



Bricker & Eckler Presents:

Survival Strategies

Presented by:

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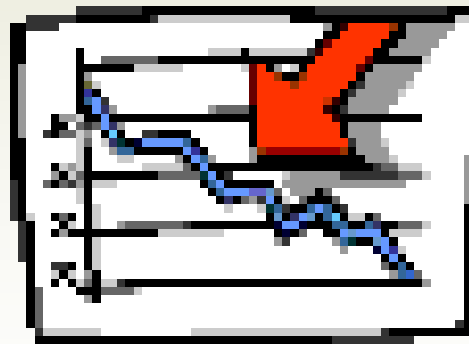
Bricker & Eckler LLP

January 26, 2011





I. In the moment:
where we are now.

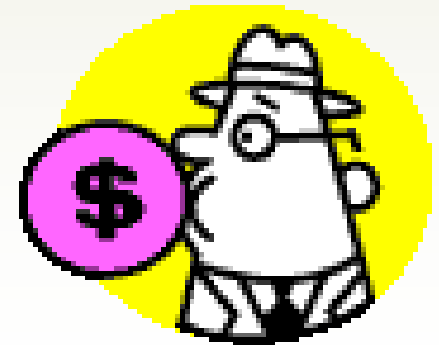


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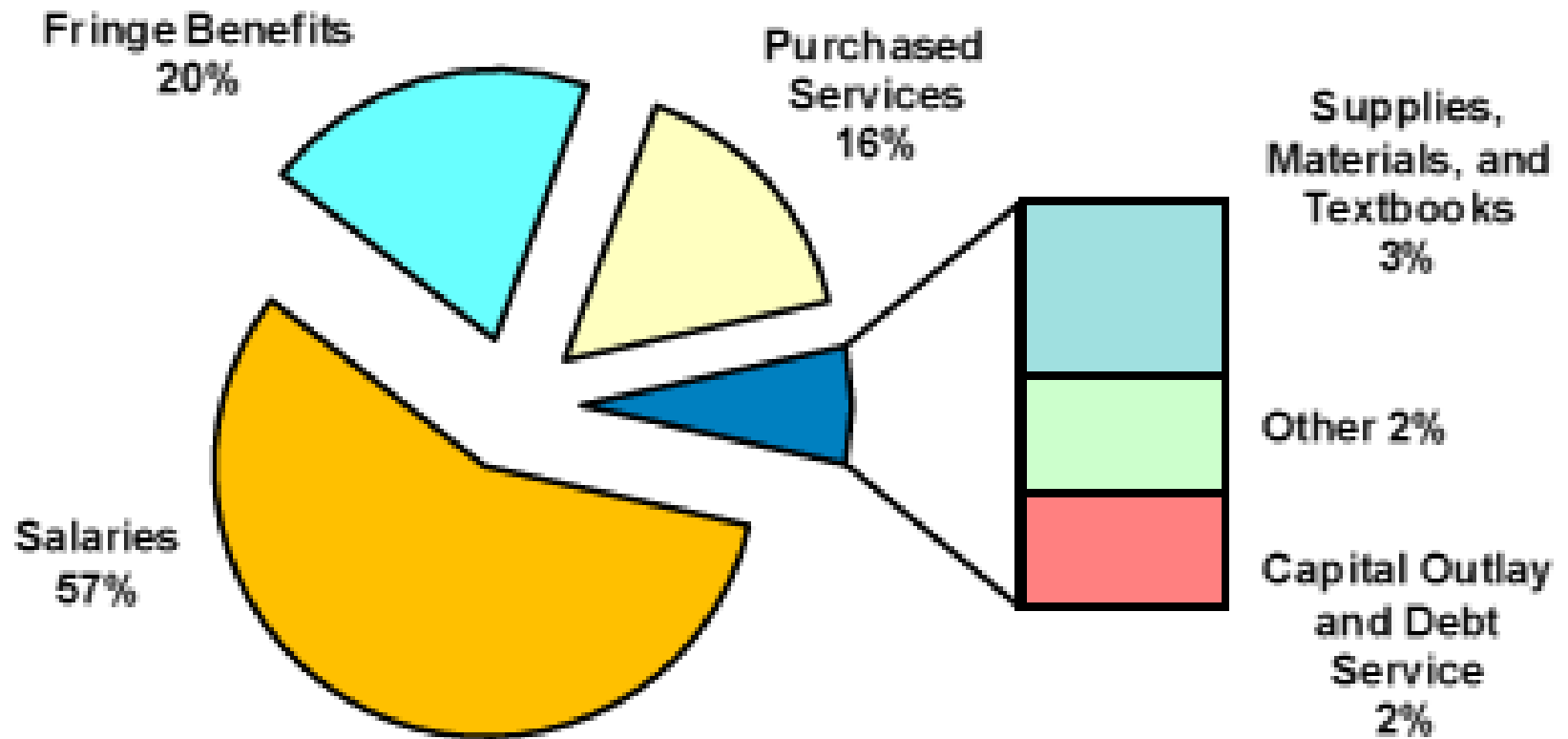
Increasing Costs

- A. Growth in average teacher salary.
- B. Employee benefits cost increases.
- C. Operating cost increases.
- D. Escalating special education costs.

