



FORGING TEXAS

A GUIDEBOOK FOR LEGISLATORS



Texas Public Policy
Foundation

Copyright ©2020 by the Texas Public Policy Foundation
Permission to reprint in whole or in part is hereby granted, provided
the Texas Public Policy Foundation and the author are properly cited.

TEXAS PUBLIC POLICY FOUNDATION
901 Congress Ave., Austin, TX 78701
(512) 472-2700 | www.TexasPolicy.com



FORGING TEXAS

A GUIDEBOOK FOR LEGISLATORS



Texas Public Policy
Foundation

Table of Contents

FOREWORD	7
CITIZENS DEFENSE	9
Second Amendment	10
Bottom-Up Policing	11
Non-Jailable Offenses	12
ELECTION PROTECTION PROJECT	15
Protecting Voter Rolls	16
GOVERNMENT FOR THE PEOPLE	19
Taxpayer-Funded Lobbying	20
Local Governments and Economic Development	21
Emergency Powers	24
City and County Efficiency Audits	26
Zero-Based Budget	27
Community-Based Foster Care	28
Central Registry Reform	29
Reform CPS Investigation Procedures and Court Oversight ..	31
Child Welfare Efficiency Audits	34
LIFE:POWERED	37
Energy Discrimination	38
Texas Grid Reliability	39
Maintain a Predictable Regulatory Climate for Energy Businesses	40
Property Rights and Wind Turbines	41
Tax Breaks for Energy Projects	42
NEXT GENERATION TEXAS	47
Virtual Learning (and Blended Models)	48
Charter Schools	50
Aligning CTE With Workforce Outcomes	51
Seat Time and Competency-Based Education	52
Expanding Paid Apprenticeships in CTE	54
Civics Education	55
Higher Education Affordability	57

REMEMBER THE TAXPAYER	59
Conservative Texas Budget	60
Protecting Property Tax Reform	61
Reducing State Spending	62
Reducing Regulations	63
Economic Stabilization Fund	65
Eliminating School Maintenance and Operations (M&O) Property Taxes	66
Local Spending Limits	68
RIGHT ON CRIME.. . . .	71
Policing Reform	72
Reentry	73
Victim Restitution	73
Sentencing	73
Communication	74
Bail and Grand Jury Reform	74
Juvenile Justice	75
Efficiency Audits	76
RIGHT ON HEALTHCARE.. . . .	77
Transparency	78
Doctor-to-Patient Medication Program	79
Direct Primary Care	80
Medical Cost Sharing	82
Professional License Reciprocity	82
Telemedicine	83
RIGHT ON IMMIGRATION	87
CAMPAIGN AND POLICY DIRECTORS.. . . .	91

Foreword

We are forging the future of Texas, and we are forging it together. Its shape and its substance are up to us. Will it be a Texas that encourages entrepreneurship? Will it be a Texas that attracts new businesses and startups through low taxes and more reasonable regulations? Will it be a Texas that places a high value on the education of every child?

That's why we at the Texas Public Policy Foundation have assembled this guide for legislators and capitol staff. Our policy prescriptions are backed with research and sound principles. The Texas we envision is a Texas in which families are free to pursue their own hopes, where the benefits of free enterprise let Texans prosper, and where educational resources are used to help students—not prop up a system.

It's a Texas that remains a top choice for in-migration, for residents of states like California and New York, who are fed up with the policies that drive up the cost of living while lowering the quality of life. It's a Texas that remains a bulwark for freedom, even as other states flirt with ever-more oppressive rules and taxes—Texas as the America of America.

The Texas we are forging together is also a Texas that protects property rights, whether from excessive property taxes that make so many of us mere “renters” in our own homes, or from local government overreach that affect, how we live and how we can earn a living from our land.

It's a Texas that knows health coverage isn't healthcare, where lawmakers work to help strengthen the real determining factor in health—the doctor/patient relationship. While other states double down on the disastrous Affordable Care Act, the Texas we envision will help to remove middlemen and barriers to care that the ACA put in place and empowered.

And it's a Texas that sees every human being as a person worthy of a second chance. In recent years, we have gone from being merely tough on crime to being “Right on Crime,” with a declining prison population and more successful reentry into society for former inmates. But there is much work yet to do.

The policy prescriptions contained in this handbook provide something of a roadmap. With these reforms, we can ensure that the future for Texas families is as big and bright as the stars at night.

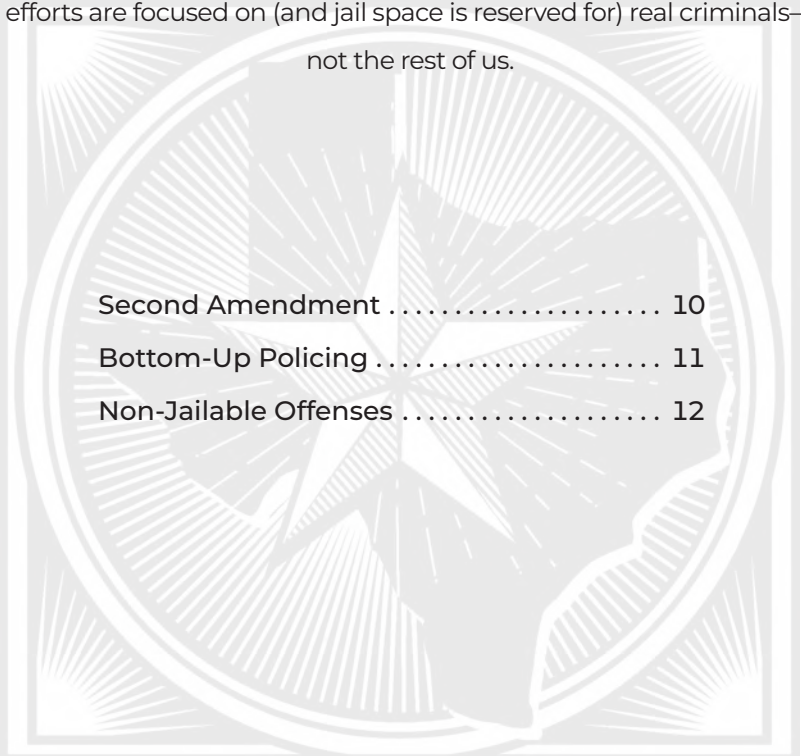


CITIZENS DEFENSE

Advancing Our Constitutional Right to Self-Defense

In the wake of recent shootings in Odessa, El Paso, Sutherland Springs, and Plano, many Texas gun control proponents have demanded that state leadership “do something” in the hopes of preventing future tragedies. However, these demands often redound to a clear violation of an explicit right enumerated both in the United States and Texas constitutions—the individual right to keep and bear arms for lawful self-defense—while failing to empirically demonstrate the positive change the proposed policy changes seek to achieve.

We can also protect citizens by ensuring that law enforcement efforts are focused on (and jail space is reserved for) real criminals—not the rest of us.



Second Amendment	10
Bottom-Up Policing	11
Non-Jailable Offenses	12

Second Amendment

We must not punish the millions of responsible Texas gun owners in an attempt to deter the very few criminals who would wish to do harm.

The fact is, our state is experiencing its lowest level of gun violence in a generation. Despite doomsday prognostications, rates of both homicides and aggravated assaults using a firearm have been steadily declining over the past two decades.

However, recent civil unrest in many major metropolitan areas have seen intense, localized spikes in violent and property crime. A collective disarmament scheme would put at risk many of those in vulnerable communities unable to be helped by stretched resources.

High-profile—but relatively rare—incidents skew our understanding of guns and gun violence.

Here are the facts we must bear in mind as we consider any encroachment:

- ★ Texas’s crime rate is the lowest it has been since 1965. Similarly, violent crime in Texas is at a 40-year generational low with 410.8 incidents per 100,000 residents, a rate not seen since 1977. This trend follows a decades-long aggregate decrease in both violent and property crime rates.
- ★ The percentage of total homicides committed with a firearm in Texas has been trending downward as well. There have been declines across all major categories of firearm homicide. During the preceding two decades, a handgun has been used in an average of 46.53% of all homicides, while rifles and shotguns were used in 3.57% and 4.10%, respectively.
For handguns, the highest use was 54.55% in 2005; the lowest was the most recent year, 2018, at 40.12%.
- ★ Both nationally and in Texas, the predominant cause of death involving a firearm is suicide. The suicide rate in Texas, both with firearms and other methods, has been increasing. However, the percentage of suicides in which a firearm is used has been slightly decreasing.
- ★ Between 1998 and 2018, the number of concealed handgun licenses issued has increased 568%. Despite this increase, the above numbers and trends hold, suggesting waning malicious firearm violence trends are not an outlier.

The fact is, our state is experiencing its lowest level of gun violence in a generation.

In response to those high-profile mass killings, Governor Abbott convened two meetings of the Texas Safety Commission. The final work product of these discussions, titled the Texas Safety Action Report, includes recommendations on

background check expansions, reporting of stolen guns requirements, ammunition and ownership limitations, and gun violence restraining orders (GVRO).

Yet there's little or no evidence that any of those measures work. We already have background checks, for example. And some of these measures would greatly infringe on the rights of law-abiding Texans.

What can Texas legislators do?

- ★ Resist all efforts to further diminish the Second Amendment rights of lawful gun owners.
- ★ Resist all efforts to establish a public or de facto registry of firearm owners.
- ★ Eliminate barriers for law-abiding Texans to carry weapons and defend themselves outside of their homes, such as streamlining the path to credentialed licensure, eliminating the fees associated with obtaining carry credentials, and reducing the minimum age for licensure to 18.
- ★ Ensure government resources are appropriately spent on initiatives proven to reduce gun violence, not harass law-abiding firearm owners.
- ★ Support laws that empower law enforcement and prosecutors to pursue focused deterrence strategies targeting organized, violent crime.

Bottom-Up Policing

Law enforcement's role in a free society is to protect rights, promote public safety, protect the citizenry from criminals, and uphold the rule of the law according to the Constitution of the United States. It remains a core function of government.

Yet modern law enforcement agencies are managed and led using a quasi-military approach. They also follow the traditional principles of management that include planning, organizing, directing, staffing, coordinating, reporting, and budgeting. Like the military, law enforcement agencies are organized along structures of authority and reporting relationships.

But unlike the military, most law enforcement agencies do not have the military bureaucracy, policies, procedures, and control mechanisms in place to be successful in this quasi-military approach to leadership.

For public safety officials, a bottom-up approach is the cornerstone for future success. Public safety executives need to learn how to lead from behind. Leadership from behind goes against traditional law enforcement concepts. Law enforcement leaders have long viewed the key to leadership as providing full direction and orders of magnitude to their respective personnel on agency goals, policies, concepts, and crime reduction solutions.

Leading from behind requires the willingness to engage officers and community early in the design and formulation of a concept or goal. Bottom-up management

occurs when goals, projects, and tasks are informed largely by the employees and the community and not management.

Employees and community are invited to participate in goal setting, giving them a formal stake in the decision. These goals, projects, and tasks are then communicated by each team to senior leadership for consideration.

What can lawmakers do?

- ★ Develop protocol for “bottom-up policing leadership,” giving community stakeholders important duties and contributions in how they are policed.

Non-Jailable Offenses

Five years ago, Sandra Bland was arrested following a traffic stop for a non-jailable offense (she didn’t use her blinker to signal a lane change). She died in the jail 3 days later. Her tragic death prompted the introduction of bills in the last two legislative sessions to limit arrests for non-jailable offenses. But both were gutted before being passed.

Class C misdemeanors represent the lowest tier of criminal offense in Texas. These minor offenses include traffic violations, possessing an open container of alcohol, and low-level gambling. Categorically, those guilty of these offenses are eligible to receive a fine of no greater than \$500 and up to 180 days of deferred disposition. Should the violator be eligible to have their disposition deferred, satisfactorily meeting the conditions set forth by the court will result in the offense being thrown out. None of these low-level offenses are alone eligible for 1 day of sentenced jail time.

We must reserve jail space (and police officers’ time) for those who pose a real danger to our communities.

Neither should they be cause for an arrest.

The conservative case here is clear; we must reserve jail space (and police officers’ time) for those who pose a real danger to our communities. For Class C misdemeanors, arrest shouldn’t be an option.

There are exceptions, of course. ***Law enforcement personnel should be permitted to make an arrest if:***

- ★ The failure to arrest the offender creates a clear and immediate danger to the offender or the public. Officers do not have to allow a person who is a threat to themselves or others to simply leave; this exemption has a legitimate law enforcement interest.

- ★ The failure to arrest the offender will allow a continued breach of the public peace. Officers do not need to allow a breach of the peace to continue in order to comply with this bill. Some offenders make it clear that an arrest is the only way that they will cease their criminal actions, and officers will remain able to restore peace through custodial arrest in these circumstances.
- ★ The offender will not appear in court in accordance with the citation. Allowing an offender to leave knowing that he or she will never return to answer for the charge would not be in the service of justice; this exemption allows officers who have reason to believe a subject will not comply with a citation by appearing in court to use other measures to ensure the suspect's return.
- ★ The inability to identify the offender. If an officer exhausts all reasonable means in attempting to identify an offender, then a custodial arrest and fingerprinting are reasonable to assure the offender's identity is known.

