage in political activity: No PAC, no endorsements, no electioneering

About TTARA, *continued*

On-staff **experts** in tax and fiscal policy:

- The State Budget
- School Finance (the biggest single drive of local property tax increases)
- Franchise Tax
- Sales Tax
- Property Tax
- Tax Administration



The Budget in Brief

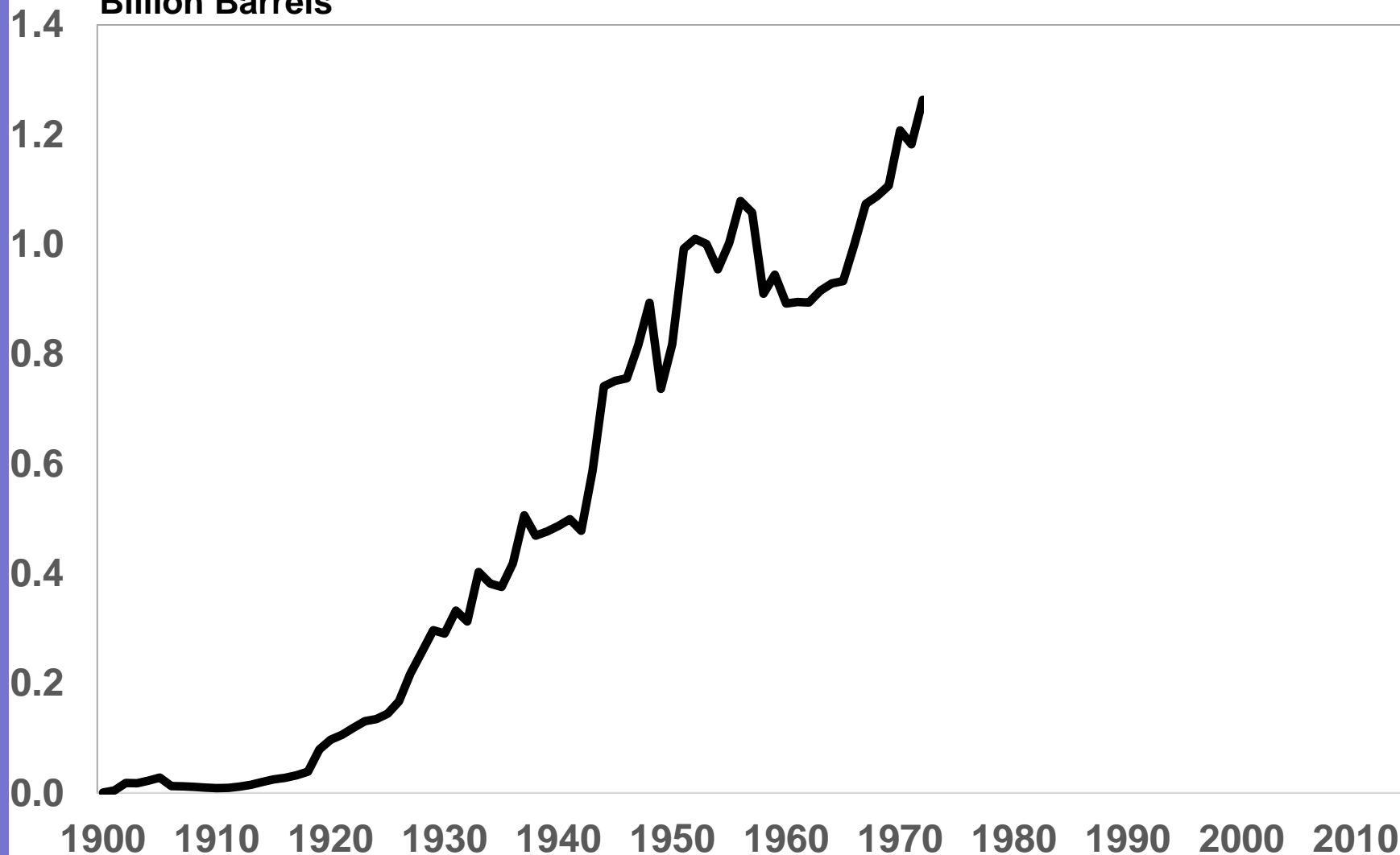
SURPLUS!!!

- Lawmakers were greeted with an extraordinary excess near \$15 billion, thanks to years of healthy oil investment

Texas Oil Production

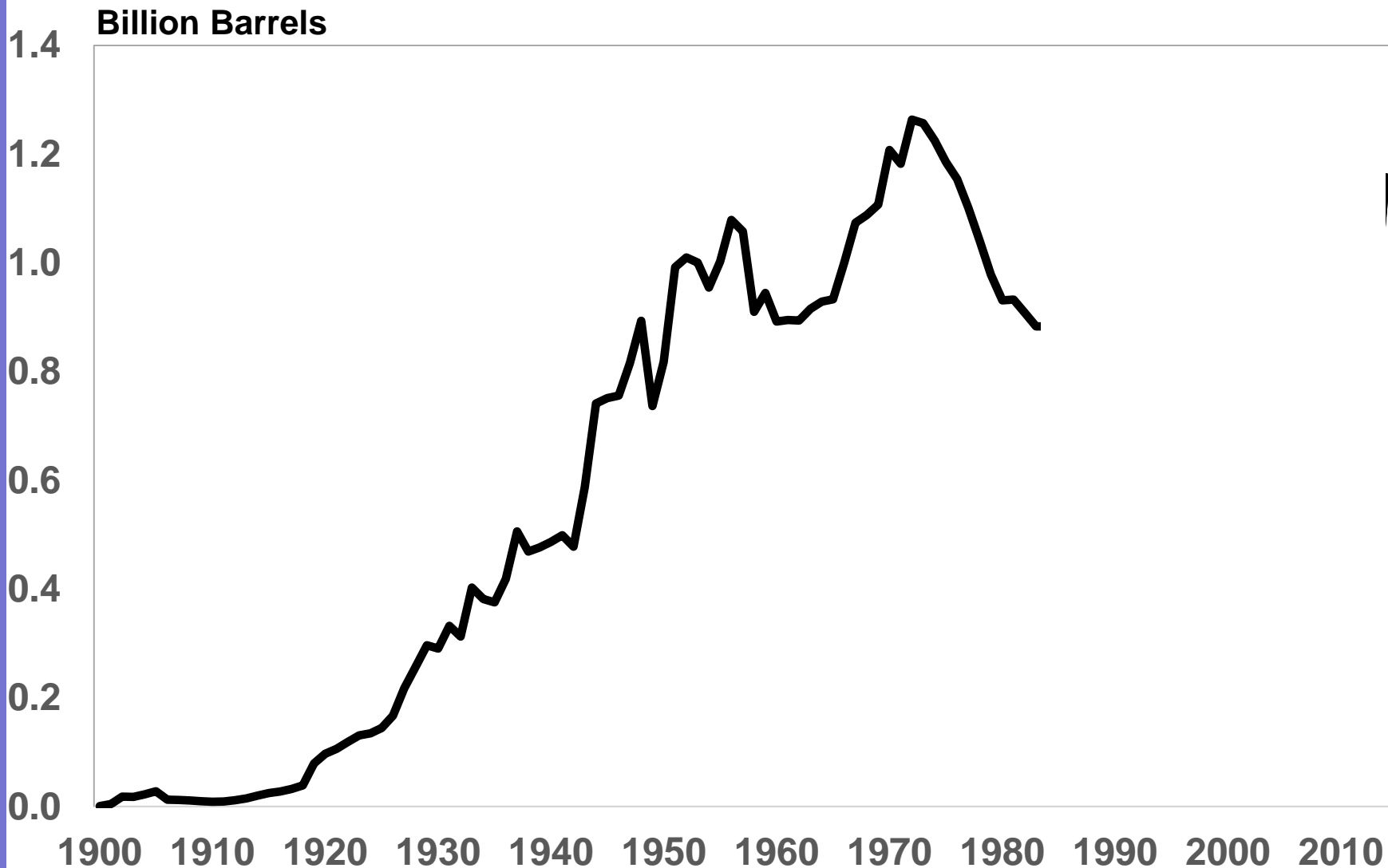
(From the beginning of time)