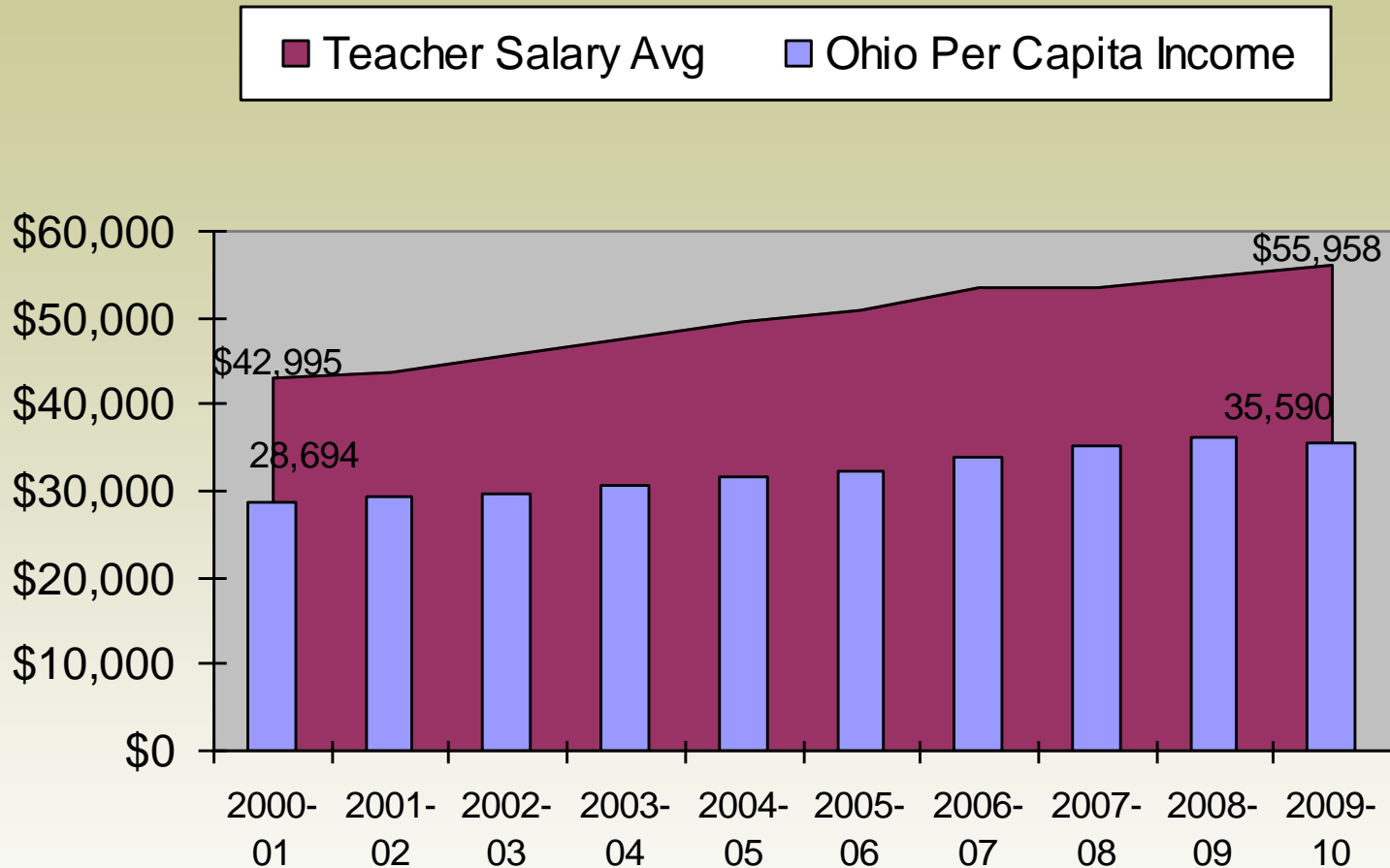


School District Spending

Breakdown of a Typical School District Budget, FY 2009



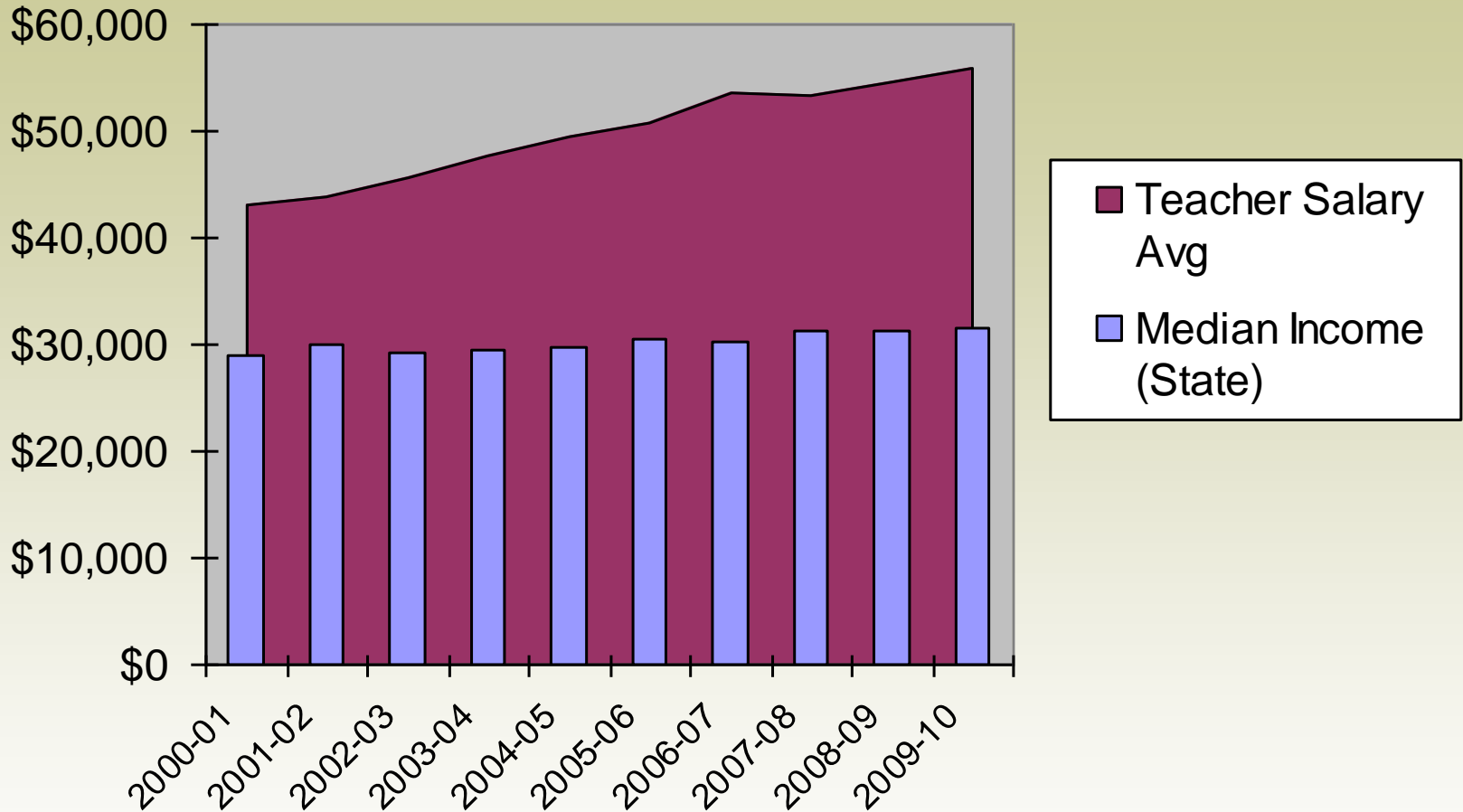
Increase in Teacher Salary vs. Per Capita Income



