CLOSING ARGUMENT
David Hinojosa, MALDEF
on behalf of:

EDGEWOOD ISD,
MCALLEN ISD,
SAN BENITO CISD,
LA FERIA ISD,
HARLINGEN CISD,
YOLANDA CANALES,
ARTURO ROBLES,
ARACELI VASQUEZ
&
JESSICA ROMERO

versus

MICHAEL WILLIAMS, COMMISSIONER OF EDUC.,
STATE OF TEXAS BOARD OF EDUCATION,
& SUSAN COMBS, TEXAS COMPTROLLER
Changes in the Texas School Finance System since 2005

- Compressed M&O tax rates, increased yields but fewer pennies
- Target revenue- freezes in and increases inequities
- Eliminated the $350 cap on target revenue
- Unequalized Golden Pennies
- Tax Ratification Elections required for Copper Pennies
- Use of Unequalized I&S Funds for M&O
- Changing times, needs and expectations: Increased standards, rigor, and testing.
Average Property Wealth per WADA in 2011-12 by Decile

- GAP: $1,010,403
- Poorest: $76,068
- Wealthiest: $1,086,471

Decile Weights:
- 6th 10% of Districts
- 7th 10% of Districts
- 8th 10% of Districts
- 9th 10% of Districts
- Wealest Decile
Direct Correlation between tax effort and revenue?

- Dr. Albert Cortez (IDRA), veteran of 4 Texas school finance cases.

- Weighted analysis: Wealthiest 15% of WADA compared to Poorest 15% of WADA to provide a GDK (like *Edgewood IV*); By decile; by Recapture/non-Recapture.

- ATR Yields for a General Diffusion of Knowledge:
  - $5,000 Cost = Poorest 15% WADA tax at $0.98
    - Richest 15% WADA tax at $0.74 ($0.24 advantage)

- $6,000 Cost = Poorest, $1.18
  - Richest, $0.88 ($0.30 advantage)

Source: Ex. 4251 at 12-13; A. Cortez Trial Tr.
### Table 9: 2011-12 Tax Efforts Necessary to Generate Certain Revenue Levels per WADA at 2011 Adopted Tax Rate Yields, by Lowest and Highest Wealth Districts with 15 Percent of State WADA

<table>
<thead>
<tr>
<th>School District Grouping</th>
<th>Group Average Tax to Yield $5,000</th>
<th>Group Average Tax to Yield $5,500</th>
<th>Group Average Tax to Yield $6,000</th>
<th>Group Average Tax to Yield $6,500</th>
<th>Group Average Tax to Yield $7,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poorest Districts with 15% of WADA</td>
<td>$0.98</td>
<td>$1.08</td>
<td>$1.18</td>
<td>$1.28</td>
<td>$1.38</td>
</tr>
<tr>
<td>Wealthiest Districts with 15% of WADA</td>
<td>$0.74</td>
<td>$0.81</td>
<td>$0.88</td>
<td>$0.96</td>
<td>$1.03</td>
</tr>
<tr>
<td>Gap</td>
<td>$0.24</td>
<td>$0.27</td>
<td>$0.30</td>
<td>$0.32</td>
<td>$0.35</td>
</tr>
</tbody>
</table>

*Intercultural Development Research Association*

*Data source: Texas Attorney General’s Office, January 2013*

Source: Ex. 4251, tbl. 9
Tax Rate Disparities, By Decile & GDK (2011-2012)

- $5,000 Cost/WADA
  Poorest- $0.99 property tax
  Wealthiest- $0.66 property tax
  Difference of $0.33 in rates.

- $7,000 Cost/WADA
  Poorest- $1.38 property tax (impossible)
  Wealthiest- $0.92 property tax
  Difference of $0.46 in tax rates.