Billion Barrels



Texas Oil Production

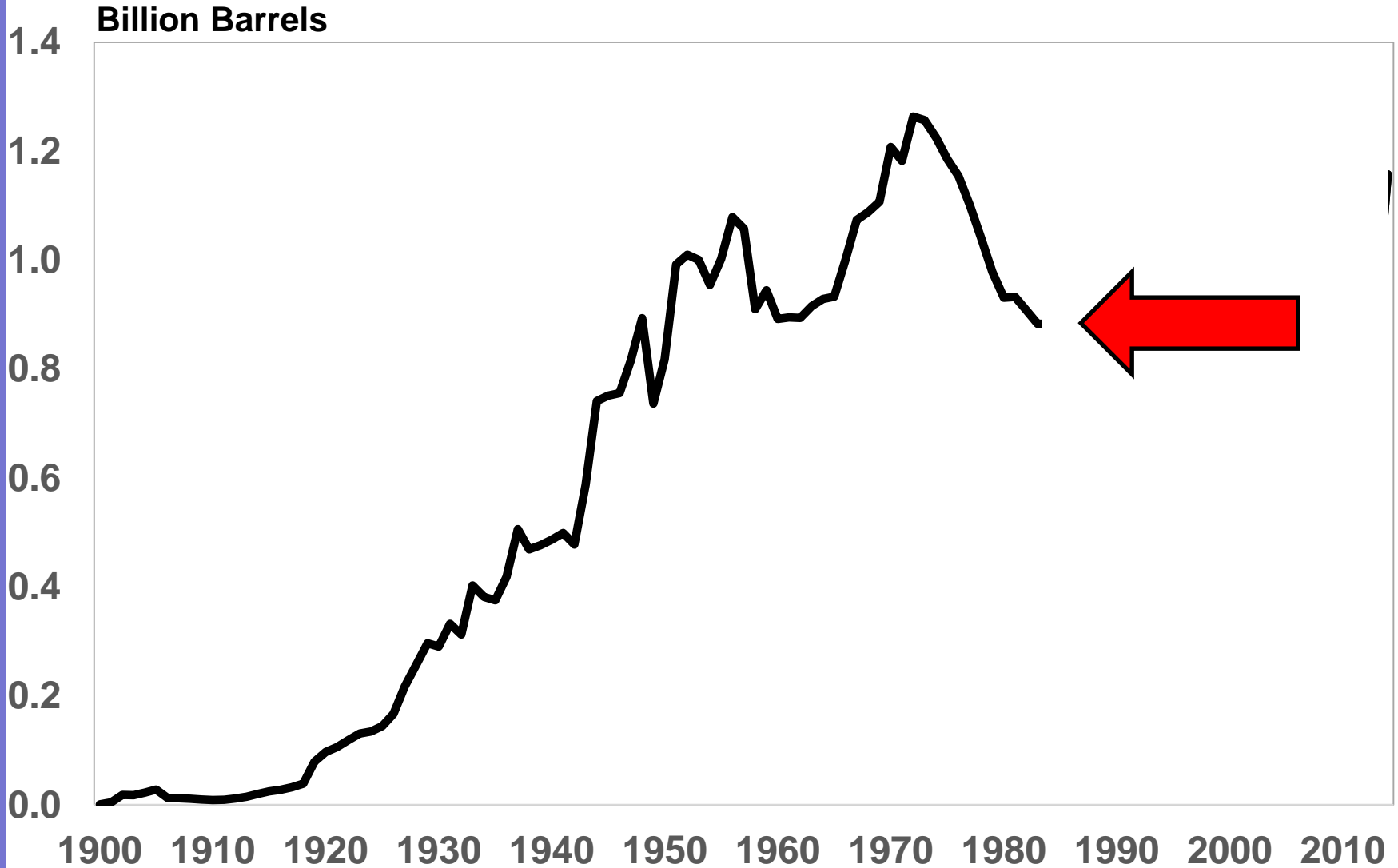
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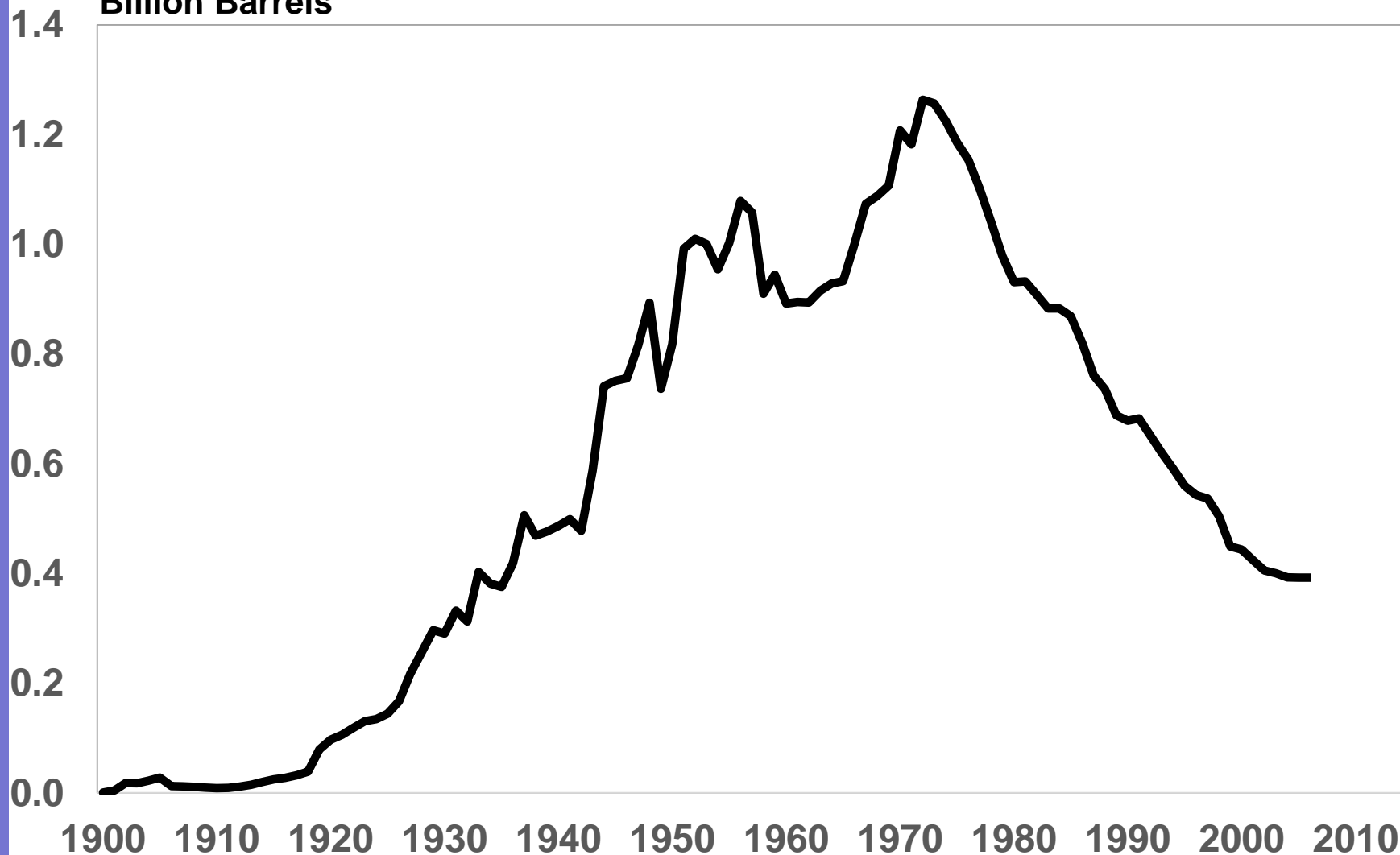