Teacher Salary 2000 to 2009 % Increase: 30.15%

Ohio Per Capita Income 2000 to 2009 % Increase: 24.03%

Average Teacher Salary vs. State Median Income



Teacher Salary 2000 to 2009 % Increase: 30.15%

Median Income 2000 to 2009 % Increase: 8.43%

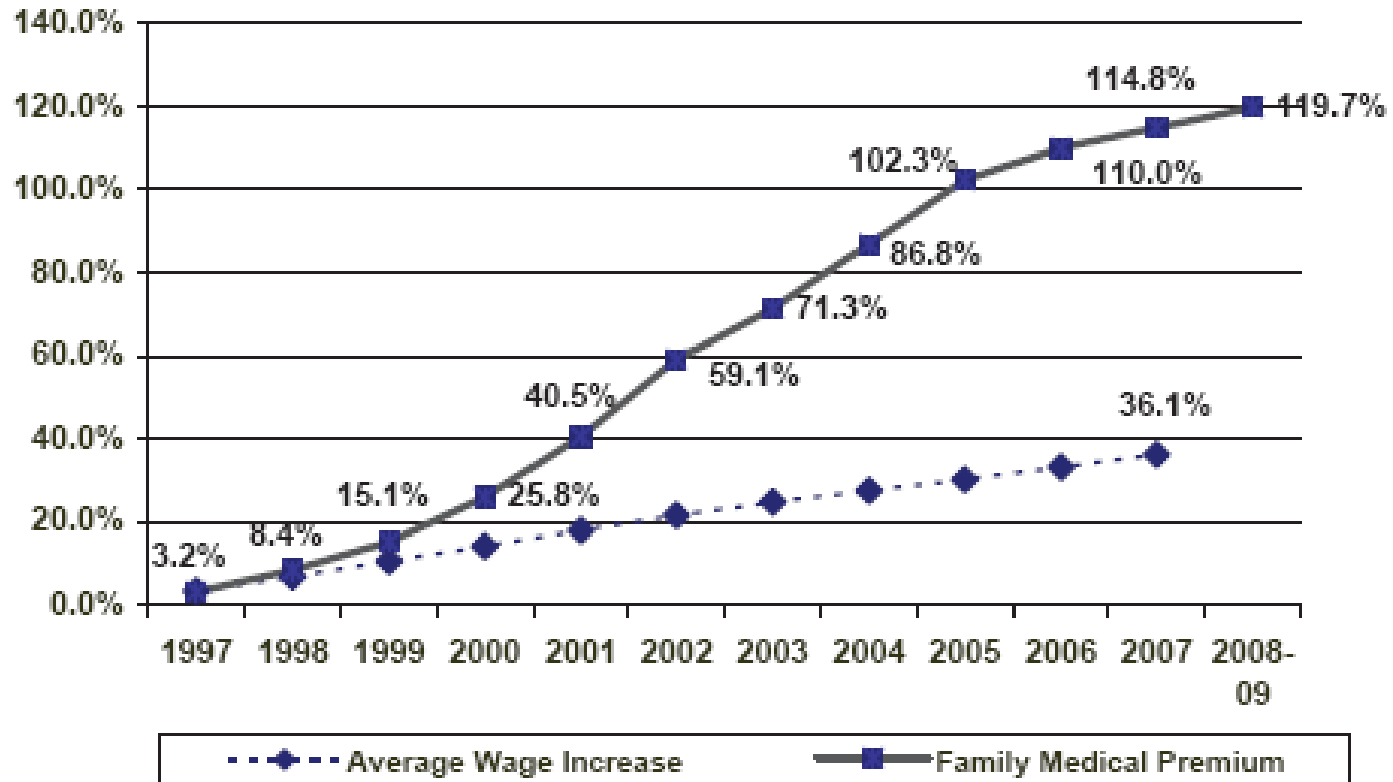


Teacher Salary vs. CPI

- Teacher Salary 2000 to 2009 % Increase: **30.15%**
- Consumer Price Index 2000 to 2009 % Increase: **24.59%**

Health Care

Chart 3: Cumulative Percent Increases in Family Medical Premiums and Average Wage Increases - 1997-2007



Source: Ohio SERB 2008-09 17th Annual Report on the Cost of Health Insurance in Ohio's Public Sector



Special Education

- “Although public school enrollment has declined by about 18,000 students from FY 1999 to FY 2008, the number of public school students categorized as needing special education services has increased significantly.”
- “Total special education students increased by 51,250 from about 211,400 (**10.1% of total**) in FY 1999 to 262,700 (**13.0% of total**) in FY 2008, an increase of 24.2%.”

Source: Legislative Service Commission Redbook
March 2009



Special Education

School District Total Special Education Expenditures

FY 2004: \$2,573,361,356

FY 2008: \$3,057,121,972

FY 2009: \$3,192,688,982

Source: Ohio Department of Education Special Education Fiscal Accountability Report – 2004, 2008 and 2009



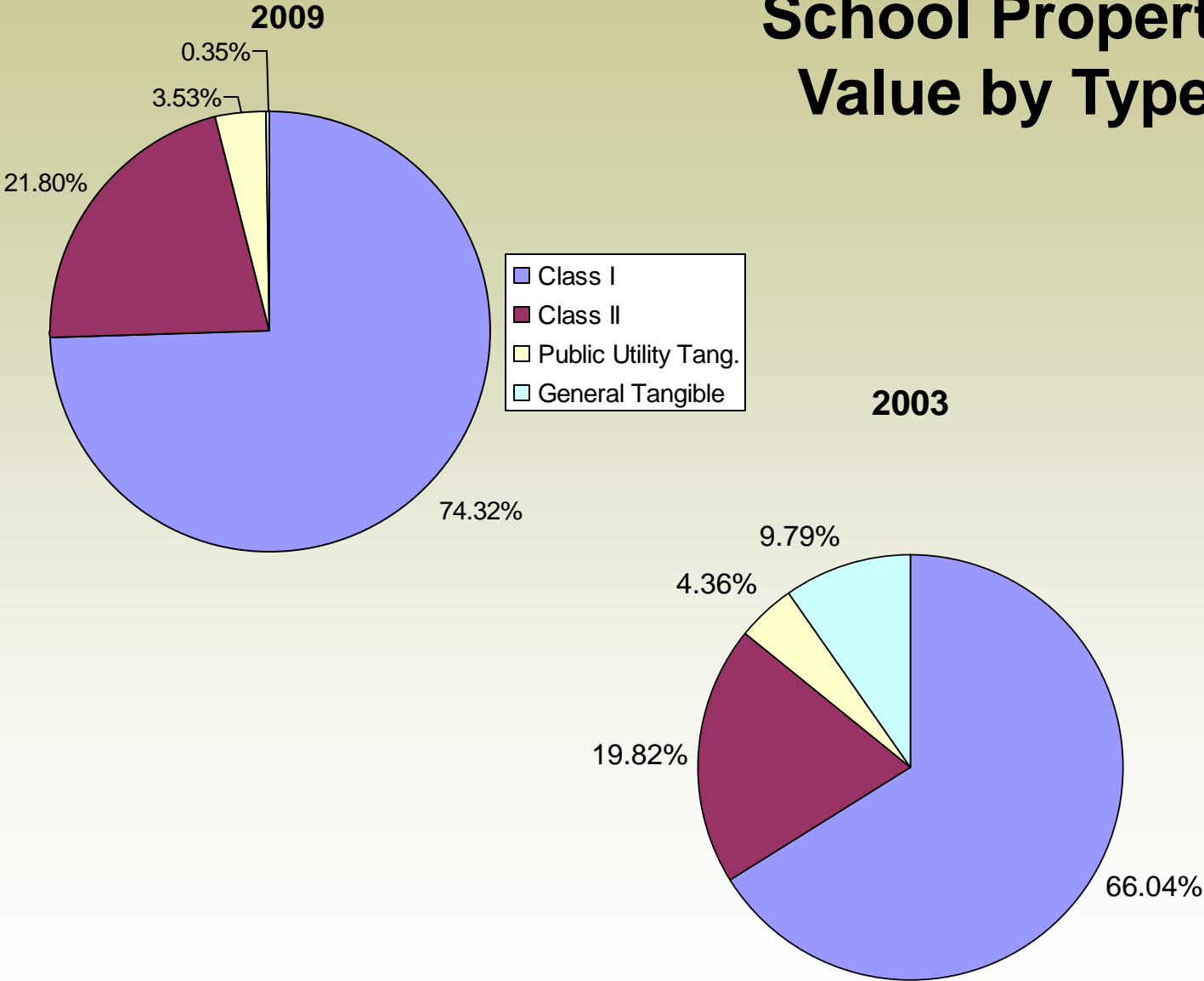
II. Funding Pressure



Local Revenue

- A. Pressure on local revenue sources.
- The changing face of taxable property in Ohio.