Source: Ex. 4251 at 6; A. Cortez Trial Tr.
## Tax Rate Disparities, By Decile & GDK (2011-2012)

### Table 4: Tax Efforts Necessary to Generate Certain Revenue Levels per WADA at 2011 Adopted Tax Rate Yields, by School District Deciles, Using 2011-12 Data

<table>
<thead>
<tr>
<th>School District Grouping</th>
<th>Group Average Tax to Get Yield $5,000</th>
<th>Group Average Tax to Get Yield $5,500</th>
<th>Group Average Tax to Get Yield $6,000</th>
<th>Group Average Tax to Get Yield $6,500</th>
<th>Group Average Tax to Get Yield $7,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poorest Decile</td>
<td>$0.99</td>
<td>$1.08</td>
<td>$1.18</td>
<td>$1.28</td>
<td>$1.38</td>
</tr>
<tr>
<td>2nd 10% of Districts</td>
<td>$0.98</td>
<td>$1.08</td>
<td>$1.18</td>
<td>$1.28</td>
<td>$1.38</td>
</tr>
<tr>
<td>3rd 10% of Districts</td>
<td>$0.98</td>
<td>$1.06</td>
<td>$1.16</td>
<td>$1.25</td>
<td>$1.35</td>
</tr>
<tr>
<td>4th 10% of Districts</td>
<td>$0.96</td>
<td>$1.06</td>
<td>$1.15</td>
<td>$1.25</td>
<td>$1.34</td>
</tr>
<tr>
<td>5th 10% of Districts</td>
<td>$0.96</td>
<td>$1.04</td>
<td>$1.14</td>
<td>$1.23</td>
<td>$1.34</td>
</tr>
<tr>
<td>6th 10% of Districts</td>
<td>$0.94</td>
<td>$1.04</td>
<td>$1.13</td>
<td>$1.23</td>
<td>$1.32</td>
</tr>
<tr>
<td>7th 10% of Districts</td>
<td>$0.92</td>
<td>$1.01</td>
<td>$1.10</td>
<td>$1.19</td>
<td>$1.28</td>
</tr>
<tr>
<td>8th 10% of Districts</td>
<td>$0.88</td>
<td>$0.97</td>
<td>$1.06</td>
<td>$1.14</td>
<td>$1.23</td>
</tr>
<tr>
<td>9th 10% of Districts</td>
<td>$0.82</td>
<td>$0.90</td>
<td>$0.98</td>
<td>$1.06</td>
<td>$1.14</td>
</tr>
<tr>
<td>Wealthiest Decile</td>
<td>$0.66</td>
<td>$0.73</td>
<td>$0.79</td>
<td>$0.86</td>
<td>$0.92</td>
</tr>
<tr>
<td><strong>Gap</strong></td>
<td><strong>$0.33</strong></td>
<td><strong>$0.35</strong></td>
<td><strong>$0.39</strong></td>
<td><strong>$0.42</strong></td>
<td><strong>$0.46</strong></td>
</tr>
</tbody>
</table>

*Intercultural Development Research Association*

*Data source: Texas Attorney General’s Office, January 2013*

*Note: Some gap figures are affected by rounding*

Source: Ex. 4251, tbl. 4
# Revenue Disparities

## By Decile at ATR (2011-2012)

Table 2: Average Revenue per WADA in 2011-12 Continues to Show a Large Gap Between Poorest and Wealthiest Deciles of School Districts

<table>
<thead>
<tr>
<th>School District Groupings</th>
<th>Group Property Wealth per WADA</th>
<th>Group Average Revenue per WADA at 2011 Adopted Tax Rates</th>
<th>Group Average 2011 M&amp;O Tax Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2011-12</td>
<td>2011-12</td>
<td>2011-12</td>
</tr>
<tr>
<td>Poorest Decile</td>
<td>$76,068</td>
<td>$5,654</td>
<td>$1.11</td>
</tr>
<tr>
<td>2nd 10% of Districts</td>
<td>$128,987</td>
<td>$5,510</td>
<td>$1.09</td>
</tr>
<tr>
<td>3rd 10% of Districts</td>
<td>$158,789</td>
<td>$5,515</td>
<td>$1.08</td>
</tr>
<tr>
<td>4th 10% of Districts</td>
<td>$188,880</td>
<td>$5,579</td>
<td>$1.09</td>
</tr>
<tr>
<td>5th 10% of Districts</td>
<td>$213,756</td>
<td>$5,603</td>
<td>$1.07</td>
</tr>
<tr>
<td>6th 10% of Districts</td>
<td>$252,513</td>
<td>$5,537</td>
<td>$1.07</td>
</tr>
<tr>
<td>7th 10% of Districts</td>
<td>$300,220</td>
<td>$5,662</td>
<td>$1.06</td>
</tr>
<tr>
<td>8th 10% of Districts</td>
<td>$378,486</td>
<td>$6,000</td>
<td>$1.06</td>
</tr>
<tr>
<td>9th 10% of Districts</td>
<td>$508,122</td>
<td>$6,121</td>
<td>$1.05</td>
</tr>
<tr>
<td>Wealthiest Decile</td>
<td>$1,086,471</td>
<td>$7,097</td>
<td>$1.00</td>
</tr>
<tr>
<td>Gap</td>
<td></td>
<td>$1,443</td>
<td>$0.11</td>
</tr>
</tbody>
</table>