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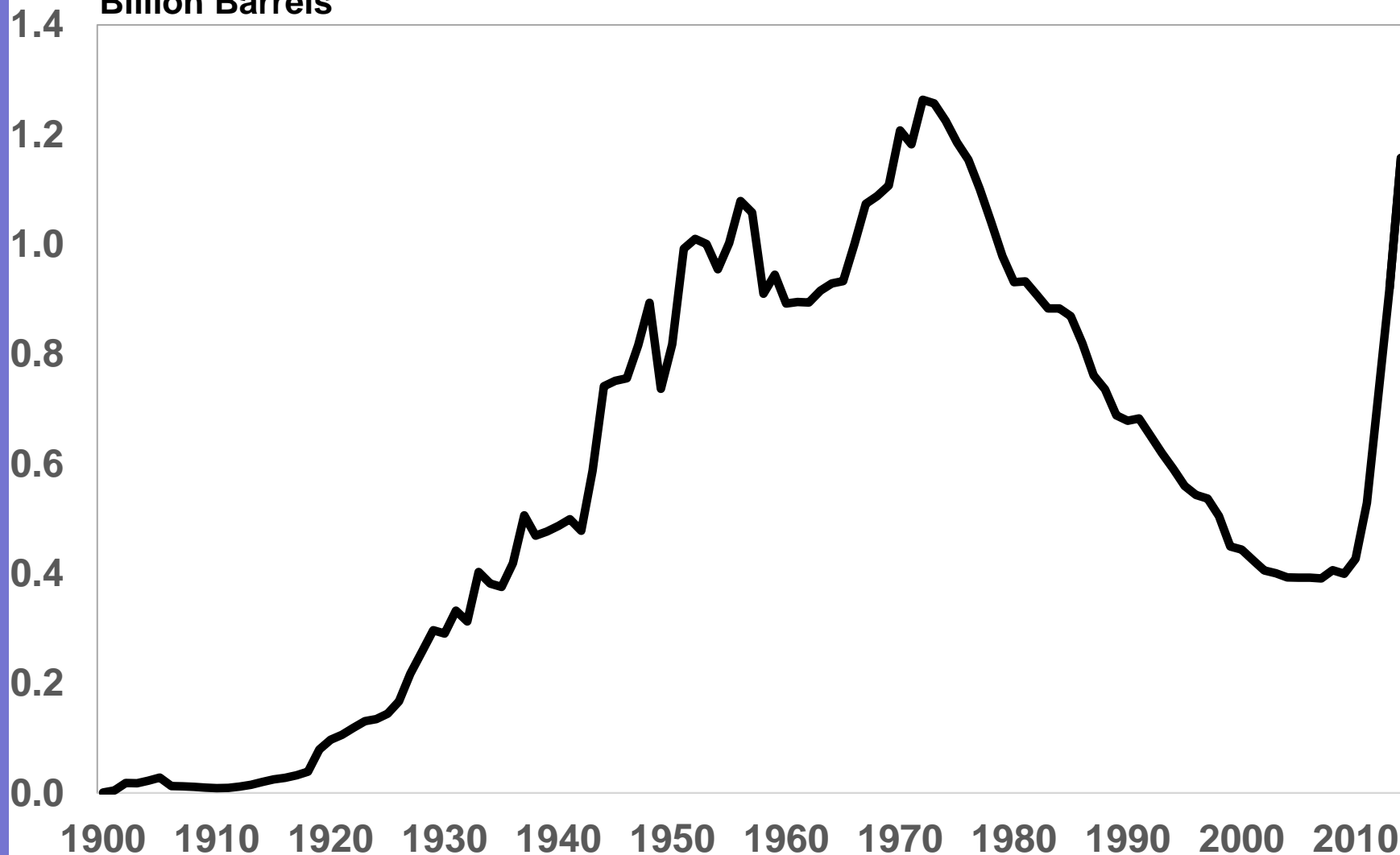