Percentage of School Property Value by Type



Source: Ohio Dept. of Taxation DTE 13-14 File

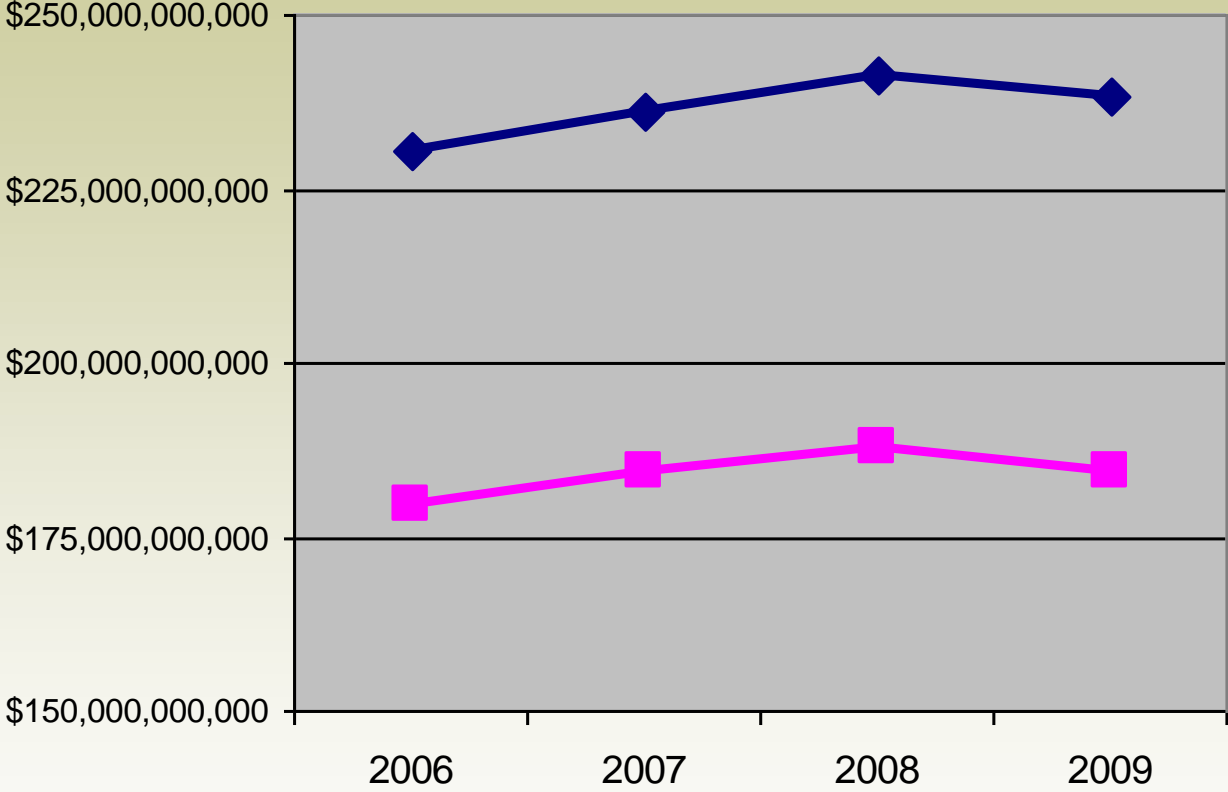


Local Revenue Pressure

- Effects of bankruptcies and tax delinquencies.
- Declining income tax collections.
- Declining value of taxable real property.



