

THE

Neal Spelce

AUSTIN LETTER

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Dear Client:

Intel Corp. has decided to build its \$2 billion state-of-the art chip plant in Chandler, Arizona, instead of Fort Worth. Thus ends, at least for the moment, Intel's four-year battle to convince the Texas Legislature to adopt a tax incentive for major investments in Texas.

In both the 1997 and 1999 legislative sessions, Intel and other capital intensive businesses, such as Dow Chemical, mounted high-dollar lobbying and public relations campaigns to promote the so-called "Millennium Tax Credit."

The credit would have rewarded investments of more than \$1 billion in Texas with significant franchise tax reductions. However, the Legislature decided that it couldn't afford the credit's multi-million dollar price tag, and the proposal died at the end of both sessions.

Interestingly, Intel's efforts were opposed by a number of other high tech giants, including Austin stalwarts **Texas Instruments** and **Motorola**. They successfully argued that the Intel break would have put competitors at an economic disadvantage, and it wasn't fair to ask established Texas business and individual taxpayers to **subsidize a relative newcomer to the state.**

The Millennium Tax Credit idea is not dead, although Intel may no longer be interested in paying the freight for the legislative effort. Its decision to locate a new plant with more than 1,000 high-paying jobs in another state — a state willing to grant tax incentives — illuminates an ongoing structural **weakness in Texas' tax structure: its disproportionately heavy impact on capital intensive industries.** Nevertheless, Intel said it would hold onto its 525 acres in Tarrant County, in case the Legislature changes its mind.

Just because Fort Worth didn't get the big one doesn't mean that Intel doesn't want to do business in Austin. Attempting to build on its success in encouraging Tivoli Systems to locate a new facility within the city limits, City of Austin officials are now trying to entice Intel to locate a major new office facility downtown.

For an examination of how the Tivoli deal may work for Intel, and how the environmental concerns play into this effort, please turn the page.

The City of Austin is promoting downtown and eastside development as an alternative to growth in the Barton Springs watershed, working in conjunction with the SOS Alliance and other environmental groups.

Instead of offering tax breaks, the City is offering a package of incentives, including lower utility costs and road improvements around the proposed sites. A major feature of the Tivoli Systems deal, for example, was Austin Energy's agreement to issue revenue bonds for the construction of a new cooling system for the site and to charge Tivoli guaranteed lower rates for the 20-year bond term.

Austin Energy officials claim a package deal for Tivoli Systems is a good deal for all Austin ratepayers because it assures that Tivoli won't go shopping for cheaper power if the City ever opts to participate in a deregulated utility market. Under the historic electric restructuring legislation passed by the Legislature in 1999, cities with municipally-owned utilities, such as Austin and San Antonio, can elect whether to allow their customers to choose their own power provider.

One of the municipal utilities' fears was that big energy consumers like Tivoli could go elsewhere, leaving residential ratepayers, who have little relative bargaining power, to pay higher rates. That's why the opt-in provision was included in the legislation in the first place.

The long-term impact of the Tivoli deal, and those like it, remains to be seen. With tax incentives out of favor as a local economic development tool, businesses will be looking for ways to reduce other significant fixed costs, primarily utility costs. The fact that Austin owns its own utility could give the city a distinct advantage in regional competition for business locations and expansions.

In other words, it may be easier for Austin to provide an **integrated incentive package** without worrying as much about internal competition within its relatively constricted service area. In contrast, an investor-owned utility such as **TXU** might have to sit out a fight for the same business between two cities within its vast, multi-regional service area.

Capitol Metro will roll out the first phase of its five-year restructured bus route plan 2/13/00. The plan's first phase will emphasize East-West routes, and include a Highland Mall to Dell route and a route from East 7th St. to the Day Laborer Camp on 51st Street. Much-needed improvements to the airport shuttle service from downtown could be part of the initial package as well.

On a related note, Capital Metro has retained **Tuerff-Davis EnviroMedia, Inc.**, touted as the only public relations and advertising agency in the country specializing in environmental issues, to mount the public education campaign for light rail referendum expected to be held 11/7/00.