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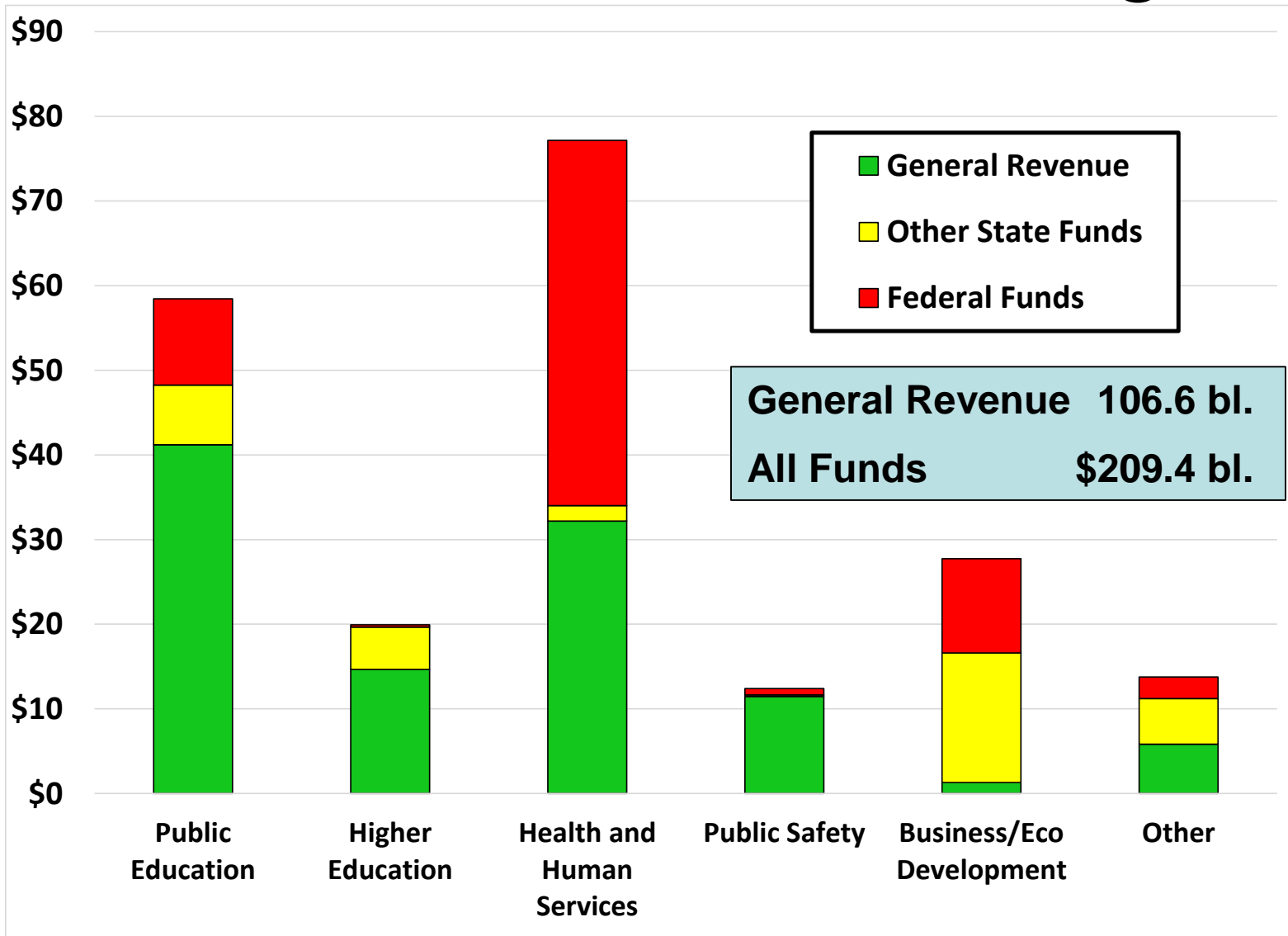
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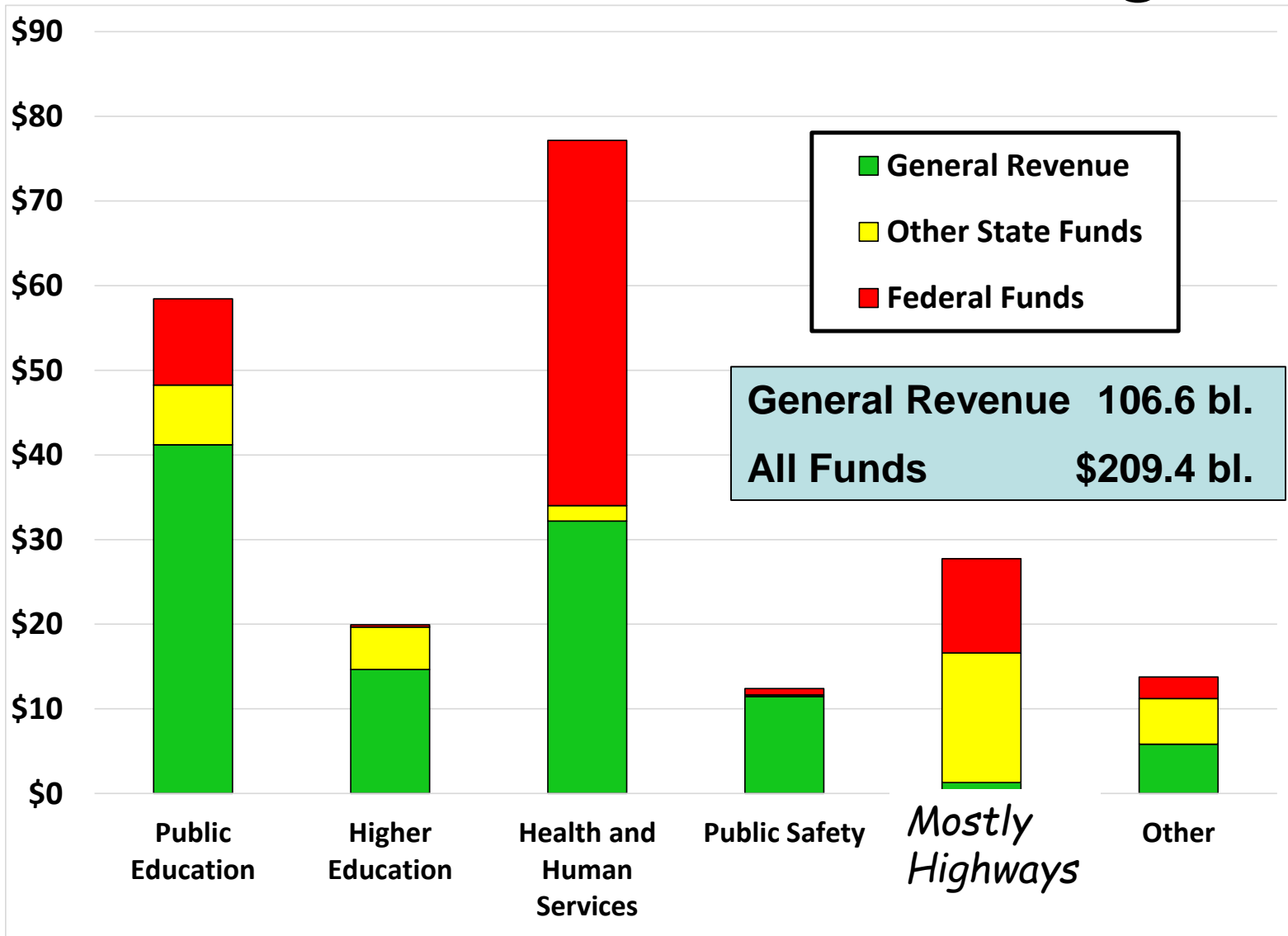
SURPLUS!!!

- Ultimately lawmakers used:
 - About a third for tax relief
 - About a third in the budget (education, dedicated funds, etc.)
 - About a third as a cash cushion

The 2016-17 State Budget



The 2016-17 State Budget



Key Budget Numbers

All Funds Spending	\$209.4 bl.
<i>Increase over 2014-15</i>	<i>3.6 %</i>
General Revenue Spending	\$106.6 bl.
<i>Increase over 2014-15</i>	<i>12.0 %</i>
General Revenue Surplus	\$4.7 bl.
Amount Under Spending Limit	\$2.9 bl.
Rainy Day Fund Balance	\$11.1 bl.

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The Final Tax/Fee “Package”

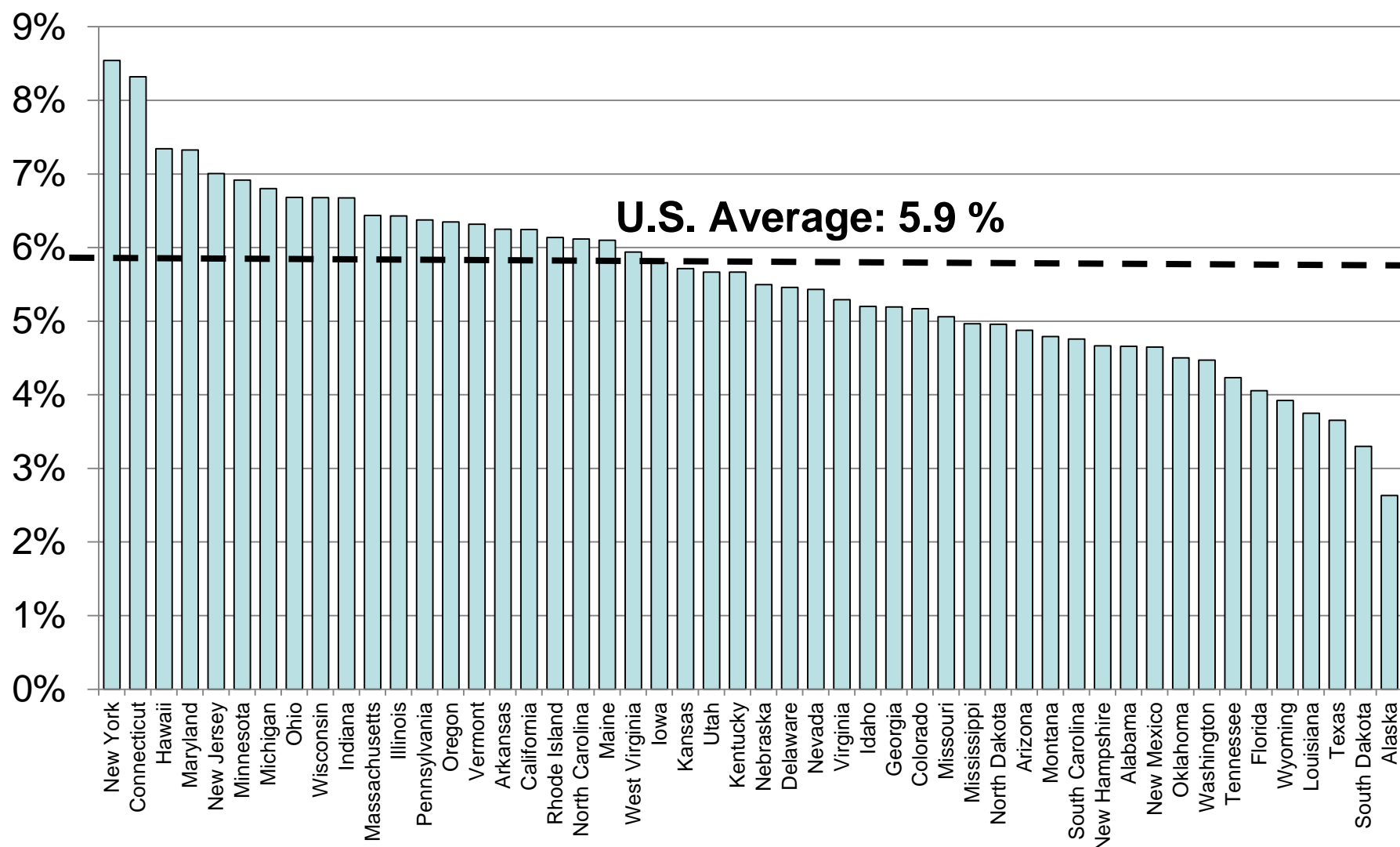
Good Policy v. Good Politics

- Texas' heavy reliance on property and sales taxes makes Texas a high tax state for business—particularly capital intensive businesses
- To improve Texas' competitiveness and help spark new job creation, Texas should **cut business taxes**
- The most harmful tax to business investment is the property tax (Texas has extremely high effective tax rates and a more expansive base than other states)