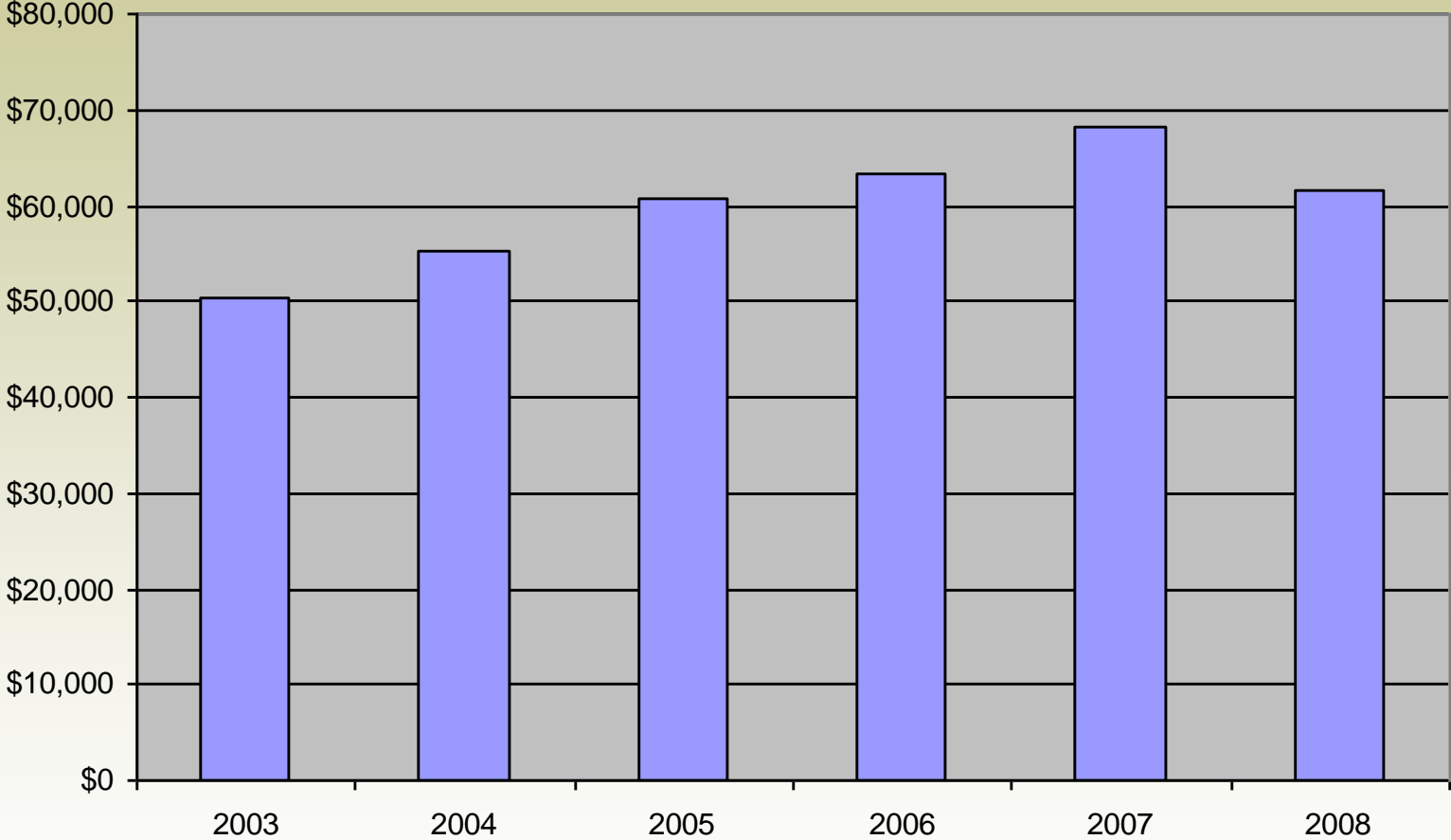
Real Property Values



◆ Total Real Property Value ■ Class I Real Value

Source: Ohio Dept. of Taxation DTE 13-14 File

Ohio Average Federal Adjusted Gross Income



Source: Ohio Dept. of Taxation Table Y-2



Local Revenue Pressure

B. Effect of value changes on school district revenue: R.C. 319.301.

- Rate based property tax levies: the effective rate will increase in proportion to deflationary value reductions.
 - Cannot exceed the authorized rate.



Local Revenue Pressure

- Emergency (fixed amount) levies: rate adjusted annually to yield the required amount of the tax.
- Twenty mill floor districts: effective rate may increase above 20 mills if property values fall.



Local Revenue Pressure

C. Community school deductions.

- \$680,368,265 transferred to community schools in FY 2010.
- Since the establishment of community schools in FY 1999:
 - State aid transfers increased from \$11.0 million to \$680.4 million.
 - Community school enrollment increased from 2,245 to 93,893.
(Source: LSC Ohio Facts 2010)



III. Effects of a State budget reduction for public education?



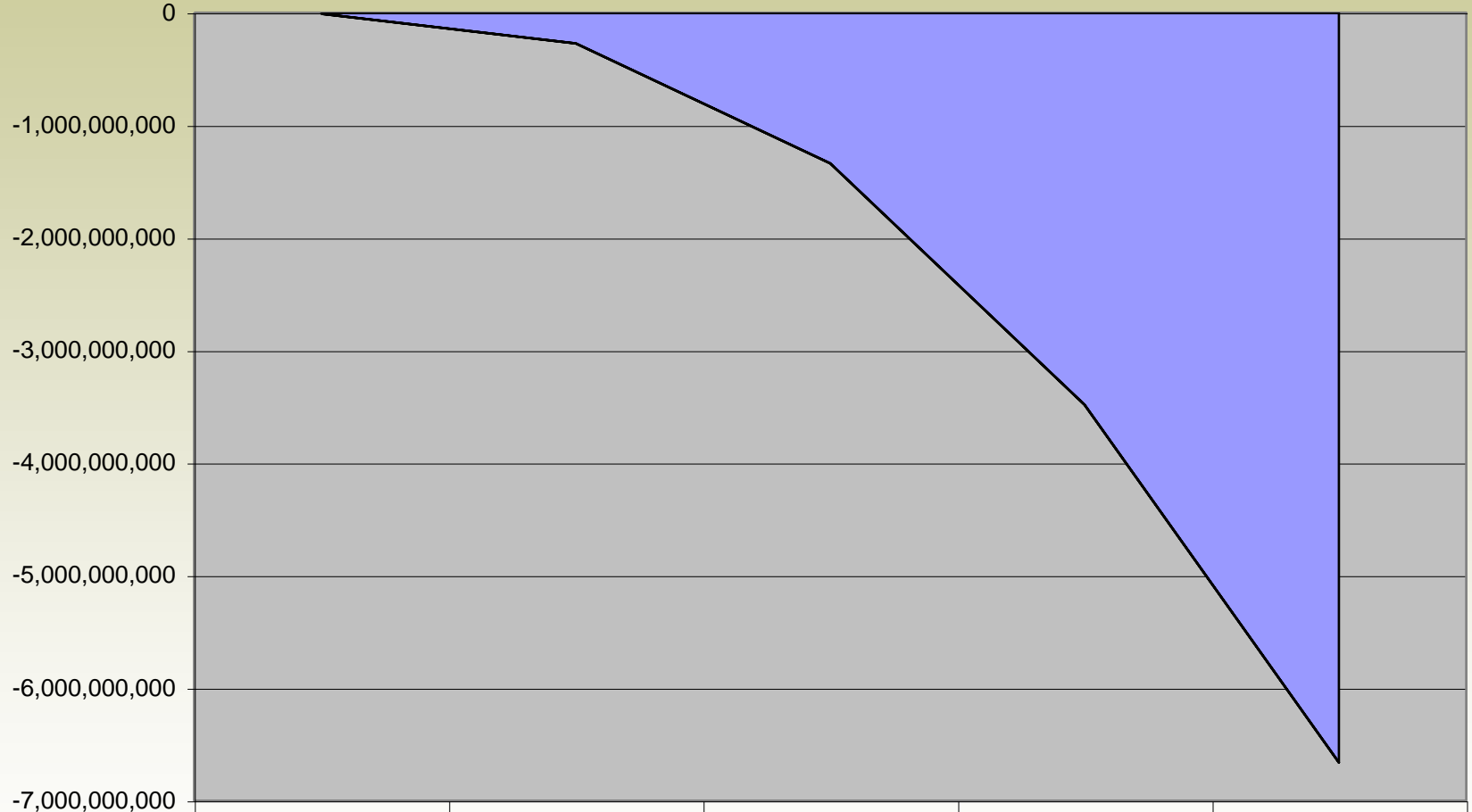
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2012-2013 Budget

- A. Projected state budget deficit approaching \$8 billion.
- B. To what extent will cuts impact public education?
 - Previous biennium: \$1.46 billion of ARRA State Fiscal Stabilization Fund allocated to Education – no longer available.