Lieutenant Governor Rick Perry announced his opposition to extending state taxation to the Internet and e-commerce at a little-noticed Capitol news conference last week.

“There’s a great deal of talk around the country about taxing the Internet,” Perry remarked. “A recent study found that nationally, the growth of the Internet generated revenue of \$301 billion and was responsible for about 1.2 million jobs in 1998. And that’s just the tip of the iceberg. For some politicians, that’s a mighty tempting target.”

Perry went on to say that despite the growth in non-taxable Internet sales, the Texas economy is running at full throttle and sales tax revenues are “surging.” “All of this tells me that **Texas does not need to consider raising taxes or putting new taxes or regulations on the Internet or e-commerce,**” he added.

Perry made his comments in connection with the introduction of his 25-member Advisory Council on the Digital Economy. Former Microsoft Vice President **Mike Maples** of Austin is chairing the Council. Austin’s high-tech prominence is reflected in the Council’s membership; more than half its members are Austinites:

Andrew Busey (CEO, living.com); **Ken DeAngelis** (Partner, Austin Ventures); **Robert Fabbio** (Partner, TL Ventures); **Donald Hackett** (CEO, drkoop.com); **Dr. Katherine Hammer** (President and CEO, Evolutionary Technologies International); private investor **John Hime**; **Christina Jones** (President and CEO, pcOrder.com); **P.H. (Dick) Moeller** (President and CBO, VTEL Corporation); **David Nance** (President and CEO, Introgen Therapeutics, Inc.); **Kevin Rollins** (Vice Chair, Dell Computer Corp.); **Hector Ruiz** (President, Motorola Semiconductor Products Section); **David Sikora** (President and CBO, Ventix Systems, Inc.); **James Truchard** (President and CEO, National Instruments).

Perry’s position on Internet taxation comes at a time when **Comptroller Carole Keeton Rylander’s** task force on electronic commerce is grappling with broad e-tax policy issues. The toughest issue is whether goods and services sold on the Internet should be subject to the state sales tax, if so, how the tax should be collected and remitted to the state.

Traditional “brick-and-mortar” retailers argue that since they are required to collect sales taxes on their own e-sales in states where their stores are located, purely e-commerce retailers should be too. In other words, **the same transaction should be treated the same** for tax purposes, regardless of whether it takes place at, for example, the local Radio Shack, Radio Shack’s own website, or a remote e-commerce retail site. Before that happens, Congress must authorize states to collect sales tax from remote sellers that have no physical presence in the state.

E-commerce taxation is probably **the key state and local tax policy issue of the next decade.** But, judging from the Lieutenant Governor’s comments, we already know how at least one advisory group will come down.

Williamson County is the metro area unemployment leader. For a long time now, the Austin metro area unemployment has hovered around 2% — among the best in the nation.

But when you analyze the five counties in the metro area, you see Williamson County is the place where fewer people are looking for work. At year-end, the 5-county metro area had 2.0% unemployment. Break it down and here's how the unemployment picture stacks up: **Caldwell County, 3.1%; Hays County, 2.4%; Bastrop County, 2.2%; Travis County, 2.1%; and Williamson County, an amazing 1.4%.**

Downtown Austin will get a much-needed makeover for the first holiday season of the new millennium (or the last of the old, depending on when you think the millennium actually starts).

The Downtown Austin Alliance (DAA) proposes to receive community input regarding the **design of new holiday decorations** for Congress Avenue and Congress Avenue Bridge. The current decorations are six years old and ready to be replaced. Rather than simply duplicating the old designs, the DAA wants Austinites to choose a fresh design for the 2000 holiday season.

In 1994, the Austin Downtown Management Organization, later the DAA, took on the responsibility for the design, purchase, maintenance, and storage of the Congress Avenue lights and decorations. In partnership with the DAA, Austin Energy provides the use of its crews to put up the lights and decorations.

Harking back to his military background, **Dr. Louis Overholster** observed that Health Clubs are where you pay to do the exact same thing you complained about in basic training!

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Sincerely



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