State & Local Tax Burden:

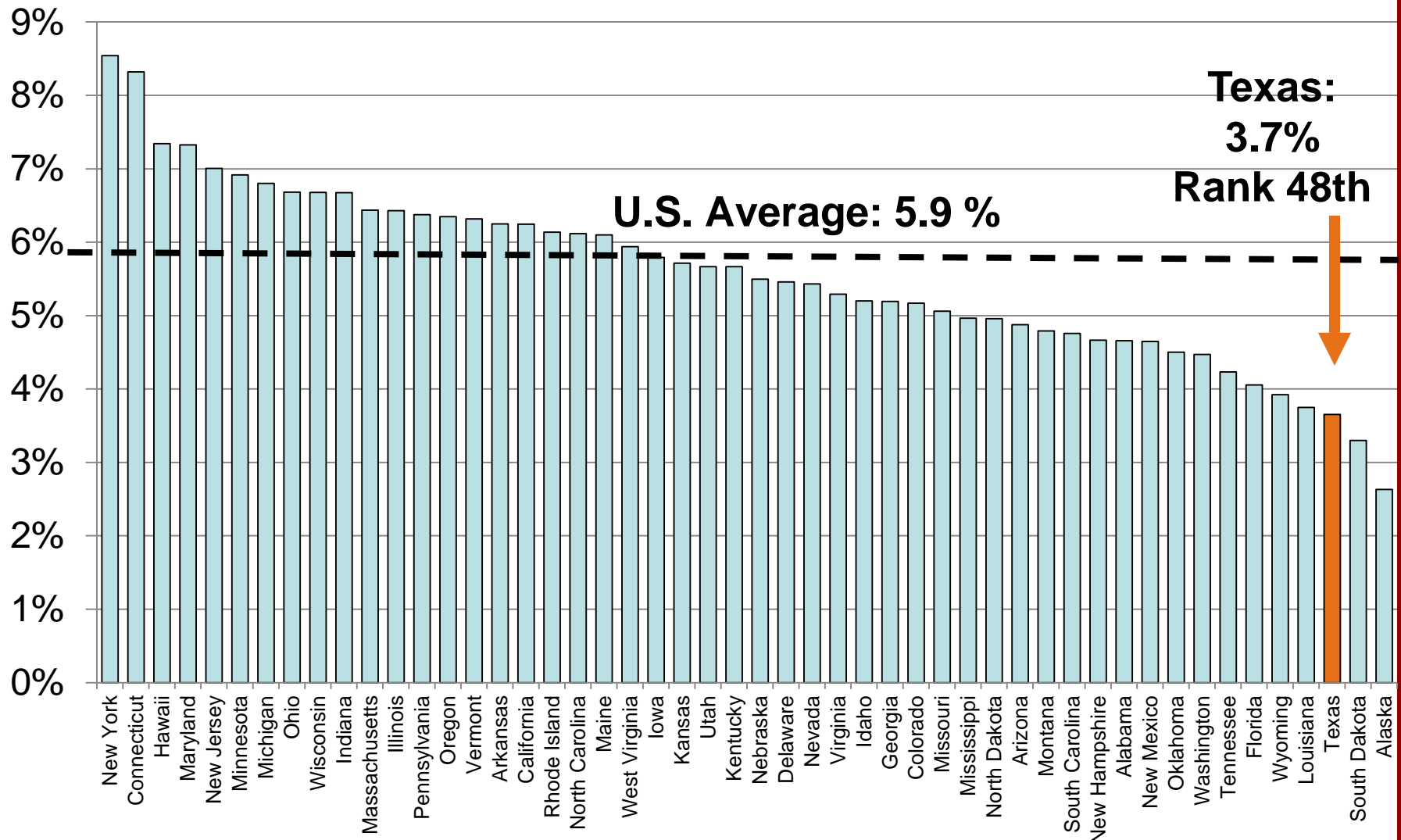
Taxes on Individuals vs. Personal Income