*Intercultural Development Research Association*

*Data source: Texas Attorney General’s Office, January 2013*
## Tax Rate Disparities
### By Recapture/Non-Recapture & GDK (2011-2012)

Table 7: 2011-12 Tax Efforts Necessary to Generate Certain Revenue Levels per WADA at 2011 Adopted Tax Rate Yields, by Recapture and Non-Recapture Districts

<table>
<thead>
<tr>
<th>School District Grouping</th>
<th>Group Average Tax to Get Yield $5,000</th>
<th>Group Average Tax to Get Yield $5,500</th>
<th>Group Average Tax to Get Yield $6,000</th>
<th>Group Average Tax to Get Yield $6,500</th>
<th>Group Average Tax to Get Yield $7,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-Recapture Districts</td>
<td>$0.94</td>
<td>$1.04</td>
<td>$1.13</td>
<td>$1.23</td>
<td>$1.32</td>
</tr>
<tr>
<td>Recapture Districts</td>
<td>$0.72</td>
<td>$0.79</td>
<td>$0.86</td>
<td>$0.94</td>
<td>$1.01</td>
</tr>
<tr>
<td>Gap</td>
<td>$0.22</td>
<td>$0.25</td>
<td>$0.27</td>
<td>$0.29</td>
<td>$0.31</td>
</tr>
</tbody>
</table>

*Intercultural Development Research Association*

*Data source: Texas Attorney General’s Office, January 2013*

*Note: Some gap figures are affected by rounding*

Source: Ex. 4251, tbl. 7
Total FSP Gap has Increased Since WOC II
Recapture-Paying and Non-Chapter-41 Districts
(Dr. Dawn-Fisher)

Source: Ex. 11323
Rationale Behind Disparities?

- As La Feria I.S.D. Superintendent Dr. Nabor Cortez testified, the disparities in funding have nothing to do with what is required to meet state standards and expectations but rather, mostly with what is below or above the ground on which the districts sit such as oil and windmills.

- “We all would love to have an island in our district, but we don’t. We don’t. We are poor and we are without our island.” (N. Cortez, vol. 18- 86:24-87:3)
So What?
$500/WADA Makes a Difference in Today’s Changing Times, Needs & Expectations

- Dr. Nabor Cortez of La Feria I.S.D.- preserving necessary educational programs to provide an adequate education. (Vol. 18, 200:18-204:3)

- Dr. Kay Waggoner of Richardson I.S.D.- significant losses to the quality of education they sustained resulting from the 2011-12 budget cuts. (Vol. 5, 54:4-56:10)

- Dr. Kallison, a board member from property-wealthy Eanes I.S.D., testified of the significant reduction in programs resulting from cuts that approximated $500 per WADA.

- Dr. Carstarphen from property-wealthy Austin I.S.D. testified of the substantial cuts her district sustained following the legislative budget cuts.
$1000/WADA Makes Even More of a Difference

- $1,400 per WADA means $28,000 per classroom in a standard elementary school.