What can Texas legislators do?

- ★ Limit arrests for non-jailable offenses, reserving jail capacity for whom it is necessary and keeping our police officers on the street.



ELECTION PROTECTION PROJECT

Securing Trust in Texas's Election System

In the Texas we are forging together, every legitimate vote must count. The right to vote is one of the most fundamental of our rights as Texans and Americans; we must ensure that our vote isn't cancelled out by fraudulent ballots or never counted at all because of flaws in the system. Texas legislators can help.



Protecting Voter Rolls 16

Protecting Voter Rolls

Are the voter rolls in Texas accurate?

Put simply, we don't know. As directed by the Texas Secretary of State, counties only perform minimal and small-size audits of voter lists using those ineligible to serve on juries due to noncitizenship status. There is no system of automatic removal from the rolls of nonvoters after a given "attempt to notify" period in Texas. This can open the door to voter fraud.

Also, false registrations of noncitizens as voters continue to affect our elections while remaining undiscovered or not prosecuted. Because we don't verify or clean our voter lists, duplicate voting and other forms of fraud can occur undetected. This also enables bad actors to vote in the name of a dead person through mail-in ballots or by stealing their identity to vote.

We're told, of course, that voter fraud is a "myth." When we point out instances of actual voter fraud, even examples of elections stolen through fraud, we're told that "widespread" fraud doesn't exist. That's an amazing claim considering that Texas is the home of the infamous "Box 13" scandal, which won Lyndon Baines Johnson a Senate seat in 1948. One voting box, containing 202 additional ballots (written in the same hand, with the same pen, in alphabetical order), decided that election.

Every valid ballot that is cancelled out or is not counted is a stolen vote and a silenced Texas voter. We must put into place the safeguards that will protect our elections. Dismissing fraud as irrelevant due to small numbers, from a rightly high burden of proof, misses the fact that systemic fixes are necessary to prevent them in the first place.

During the 84th legislative session, SB 795 was passed to increase cooperation between the Secretary of State and local authorities to compare voter lists and voter information. During the 85th regular legislative session, HB 4034 was passed to require the Secretary of State to periodically check voter rolls for duplicate registrations.

But there is still no explicit requirement for audits to occur in a specified time to remove ineligible voters and improper registrations. The Voting Rights Act states that a state is prohibited from removing nonqualified voters from the rolls purely for failure to vote. The state lacks a systemic widescale mechanism to attempt to verify voter status currently and counties have varying degrees of adherence to published standards.

Because we don't verify or clean our voter lists, duplicate voting and other forms of fraud can occur undetected.

In 2019, an attempt to review Texas’s voter rolls resulted in significant difficulties due to inaccuracies and out-of-date records received from the Texas Department of Public Safety. The issues raised here illustrate a need for comprehensive review to ensure records are up to date and county and state officials use standard and coordinated databases to ensure noncitizens, ineligible felons, out-of-state voters, and the deceased are removed from voter rolls in a timely and routine manner.

There is also the need to protect against illicit voter registrations by noncitizen or nonqualified voters.

The evidence is clear:

- ★ Research conducted by Judicial Watch found that 462 U.S. counties had higher voter registrations than the population of citizens over 18 in those counties, accounting for about 17% of U.S. counties. Fifteen of those counties had higher voter registrations than their actual populations.
- ★ A study by the Government Accountability Institute found a likely 1,200 intra-state duplicate voters and a highly likely 7,271 inter-state duplicate voters, extrapolating an estimated 45,000 duplicate votes in the 2016 election. The results provide evidence that certain people are registered but not living in the multiple jurisdictions they are voting in.
- ★ In 2000, a *New York Post* review showed over 10,000 New York registered voters were registered, illegally, as being able to vote in both Florida and New York. Failing to disclose a prior registration is a crime punishable by up to 5 years in prison in Florida and 4 years in New York.
- ★ The Pew Center on the States reported that, in 2012, across the United States, more than 1.8 million deceased persons were still on voter lists.
- ★ A judge who died in 2010 in Starr County, Texas, has had someone vote in his name three times since.
- ★ A man cast a duplicate vote via mail-in ballots in Minnesota and Texas for the 2012 election and was only caught by a reported Facebook post where he admitted his actions.
- ★ In a survey by the Public Interest Legal Foundation whose results were published in September 2017, 616 noncitizens in 11 counties in New Jersey admitted to engaging in the voter registration process. Nine percent of the noncitizens also reported having voted. Sixty percent of noncitizens admitted their citizenship status and were given the opportunity to continue their application anyway at the DMV.
- ★ Between 2011 and 2017, Virginia removed 5,556 noncitizen voters from its registration lists. Of those voters, 1,852 have cast 7,474 ballots since 1988. These voters were only found because they had reported themselves to officials and did

not include those who had reported incorrect information about their citizenship status.

- ★ In 2018, the Texas Office of the Attorney General prosecuted a Mexican national who stole the identity of an American citizen and used the identity to register to vote. The individual voted in several elections, including the 2016 general election.

What can lawmakers do to protect Texas elections?

- ★ Require all voters for all offices to be United States citizens and require proof of citizenship at voter registration.
- ★ Automatically remove nonvoters from registration lists after a set number of missed cycles plus a given notification period.
- ★ Empower the Texas Secretary of State to conduct all vote-by-mail operations, count and store vote-by-mail ballots independently of all county systems, and strengthen disability qualifications and verification.
- ★ Streamline the system for voter-registration information and communication between the Texas Secretary of State and the counties.
- ★ Require the Texas Secretary of State to perform a full audit of all county voter-registration lists every 5 years.
- ★ Increase criminal penalties for persons committing voter-assistance fraud, prohibit certain persons from soliciting voters to provide voter assistance.

GOVERNMENT FOR THE PEOPLE

Accountability and Transparency in Government

The Texas we are forging together must be transparent and accountable to the people. As the Declaration of Independence reminds us, governments derive “their just powers from the consent of the governed”—it’s not the other way around.

To achieve this aim, the Texas Legislature should ensure that every level of government—indeed, every action of government—is open and accessible to the citizens it answers to.



Taxpayer-Funded Lobbying	20
Local Governments and Economic Development.....	21
Emergency Powers.....	24
City and County Efficiency Audits	26
Zero-Based Budget	27
Community-Based Foster Care	28
Central Registry Reform.....	29
Reform CPS Investigation Procedures and Court Oversight	31
Child Welfare Efficiency Audits	34

Taxpayer-Funded Lobbying

So long as government is large and powerful—taxing, spending, and regulating in ways that can significantly affect the profitability of businesses and personal finance—individuals will be driven to influence lawmaking.

Much of this activity is defensive but some is opportunistic. Private individuals engaged in lobbying activities are exercising their free speech rights, as enshrined in the First Amendment which states: “the right of the people ... to petition the Government for a redress of grievances.”

Private persons engaged in lobbying write bills, assemble coalitions, and strive to pass or defeat legislation using this freedom. When they work for unions, businesses, or other special interests, they still are exercising their right to free speech.

However, when these persons are employed by a governmental entity, the dynamics change. After all, only people have rights. Governments have powers.

Unfortunately, many cities, counties, school districts, and special districts spend public money to hire professional lobbyists to engage in the legislative process. It represents no small amount either. In 2017, local governments spent as much as \$41 million on lobbyists. This figure excludes government employees who may spend some of their time lobbying other parts of government for their agency.

Local government should not spend public money on private lobbyists for many reasons. First, one part of a representative government should not petition another part of government for a “redress of grievances.” A political subdivision may not lay claim to that right.

Second, lobbyists employed with taxpayer money usually advocate for greater spending, more taxing authority, and increased regulatory power. It is unreasonable to force taxpayers to fund lobbying campaigns that go against their interests.

Third, the practice puts individuals at a distinct disadvantage when it comes to getting their representatives’ attention. Lobbyists know how to work the system, while the average Texan does not. Besides, local elected officials have other avenues to elevate their needs and concerns to state lawmakers, like making personal contact or showing up at the Texas Capitol in person. State officials are all highly motivated to listen to the elected members of the local government bodies that they represent.

There is more than one way that taxpayer-funded lobbying occurs, too. Consider two other lesser-known ways.

Lobbyists know how to work the system, while the average Texan does not.

The first is through public agency associations. These associations are not accountable to voters. Their very nature allows them to insulate their membership from the consequences of promoting higher taxes and bigger government. These associations often charge membership dues to raise a small portion of their budget.

Sometimes members do not spend their own money on these dues—for instance, many members of a professional prosecutors association use civil asset forfeiture funds taken from citizens without benefit of a trial and guilty verdict to pay their dues.

The majority of funds raised by these associations typically come from the ad space they sell in their trade association-like magazines to private sector companies seeking government contracts. The ad space is bought, typically at a premium high above what the subscription base would justify, for the purpose of funding the associations' operations and lobbying efforts. Thus, this money does not directly flow from taxpayers but rather is provided by firms that supply goods and services to government and, as a result, benefit from greater government spending.

The other form of off-the-record lobbying is to assign government employees the task of lobbying state government. This is a common practice in Austin during session when hordes of intergovernmental relations employees can be found on any given day lobbying lawmakers for more power and more taxpayer money.

All of this stirred public passions and prompted state lawmakers to file numerous bills in the 86th Legislature to reform or abolish taxpayer-funded lobbying. While the chief measure (Senate Bill 29) ultimately failed to pass, the bill advanced far into the legislative process and elicited strong support from members on both sides of the aisle. The issue is expected to make a high-profile return in 2021.

Texans want this to happen. In March 2020, a supermajority (YES – 94.29%, NO – 5.71%) of Texas Republican primary voters supported the following ballot proposition: “Texas should ban the practice of taxpayer-funded lobbying, which allows your tax dollars to be spent on lobbyists who work against the taxpayer.”

That’s why Texas lawmakers should:

- ★ Prohibit taxpayer money from funding lobbyists.

Local Governments and Economic Development

Every year, state and local governments spend billions of dollars in business incentives, whether in direct subsidies, tax abatements or other preferential tax treatments, or other favors granted to connected businesses.

It is, however, impossible to have an exact number of how much money this represents, as business subsidies and tax incentives mostly remain under a cloak of secrecy for everyone outside the negotiation table—which means they remain outside of

taxpayers’ oversight—until the deals are done. Even then, depending on the state and the local taxing unit, getting all the information can remain a challenge. A recent and much-publicized example is the Amazon “HQ2” search, for which some bids from state and local governments remain secret to this day.

Tax abatement and appraised value limitation agreements are two economic development “tools” used by local governments to attract new businesses and keep existing ones.

The Texas Legislature authorizes cities, counties, and special districts to administer property tax abatements under Chapter 312 of the Tax Code, which was renewed in 2019 through September 1, 2029. According to a Texas comptroller report, in 2018 there were 780 reported active abatements. In addition, in 2001, the Texas Legislature passed the Texas Economic Development Act, also known as Chapter 313, which authorizes school districts to enter into appraised value limitation agreements with certain taxpayers. As of August 31, 2018, there were 389 current and executed such agreements.

These agreements made between governments and select businesses are generally publicized through the economic impact they promise to generate in the distant future. But it can be more difficult to learn how much a government is giving up in tax revenues and whether it is going to be at the expense of other taxpayers—individuals and non-connected businesses—and other government services.

The 86th Legislature added several transparency requirements to the renewal of Chapter 312. To make the process more transparent, the Legislature required that taxing units give a 30-day public notice of a meeting during which a taxing unit plans to consider the approval of a tax abatement agreement. The notice must include the names of the property owner and the applicant for the agreement, the name and location of the relevant reinvestment zone, and a general description of the nature and costs of the improvements or repairs included in the agreement.

In addition, the chief appraiser of a taxing unit that enters into such tax abatement agreements must now report to the comptroller the appraised value of the properties that were subject to such agreements the first 3 years after the agreements have expired. This provision will allow the comptroller and taxpayers to have better visibility on the real benefits, if any, of these tax agreements.

The perception is that abatements are “free”—free to taxpayers and free to the local government. But perceptions don’t always reflect the reality.

But more can be done. Tax abatements have many downsides that are hidden from local officials deciding whether or not to use them—and from the citizens they represent.

This is in that spirit of transparency that the Governmental Accounting Standards Board (GASB) decided in 2015 to require that state and local governments disclose in their comprehensive annual financial reports (CAFRs) the tax abatement agreements they enter into and the tax expenditure or reduction of tax revenues they are creating. In its statement on tax abatements (GASB statement No.77), GASB reminded that:

Financial statements prepared by state and local governments in conformity with generally accepted accounting principles provide citizens and taxpayers, legislative and oversight bodies, municipal bond analysts, and others with information they need to evaluate the financial health of governments, make decisions, and assess accountability. This information is intended, among other things, to assist these users of financial statements in assessing (1) whether a government's current-year revenues were sufficient to pay for current-year services (known as interperiod equity), (2) whether a government complied with finance-related legal and contractual obligations, (3) where a government's financial resources come from and how it uses them, and (4) a government's financial position and economic condition and how they have changed over time.