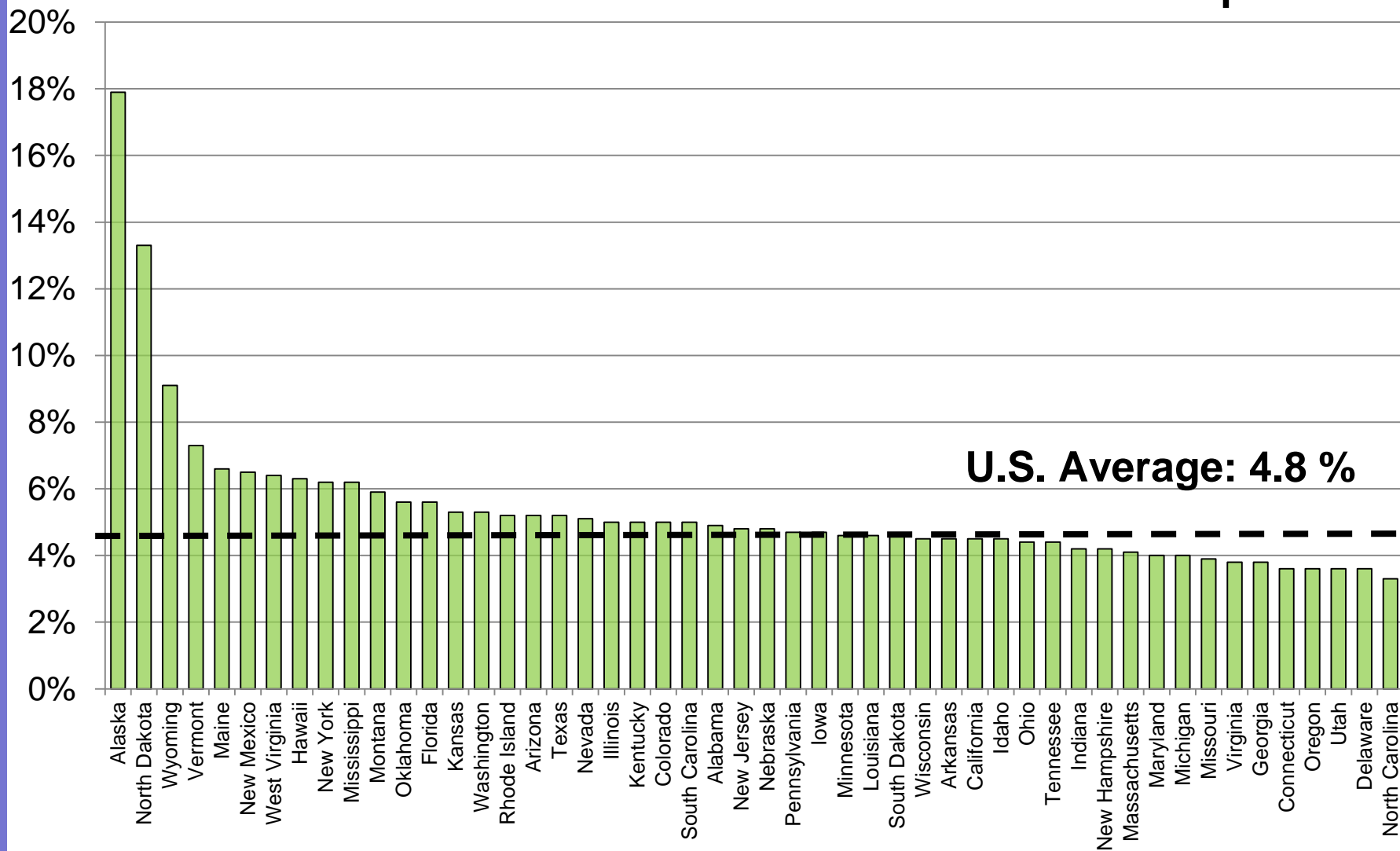
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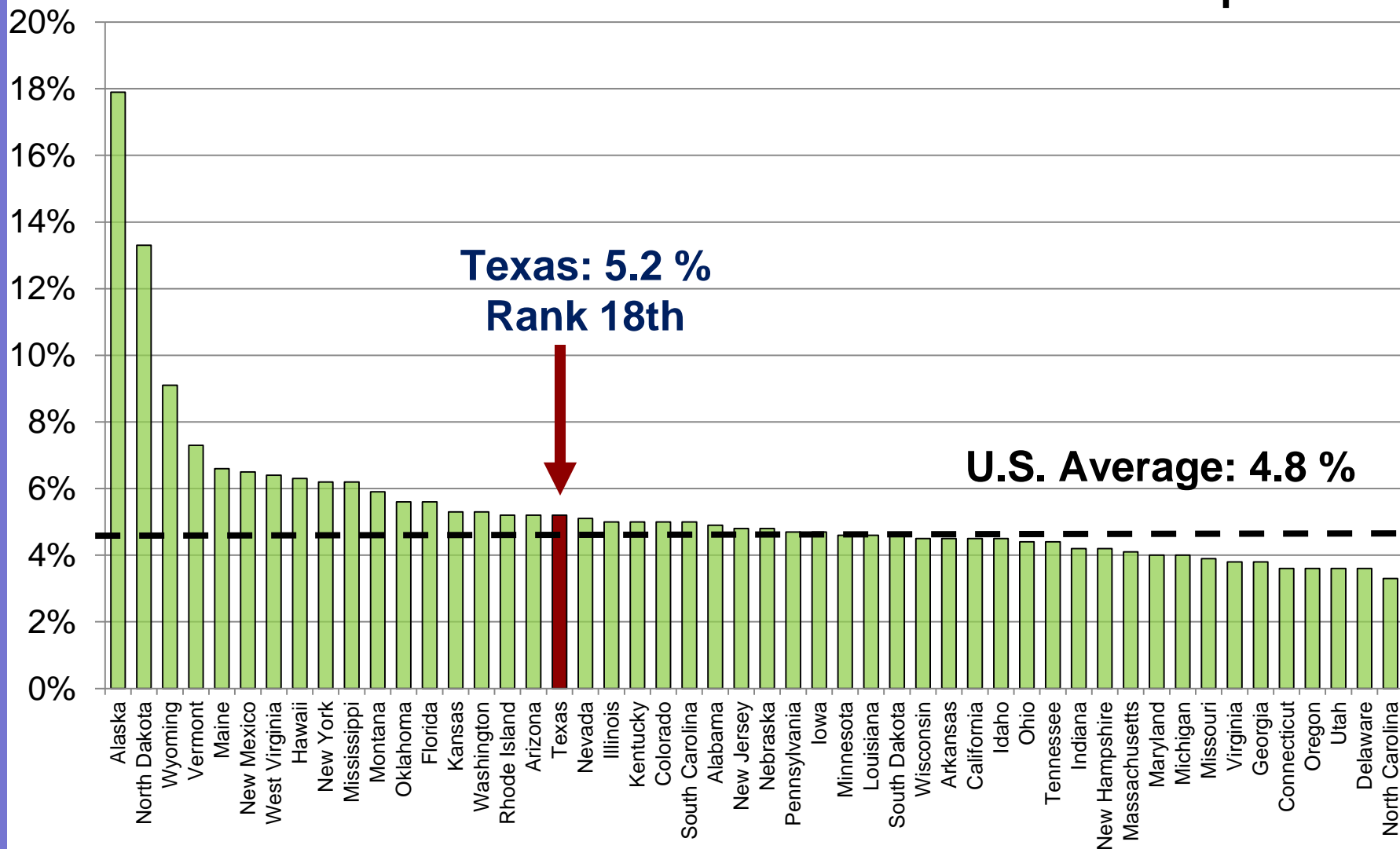


State & Local Tax Burden: Taxes on Business vs. Economic Output





State & Local Tax Burden: Taxes on Business vs. Economic Output



Good Policy v. **Good Politics**

- **Texas homeowners** (i.e. voters¹) face growing property taxes, blamed on rising appraisals (but in fact, caused by growth in local tax levies)
- Businesses, in particular **small businesses** hate the franchise tax

Notes: 68% of homeowners vote; 52 % of renters vote according to the Census Bureau's *Voting and Registration in the Election of November of 2010*.



Senate Tax Plan

Property Tax (SB 1 & SJR 1)

- Index homestead exemption to 25% of the median-valued Texas home (an increase of ~\$16,400 in 2016)

Franchise Tax (SB 7 & SB 8)

- Reduce standard franchise tax rates by 15%
- EZ tax rate reduction (from 0.575% to 0.331%) extended to taxpayers with less than \$20 million in revenue
- Small business exemption increased from \$1 million to \$4 million



Business Concerns with Senate Tax Plan

- No business property tax relief
- Indexing homestead exemption established a “de-facto” split roll, in which business taxes increase by \$1.00 for every \$0.75 increase on homeowners
- Increase in small business exemption focuses franchise tax on “big” business (exempts 60+ thousand businesses; only 55 thousand left paying tax)



House and Senate Tax Plans

Senate

House

Property Tax (SB 1 & SJR 1)

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- Not included

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(HB 31)

- Reduce state sales tax rate to 5.95% from 6.25% (a 5% reduction)

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Cutting the Property Tax

- The property tax is a local tax levied by school districts, cities, counties, and special districts
- Values are set by local appraisal districts, governed by appointees of school districts, cities, counties, and special districts
- The Texas Legislature does not set either taxable values of property or set tax rates

Rationale for a Sales Tax Cut

- No local official can take back the sales tax cut
- The sales tax is a state tax; the property tax is not
- It is a very efficient way of delivering tax relief
- It doesn't arbitrarily pick winners and losers—all taxpayers benefit (individuals & businesses; homeowners & renters)

The Final Package

- **HB 32 by Bonnen:** Cuts franchise tax rates by 25 percent; extends the EZ alternative tax on gross receipts to taxpayers with \$20 million in total revenue and cuts the rate to 0.331 percent (42 percent cut)
- **SJR 1/SB 1 by Nelson:** Raises the school homestead exemption to \$25,000 (from the current \$15,000)
- **HB 7 by Darby:** eliminates various occupational taxes
- **SB 1760 by Creighton:** 60 percent vote required to raise property taxes above the effective rate

No sales tax cut; no further erosion of the number of franchise taxpayers; no indexing that would shift future property taxes onto business

HB 32: The Franchise Tax Reduction Act of 2015

- Reduces franchise tax rates by 25 percent; 1% rate reduced to 0.75%; 0.5% tax rate reduced to 0.375 percent
- Alternative gross receipts tax (the EZ calculation) extended to taxpayers with less than \$20 million in revenue (up from \$10 million); rate reduced to 0.331 percent (a 40 percent cut from 0.575%)
- Comptroller shall identify “revenue growth allocation options” upon repeal of the tax

SB 1/SJR 1: Property Tax

- Increases the school homestead exemption from the current \$15,000 \$25,000 (average homeowner savings of \$130/year)
- School districts offering an optional percentage-based homestead exemption are locked in for the next 5 years
- No new law may be enacted imposing a transfer tax on the conveyance of real estate
- November 3, 2015 election, but exemption applies retroactively to 2015 tax bills.