- Property-rich districts stated that a loss of $1000 per WADA would devastate the quality of their educational programs and negatively affect student achievement and the districts’ ability to present meaningful opportunities to their students. (See, e.g., Wiggins, Ex. 4224-R, 92:4-13)
Recapture is not the problem

<table>
<thead>
<tr>
<th>School Year</th>
<th>N</th>
<th>Amount Paid</th>
<th>Avg. Pd./ Dist.</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004-2005</td>
<td>134+</td>
<td>$1,200,000,000 (est)*</td>
<td></td>
</tr>
<tr>
<td>2005-2006</td>
<td>142</td>
<td>$1,298,985,556</td>
<td>$9,147,785</td>
</tr>
<tr>
<td>2006-2007</td>
<td>154</td>
<td>$1,760,082,428</td>
<td>$11,429,107</td>
</tr>
<tr>
<td>2008-2009</td>
<td>191</td>
<td>$1,434,339,047</td>
<td>$7,509,269</td>
</tr>
<tr>
<td>2011-2012</td>
<td>222</td>
<td>$1,094,676,456</td>
<td>$4,930,975</td>
</tr>
</tbody>
</table>

*Source: *WOC II*, 176 S.W. 3d at 760; Ex. 11323
Inadequate/Unsuitable Funding for ELL and Economically Disadvantaged Students

- “It would be **ARBITRARY** for the Legislature to define the goals for accomplishing . . . [GDK], and then to provide insufficient means for achieving those goals.” Legislature’s choices must be informed by guiding rules and principles properly related to education. WOC II at 785.

- **ALL** Texas children must **REASONABLY** be able to have access to a quality education . . . achieve their full potential . . . fully participate . . . In the social, economic, and educational opportunities of our state and nation.” WOC II at 787.

- **MEANINGFUL OPPORTUNITIES** for **ALL** Texas children to acquire the knowledge and skills and continue to learn . . . Id.
Arbitrary Funding for ELL and Economically Disadvantaged Students

- “Legislature has acted arbitrarily in structuring and funding the public education system. . . [when] school districts are not reasonably able to afford all students [ELL and ED students] the access to education and educational opportunity to accomplish a general diffusion of knowledge.” WOC II at 789-90.

- Changing Times, Needs and Expectations: STAAR and College/Career Ready
GDK: Changing Expectations, TAKS–to–STAAR

Changes (Dr. Patricia Lopez)
• Increased rigor
• Greater number of test items;
• Greater number of open-ended items;
• Greater emphasis on “critical analysis” as opposed to “literal understanding.”
• Establishing postsecondary-readiness performance standards in Algebra II and English III;
• Assessments in English and math are linked from grade to grade, and linked to postsecondary readiness;
• Less time to take the test
# TAKS versus STAAR: High(er) Stakes Testing
(everything is bigger in Texas)

<table>
<thead>
<tr>
<th>High School Assessments and graduation requirements</th>
<th>TAKS</th>
<th>STAAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>■ English language arts (ELA)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>■ Mathematics</td>
<td></td>
<td></td>
</tr>
<tr>
<td>■ Social studies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>■ Science</td>
<td></td>
<td></td>
</tr>
<tr>
<td>■ ELA I, ELA II, ELA III (two-day exams)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>■ Algebra I &amp; II, Geometry</td>
<td></td>
<td></td>
</tr>
<tr>
<td>■ Biology, Chemistry, Physics</td>
<td></td>
<td></td>
</tr>
<tr>
<td>■ World geography, world history, US history.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
GDK, Changing Expectations: College Readiness

**MINIMUM, PROFICIENT SCORE**
- The minimum, proficient scale score that must be met on each EOC in order for it to count towards the Cumulative Score.