The requirements under this statement became effective for financial statements for periods beginning after December 15, 2015. As a consequence, we should have a better picture of how much Texas local governments have been forgoing through tax abatement agreements since 2016, albeit an incomplete picture as local governments are not required to disclose the amounts for each agreement or the beneficiaries, only the amount in aggregate per program. This, however, should give taxpayers more clarity on how much their local governments are “investing” in tax abatement agreements and how much it represents per capita or as part of the budget.

Local governments would benefit from taking a closer look at how much these tax abatements are costing their budgets, especially in the current economic downturn following the COVID-19 pandemic and related government shutdowns. In this spirit, and because we, taxpayers, are “all in this together,” government should stop favoring certain taxpayers at the expense of others.

Lawmakers can improve the process—and hopefully, someday eliminate these tax abatement schemes completely:

- ★ Allow local governments to annually set conditions for economic development in order to make the process consistent and eliminate favoritism.

★ Increase transparency in the process to allow greater public participation.

Empower the public to know more about economic development programs and the consequences these programs have on local government budgets.

Emergency Powers

The need for emergency powers reform in Texas was made exceedingly clear in the COVID-19 pandemic, with its stay-at-home orders and rules on social distancing and masks.

Under a disaster declaration in Texas, state and local authorities may operate under the Texas Disaster Act of 1975 in order to respond to crises. The act, codified in Texas Government Code Chapter 418, grants temporary emergency powers to the governor and certain local officials, albeit in unequal measure.

In the midst of COVID-19, authorities have wielded these special powers to impose a variety of rules and restrictions on Texans as they engage in everyday activities. While some of these constraints, like social distancing guidelines, have ostensibly advanced a meaningful public health objective, other directives have been less reasonable and gratuitous. A few orders have even been unlawful.

Although circumstances may warrant the use of emergency powers, this authority is not unlimited nor are government officials allowed to create their own extra-judicial concepts. Americans enjoy certain fundamental protections, even during times of disaster. As one federal court wrote recently: “There is no pandemic exception to the Constitution of the United States or the Free Exercise Clause of the First Amendment.”

In spite of this fact, government over-reach has been a persistent problem at the local level, with county judges and city mayors taking some alarming actions, such as extending disaster declarations indefinitely; proposing excessive fines and criminal penalties for non-compliance; threatening to commandeer private property; imposing unconstitutional demands on houses of worship; and placing onerous restrictions on certain businesses, such as the requirement that restaurants track customers.

Some local governing bodies—like the city of Austin—have even empowered unelected bureaucrats to issue emergency orders dictating intimate details about a person’s life.

We must better balance government power and individual liberty in times of emergency.

The degree to which local governments have acted in authoritarian fashion reveals an uncomfortable truth: We must better balance government power and individual liberty in times of emergency.

There are simply too many instances of local elected and unelected officials trampling on Texans' personal liberties and livelihoods. These infringements are made all the worse by the duration of the disaster and the absence of empirical evidence supporting each new rule meted out.

Given the extent of local government overreach and the importance of civil liberties, it is critical that the next Texas Legislature reform Chapter 418 of the Government Code with an eye toward restoring equilibrium between government power and individual liberty.

- ★ Clarify state and local emergency authority provided under Chapter 418 of the Texas Government Code and the limitations on those powers.
- ★ Limit local authority under Ch. 418 to only natural disasters.
- ★ Specify that a state disaster declaration extinguishes local power to declare a local disaster for the same emergency.
- ★ Prohibit the indefinite extension of local disaster declarations. Require periodic re-approval of the orders at a public meeting.
- ★ Amend the Texas Public Information Act and the Texas Open Meetings Act to strengthen the public's ability to access information and participate in their governance.
- ★ Require local disaster orders to cite the state statute authorizing potentially coercive or hostile actions, like commandeering private property.
- ★ Bar local governments from imposing excessive fines and criminal penalties.
- ★ For local emergency orders that impose an undue burden on the public, require political subdivisions to make public any empirical evidence or data that supports their rule or restriction.
- ★ Specify strict scrutiny review for any infringement upon any rights guaranteed under the Texas Constitution or specify that Ch. 418 cannot infringe upon any constitutional rights.

State lawmakers can bring clarity and predictability to the law, requiring greater government transparency, and more narrowly tailoring the authority of local officials.

Lawmakers should:

- ★ Reform local government authority under a disaster declaration.

City and County Efficiency Audits

Waste, fraud, and abuse are a common at the local level, especially among large, urban governments. The misappropriation of local tax dollars is forcing tax bills higher and causing government to grow.

In the interest of preserving the Texas Model, it is prudent for state lawmakers to assist cities and counties with restoring fiscal responsibility to local public finance. One way to encourage greater prudence is by requiring large cities and counties to undergo third-party efficiency audits.

An efficiency audit is a comprehensive examination of a governmental entity's budget and operations conducted for the purpose of identifying ways to reduce expenditures and better use resources. These audits provide decision-makers with ideas on how to improve the efficiency and effectiveness of existing programs and services.

When made publicly available, the information in these reports also arm community stakeholders with the suggestions needed to hold their elected officials accountable and inform policy discussions.

The concept is highly regarded by policymakers and practitioners alike. In fact, two former Austin city councilmembers said that “efficiency audits are a national best practice. Governmental entities including Travis County, City of Seattle, the states of Rhode Island and Wyoming, among others, have utilized audits to great success. Audits have saved other government entities a minimum 4 percent of their annual budget.”

Another policy professional noted that “the savings identified through efficiency audits are consistently at least 10 times the cost.”

The experience of other states and localities also speaks well of the concept. For example, facing a deficit of more than \$300 million, Detroit's distressed public school system initiated a wide-ranging performance audit that “identified \$53 million in annual savings.” And in 2016, efficiency auditors in the state of Kansas provided 105 separate recommendations that were estimated to generate more than \$2 billion over 5 years.

Efficiency audits have the potential to fine-tune the structure and nature of government. Now is the time for Texas's large local governments to also take advantage of this tool, especially given the massive influx of federal aid and the need for a lighter tax load.

Efficiency audits have the potential to fine-tune the structure and nature of government.

Lawmakers should:

- ★ Require cities and counties to undergo third-party efficiency audits of their budgets and operations.

Zero-Based Budget

Zero-based budgeting (ZBB) is a public finance tool that, if periodically wielded, allows decision-makers to manage a governmental entity's budget and operations with great precision. The technique allows appropriators to start a budget from zero and work toward completion, with each spending item justified along the way.

A zero-based budget re-examines the need for every expenditure. And it works to keep government lean.

Scrutiny is its strength.

The current services model of budgeting presumes that programs and services currently offered are necessary and ought to be continued, and the only question is how much more they will need in the coming year. Its working assumption—that present spending levels (at least) are needed moving forward—fuels the growth of government

and ignores other considerations, like income growth and new technologies.

Zero-based budgeting re-examines the need for every expenditure. And it works to keep government lean.

In 2003, Texas faced a projected \$10 billion budget shortfall. Governor Rick Perry sent the Legislature a budget with zeros next to each agency's line item, and he publicly declared that he would veto any spending plan that included a tax increase.

As a result, appropriators set about building the budget from scratch. State agencies were funded first based on constitutional requirements, then on statutory authority, and finally according to expenditures in a priority list. Using this technique, lawmakers acquired a firm grasp of state spending and proposed informed solutions, like consolidating 12 health and human service agencies into 5, resulting in a savings of about \$1 billion per year.

The final adopted budget that biennium bridged the \$10 billion budget gap without a tax increase and reduced general revenue spending for the first time since World War II. Many people credit the Legislature's 2003 ZBB effort with setting the tone and building trust in a limited government approach, which of course has been the key to Texas's success.

Now, the Legislature again faces a massive budget shortfall, albeit for very different reasons than in 2003. The Texas comptroller recently warned that budget writers must

bridge a \$4.6 billion gap for the current biennium and likely face further hardship for the upcoming 2022-23 biennium.

To make matters worse, many local governments' finances are also in trouble. Some political subdivisions, like the city of Houston, are staring down "the worst budget" in their history, spurring plenty of talk about tax increases and fee hikes. Without strict fiscal discipline, it is likely that these fiscal difficulties will persist for years to come.

The present moment favors ZBB. Bringing this tool to bear will empower state and local decision-makers to identify inefficiencies, cut spending, avoid tax increases, and gain a greater understanding of their respective budgets. Both the public and policy-makers stand to gain.

Lawmakers should:

- ★ Require local governments to undergo efficiency audits; employ zero-based budgeting; and modernize budgeting practices.

Community-Based Foster Care

For decades, the government-run Texas foster care system consistently placed children in its care at substantial risk of harm and even death. In 2015, a federal judge found that the foster care system operated by the Department of Family and Protective Services (DFPS) was so flawed that it often resulted in children leaving the system more damaged than when they entered.

The 85th Texas Legislature enacted transformational reforms designed to cure the failures of the former centrally managed system by localizing control of foster care services. This new locally controlled model, known as community-based care (CBC), shifted primary responsibility for foster care placement and case management to local private and non-profit charitable organizations with the goal of making the foster care system more responsive to children's needs. Those providers, known as Single Source Continuum Contractors (SSCC), are responsible for providing all foster care services within the limited geographical area they serve.

Community-based care makes the foster care system more responsive to children's needs.

Currently, four regions of the state—Region 1 (Lubbock/Amarillo), Region 2 (Abilene/Wichita Falls), Region 3b (Fort Worth), and Region 8a (San Antonio/Bexar County)—are operating under the new CBC model. A fifth region, Region 8b (Region 8 counties surrounding Bexar County) is scheduled to launch by early 2021.

In each region, the transition to CBC takes place in three stages: placement, case management, and performance review.

During Stage 1, the SSCC is responsible for identifying placements for children removed from their families by DFPS, overseeing adoptions, and providing all other services necessary for meeting the needs of children in care and those who are aging out. In this stage, the SSCC does not have oversight of children placed with relatives or responsibility for managing the trajectory of a child’s case.

In Stage 2, the role of the SSCC expands dramatically. At this point, the SSCC takes over primary responsibility for case management services, which includes coordinating the family’s service plan, conducting face-to-face visits with children and parents, handling court activities, and making key decisions regarding reunification and termination of rights.

Stage 3 begins 18 months after the implementation of Stage 2. During this stage, the SSCC’s performance at achieving specified outcomes for children will be assessed and financial incentives will be in place for safely moving children out of foster care and into permanent placements with their parents, other relatives, or adoptive placements.

Region 3b (Fort Worth) entered Stage 2 on March 2, 2020, followed by Region 2 (Abilene/Wichita Falls) on June 1, 2020. Region 8a (San Antonio/Bexar County) will transition to Stage 2 by the end of the year. Region 1 (Lubbock/Amarillo) entered Stage 1 in January 2020. Proposals for Stage 1 operations in Region 8b (Region 8 counties surrounding Bexar County) are currently being evaluated by DFPS.

Here’s how Texas legislators can help move these reforms forward:

- ★ Accelerate expansion of opportunities for local private and nonprofit organizations to manage cases for youth in foster care, according to the community-based care model.
- ★ Align efforts to comply with new federal foster care guidelines under the Family First Prevention Services Act with the continued implementation and expansion of community-based care.

Central Registry Reform

Central registries are federally mandated, state-run databases of child abuse and neglect records. These registries were required by the Child Abuse Prevention and Treatment Act in 1974 and expanded in scope throughout the 1980s and 1990s.

Central registries now function as a way to assist child protective agencies in investigation and prevention of child maltreatment cases, facilitate statistical analysis of child welfare data, help diagnose suspicious injuries, systematically track and respond to maltreatment allegations, and aid case monitoring and planning.

They are also commonly used to perform background checks on those entrusted with the care of children such as prospective foster or adoptive families as well as for individuals seeking a volunteer or employed position that involves contact with children.

While the intent to track maltreatment and protect children is noble and necessary, the implementation of central registries has caused undue harm to many individuals. One of the main issues with the central registry is the denial of due process to those whose names end up listed.

In Texas, an individual is added to the registry when a Child Protective Services (CPS) investigation results in a disposition of “reason to believe.” A “reason to believe” finding is not the same as a legal finding made by a court, as is the case with criminal history and sex offender registries. Rather, it is an administrative finding made by the investigating caseworker before the case goes before a judge.

The North Carolina Court of Appeals issued a decision in a 2010 case, *In the Matter of W.B.M.*, holding that listing an individual in the central registry prior to a court hearing violates an individual’s constitutionally protected due process rights.

Aggravating the constitutional concerns with the central registry is the lack of neutral arbitration, efficiency, and transparency in the appeal process. In Texas, if an individual is listed on the central registry

for any maltreatment, their name will remain in the registry indefinitely unless they successfully appeal the investigation outcome. Texas is one of roughly 17 states, a small minority, that allow names to be entered into the central registry while an appeal is still pending. The state requires the alleged perpetrator to appeal twice to the very department that deemed them guilty before seeking a hearing in front of the State Office of Administrative Hearings. This process can take years to complete.