October 2010 Five-Year Forecast (612 Districts Reporting) Line 12.010 Total Projected Deficits (As Reported)

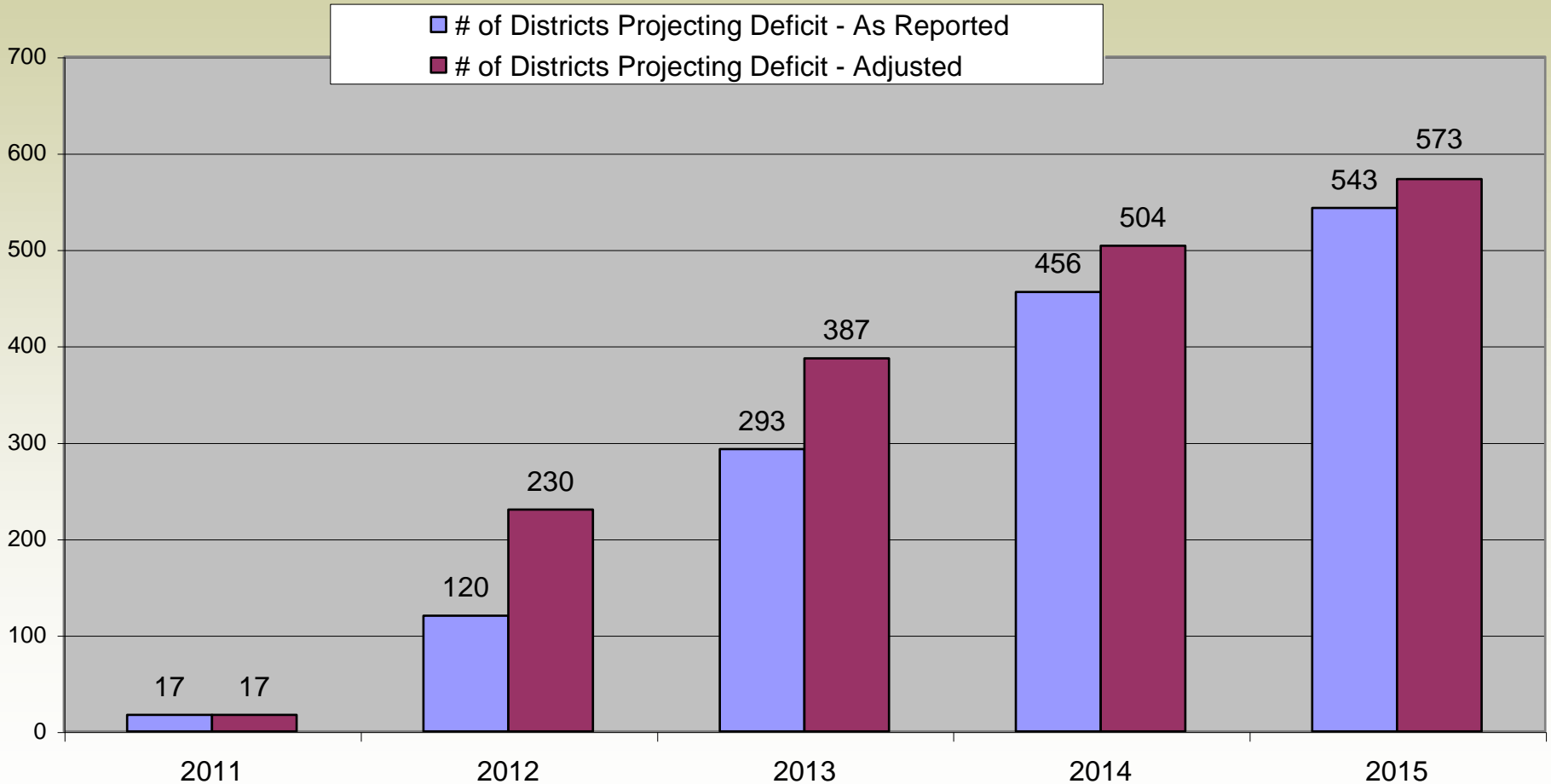


| | 2011 | 2012 | 2013 | 2014 | 2015 |
|-----------------------------|-------------|--------------|----------------|----------------|----------------|
| ■ % of Forecasts w/ Deficit | 2.8% | 19.6% | 47.9% | 74.5% | 88.7% |
| ■ Line 12.010 Total Deficit | -10,563,158 | -274,627,780 | -1,339,662,209 | -3,484,154,083 | -6,660,244,289 |

October 2010 Five-Year Forecast (612 Districts Reporting)

Number of Districts Projecting Deficit (Line 12.010)

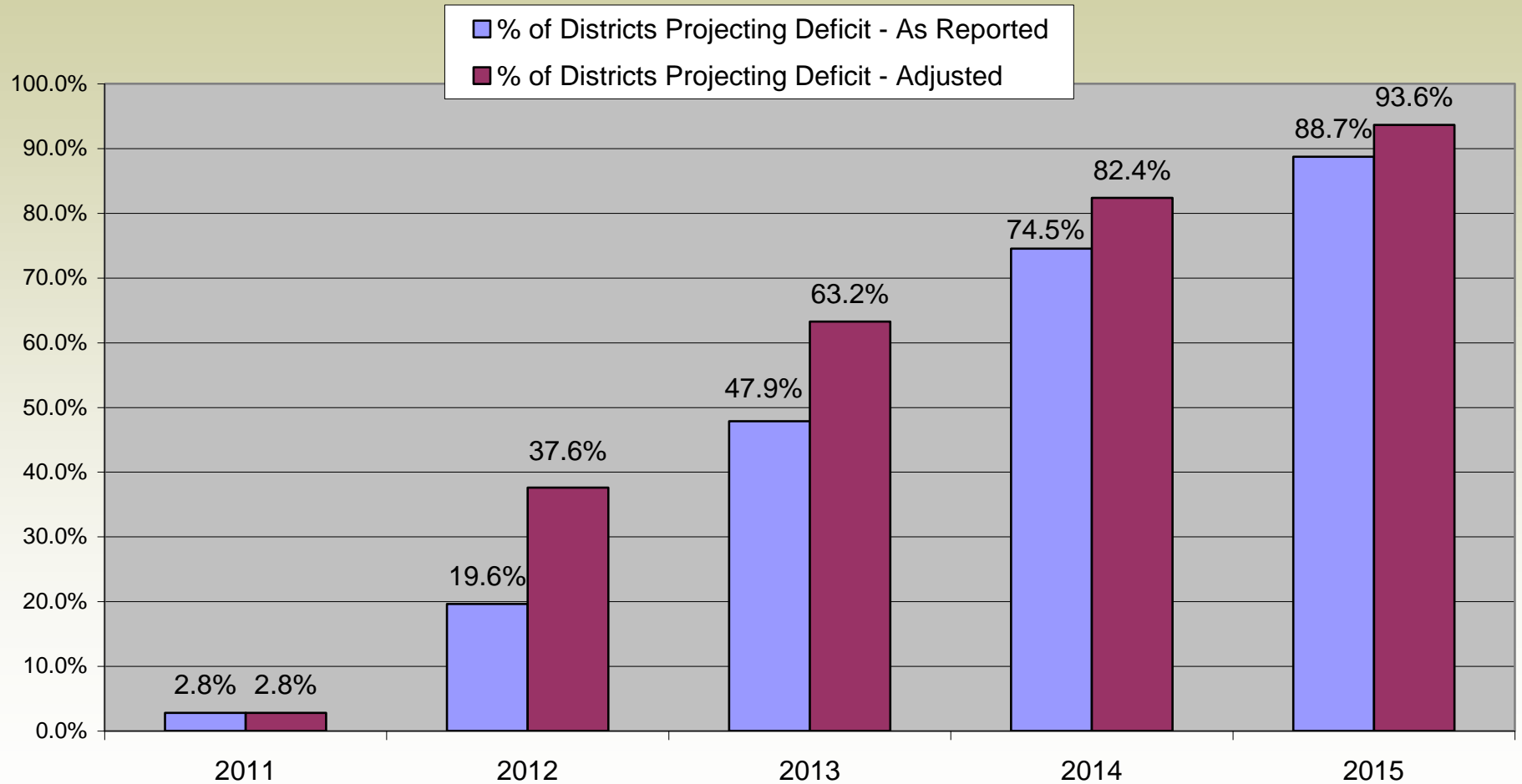
"Adjusted" column = 2012 to 2015 forecasts adjusted to reflect a state aid decrease of at least 15% from 2011 to 2012.