**CUMULATIVE SCORE**
The average of all EOC tests. Students will be required to achieve a minimum cumulative score in order to graduate from HS. **This score will vary based on diploma track (RHSP, DAP, or MHSP).**

**COLLEGE READINESS**
The minimum scale score on English III and Algebra II that must be met in order to demonstrate college readiness, and consequently obtain a Recommended (RHSP) or Distinguished (DAP) high school diploma.
Reasonable Opportunity: Early-Childhood Education

- High-quality early childhood is necessary for any substantial change in developmental and educational outcomes for low income and ELL students (Barnett, vol. 11)

- What Texas Funding Pays for ECE in Texas:
  - Large Class sizes
  - Poorer Quality of Teachers
  - Inadequate PD, Classroom Materials
Reasonable Opportunity: High-Quality Teachers

- “a teacher is one of the most, if not the most, important element affecting student achievement.” (Many witnesses: Hanushek; Belfield; Pompa)
- Dr. Vigdor: experience, attrition, certification, pay
- Dr. Cervantes, from Edgewood I.S.D. Teacher retention, school facilities.
- Dr. Hanushek: Washington DC paying teachers $25,000 on top of $65,000
- Not the root of the problem: certifications, contracts, due process rights, minimum salary schedule, pay-for-performance
Elements of a Quality Program for English Learners

- High-quality early childhood programs
- Curriculum alignment with college and career readiness standards
- High-quality materials and technology
- Effective teachers and administrators
- Professional development
- Additional resources
Reasonable Opportunity: High Quality Materials

- Materials and books in both languages.
- Textbooks, Library books (Harlingen, Edgewood)
- Examples of essential materials include:
  - visuals to learn new vocabulary;
  - bilingual dictionaries or picture dictionaries for younger students;
  - leveled readers;
  - charts;
  - instructional games; and
  - interactive digital technology.
- The lack of adequate instructional materials can have a devastating impact on ELL student achievement. (Pompa)
- Ms. Shimotsu, teacher in Harlingen CISD testified that she much provide many school supplies herself. vol. 14, 161:19-22)
## States Benefit from Interventions (Dr. Belfield)

<table>
<thead>
<tr>
<th>Fiscal Benefit-Cost Ratios from Interventions to Increase High School Graduation</th>
<th>Cost per student</th>
<th>Cost per high school graduate</th>
<th>Fiscal Benefit-Cost Ratios</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average across all interventions</td>
<td>$7,577</td>
<td>$89,295</td>
<td>3.05</td>
</tr>
<tr>
<td>10% rise K-12 teacher salaries</td>
<td>$9,166</td>
<td>$193,328</td>
<td>0.76</td>
</tr>
<tr>
<td>Class size reduction (K-3)</td>
<td>$14,328</td>
<td>$130,257</td>
<td>1.08</td>
</tr>
<tr>
<td>Chicago Child-Parent Center Program</td>
<td>$7,705</td>
<td>$70,044</td>
<td>2.00</td>
</tr>
<tr>
<td>High Scope/Perry Pre-School Program</td>
<td>$16,111</td>
<td>$84,794</td>
<td>1.65</td>
</tr>
<tr>
<td>First Things First</td>
<td>$6,125</td>
<td>$38,291</td>
<td>3.66</td>
</tr>
<tr>
<td>ALAS</td>
<td>$3,210</td>
<td>$64,207</td>
<td>2.18</td>
</tr>
<tr>
<td>Twelve Together</td>
<td>$4,055</td>
<td>$61,103</td>
<td>1.73</td>
</tr>
<tr>
<td>Career Academies</td>
<td>$3,675</td>
<td>$33,409</td>
<td>4.19</td>
</tr>
<tr>
<td>Check &amp; Connect</td>
<td>$5,137</td>
<td>$30,215</td>
<td>4.64</td>
</tr>
<tr>
<td>I HAVE A DREAM (G 6-12)</td>
<td>$18,890</td>
<td>$188,903</td>
<td>0.74</td>
</tr>
<tr>
<td>Talent Development High Schools</td>
<td>$1,563</td>
<td>$156,293</td>
<td>0.90</td>
</tr>
<tr>
<td>Talent Search</td>
<td>$963</td>
<td>$10,701</td>
<td>13.09</td>
</tr>
</tbody>
</table>

Design of the Funding Structure for ELL and ED Students

- No account for inflation
- CEI is over 2 decades old
- No Cost Study
- Last Changes to Funding: 1984
- Need for high quality remediation and interventions has gone up
- Cut Funding for Special Programs
- ECE Funding stayed the same though number of students went up
- “if funds left over basis”
- Robbing Peter to Pay Paul
- Where are the guiding principles?
Outputs: Results of the Educational Process

- “whether a general diffusion of knowledge has been accomplished depends entirely on outputs,” student achievement. WOC II at 788.