Provisional Notice on 2015 Tax Bills

If the amount of the exemption from ad valorem taxation by a school district of a residence homestead had not been increased by the Texas Legislature, your tax bill would have been \$____ (insert amount equal to the sum of the amount calculated under Section 26.09(c-1) based on an exemption under Section 11.13(b) of \$15,000 and the total amount of taxes imposed by the other taxing units whose taxes are included in the bill). Because of action by the Texas Legislature increasing the amount of the residence homestead exemption, your tax bill has been lowered by \$____ (insert difference between amount calculated under Section 26.09(c-1) based on an exemption under Section 11.13(b) of \$15,000 and amount calculated under Section 26.09(c-1) based on an exemption under Section 11.13(b) of \$25,000), resulting in a lower tax bill of \$____ (insert amount equal to the sum of the amount calculated under Section 26.09(c-1) based on an exemption under Section 11.13(b) of \$25,000 and the total amount of taxes imposed by the other taxing units whose taxes are included in the bill), contingent on the approval by the voters at an election to be held November 3, 2015, of a constitutional amendment authorizing the residence homestead exemption increase. If the constitutional amendment is not approved by the voters at the election, a supplemental school district tax bill in the amount of \$____ (insert difference between amount calculated under Section 26.09(c-1) based on an exemption under Section 11.13(b) of \$15,000 and amount calculated under Section 26.09(c-1) based on an exemption under Section 11.13(b) of \$25,000) will be mailed to you.

November Ballot Language

The constitutional amendment increasing the amount of the residence homestead exemption from ad valorem taxation for public school purposes from \$15,000 to \$25,000, providing for a reduction of the limitation on the total amount of ad valorem taxes that may be imposed for those purposes on the homestead of an elderly or disabled person to reflect the increased exemption amount, authorizing the legislature to prohibit a political subdivision that has adopted an optional residence homestead exemption from ad valorem taxation from reducing the amount of or repealing the exemption, and prohibiting the enactment of a law that imposes a transfer tax on a transaction that conveys fee simple title to real property.

The Homestead Exemption

On a \$200,000 home with 10 percent value increase and no rate increases

2014

Home Value	200,000
- School Exemption	<u>\$15,000</u>
= Net Taxable Value	\$185,000
x Tax Rate (per \$100)	<u>\$1.32</u>
= School Tax Due	\$2,442
+ City/County/Other	<u>\$2,200</u>
= Total Property Taxes	\$4,642

The Homestead Exemption

On a \$200,000 home with 10 percent value increase and no rate increases

	2014	2015
Home Value	200,000	\$220,000
- School Exemption	<u>\$15,000</u>	<u>\$25,000</u>
= Net Taxable Value	\$185,000	\$195,000
x Tax Rate (per \$100)	<u>\$1.32</u>	<u>\$1.32</u>
= School Tax Due	\$2,442	\$2,574
+ City/County/Other	<u>\$2,200</u>	<u>\$2,420</u>
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= School Tax Due	\$2,442	\$2,574	\$132
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= Total Property Taxes	\$4,642	\$4,994	\$352

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Increase w/o HS hike			\$484

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Net Savings = \$132



House Bill 7: Repeals \$200 Annual Tax on:

- Attorneys
- Accountants
- Property Tax Professionals
- Investment Professionals
- Surveyors
- Engineers
- Architects
- Real Estate Brokers
- Interior Designers
- Doctors
- Veterinarians
- Chiropractors
- Dentists
- Optometrists
- Psychologists

Senate Bill 1760: Supermajority Vote to Raise Property Taxes

- Requires 60% majority of governing body of taxing unit to adopt tax rate exceeding the effective rate (i.e. the rate, when applied to the current year's tax base, that raises more property tax revenue than the preceding year)



Property Tax

- Homestead Exemptions
- Chapter 313 School Tax Limitations
- Rollback/Truth in Taxation
- Equal and Uniform
- Property Tax Administration

Other Homestead Exemption Changes

- **HJR 75/HB 992 by D. Bonnen:** Authorizes the legislature to extend the 100% homestead exemption of the surviving spouse of a deceased, totally disabled veteran to the surviving spouse of an otherwise eligible totally disabled veteran who died before the exemption went into effect.
- **HB 1022 by Moody:** Amends §11.13, Tax Code, to expand the definition of a “residence homestead” to include a life estate held by the surviving spouse of the property owner.
- **SB 833 by Campbell:** Amends §11.13, Tax Code, to allow an owner of a residential homestead to continue a homestead exemption if the owner’s temporary absence is caused by military service inside the United States.

Other Exemptions/Special Valuation

- **HB 994 by Anchia/West:** Amends §11.311, Tax Code, to exempt tangible personal property used in the collection, compression, processing, and delivery of landfill gas; requires the exempt property to be appraised as TPP, regardless of whether affixed to or incorporated into the realty.
- **HB 275 by Ashby:** Defines eggs as a farm product for purposes of the property tax exemption
- **SB 1985 by Uresti:** Makes corrective changes to oil and gas valuation methodology
- **HB 1905 by Springer:** Exempts real property leased to a person for use as a school and Type A/Type B economic development corporations

Chapter 313: School Tax Limits

HB 2826 by Murphy:

- Provides that if a project is located in more than one but not more than three contiguous districts, the project is considered to be located in the district with the highest taxable value for purposes of determining the minimum qualified investment and minimum value limitation;
- Prorates the value limitation in each district in proportion to the amount of qualified investment in each district;
- Requires the comptroller to determine eligibility of the whole project based on the project's eligibility if it were located in one district;
- Requires the comptroller to verify the new qualifying jobs data in a random sample of 313 agreements using information from the Workforce Commission, the appraisal district, and other sources the comptroller considers reliable

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- Requires the comptroller to verify the new qualifying jobs data in a random sample of 313 agreements using information from the Workforce Commission, the appraisal district, and other sources the comptroller considers reliable.

VETO
 I have serious concerns
 about this program's oversight,
 transparency, value to
 taxpayers, and ability
 to create jobs!

Rollback/Truth in Taxation

HB 1953 by Bonnen:

Amends §140.010, Government Code, to extend the September 1 deadline for a city or county to provide notice of a proposed tax rate to the later of September 1 or the 30th day after the date the certified appraisal roll is received by the taxing unit

SB 1760 by Creighton/Bonnen:

- Requires 60% majority of governing body of taxing unit to adopt tax rate exceeding the effective rate

Equal and Uniform

- **HB 2083 by Darby/Hancock:** Requires the application of generally accepted appraisal methods and techniques to the selection and adjustment of comparable properties in an equal and uniform appeal

Property Tax Administration

SB 1760 by Creighton/Bonnen:

- Allows lessee to designate an agent
- Allows electronic signature on property tax forms
- Raises interest rate on a refund to 9.5%
- Requires Comptroller to maintain a list of total tax rates imposed by taxing units
- Allows a court, if an appraisal district employee testifies as to value, to give preference to the testimony of an appraisal district employee authorized to perform an appraisal of real estate under §1103.201, Occupations Code (this section effective 1/1/20)

Administration, cont.

SB 593 by Watson/Darby (same as HB 3297 by Parker):

Allows property owner or chief appraiser to request pretrial settlement discussions and requires each party to make good faith effort to settle; prohibits the appraisal district from requiring a property owner to waive any rights as a condition to attending settlement discussions

SB 1468 by Watson: Makes an exception to the ex parte communication rule for a communication between a property owner or the owner's agent or a property tax consultant and the taxpayer liaison officer regarding a ground for removal of an ARB member



Administration, cont.