This burden often falls heavily on low-income families, families of color, and women, who are disproportionately referred to CPS.

Along with the lack of due process and difficulty of appeal, the last major issue with central registries lies in maltreatment reporting. In line with national statistics, Texas has a 22% confirmation rate of maltreatment reports. These statistics suggest that reports are often incorrect and can easily tangle an innocent family into CPS involvement. The high rate of unsubstantiated reporting in conjunction with insufficient due process protections puts Texas families at risk.

Elevating the risk of overreporting are Texas statutes that allow anonymous reporting to CPS hotlines. Studies that have looked at anonymous reporting show dangerously low rates of substantiated reports. Sixteen percent of calls come from anonymous sources, but only 1.5% of those allegations go on to indicate abuse or neglect. While reporting is some degrees of separation away from entry into the central registry, it has direct effects. All open investigations list the alleged perpetrator on the registry before a conclusion is even made. With the large numbers of reports that are unfounded, due process is again jeopardized.

Central registries can affect a parent's financial and social prospects, limiting employment and volunteer opportunities if listed in the registry. This burden often falls heavily on low-income families, families of color, and women, who are disproportionately referred to CPS and whose children are overrepresented in foster care. According to a study on the unintended consequences of central registries, jobs that require background checks are predominately held by women, particularly women of color. Statistics show that women make up 97.7% of preschool and kindergarten teachers, 93.7% of child care workers, 88.5% of teaching assistants, 83.7% of personal care aids, and 82.5% of social workers, all jobs that require passage of a central registry background check prior to employment.

Here's what Texas lawmakers can do to improve the system:

- ★ Prohibit the listing of alleged perpetrators in the registry prior to notice and a hearing before a judge.
- ★ Require a minimum of a preponderance of the evidence standard for central registry placement.
- ★ Create a third-party, accessible, and clear appeal process.
- ★ End the practice of anonymous reporting and shift to confidential reporting.

Reform CPS Investigation Procedures and Court Oversight

The U.S. Constitution and the Texas Constitution recognize that the parent-child relationship is a fundamental right that may not be interfered with by the state absent a compelling reason. Given that few forms of state action are so severe and so irreversible as permanently separating a parent and child, courts play an important role in protecting the rights of families against improper government intervention.

First, let's look at the facts—because they are disturbing.

- ★ As of the end of FY 2019, there were 51,417 children in the custody of the Department of Family and Protective Services.
- ★ In FY 2019, CPS removed 18,615 children involuntarily from their home—a removal rate of 2.51 children per 1,000.

- ★ Between FY 2010 and FY 2019, removals have increased by nearly 14%.
- ★ Children removed by the Department of Family and Protective Services spend an average of 19 months in state custody. Only 33% of children who enter foster care ever return home to their families.
- ★ Of the 254 counties in Texas, 129 are served by a CPS specialty court overseen by unelected and unaccountable associate judges.

Generally speaking, Texas Family Code Section 262 prohibits CPS from seizing a child from his or her parents absent a court order, parental consent, or imminent danger of physical or sexual abuse. With the exception of limited, emergency situations, CPS in Texas is required to obtain a court order prior to taking possession of a child in almost all circumstances.

Family Code Section 262.201 requires that a court hearing, known as a “full adversary hearing,” be held within 14 days of the date the child was removed by CPS. This hearing is the first meaningful opportunity a judge will have to review the removal and determine whether the child should remain in state custody or be returned home to her family.

It is also the first time that the child’s parents will be able to mount a defense and seek the return of their child. According to a 2018 survey conducted by the Supreme Court of Texas Children’s Commission, one third of parents had an attorney appointed at the adversary hearing. This timing means that these parents did not have the benefit of consulting with legal counsel prior to the hearing.

At the conclusion of the full adversary hearing, Family Code Section 262.201(g) requires the court to order the return of the child to his or her family unless it finds enough evidence to “satisfy a person of ordinary prudence and caution” that (a) there was a danger to the physical health or safety of the child and that remaining in the home would be contrary to the child’s welfare, (b) there was an urgent need for removal in order to protect the child from harm and that CPS made reasonable efforts to prevent removal, and (c) reasonable efforts have been made to allow the child to return home, but there is a continuing danger to the child. If the court makes these findings, the child will remain in foster care. The “person of ordinary prudence and caution” evidentiary standard applied when making decisions concerning removing children from their families is lower than the default “preponderance of the evidence”

Separating children from their families and placing them into foster care causes trauma and can result in long-term negative outcomes.

standard found in Family Code Section 105.005 and is roughly equivalent to probable cause.

If the court rules that the child should remain in foster care, a service plan will be prepared. Parents effectively have 12 months to complete the service plan and achieve reunification. If they are unable to do so within this 12-month time frame, they face the prospect of having their parental rights terminated. Current DFPS practice is to request termination as part of the original petition filed with the court at the time of removal.

According to federal data, Texas leads the nation in the number of children waiting for adoption whose parents had their parental rights terminated.

It is well established that separating children from their families and placing them into foster care causes trauma and can result in long-term negative outcomes. One study, which compared outcomes for children in Cook County, Illinois, who were placed in foster care with other children who were investigated for neglect or abuse but did not enter foster care, found that children placed in foster care tended to fare worse across a number of outcomes, including juvenile delinquency, teen motherhood, employment, and economic prosperity. The study's result suggests that children at marginal risk fare better in the long term if allowed to remain at home.

Given that removal into foster care presents risks to children that even adoption cannot cure, it is important for courts to exercise robust oversight of CPS and balance the risk of harm posed by allowing the child to remain at home with the risks posed by removal.

Policymakers and judicial officials should work together to ensure that child protection court procedures protect the fundamental rights of families, minimize the risk of harm posed by family separation, and prioritize keeping children and reunifying families as quickly as possible.

Here's what Texas lawmakers can do to improve the system:

- ★ Reform child protection investigation and removal procedures to limit removals to cases of imminent danger where removal is the least harmful intervention for the child
- ★ Enhance procedural safeguards provided through the courts, including providing pre-petition access to counsel, increasing the evidentiary standard DFPS must meet before removing a child into foster care, reforming pleadings practice, and limiting the amount of time a family can be subject to DFPS oversight.
- ★ Keep families together by prioritizing effective prevention services and earlier reunification.

Child Welfare Efficiency Audits

The last several years have seen extensive activity in Texas and at the federal level aimed at improving outcomes for children who have contact with the child welfare system.

In 2015, a federal judge ruled the Texas Department of Family and Protective Services (DFPS) infringed upon the constitutional rights of children in its permanent care by placing them at an unacceptable risk of harm. Following an appeal to the Fifth Circuit, which in part reversed, in part adopted, and in part modified the original judgment, final remedial orders were issued in November 2018 requiring Texas to take immediate actions to address systemic deficiencies and alleviate the danger to children. Compliance efforts are ongoing.

Following the 2015 ruling, the 85th Legislature enacted fundamental reforms of the state's child welfare system, which gave local private and nonprofit charities primary responsibility for caring for and managing the cases of children in foster care. The new model created by the Legislature, known as community-based care, is currently being rolled out statewide through a phased, regional implementation.

More recently, in 2018, President Donald Trump signed the Bipartisan Budget Act of 2018, which included the Family First Prevention Services Act (FFPSA)—one of the most dramatic overhauls of child welfare funding in over 30 years. Key provisions of FFPSA will enter into force for Texas in October 2021.

In light of these significant changes and ongoing improvement efforts, the 87th Legislature will be faced with critical decisions impacting the future success of the state's child welfare system. One tool that the Legislature can employ to aid in the difficult and important work of transforming a system as complex as foster care is the efficiency audit.

Unlike traditional financial audits, which only look at the financial statements of an agency to ensure that records provide a fair and accurate representation of financial activities, efficiency audits are intended to determine if dollars spent by the agency are achieving desired outcomes. The power of efficiency audits lies in their ability to improve the effectiveness of agency operations by identifying opportunities to deliver services more effectively, eliminate duplication of services, and obtain cost savings through streamlined and innovative processes. In the context of child welfare, an efficiency audit can help ensure that agency activities are prioritizing the safety of children and actually generating positive outcomes in the lives of children served.

Improving the efficiency of the Texas child welfare system is more important now than ever before. A report released in June 2020 by court-appointed monitors tasked with assessing the state's progress in making changes ordered by the judge in

response to the lawsuit found continued issues involving DFPS's investigatory and oversight practices. While Texas has undoubtedly made significant improvements in the year and a half since the judge's final remedial orders were entered, there is still a long way to go. As the state continues to work to improve its child welfare system, a top-to-bottom efficiency audit of DFPS operations and services provided could focus the state's efforts and help finally bring the years-long litigation to a close.

Beyond the lawsuit, an efficiency audit could help the state improve its transition from a centralized, government-run child welfare bureaucracy to a decentralized, community-led system. Although regions operating under community-based care

Texas has the opportunity to become a national model of successful child welfare reform.

are generating positive outcomes and addressing many of the issues that gave rise to the lawsuit, statewide implementation of the model is progressing slowly. Despite Senate Bill 11 requiring DFPS to identify eight regions of the state in which to implement community-based care by no later than December 2019, only four regions are currently operating

under the model with a fifth scheduled to launch in early 2021. An efficiency audit could help identify barriers that are impeding the rollout of community-based care and find additional areas where the model can be improved to maximize positive outcomes.

Finally, an efficiency audit can be a powerful tool to inform the state of actions to bring its child welfare system into compliance with the requirements of the federal FFPSA in advance of the October 2021 deadline. FFPSA made major changes to how states are able to use Title IV-E funds in providing child welfare services and placed restrictions on the placement of children in institutional or congregate care settings. While FFPSA provided some additional flexibility by permitting states to use Title IV-E funds for select services intended to prevent entry into foster care, this flexibility came with additional regulatory hurdles. One of the largest hurdles for Texas to overcome is the lack of sufficient numbers of child welfare service providers who are accredited under standards set by FFPSA. An efficiency audit could help identify services that are generating desired outcomes as well as those that are falling short. The results of the audit could then be used to achieve accreditation for high-performing services and eliminate wasteful spending on underperforming services.

Fortunately, Texas will not have to reinvent the wheel to accomplish this goal. House Bill 3, enacted by the 86th Legislature, included a requirement for Texas school districts to undergo an efficiency audit prior to raising maintenance and

operations (M&O) property tax rates. This same structure can be easily repurposed for child welfare services.

Texas has the opportunity to become a national model of successful child welfare reform, but getting there will require focused hard work from the community and state officials. The 87th Legislature can set the state up for success by requiring an efficiency audit of all child welfare activities.

Here's how lawmakers can help:

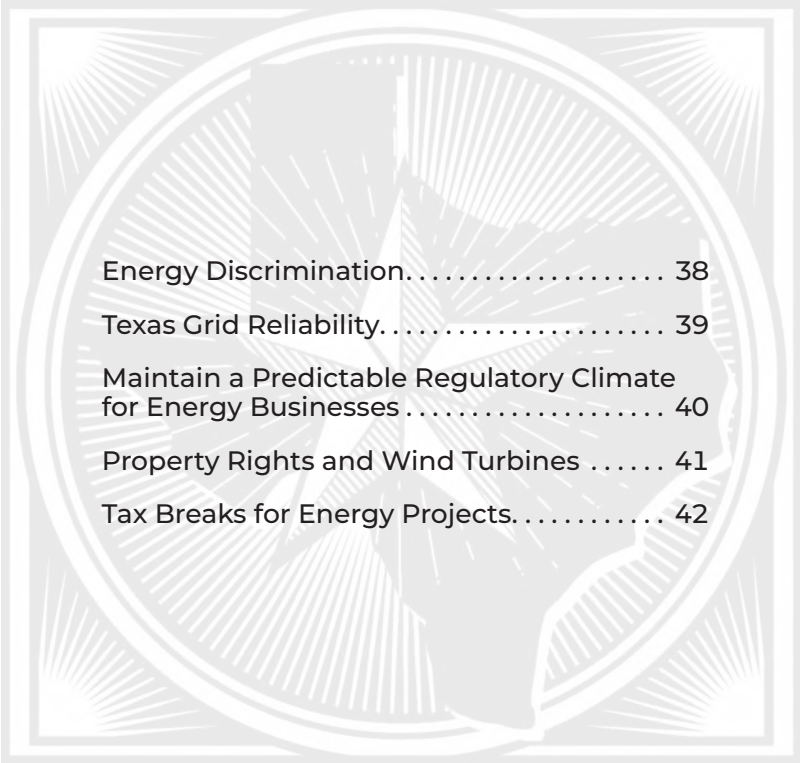
- ★ In FY 2021, conduct a third-party efficiency audit focused on ensuring the success of state efforts to take remedial actions ordered in connection with the *M.D. v. Abbott* lawsuit, comply with the requirements of the Family First Prevention Services Act, and fully transition the state's foster care system to the community-based care model by FY 2025.
- ★ Require regular third-party efficiency audits of DFPS operations to include both services provided directly by DFPS as well as those provided under contract with private service providers.