- Not an impending constitutional violation for ELL and ED students, an existing one.

- ELL and ED Students can compete on par. Commissioner Scott:

  Commissioner Scott agrees that equipping underprivileged children with quality education allows them the opportunity to compete on a level playing field with children born into wealth and privilege.

171:7-172:8

10 Q. Do you believe that the achievement gaps
11 between student groups based on race, socioeconomic
12 status and proficiency in English language can be
13 narrowed with the implementation of sound, effective
14 educational programs?
16 A. Yes.
Depo. 198:1-16
Low-income students for all grades in the property-poor Edgewood Plaintiff districts failed to meet the TAKS All Tests Met Standard at rates generally in excess of their statewide peers. In 2010-11, the percentage of low-income students who failed to meet the standard was:

- 41% for Edgewood I.S.D. (Ex. 4237 at 12);
- 32% for Harlingen C.I.S.D. (Ex. 4239 at 7);
- more than 53% for La Feria I.S.D. (Ex. 4232 at 7);
- 29% for McAllen I.S.D. (Ex. 4238 at 7); and
- 32% for San Benito C.I.S.D. (Ex. 4227 at 8)

In the Edgewood Districts, the 2010-11 AEIS Reports indicate that no or fewer than

- 1% of ELL students, Class of 2010 = College Ready in both subjs in Edgewood I.S.D., Harlingen C.I.S.D., La Feria I.S.D. or San Benito C.I.S.D.
- In McAllen I.S.D., 11% of ELL Class of 2010 students were College Ready compared with 51% of All Students in that school district. (Pompa; TEA AEIS 2010-11 District Reports).
Producing Results for All Children?
TAKS Met 2011 Standard Performance
All Tests - All Grades

Source: TEA, AEIS, 2010-11 State Performance Report
* Hispanic
2011 Achievement Differences - All Tests - Statewide v. LEP

Source: TEA, AEIS, 2010-11 State Performance Report
2011 TAKS Commended Performance – All Tests- All Grades

Statewide 16%
White 23%
Latino* 11%
Econ Disad 9%
LEP 7%
At Risk 4%

Source: TEA, AEIS, 2010-11 State Performance Report
* Hispanic
Achievement Differences – College-Ready Graduates, Both Subjects, Class of 2010

Source: TEA, AEIS, 2010-11 State Performance Report

* Hispanic
Achievement Differences – Advanced Course/Dual Enrollment Completion, 2009-10

Statewide 26.3%
White 30.9%
Latino* 23.0%
Econ Disad 20.4%
LEP 11.6%
At Risk 14.2%

Source: TEA, AEIS, 2010-11 State Performance Report
* Hispanic
Achievement Differences – SAT/ACT % Tested and % At/Above Criterion by Race, Class of 2010

Source: TEA, AEIS, 2010-11 State Performance Report
Meaningful Discretion

- Not all districts access same amount of revenue at same tax effort (A. Cortez)
- Edgewood, McAllen and San Benito All at or right near $1.17
- Harlingen and La Feria stuck at $1.04
Meaningful Discretion

- Raising of Standards by State
- Budget Cuts by State
- Special Program Funding Cuts - effects on low wealth districts (A. Cortez)
- Class size waivers
- Budget Cuts at local level
- Remediation Costs
The Romero Family

- Jessica Romero’s 5 children attend school in the Amarillo Independent School District in grades pre-k through high school.
- They are on the free- and reduced-price meal program.
- Ms. Romero’s son in the first grade is identified as an ELL but he is served in an ESL program, not a bilingual program. (Ex. 4220-Amarillo ISD LPAC Annual Review, 2011-12)
The Canales Family

- Yolanda Canales testified about the inequities between the school systems that her children attended.
Canales Family – Pasadena I.S.D.

“I just want fairness; equal opportunities for my children as well, regardless of the neighborhood we live in.”