SB 46 by Zaffirini:

- Makes confidential a photograph taken by an appraisal district for property tax appraisal purposes showing the interior of an improvement to property;
- Requires disclosure of the photograph to a person with an ownership interest in the property on the date the photograph was taken;
- Allows discovery of a photograph in a protest or appeal if it is relevant; the photograph remains confidential in the possession of the person to whom it is disclosed;
- Allows a photograph to be used to ascertain the location of equipment used to transmit oil and gas for purposes of taxation if that equipment is located on January 1 in the appraisal district that appraises property for the equipment for the preceding 365 consecutive days.

Administration, cont.

- **SB 849 by Bettencourt:** Raises the appraised value of property eligible for binding arbitration from \$1 million to \$3 million; establishes a fee schedule for an application for binding arbitration and for the fee for the arbitrator based on the appraised value of the subject property.
- **SB 1394 by Hancock:** Requires the chief appraiser and property owner to exchange material stored on a portable device prior to a hearing on a protest; provides that if the chief appraiser uses AV equipment at the hearing, the appraisal office shall provide AV equipment of the same general type, kind, and character for the property owner's use.
- **SB 1420 by Hancock:** Requires the appraisal notice to include an exemption or partial exemption approved for the property in the preceding year that was canceled or reduced for the current year.

What died? (but will be back . . .)

- Appraisal caps: four bills, four JRs
- Local option homestead: 10 JRs, 10 bills
- Truth in taxation reform: 6 bills
- Elected appraisal officials: 2 bills
- Limits on attorney's fees: 2 bills
- Limiting equal and uniform provisions: 5 bills
- Dealer's Heavy Equipment: 5 bills
- Chapter 313 restrictions: 3 bills
- Sunset/Study exemptions: 2 JRs, 6 bills

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Sales Tax



Taxing Aircraft

SB 1396 by West

- New Chapter 163, Tax Code
- Reflects agreement with Comptroller to resolve continuing difficulties in assessing tax
- Tax due on initial purchase, not on subsequent leases or rentals
- Leasing or renting includes the transfer of operational control as defined by federal regulations
- Purchaser and affiliated entity that uses aircraft in the state are jointly liable for tax
- No tax liability for aircraft operated under fractional ownership programs
- Transfers among affiliated entities not subject to tax
- Preserves all current exemptions provided in Chapter 151



Large Data Center Exemption

HB 2712 by Geren

- 20-year state and local sales tax exemption for a list of items necessary and essential to operating a “qualifying” large data center
- Expands data center exemption in §151.359, Tax Code
- Comptroller application required to obtain registration number for exemption purposes
- Qualifications include:
 - \$500 million capital investment over five-year period
 - New or refurbished facility of at least 250,000 sq. ft. which may include multiple buildings
 - Use by a single occupant to process, store and distribute data
 - Not used to provide telecommunications services
 - Minimum 40 new full-time jobs paying at least 120% of average county wage

Municipal Sales Taxes

HB 157 by Larsen

- Specifically applies the 2% aggregate local sales tax rate cap to city special purpose sales taxes
- With voter approval special purpose tax rates may be reallocated in 1/8% increments within the 2% cap

New Sales Tax Exemptions

- Digital transmission (broadband) equipment purchased by radio stations to comply with federal broadcasting regulations – **HB 2507 by Kacal**
- Purchases of software by Internet hosting provider treated as a sale for resale – **SB 755 by Van Taylor**
- Public insurance adjuster services – **HB 1841 by Bonnen**
- Vending machine sales by non-profits serving special needs individuals – **HB 2313 by Bohac**
- Telecom services used to navigate farm or ranch machinery and equipment – **SB 140 by Perry**
- Emergency preparation supplies sold during the last weekend in April – **SB 904 by Hinojosa**
- Water-conserving products sold during the Memorial Day weekend – **SB 1356 by Hinojosa**

Sales Tax Bills that Failed

HB 1871 by Greg Bonnen

- Sales tax audit authority for local governments
- Provision removed in House committee substitute
- Left pending in Senate Finance

SB 1158 by Hall

- Allow Hopkins County to exceed the 2% local sales tax cap by 1/2% for jail construction bonds
- Left pending in Senate Finance

HB35 by Murphy

- Reduce the effective interest rate on sales tax prepayments from current 13.27 percent (i.e. 1.25% discount) to the equivalent of prime rate plus 4% (7.25%)
- Left pending in Calendars



Franchise Tax



Franchise Tax

- Big rate cut, but no major reforms in the structure of the tax
- 98 bills introduced
- 8 passed

Franchise Tax Fails

- No major change in the definitions or structure of the tax
- No phase-out of the tax



Franchise Tax Bills that Passed

HB 32 by Bonnen: permanent 25 percent reduction in franchise tax rates; cuts EZ rate and expands its application

HB 2891 by Otto: eliminates duplicate reporting requirements between the Comptroller and the Secretary of State

HB 2896 by Parker: clarifies that certain broadcaster receipts be apportioned using location-of-payor

SB 1049 by Campbell: temporary exemption for veteran-owned businesses



Franchise Tax Bills that Passed, *continued*

HB 3230 by Rodriguez, Justin: expands eligible costs for the credit for rehabilitation of historic structures

SB 1364 by Kolkhorst: requires electronic filing of information reports by taxpayers with no tax due

HB 1261 by Susan King: requires the Comptroller to do numerical estimates, if possible, in the biennial tax exemptions study

SB 1563 by Eltife: authorizes the TexAmericas Center create a non-profit corporation



Other Taxes

Taxes Repealed

- Sulphur production – **SB 757 by Perry**
- Crude oil regulatory tax of three-sixteenths a cent per barrel – **SB 757 by Perry**
- Five-cent per serving of alcoholic beverages on planes and trains – **HB 1905 by Springer**
- Three percent of gross rentals of bingo halls – **HB 1905**
- Liquefied gas – **HB 1905 by Springer**
- Controlled substances – **HB 1905 by Springer**
- 2% surtax on fireworks sales – **SB 761 by Creighton**
- Inheritance – **SB 752 by Bettencourt**
- \$200 annual fee imposed on various licensed professionals – **HB 7 by Darby**



What Lies Ahead



The long days and nights of the legislature are over, but the long days of working on legislative implementation and tax administration are just beginning.

Administrative Issues

- Sales tax on natural gas field compressors
 - Portion used for transportation is taxable
 - Portion used for processing is tax exempt
- Tax on trailer-mounted fracking equipment
 - Is it a motor vehicle? It is exempt
 - Is it not a motor vehicle? It is taxable

Budget Pressures

- Fall in oil and gas prices may threaten \$4+ billion state surplus
- School finance lawsuit may require increase in state funding
- November ballot initiative will dedicate over \$5 billion from general revenue to highways each biennium starting in 2017
- Tax relief will still be a priority next session, but may not be as attainable

Property Tax Relief

- Homestead exemption equates to only \$132 of tax relief and will easily get lost in rising tax bills. Phase 2 of homeowner tax relief may be a political necessity
- Legislation almost passed allowing cities/counties/special districts to offer unlimited fixed dollar homestead exemption and pay for it with higher tax rates



Franchise Tax

- 25 percent cut is clearly positive for business but will not substantially help Texas' tax competitiveness (the franchise tax is apportioned based on location of the sale of the product, not where it is manufactured)
- Desire to further cut the franchise tax will compete against the desire for further property tax relief

Economic Incentives

- Many Tea Party conservatives and liberals alike view incentives as “corporate welfare”
- Governor Abbott is highly skeptical of incentives as “picking winners and losers” and “distorting the free market.”



Thanks for the Invitation!

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

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