LIFE:POWERED

Promoting Affordable, Reliable Energy

The Texas we are forging together is a Texas for families. And Texas families need reliable, affordable energy to power their lives and their dreams.

The Texas Legislature can do its part to strengthen the energy industry in the Lone Star State—which provides jobs for hundreds of thousands of families. It can also help protect Texans by ending policies that distort markets and drive up energy prices for everyone.



Energy Discrimination.....	38
Texas Grid Reliability.....	39
Maintain a Predictable Regulatory Climate for Energy Businesses.....	40
Property Rights and Wind Turbines.....	41
Tax Breaks for Energy Projects.....	42

Energy Discrimination

The environmental, social, and governance (ESG) investing movement and its attendant effort to pressure banks and financial institutions to not invest in fossil fuels poses a dangerous threat to the American energy industry. Fossil fuel companies are increasingly being denied financing by banks and investment firms simply for doing their job of responsibly producing 80% of the energy we use every day.

This energy discrimination strikes at the heart of capitalism by replacing the fiduciary duty of corporations to maximize returns to their shareholders with an amorphous “stakeholder capitalism” that prioritizes narrow progressive social causes, from reducing greenhouse gas emissions to meeting racial diversity quotas. As large banks such as Citi are being forced by cadres of activist shareholders and intense public and media pressure to reduce the emissions profile of their investments, they are blacklisting U.S. energy producers and domestic energy projects. Meanwhile, public pensions like the California Public Employees Retirement System are being forced to incorporate ESG or “sustainability” principles by their politically appointed boards or by legislative mandates.

The movement to divest from fossil fuels is blind to the fact that we cannot simply change the way we produce and consume energy by moving money around. The U.S. still consumes as much energy from fossil fuels as it did 10 years ago despite years of ESG investments and billions in subsidies for renewable energy. Physics and economics will always have the final say. The result of these actions against U.S. energy producers will be that energy is produced elsewhere, in countries that have far lower environmental and labor standards, achieving exactly the opposite of their intended goal and increasing prices. American consumers, a third of whom still already struggle to pay their energy bills, will suffer, and American jobs will be lost.

The most destructive aspect of the energy discrimination movement is the way it uses the tools of capitalism against itself, from shareholder rights to the rights of banks and individual investors to invest their money for reasons other than simple dollar returns. If Texas were to require Texas banks to invest in fossil fuels or ban Texas companies from imposing diversity requirements for their boards, it would be playing right into the hands of the ESG activists by denying these rights. This battle

Fossil fuel companies are being denied financing and insurance simply for doing their job of responsibly producing 80% of the energy used every day.

must be won first by ensuring Texas governmental entities are not assisting the energy discrimination effort aiding the ESG cause and second by showing how destructive the ESG movement is and will be to the Texas economy and turning public opinion against it.

To work toward these goals, Texas can employ legislation and regulation to strengthen the fiduciary requirements for its pensions and trusts, ensuring that those entities invest solely to improve the risk-adjusted returns for their beneficiaries and not for social causes. Texas can also refuse to do business with banks and investment firms that commit to divest from fossil fuels. Entities that refuse to do business with Texas companies should not be supported by state entities.

Texas needs to send a message that it will not support efforts to end the Texas energy industry and must raise public awareness of the problem. And, it must do so in a way that does not infringe on individual or corporate liberties and that does not disadvantage Texas taxpayers.

What can Texas legislators do?

- ★ Prohibit companies that boycott fossil fuels from doing business with the state of Texas.
- ★ Prohibit insurance companies from discriminating against energy producers.
- ★ Require state-operated pension funds to prioritize fiduciary duty, not politics, and make return on investment for retirees the sole criterion for investment decisions.

Texas Grid Reliability

After a slowdown in 2020 due to COVID-19, Texas electricity demand during the peak summer months is expected to continue its previous growth rate of 2-3% per year. Despite this growth in demand, Texas has seen virtually no increase in fossil fuel electricity generation over the past several years, and there are no significant capacity additions being forecasted for the next several years. The result is that our demand growth is becoming increasingly reliant upon a dramatic increase in electricity generation from wind and solar.

The problem is that wind and solar generation, especially wind, are not very well matched to demand. Therefore, they tend to generate too much electricity (and suppress prices) during times of low demand while not generating enough electricity during peak demand. Texas is increasingly running short of electricity during peak summer hours because of low and unpredictable wind generation in the summer. In 2019, the state had two emergency alerts—on August 13 and 15—and it would have had more in 2020 if not for reduced demand due to COVID-19 and the stay-at-home orders.

The Texas Public Utility Commission has attempted to respond to the problem by increasing payments to generators who produce during peak demand hours, at a cost of a few billion dollars a year for Texas ratepayers. But as long as wind and solar continue to erode the economics of the Texas market and fail to produce when needed the most, these payments will not incentivize new reliable generation to protect Texas from the brownouts now being experienced in California.

Texas should require renewable electricity generators to guarantee a certain amount of production during peak demand hours. This would be accomplished through a wholesale market mechanism wherein renewable energy developers would purchase contracts, either directly or through an auction market, with fossil fuel generators or battery storage facilities. This requirement will reduce some of the disparity in prices between peak and off-peak hours and ensure more capacity is online during peak hours at a fraction of the cost of the PUC's current efforts.

What can Texas legislators do?

- ★ Require energy companies to demonstrate they can deliver reliable electricity in order to participate in the ERCOT grid as well as to be eligible for tax abatements.

Maintain a Predictable Regulatory Climate for Energy Businesses

In 2015, the Texas Legislature recognized the negative impact of a wide array of local ordinances on the energy industry—which employs hundreds of thousands of Texans, supports a strong economy, and funds critical programs like roads and education—by passing the “frack-ban ban” bill, prohibiting municipalities from banning fracking. While this was a critical step in the right direction, more can be done to ensure Texas energy producers compete on a level playing field.

For example, the cities of Austin and Dallas are attempting to ban natural gas in home appliances and heating systems, following in the footsteps of Berkeley, San Francisco, and San Jose, California. Cities across Texas and the nation are proposing their own mini Green New Deal, often referred to as “climate action plans,” that dramatically grow the power of city government over building codes, transportation, and energy consumption—forcing more burdensome regulations and higher costs on their constituents.

Texans should be allowed the freedom to make their own choices, particularly since studies show that even banning all fossil fuels nationwide would bring no meaningful environmental benefits.

What can Texas legislators do?

- ★ Enact legislation to prohibit municipalities from banning natural gas hookups. This would preserve consumer choice and prevent a patchwork quilt of regulations. The framework of the legislation would be similar to that of the frack-ban ban bill from 2015, HB 40.
- ★ Grant the Texas Commission on Environmental Quality sole regulatory authority over emissions of greenhouse gases. This will provide regulatory certainty across the state and enable more efficient compliance with federal regulations.
- ★ Ensure solar developers are required to pay for decommissioning and disposing of solar panels and equipment, as oil, natural gas, coal, and wind companies are already required to do.

Property Rights and Wind Turbines

Good fences make good neighbors, as Robert Frost noted. But what if your neighbor is a giant wind farm? Due to federal, state, and local subsidies and tax abatements, energy companies are constructing large wind turbines in ever-increasing numbers with little input from the neighbors on the surrounding properties.

Property owners have the right to utilize resources that their property naturally affords them (including wind) as long as they do not use this liberty to infringe on the rights of others.

The lives of many of those neighbors are disrupted. Charla Bean of Comanche, Texas, had this to say on her experience with wind turbines: “We’ve enjoyed living in the country—it’s peaceful, it’s quiet, it’s serene. It’s no longer like that here ... I’m exhausted... and that’s strictly because of the turbines.”

Wind turbines affect nearby residents in numerous ways, including negative visual appeal, adverse health effects, potentially hazardous operations, and detriments to bird and bat populations that serve ecological functions benefi-

cial to farmers. Additionally, proximity to wind farms can also have a significantly negative impact on the surrounding property prices.

These problems can lead to strained relations arising between neighboring property owners due to the negative effects wind turbines can have on nearby properties. Yet this tension involves more than just property owners. Because of the subsidies, the tensions spill over to include energy companies and local governments.

But property owners who choose to contract with wind energy companies to allow wind turbines to be erected on their land have rights, too. How can we balance these competing interests?

Heavy-handed government rule making isn't the way to go. Instead, Texas can simply recognize a property owner's right to what's above the surface—the wind. It's working in Minnesota.

The Minnesota Legislature enacted a law that recognizes a right to the wind that flows on and over any given property. In other words, Minnesota has chosen the route of proper recognition of property rights to help solve these problems. The relevant part of the statute reads:

“Wind easement” means a right, whether or not stated in the form of a restriction, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of any owner of land or air space for the purpose of ensuring adequate exposure of a wind power system to the winds. . . . Any property owner may grant a solar or wind easement in the same manner and with the same effect as a conveyance of an interest in real property.

Put simply, wind is now a commodity. Property owners have the right to utilize resources that their property naturally affords them (including wind) as long as they do not use this liberty to infringe on the rights of others.

The principle works in Texas for subsurface mineral rights; it can work for wind, too.

The new recognition of the right of landowners to wind over their land is a positive development in favor of landowners wary of encroachment by wind turbines. But it's by no means a death knell for the wind industry. Even if the entire country recognized a right to wind access as Minnesota does, wind companies would still have options to pursue their objectives. One would be simply to purchase enough land to have a large enough buffer zone so as to not reduce the wind access of nearby residents. A second option would be purchasing the rights, via easements, to wind access from any property where this right would potentially be disturbed.

What can Texas legislators do?

- ★ Strengthen the rights of property owners to the wind and solar resources on their properties, as well as protection from damages caused by neighboring energy.

Tax Breaks for Energy Projects

Tax breaks for energy projects in Texas are big business. And those breaks cost Texas more than just lost revenues; because they subsidize inefficient energy sources, they drive up the price of power for Texans.

A little background: In 2001, the Texas Legislature passed the Texas Economic Development Act—known as Chapter 313—in response to a large and growing number of economic development incentives offered by other states. The Legislature reasoned that Texas’s relatively high property tax burden was putting the Lone Star State at a disadvantage in terms of attracting jobs and business activity. As such, lawmakers sought to artificially induce economic growth through Chapter 313, which allows school districts to offer property owners or lessees a temporary tax reprieve on the value of new investment, assuming that certain qualifications are met.

Chapter 313 works by way of an appraised value limitation. The new business agrees to make a minimum level of investment in the community and create a certain number of jobs. In exchange, the school district offers a multi-year limitation on the taxable value of the new investment (in real and tangible property).

School property taxes consist of two elements: the maintenance and operations (M&O) portion that funds day-to-day operations, and the interest and sinking (I&S)

portion that pays debt service on bonds.

A limitation agreement may only apply to the former and not the latter.

Companies seeking a limitation agreement send an application to the school district where the project will be located. Limitation amounts are set in state law and vary from \$10 million to \$100 million, depending on the school district’s taxable property values and whether the district is considered rural or non-rural. Furthermore,

Chapter 313 has earned many detractors who argue that the program is too costly, too uncertain, and perhaps even unnecessary altogether.

companies must make a minimum investment in the relevant school district in order to qualify for the limitation amount. This minimum investment varies from \$1 million to \$100 million. Finally, companies must create a minimum of 25 qualifying jobs in non-rural school districts and 10 qualifying jobs in rural districts in order to be eligible for the limitation. However, this job requirement can be waived, and more than half of all applicants have received waivers.

Since 2013, the Texas comptroller must determine whether a proposed project is likely to generate enough state and local tax revenue to offset the tax losses due to the limitation agreement within 25 years. The comptroller’s office must also find that the limitation is “a determining factor” in the company’s decision to invest and build in Texas. Without the comptroller’s certification, school districts cannot enter into limitation agreements.

Over the years, Chapter 313 has earned many bipartisan detractors who argue that the program is too costly, too uncertain, and perhaps even unnecessary altogether.

First, these limitation agreements come at a high cost no matter the economic benefits they may create. In 2013, the Texas comptroller issued a report suggesting that taxpayers spent a whopping \$341,363 for every new job created by Chapter 313—inarguably a poor return on investment.

Additionally, while the comptroller must determine whether a proposed project is likely to generate enough tax revenue within 25 years to offset the loss in revenue, such determinations are often fraught with uncertainty. For example, an assessment from the comptroller's office demonstrates that among the 13 limitation agreements that expired from 2013 through 2015, actual market values in the last year of the limitation period ranged from 28% to 125% of the initial market value.

Many of the tax revenues forgone by the school districts under Chapter 313 will be replaced by state funding, putting the burden of the local agreements on all Texas taxpayers. This is despite the fact that school districts are allowed to and do negotiate “supplemental payments” with businesses applying for an agreement.

Finally, the evidence suggests that tax incentives are wholly unnecessary to attract business investment. The *Texas Observer* found in its review of more than 360 limitation agreements that many agreements were created even after companies had already announced plans to build in Texas. Consider the cost of such unnecessary deals: From 2002 to 2014, Texas schools committed to limitation agreements that cost the state budget \$5.5 billion.