October 2010 Five-Year Forecast (612 Districts Reporting)

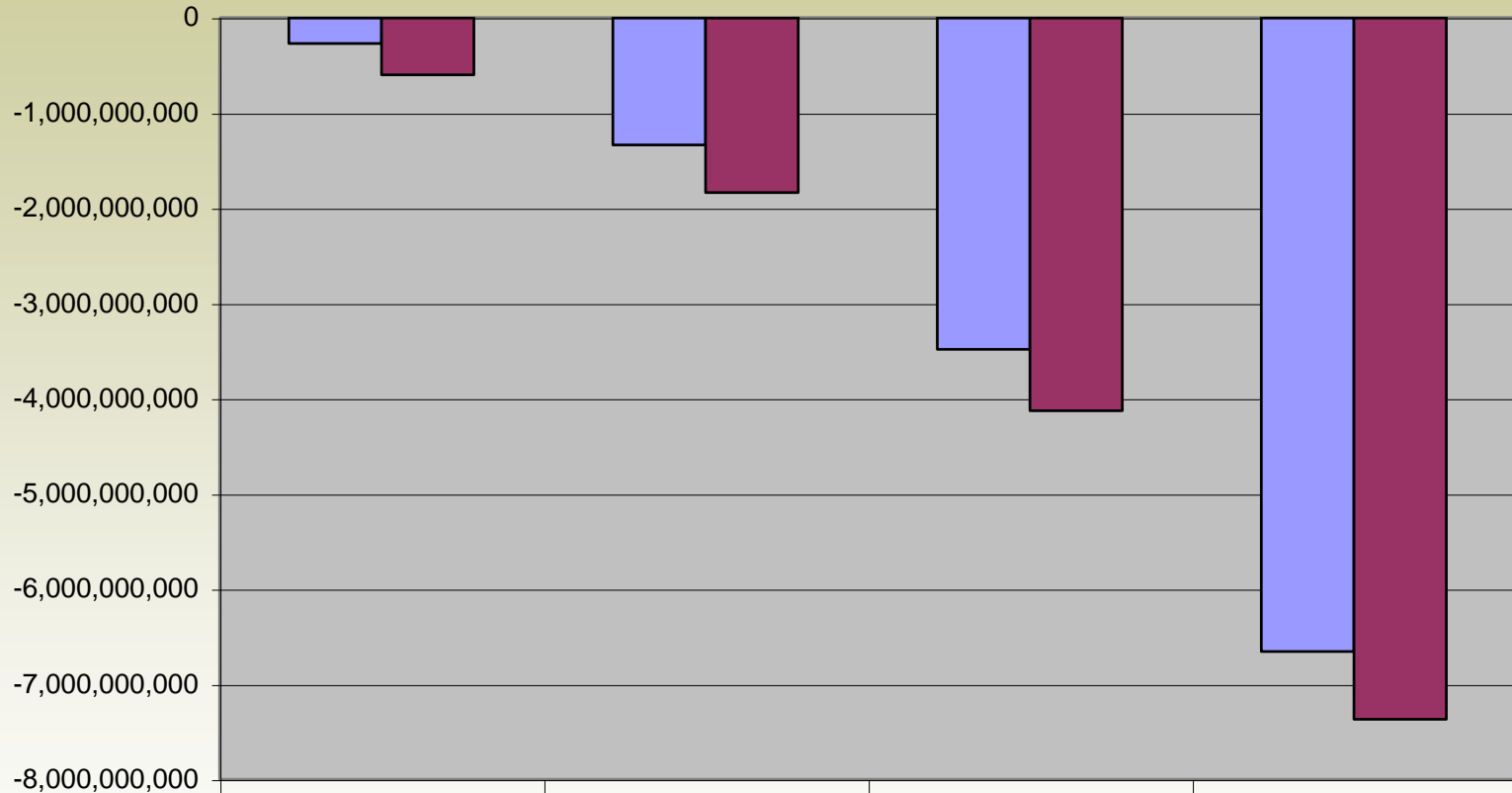
Percentage of Districts Projecting Deficit (Line 12.010)

"Adjusted" column = 2012 to 2015 forecasts adjusted to reflect a state aid decrease of at least 15% from 2011 to 2012.



October 2010 Five-Year Forecast (612 Districts Reporting) Projected Deficits (Line 12.010)

"Adjusted" column = 2012 to 2015 forecasts adjusted to reflect a state aid decrease of at least 15% from 2011 to 2012.



| | 2012 | 2013 | 2014 | 2015 |
|----------------------------------|--------------|----------------|----------------|----------------|
| Line 12.010 Deficit -As Reported | -274,627,780 | -1,339,662,209 | -3,484,154,083 | -6,660,244,289 |
| Line 12.010 Deficit - Adjusted | -602,692,278 | -1,837,555,997 | -4,130,033,489 | -7,368,315,952 |



Budget Reduction Effects

- A. First Victim – the ability to certify available resources.
- Qualifying contracts.
 - Annual appropriations measure (not later than Oct. 31 of each year).
R.C. 5705.38.
 - Increase in any wage or salary schedule.



Fund Certification

- B. Fund certification requirements.
- District officials must certify the availability of funds for both the annual appropriations measure as well as all “qualifying contracts.” For this purpose, a qualifying contract is one in which payments exceed the lesser of: 1) five hundred thousand dollars or 2) one percent of the district’s general fund.



Fund Certification

- Whether a multi-year contract is a “qualifying contract” is determined based on the aggregate payments from the funds included in the district’s five year forecast.



Fund Certification

- Fund certifications for appropriation measures may not include the renewal or replacement of expiring levies as available funds. Fund certifications for qualifying contracts may include the proceeds of renewal or replacement levies.



Fund Certification

- What is Being Certified?
 - The certificate must state that the district has sufficient revenue at the time of certification to enable the district to maintain all personnel and all programs for all the days set forth in its adopted school calendars for the current fiscal year and for the number of days instruction was held or is scheduled for the current fiscal year.





Fund Certification

- Length of Certification.
 - The required period of certification depends solely on the length of the obligation being certified: (a) appropriation measures, as before, need only be certified for the year for which the appropriation measure is effective, (b) qualifying contracts must be certified for the length of the contract, and (c) wage and salary schedules must be certified for the term of the schedule.