Furthermore, while the comptroller must check whether getting the tax break is “a determining factor” in a company's decision to build in Texas, companies have learned how to game the approval process. For instance, in December 2014 Solar Prime applied for a limitation agreement to build a solar array in West Texas and stated that the break would “improve the economic viability of the project.” The comptroller denied approval. Six months later, Solar Prime reapplied and claimed it required the tax incentive in order to build. This time, the comptroller approved.

There are other ways the system is being gamed.

In Texas, the total taxable value of property in a school district determine whether a district counts as a property-wealthy district (under Chapter 49 of the Texas Education Code) or a property-poor district (under Chapter 48). Chapter 49 districts are subject to the “Robin Hood” provision, under which funds are recaptured and distributed to poorer districts to equalize student funding across the state.

The Chapter 313 program allows school districts to artificially limit the value of a business's property, which reduces its taxable burden, and—in theory—encourages local development. Businesses might offer payments in lieu of taxes (PILOTs) to

local PTAs or education foundations and pay expensive application fees in return. These PILOTs and fees don't show up in the state school finance formulas.

Taking these concerns into consideration, state and local leaders should consider more fiscally sustainable and time-tested alternatives, like creating and maintaining an environment of low taxes and limited government. In this way, out-of-state businesses looking to relocate to Texas can be confident that the low tax environment they seek will be one that lasts.

As of August 31, 2018, there were 389 current and executed agreements, with 57% of them being for renewable energy projects and 42% for manufacturing. Renewable energy projects represented only 9.7% of the jobs committed, compared to 88% for manufacturing.

More than half of applicants receive job waivers.

A recent study by Nathan Jensen, professor at The University of Texas, estimated that between 85% and 90% of Chapter 313 projects would still have happened without the incentive.

What can Texas legislators do?

- ★ Strengthen the cap on “payments in lieu of taxes” by eliminating loopholes.
- ★ Lengthen the public notice requirement for potential action on Chapter 313 tax abatements to 30 days, equivalent to the Chapter 312 requirements.
- ★ Enforce minimum job creation requirements on companies that receive tax abatements and eliminate all waivers for those requirements.



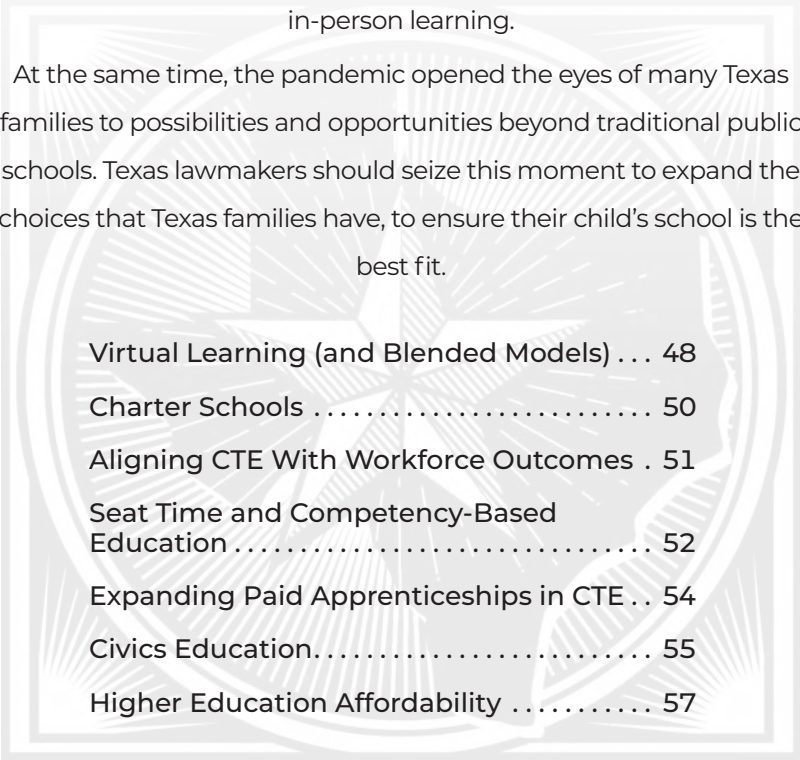
NEXT GENERATION TEXAS

Results-Based K-12, Higher Education, and Workforce Development Solutions

The Texas we are forging together must be a Texas that looks to the future—and that means providing the best foundation possible for our children. As the Texas Constitution notes, “it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools.”

But too often, we’re not achieving this goal. Achievement gaps, already a concern, will surely be widened by the COVID-19 pandemic and our response of closing schools—and keeping them closed—to in-person learning.

At the same time, the pandemic opened the eyes of many Texas families to possibilities and opportunities beyond traditional public schools. Texas lawmakers should seize this moment to expand the choices that Texas families have, to ensure their child’s school is the best fit.



Virtual Learning (and Blended Models) . . .	48
Charter Schools	50
Aligning CTE With Workforce Outcomes .	51
Seat Time and Competency-Based Education	52
Expanding Paid Apprenticeships in CTE . .	54
Civics Education.	55
Higher Education Affordability	57

Virtual Learning (and Blended Models)

In March 2020, all of our students became “virtual learners”—by necessity. But the laws in Texas have failed to keep up with what was a trend even before the pandemic forced school districts to go online.

“Virtual education” usually refers to education services that are primarily or completely delivered online. Virtual education can be provided as single courses or an all-inclusive curriculum. “Blended learning” blends in-person education at a physical school and the use of virtual tools and digital data to customize a student’s education.

“Hybrid schools” are a relatively new type of blended learning model that more fully incorporates both virtual education as defined above and traditional classroom instruction. Students in hybrid schools spend time taking classes in both virtual and in-person environments.

As Texas parents know, every student has their own unique set of circumstances and strengths. Having the option to receive their education entirely online is the preferred scenario for many students in Texas and may become the preferred scenario for many more (especially after they’ve learned to adapt to it, in the wake of the pandemic).

Regardless of the reason for why a student may benefit from full-time or part-time online education, virtual education gives public school students another option for learning.

Yet while other states (such as Florida and Utah) have encouraged the development of virtual education services, Texas has chosen to severely limit these offerings to its students.

In 2007, the Texas Legislature created a framework for virtual education in the form of the Texas Virtual Schools Network (TXVSN). Today, the TXVSN consists of two separate programs that offer limited opportunities for Texas students to engage in online education.

One of those programs, the TXVSN Course Catalog, allows approved providers to offer supplemental courses to high school students. Students currently attending district and charter public schools may take up to three yearlong courses per year funded by the state. In 2018-19, more than 8,000 students enrolled in at least one supplemental course through the statewide catalog.

The TXVSN Online Schools program (OLS) offers the opportunity for students in grades 3-12 to enroll in full-time online education through a school district or charter school operating an online school. During the 2018-19 school year, 15,952 students were enrolled full time in nine approved online campuses.

However, continued development of the TXVSN has been hindered by the Legislature. In 2013, a moratorium on the approval of new full-time programs was passed. Only the eight programs in operation before January 1, 2013, are now allowed to operate, and only six of those are still running their programs.

Since then, multiple attempts to lift the moratorium have been rejected, despite support from some school districts that would like to operate an OLS program for the benefit of their students.

As Texas parents know, every student has their own unique set of circumstances and strengths.

Additionally, we have some laws that seem outdated in the age of COVID-19. For instance, current statute allows districts to deny students the ability to enroll in an online course if the student's home district offers a "substantially similar" course. Online courses are only available for high school students, and virtual schools are not permitted to serve K-2 students.

Obtaining approval to offer courses is burdensome for districts; so is navigating the current TXVSN platform and reporting structure. And a requirement that students must be enrolled in a brick-and-mortar Texas public school the year before enrolling in a public virtual program prevents students who move to Texas from enrolling in a similar program here. Lifting this restriction could allow school districts to bring back students who have chosen to attend another alternative such as a private school (virtual or otherwise) or homeschool.

Hybrid schools, because of their virtual component, are also impacted by these statutes. According to current law, state funding can only apply to up to three virtual courses per high school student per year, or to virtual campuses run by the eight districts mentioned above. This significantly limits the ability of districts to design programs that meet the needs of all their students.

Blended learning has offered an opportunity to encourage innovative teaching practices in Texas education. Participating districts can create programs that use online services to augment in-person education and provide teachers with helpful tools to increase their students' outcomes. Blended learning, though some of its practices can be applied to online education, is still usually based in a physical classroom.

Waivers issued by the Texas Education Agency for the 2020-21 school year will temporarily mitigate some of these barriers. But permanent reforms will be the responsibility of the Legislature.

Education should be the most innovative profession in our state. Allowing Texas to lag behind other states and the nation in online education tools for our students

is a missed opportunity. Texas should embrace ways to develop virtual classrooms alongside (and in combination with) brick-and-mortar classrooms in order to provide a variety of options to students with a variety of needs.

What can lawmakers do?

- ★ Lift the moratorium on new virtual education providers, allowing interested school districts to offer virtual options.
- ★ Remove the “brick-and-mortar” provision, giving more discretion to students on how they receive education services.
- ★ Allow virtual services to be offered in all grades.
- ★ Allow funding to go to more than three virtual courses per year.
- ★ Remove the prior-year enrollment requirement for students who want to enroll in or return to Texas public schools in a virtual setting.
- ★ Revise the course approval process and modernize the TXVSN online platform.

Charter Schools

School choice has been described as the “Civil Rights movement of our time.”

Few things matter more to parents than ensuring their children have a high-quality education that equips them with the tools and experiences necessary to succeed. Lower-income parents are keenly aware that an education may be the only way for their children to overcome a lifetime of low-wage, dead-end jobs. And, given that functional illiteracy plagues more than 85% of all juveniles in the criminal justice system, school systems that fail to equip children with basic reading skills rob them of a lifetime of opportunity.

Yet public charter schools are limited in Texas. What’s more, they’re up against some crucial opposition—the districts themselves, which try to go around state law to block their creation. In 2018, Dallas ISD asked the city of Dallas to enact a moratorium on new charter schools by denying them the zoning changes they would need.

Charter schools—which studies show make even the existing non-charter schools better—deserve protection.

What can lawmakers do? Texas can give parents greater control of their child’s education by increasing access to virtual and hybrid options, and protecting charter schools from discrimination by municipalities and counties:

- ★ Remove the statutory cap on charter schools contained in Texas Education Code 12.101.
- ★ Ensure parity in local government treatment of charter schools.

Aligning CTE With Workforce Outcomes

Career and technical education (CTE) is a proven pathway to economic mobility and self-sufficiency for students, and a potentially important partner to industries for regional workforce pipelines.

According to the Department of Education, students who concentrated in a CTE pathway were more likely than other students to graduate from high school by expected graduation year, to enroll in postsecondary education by 8 years after expected graduation, to be employed full time 8 years after graduation, and to earn more over time.

Within the Texas Education Agency, CTE programs of study are developed to ensure students are prepared for in-demand, high-skill, and high-wage careers. During

Students prepared for careers both in demand and high-wage have the greatest opportunity for success.

the evaluation process of Texas public schools, TEA accounts for the administration of these CTE programs using college, career, and military readiness (CCMR) standards.

TEA uses an accountability system to evaluate the academic performance of Texas public schools according to three domains: student achievement, school progress, and

closing the gaps. Under the student achievement domain is the CCMR component which measures graduates' preparedness for college, the workforce, or the military.

Recognizing the value of CCMR standards, the 86th Legislature introduced in the school finance bill (HB 3) a corresponding CCMR outcomes bonus. This provides incentive for school districts to best prepare students for life after secondary schooling. A school district is entitled to this outcomes bonus if graduates demonstrate readiness for college, a career, or joining the armed forces.

Under the outcomes bonus structure, career readiness is indicated by graduates meeting college readiness standards in addition to earning an industry-recognized credential. It is understandable that earning an industry-recognized credential would qualify as an indicator of career readiness; however, a credential is not the definitive outcome of being career ready. A more robust indicator of career readiness is whether the graduate *gains employment* once attaining a credential.

In other words, finding and succeeding in a job is a great indicator of job readiness.

What's more, college readiness can be a misleading indicator. The skills required to be career ready may or may not be the same skills required to be college ready.

College readiness presupposes an aptitude for test taking and studying skills, while career readiness entails possessing a specific skill set relevant to an industry. Skill sets vary by industry and are not necessarily testable in the same way that standardized tests used to demonstrate college readiness.

A greater focus on outcomes related to CTE would do much to improve the professional success of students across the state. Ensuring that students are prepared for careers that are both in-demand and high-wage will provide them with the greatest opportunity for success.

In a recent Texas Public Policy Foundation study of regional labor market trends and CTE offerings, we found that in most areas across Texas, educators and business leaders were out of touch. We found that, generally, most CTE concentrators were focused on industries that showed little to no projected regional job growth and paid below median wage. Conversely, industries with high projected job growth and an average salary above the state median had an extremely small number of students pursuing those pathways.

We can fix this—with better-aligned incentives. Although introducing the career readiness outcomes bonus was a step in the right direction, the way it is currently set up provides no incentive to align CTE with regional labor demand. School districts receive the same bonus whether the graduate begins a career or not. Districts could graduate 50 students who meet the career readiness bonus indicators and still get rewarded—even if none of those students go on to be gainfully employed. Were the indicator for career readiness to be based on post-graduation employment and wages, school districts may be more inclined to focus their CTE efforts on industries with greater needs for workers.

To help make this happen, Texas lawmakers can:

- ★ Ensure that career and technical education (CTE) funding is aligned with occupations that are high wage and high demand and increase transparency and accountability in career training programs.

Seat Time and Competency-Based Education

How do we measure success in Texas schools? Mostly, it's through attendance—not attainment.

Texas's recent school finance reforms placed a strong and appropriate emphasis on student outcomes. However, Texas school districts are funded based on the number of students who attend their campuses. "Attendance" itself is measured by whether a student is physically present on the premises of a school campus. Therefore, Texas schools are funded based on the number of seats they can regularly fill with students.

Seat time, or the amount of time in a classroom that a student spends studying a particular subject, was an invention of the turn of the last century that took the place of mastery-based admissions standards for higher education institutions.

The time-and-place-based system for measuring education has persisted not because it provided a means to measure student learning outcomes, but because it provided a convenient way to measure inputs into the educational system, as well as custodial childcare.

Ultimately, this means that schools are funded on an inputs-based model, not an outcomes-based model. Regardless of whether students are passing courses or

standardized tests, whether or not families are pleased with the education being offered, whether or not students graduate able to read or compute, whether or not those graduates are prepared for life or careers outside those classroom seats, as long as students show up, schools get paid.

But in the wake of the COVID-19 shutdowns—when seat time could no longer be a metric—competency-based education is garnering more attention. Competency-based education focuses on concept mastery and allows students more flexibility to advance or linger based on their needs.

In the wake of the COVID-19 shutdowns, when seat time could no longer be a metric, competency-based education is garnering more attention.

Creating flexibility in seat time is particularly salient for CTE. CTE, by its nature, is based on the concept of mastery. Because of this, moving away from mandatory requirements for contact hours or seat time has the potential to create even more robust apprenticeship, work-based learning, and technical pathways for high school students.

An example of this model is Idaho’s Advanced Opportunities Initiative, under which schools provide students with a fund beginning in seventh grade to use toward dual enrollment, online courses beyond a full course load, work-based learning, industry certifications, and other career readiness preparation. In Texas, the CTE allocation of 35% above the basic full-time student equivalent funding could be made more flexible in order to allow students enrolled in programs of study to pursue options that can accelerate their readiness for college and career.

Allowing learning to take place outside the classroom, including in work-based learning settings, such as approved apprenticeship programs, may require adjustments in our system of assessment.

The Every Student Succeeds Act, the latest authorization of federal funding for education (excluding one-time stimulus funds), included a pilot program to allow states more flexibility in the design of their student assessments. To date, Louisiana, New Hampshire, Georgia, and North Carolina are participating, and New Hampshire's pilot is explicitly competency-based. Other states (such as Idaho) have also pursued ways to measure competency.

Last session, the Texas Legislature passed HB 3906, which creates optional interim assessments that can be administered during the year and an opening for portfolio writing assessments. These previous measures may provide a framework and examples for Texas to create a path forward.

Here's what Texas lawmakers can do:

- ★ Reform our antiquated funding model focused on the amount of time a student spends at a desk in a school building and center accountability reforms on student outcomes.

Expanding Paid Apprenticeships in CTE

Work-based learning is an essential element in effective career and technical education. Connecting instruction to real-world contexts provides an opportunity for students to develop soft skills, to build their resume, and to gain confidence born of earned success. Ensuring that students participating in work-based learning are paid as part of their career and technical education is a matter both of equity and of efficacy.

According to the Association of Career and Technical Education, the career clusters that suffered from the largest shortages in CTE instructors were manufacturing, information technology, health sciences, and STEM. In light of the shortage of CTE teachers relative especially to higher-wage occupational clusters, students need to have the opportunity to complete their programs of study through work-based learning outside of schools.

Paid internships and apprenticeships can help fill this gap.

And in particular, paid internships and apprenticeships offer students who are from economically challenged families equal opportunity to participate in these valuable experiences.

Paid work-based learning also has the potential to raise student awareness of and interest in high-wage, high-demand occupations by providing a pathway to paid work during high school. In addition, having an employer “count on” a student to show up on time, work reliably, and engage well with customers and co-workers is a key

element in developing another key “skills” gap—the soft or “employability” skills needed for future economic advancement.

Across the state, community-based, industry-led organizations such as San Antonio Works have emerged to help the business community engage with schools. They

We can expand revenue-neutral opportunities for learning to take place outside of the classroom, such as in internships and apprenticeships.

provide employers with a sense of confidence with respect to compliance issues, they give school districts transparency into student learning and outcomes, and they can give students opportunities to engage in work-based learning opportunities to further their career goals.

The demand for such arrangements from students and families may increase as high schools respond to COVID-19 with scheduling that includes part-time and virtual options. Schools should be

able to leverage local businesses while improving work-based learning to improve their CTE offerings

What can Texas lawmakers do? We can expand revenue-neutral opportunities for learning to take place outside of the classroom, such as in internships and apprenticeships.

- ★ Allow secondary CTE allocations to be used by school districts and open-enrollment charters to partner with nonprofit organizations to create paid internships and apprenticeships that serve as practica within a TEA-approved program of study. Community-based organizations can and should play an important role in facilitating these partnerships, assisting businesses with compliance, and providing students coaching in professional readiness.
- ★ Increase the amount of the allotment that school districts are required to spend on CTE programs, under Texas Education Code 48.106(c).

Civics Education

Civics education in the United States is in a state of crisis, which, if not addressed, will spell trouble for the future of our constitutional republic.

Recent polling of Americans’ civic literacy, conducted by the Woodrow Wilson National Fellowship Foundation, shows that while 90% of immigrants to this country pass the USCIS citizenship test (passage of which requires answering correctly 6 out of 10 questions), only a third of native-born Americans can pass the test. Digging deeper into the numbers reveals even more alarming news. Seventy-four percent of

senior citizens can pass the test, but only 19% of Americans under the age of 45 can answer even 6 of the 10 questions correctly.

Similarly, only 37% of all Texans, and only 23% of those under the age of 45, can answer even six questions correctly, with Texas rated as the 12th lowest performing state in the country. Even worse, unlike the real test, Woodrow Wilson National Fellowship Foundation’s survey consisted of multiple-choice questions, giving participants at least a 25% better chance of passing simply based on odds. This means that far less than 37% of all Texans would have even passed if given the actual USCIS citizenship test.

Informed and involved citizens are critical to the survival of any democratic society. Texas’s own Constitution gives “the preservation of the liberties and rights of the people” as the very reason for providing for public education in the state.

Informed and involved citizens are critical to the survival of any democratic society.

One of the objectives stated in the Texas Education Code is that “Educators will prepare students to be thoughtful, active citizens who have an appreciation for the basic values of our state and national heritage and who can understand and productively function in a free enterprise society.” To these ends, the state of Texas has written civic education into its curriculum standards, the Texas Essential Knowledge and Skills (TEKS).

Sadly, these good intentions appear to be failing in execution. If the Texas education system is indeed to produce informed citizens, Texas should ensure that its K-12 students are instructed in the basic facts of American history and government.

Civic education should not end in high school. Texas should also reinforce knowledge of our history and civics structure in college. The Legislature has already stated that every student in a state university must take at least two American history courses to fulfill general education requirements.

However, there is no distinction regarding the types of courses that meet this requirement. The statute should clarify that these history courses must be survey courses, and both must be American history courses.

Additionally, the Legislature should pass the 2019 Senate bill, SB 1776, which would allow students to request an elective course in the Founding in high school (if no less than five students request it).

In short, Texas lawmakers should:

- ★ Create an elective course on the founding principles of the United States for use in all Texas high schools.

Higher Education Affordability

Between 1985 and 2009, average college tuition nationwide has jumped 440%—four times the increase in general inflation and twice that of healthcare costs. To pay for these historic price increases, students and their parents have amassed historic debt. Student loan debt will reach \$1.75 trillion by the end of 2020 and now stands at \$1.6 trillion, surpassing total national credit card debt, which stands at \$1 trillion.

Increases in federal student aid have led to corresponding increases in tuition sticker prices, in what is known as the Bennett hypothesis. For example, for every extra dollar students are eligible for in loans, colleges increase tuition by 40 to 60 cents.

Federal regulations also raise the cost of higher education. Regulatory compliance accounts for 2% to 8% of a typical institution’s non-research expenditures, costing the higher education sector an estimated \$27 billion annually.

It is no accident that the hyperinflation of tuition and student debt has coincided with a period of sustained administrative bloat. Between 1991 and 2011, the number of executive/administrative/managerial staff increased by 65%. A poll of Texas voters found that reducing administrative overhead was one of the three most popular strategies for addressing budget shortfalls at the state’s postsecondary institutions.

Given the current COVID-19 situation, affordable higher education options are especially pertinent.

Texas voters’ support for reducing administrative costs reflects a broader perspective on the cost of college among Texans. Of the state’s voters, 71% believe universities can improve teaching while reducing costs. As a result, Texas’s higher education sector has spent the past several years developing new programs seeking to make higher education more affordable for both students and taxpayers.

Now in its 7th year, the Texas Affordable Baccalaureate Program (TABP) continues to refine its new approach. Combining competency-based and traditional courses, online and in-person instruction, academic credit for work experience, and alternative low-cost tuition structures, the Texas Affordable Baccalaureate Program offers an accessible bachelor’s degree that can save Texans time and money. The TABP will prove especially helpful to first-generation, low-income, and working-adult students—who urgently need nontraditional and affordable postsecondary options.

The TABP (originally called the “\$10,000 degree”) offers qualified returning students baccalaureate degrees for a cost between \$4,500 and \$6,000. In 2016, it

received a \$400,000 grant from the AT&T Foundation to help scale the program from two schools to 10. The College Credit for Heroes Program (CCH), which uses competency-based education to award credit to veterans for skills they acquired during service, has expanded from four schools in 2011 to 48 in 2018. In 2020, there are 13 TABP degrees offered among eight Texas public universities.

But we can do more.

To address affordability, Purdue University recently began a program titled “Degree in 3,” which provides students the option to complete a bachelor’s degree in 3 years. The 3-year option can save in-state students as much as \$9,021 compared to a 4-year degree. For out-of-state students, the savings can be as much as \$18,422.

Purdue University has also had a tuition freeze in place since 2013, which is set to last through at least the 2021-2022 school year. Without this freeze, Purdue University families would have spent a combined \$600 million more over the past 7 years. University President Mitch Daniels has been able to save students money by cutting waste through better procurement systems, more financial transparency, and increased competition for funds among academic departments.

Texas can build on the successes of programs like the TABP and CCH by emulating these programs’ strengths and by experimenting with other creative approaches to making higher education more affordable. Schools across the country have reduced costs while maintaining institutional quality with innovations such as discounted Friday and weekend classes, three-semester calendars, debt counselors, and online campuses serving rural regions.

Given the current COVID-19 situation, affordable higher education options are especially pertinent. Students who are economically impacted by COVID-19 will be in financial turmoil for much more than a year, and a longer-term solution is necessary.

What can legislators do on the most pressing of these issues?

- ★ In light of COVID-19’s economic impact, freeze tuition for Texas public universities.

REMEMBER THE TAXPAYER

Fiscally Responsible Spending, Budget, and Tax Policy

The Texas we are forging together must be a place where families can prosper—where burdensome property taxes don't make a mockery of home ownership. Texas households have budgets they must stick to; so should Texas governments.

We're entering the 2021 legislative session still suffering the effects of a pandemic-induced recession. There's no capacity in taxpayer wallets to grow government—nor any philosophical excuse for trying to do so.



Conservative Texas Budget	60
Protecting Property Tax Reform	61
Reducing State Spending	62
Reducing Regulations.....	63
Economic Stabilization Fund	65
Eliminating School Maintenance and Operations (M&O) Property Taxes.....	66
Local Spending Limits.....	68

Conservative Texas Budget

Let's begin with the state budget. Texas's budget has grown considerably faster than Texans' ability to pay for it since the 2004-05 budget period (the biennium). As a result, the Texas Public Policy Foundation created the Conservative Texas Budget (CTB) in 2015 to set a maximum threshold for growth in the budget.

It's simple: the budget shouldn't grow faster than population growth plus inflation. Any budget increase above this calculation represents more government—and consequently, a more oppressive tax burden.

It doesn't stop there, of course. The more government we fund, the more government activity, such as rules and regulations, we're likely to get. And what's more, growing state government above the rate of population plus inflation means that government will make up a greater percentage of our economy—making us all poorer, as government consumes, instead of produces.

The more government we fund, the more government activity—such as rules and regulations—we're likely to get.