Fund Certification

- Fiscal Planning and Supervision Commission Certification.
 - In most cases, the duty to certify obligations for which certification is required under Section 5705.412 falls on the board president, the superintendent and treasurer. However, for districts under fiscal emergency management, certification is required to be made by, "A MEMBER OF THE DISTRICT'S FINANCIAL PLANNING AND SUPERVISION COMMISSION WHO IS DESIGNATED BY THE COMMISSION FOR THIS PURPOSE."





Fund Certification

- The certification must be based on the district's current five-year forecast. OAC 3301-92-05(G).
 - Forecast must be filed not later than Oct. 31 and updated between April 1 and May 31.
 - If deficit projected within the first 3 years, a plan must be submitted to eliminate the deficit and avoid future deficits. OAC 3301-91-04.



Fund Certification

- If the contract or obligation being certified will result in additional costs or changes to the assumptions in the current five-year forecast, the forecast must likewise be updated and approved.
- Districts must maintain documentation to support the changes made to their five-year forecast.



Fund Certification

- No funds may be paid with respect to any obligation for which certification was required but not made.
- Fund certifications are required to be signed by the treasurer, superintendent, and board president for appropriations measures and qualifying contracts. R.C. 5705.412



Fund Certification

Help! I can't certify!

1. Consequences:

- Every qualifying contract made or wage or salary schedule adopted or put into effect without such a certificate **shall be void**, and no payment of any amount due thereon shall be made. ORC 5705.412(C).



Fund Certification

2. Audit review:

- If the auditor of state determines that a school district has not complied with certification requirements, the auditor shall notify the prosecuting attorney.
- The prosecutor may file a civil action to seek a declaration that the contract or wage or salary schedule is void and/or recover payments made. (Payments made under a collective bargaining agreement excluded from recovery.)



Fund Certification

3. Monetary Limitation:

- Any person who expends or authorizes the expenditure of any public funds or authorizes or executes any contract or schedule contrary to this section, expends or authorizes the expenditure of any public funds on the void contract or schedule, or issues a certificate under this section which contains any false statements is liable to the school district for the full amount paid from the district's funds on the contract or schedule.



Fund Certification

- The officer, employee, or other person is jointly and severally liable in person and upon any official bond that the officer, employee, or other person has given to the school district to the extent of any payments on the void claim, not to exceed ten thousand dollars. 5705.412(G).



Fund Certification

4. Good Faith Exception:
 - No officer, employee, or other person shall be liable for a mistaken estimate of available resources made in good faith and based upon reasonable grounds.



Fund Certification

- If an officer, employee, or other person is found to have complied with rules governing methods by which revenue shall be estimated and determined sufficient to provide necessary operating revenue for the purpose of making certifications, the person shall not be liable if the estimates and determinations made according to those rules do not, in fact, conform with actual revenue. 5705.412(G).



Fund Certification

5. The bottom line: no certification, no expenditure of funds.





Fund Certification

6. Bargaining Options.

- “Rollover” contracts.
 - With step increases.
 - Without step increases.
 - Short-term rollovers.
- “Contingent” contracts.
- Status Quo – continuing negotiations.



Survival Strategies

1. Monitor, monitor, monitor tax rates, exemptions and abatements.
2. Consider using a school foundation to encourage charitable giving to your district.





Survival Strategies

3. Consider shared services opportunities, such as:
 - inter-district pupil transportation agreements,
 - Joint educational programming (more, later), or
 - Joint tax levies (more, later).



Survival Strategies

4. Salary cost reductions through collective bargaining.
5. Reductions in health insurance costs through the use of pooling agreements.
6. HB 330 (signed 12/23/2010) authorizes the director of transportation to include school districts in purchase contracts for machinery, materials, supplies, and other articles.
7. OMG! Your local legislator – your new best friend.



I. Shared Resources: What Ohio School Districts are Currently Authorized to Do.





A. Shared Educational Programs

2. Exchange of Teaching Services.

School districts can exchange teaching services with other school districts in Ohio, school districts outside the state of Ohio, and school districts outside the United States, and may maintain those teachers on district payroll during the period of sharing. R. C. 3313.84.



A. Shared Educational Programs

3. Sharing of Supervisory, Special Instruction and Special Education Teachers.

School districts can, by agreement, share the services of supervisory, special instruction and special education teachers, as well as other licensed personnel necessary to conduct special education classes and the delivery of related services. The agreement must designate one district to serve as the funding agent for fiscal purposes. R. C. 3313.481.



A. Shared Educational Programs

4. Joint Educational Programs.

Boards of education of two or more school districts may enter into agreements for the creation of joint or cooperative educational programs which may include any class, course or program that could be included in a school district's graded course of study or staff development programs for teaching or nonteaching employees. Tuition may be charged for some pupils participating in joint educational programs. R.C. 3313.842.



A. Shared Educational Programs

5. Cooperative Education School Districts.

This option may become available in two different ways. Those school districts that are part of a county school finance district may, by mutual agreement, create a cooperative education school district. The district includes the territory of the former county school financing district and has, generally, all of the powers of a city school district. R.C. 3311.52.



A. Shared Educational Programs

School districts that are not part of a county school financing district may create a cooperative education school district for the purpose of operating a joint high school.

The operation of a joint high school includes a prohibition on any of the participating school districts also operating a separate high school and requires the formation of a board of education and designation of a superintendent and treasurer for the governance of the joint high school.



A. Shared Educational Programs

The statutes also provide for joinder of other school districts and dissolution of a cooperative education district. R.C. 3311.521, 3311.522 and 3311.523.





B. Joint Service Provisions

School districts may agree to share the services of a treasurer. R.C. 3313.222.





C. Joint Building Projects

Two or more school districts may, with the approval of the superintendent of public instruction, agree to construct or acquire any building or facility. The scope of power conferred is broad, and appears to contemplate the acquisition of buildings or facilities to facilitate joint programming agreements. R.C. 3313.92.



D. Shared Finances

1. County School Financing Districts.

An ESC may create a county school financing district to include:

- the territory of local school districts within the ESC that do not opt out, and
- other school districts that opt into the county school financing district.



D. Shared Finances

County school financing districts are authorized to propose the passage of property tax levies for a broad range of school purposes. In addition, county school financing districts can form the basis for the formation of cooperative education school districts. R.C. 3311.50, 3311.51 and 3311.52.



D. Shared Finances

2. Joint City School Income Taxes.

Municipalities or combinations of municipalities with boundaries substantially identical to school district boundaries may propose the levy of a municipal income tax on the incomes of municipal residents with proceeds to be shared with the school districts in agreed percentages, but not less than twenty-five percent of the revenue generated by the tax going to the school district. R.C. 718.09, 718.10.



II. What's Being Talked About.

- A. Health insurance pools.
- B. Inter-district pupil transportation agreements.
- C. School consolidation.
- D. Shared administration and “back office” support.





Questions?

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