This population-plus-inflation threshold essentially freezes per capita initial appropriations of all funds. This gets the budget back on track and away from its trend of spending more and more over time, giving Texans more money in their pocket and more opportunities to prosper.

Since its inception, the CTB has helped limit the growth of appropriations over time. Before the CTB, the average growth rate of the biennial budget from 2004 to 2015 was 12%. With the CTB in place, the average growth rate was just 5.5%. More importantly, prior to the CTB, the average growth rate of appropriations exceeded that of population plus inflation by almost 5 percentage points, whereas, since the CTB, appropriations grew by an average of almost a full percentage point below population and inflation.

But even a Conservative Texas Budget might be burdensome at this time. Given the excessive growth in the state budget over time and the potential tax receipts shortfall resulting from the COVID-19 situation, the 2021 legislative session should cut the budget by eliminating wasteful spending.

What does this mean for Texas lawmakers—in hard numbers? ***We recommend that they:***

- ★ Pass a 2022-23 Texas budget that remains within the Conservative Texas Budget threshold of:

- ▶ A 5.0% maximum increase in initial appropriations for the 2022-23 all funds budget. This is based on Texas’s population growth plus the U.S. consumer price index inflation over fiscal years 2019 and 2020.
- ▶ A \$246.8 billion maximum amount of initial appropriations for the 2022-23 all funds budget. This excludes extraordinary one-time appropriations and is 5% above the 2020-21 initial appropriations of \$235.0 billion, which excludes property tax relief and funds for Hurricane Harvey recovery efforts.
- ★ Eliminate wasteful expenditures to reduce the state’s budget like Texas families do during lean times.

Protecting Property Tax Reform

In 2019, the Texas Legislature passed the most significant tax reform seen in modern times. The new law—Senate Bill 2, otherwise known as the Texas Property Tax Reform and Transparency Act—makes many revisions to the Tax Code. Its signature change empowers voters with the right to decide on big tax increases. Under SB 2, property tax revenue growth for cities, counties, and certain special districts is limited to 3.5% annually, unless voters approve a larger increase.

While most Texans welcomed having a greater say in the tax rate setting process, some cities and counties have sought to get around asking for voters’ permission. At the urging of certain taxpayer-funded lobbying associations, a concerning number of city councils and county commissioners courts have cited a misinterpreted provision in SB 2 to continue raising taxes to excess.

The recession-like economic environment and sky-high tax bills have taken their toll on a weary public.

The provision in question provides an exemption from the new law for localities experiencing a disaster. More specifically, if a locality has a disaster declared in its area, then the old tax system is effectively returned, that is, the one permitting as much as an 8% increase without voter approval. However, state lawmakers have repeatedly made clear that the provision was not intended to apply to today’s circumstances. According to top state officials, “this exemption

only applies to physical damage (such as from a natural disaster) and not economic damage that has accompanied the COVID-19 fallout.”

Nevertheless, a handful of local officials have chosen to ignore these warnings and act anyway.

Imposing a massive tax increase without voter approval is wrong on many levels. First, it is appalling to cut voters out of the process. SB 2 gives Texans the right to approve property tax revenue increases above 3.5%, and that must be respected.

Second, it is a terrible time for huge tax hikes. The Texas economy is performing at a subpar level, and countless workers are unemployed or underemployed. Instead of raising taxes, every city and county official ought to be figuring out how to cut taxes and let families keep more of what they earn.

Third, it sends a bad message. Inventing legal loopholes in order to exploit taxpayers breeds mistrust and anger.

Because city and county governments have acted contrary to SB 2, it is vital that the next Texas Legislature take appropriate action. Legislators should add unmistakable clarity to the law. There should be absolutely no ambiguity in the Tax Code as to which situations qualify for a disaster exemption.

Next, state lawmakers should consider penalizing cities and counties that exceed the 3.5% threshold without voter approval. Those local governments should have their property taxes reduced by a like-kind amount in fiscal years 2022 and 2023. In addition, lawmakers might consider further reductions to the 3.5% voter approval tax rate—especially in light of the massive tax increases passed by many cities and counties for both fiscal years 2020 and 2021.

Lawmakers should explore ways to empower voters with the ability to lower taxes. Putting this power directly in the hands of voters could provide tax relief without necessarily having to spend state money next session.

The time for big, bold ideas is now. The recession-like economic environment and sky-high tax bills have taken their toll on a weary public. Texans need help. Lawmakers must protect the gains made last session and make new inroads in 2021.

What can lawmakers do? Reinforce the property taxpayer protections put in place during the 86th legislative session:

- ★ Add unmistakable clarity to the Tax Code.
- ★ Penalize taxing entities that exceed the 3.5% limitation without voter approval.
- ★ Consider further reductions to the voter approval tax rate.
- ★ Study ways to empower voters with the ability to directly lower tax rates in their area.

Reducing State Spending

While we do not know how deep the economic downturn related to COVID-19 and the associated shutdown will be, we must focus on ways to limit state spending consistent with what the belt-tightening Texas families are doing to make ends meet.

Given what we know now, it is reasonable to ask agencies (with some exceptions, such as Medicaid), to find 10%, 15%, and 20% of their current budgets to cut to deal with an uncertain budget situation.

In addition to limiting the spending of state funds, Texas should also be wary of spending too much in federal dollars, as those funds are not “free” money and ultimately cost Texans in the form of federal taxes and debt costs.

It is reasonable to ask agencies to find 15% of their current budgets to cut.

While many states are demanding more money from the federal government to deal with the COVID-19 situation, providing even more bailout money to states would mean inappropriately supporting years of poor fiscal management and incentivizing unnecessary government lockdowns.

Ultimately, bailing out states means less money in our pockets at a time when many of us are struggling financially—and fewer opportunities for entrepreneurs to help conquer the effects of the novel coronavirus.

Spending is always and everywhere the primary source of budget shortfalls.

That’s why Texas legislators can make a real difference for Texas families, by:

- ★ Finding cuts to state agency spending of 10%, 15%, and 20% to deal with a potential budget shortfall.
- ★ Avoiding the use of federal funds as a means to maintain or increase spending level.

Reducing Regulations

Regulations are often a necessary function of civilized society. Laws and regulations dealing with public health and safety, and fraudulent practices are often accepted as necessary infringements of freedom and liberty.

The question is how much regulation is necessary to effectively achieve the desired protections.

Regulations can stifle innovation and economic growth and prevent or hinder individuals and businesses from entering or expanding their investment in the marketplace. Regulations can also create monopolies or oligopolies where only a few large market incumbents are able to flourish. This then leads to higher prices and less innovation for consumers.

Texas ranks as the fifth most economically free state in the nation according to a 2019 study by the Fraser Institute. The study analyzes and compares the policies of individual states and other nations in their support for economic freedom and the ability of individuals to act within the economy free of undue restrictions.

And yet, despite Texas's reputation for low taxes and reasonable regulations, the state has among the highest number of regulations in the nation. According to the Mercatus Center at George Mason University, the state of Texas ranks fifth highest among all states in the total number of regulations. Only California, New York, New Jersey, and Ohio rank higher. The number of regulations in this study is measured by the number of words in the total compiled number of regulations. By that count, Texas has 14.9 million words in the Texas Administrative Code, the repository of all published and effective rules. Many of these are unnecessary and should be repealed.

The recent COVID-19 pandemic and resulting economic shutdowns have forced many governments to review which regulations are absolutely essential and conversely which can be eliminated, at the very least during the shutdowns and the reopening of the economy. Texas Governor Greg Abbott, using his emergency declaration, waived a number of regulations identified as unnecessary and as hindering state responses to the pandemic.

Yet even before the pandemic, in October 2019, Governor Abbott directed state agencies to overhaul and trim licensing requirements and regulations and to reduce fees, educational requirements, and other licensing barriers for certain professions.

The questions now and going forward are, if the state can survive without certain waived regulations during an emergency, can many of them be eliminated completely, and can others be repealed or trimmed with no adverse impact on public health and safety? And can the repeal of these regulations lead to improvements in economic growth and productivity? The answer is yes on all counts. We can reduce the overall number of regulations and reduce the restrictive impact of others on the economy.

Texas already has a number of tools available to review and reduce regulations and their burden on the economy and the state's citizens. These can be expanded to review all regulations that may be anticompetitive or unnecessary.

The Governor's Office also has a Regulatory Compliance Division which conducts an independent review of certain state licensing agencies' proposed rules that adversely affect market competition by creating a barrier to market participation in the state or resulting in higher prices or reduced competition.

The Regulatory Compliance Division was authorized by the 86th Legislature in response to the United States Supreme Court's decision in *North Carolina State Board of Dental Examiners v. Federal Trade Commission*, which overturned certain

We can reduce the overall number of regulations and reduce their restrictive impact on the economy.

regulations as being anticompetitive. The division is limited in scope to certain licensing agencies, but it could be expanded.

Texas has already done a good job trying to identify and reduce excessive regulations but can do more. By reviewing all regulations and repealing those that are unnecessary or that adversely impact competition or market participation, Texas can become even better for those participating in or entering the marketplace.

Lawmakers should identify and eliminate regulations that are not necessary to protect the health and safety of the public. **Here's how:**

- ★ Expand the Governor's Office's Regulatory Compliance Division beyond certain licensing agencies to review all agencies' rules for adverse effects on competition and barriers to market participation.
- ★ Extend the governor's emergency waivers and suspensions of regulations that are not necessary for the health and safety of the public.
- ★ Expand on the list of rules and regulations waived or suspended by directing agencies to review and repeal unnecessary regulations and those adversely affecting competition and market participation.
- ★ Repeal statutory direction for the adoption and enforcement of regulations not necessary for the health and safety of the public and that may adversely affect competition and market participation.

Economic Stabilization Fund

As 2020 has shown, the production of crude oil and natural gas has historically fluctuated based on a number of market-driven and geopolitical factors. Because the Texas Legislature collects severance taxes from this volatile production to primarily fund the state's Economic Stabilization Fund (ESF), broadly considered the state's "rainy day fund," the purpose for and use of the ESF must be carefully considered and monitored.

Texas voters approved the ESF with the passage of a constitutional amendment in 1988, following an uncertain period for state revenue, when oil and gas comprised a large share of economic output and was highly volatile in the 1970s and 1980s.

Since its inception, deposits to the fund have totaled \$21.8 billion. It's a safe bet that many lawmakers would love the opportunity to raid these funds for special projects, but the ballot language Texans approved is clear—this money is to make up unexpected revenue declines.

Still, only 27.4% or \$3.2 billion of the \$11.6 billion spent from the ESF since inception has been for general deficit reduction. In 2019, the Legislature appropriated \$4.9 billion from the ESF for the 2019 fiscal year supplemental budget to help pay

for expenditures such as ongoing Hurricane Harvey related relief and an additional \$1.2 billion for 2020-21 biennium.

Clearly, a more stringent use of this fund outside of its intended purpose is needed. In addition, the current economic slowdown as a result of the COVID-19 pandemic and a significant drop in the demand for and subsequently price of oil will likely reduce expected deposits into the ESF.

The ESF has a constitutional cap; law-makers can't spend more than 10% of the last budget cycle's general revenue funds. The cap this period is \$18.6 billion.

But research shows that Texas could lower that cap closer to 7% and still cover the most severe fiscal downturns.

There will likely be interest in tapping the rainy day fund in 2021 if the expected drop in revenue materializes and more demands are put on the budget. Any use of these one-time funds to pay for ongoing expenditures only delays needed difficult decisions that should be made with general revenue funds and depletes one-time funds available for revenue shortfalls, future emergencies, or tax relief. In addition, using ESF funds for investment purposes that could support a higher rate of return to fund unfunded state liabilities without considering major reforms to pensions and reductions to debt first is not warranted.

What can legislators do to shore up this fund—and ensure it's used as Texans were told it would be? They can outline responsible ways to use rainy day funds, if at all, especially with the likely need of a very expensive supplemental bill for the current budget cycle:

- ★ Increase the threshold to use ESF money “at any time and for any purpose” from the current two-thirds of members present to four-fifths of all members in each chamber.
- ★ Lower the constitutional cap from 10% to 7% of biennial GR-related funds in the previous biennium.
- ★ Use excess state revenue above the ESF cap or from budget reductions to cut taxes instead of spending or investing it in riskier assets and growing the budget without reforms.

Eliminating School Maintenance and Operations (M&O) Property Taxes

Texas has the seventh highest local property taxes in the nation, with an effective property tax rate of 1.81% according to WalletHub.com. The Texas Constitution

Tapping the rainy day fund in 2021 only delays needed difficult decisions.

prohibits the state government from levying a property tax, so all Texas property taxes are levied at the local level. These local taxes have far outpaced the means of taxpayers, increasing the tax burden on them over time.

Property taxes are an inefficient type of tax based on arbitrary appraisal determinations and high administrative costs. They can be more regressive than other forms of taxation: They punish the poor more because of the compounding of tax payments annually over time, and they can push them out of a home. They also keep Texas from being as competitive with other states as it could be. Therefore, property taxes should be abolished, with the first step being to eliminate school districts' maintenance and operations (M&O) property taxes.

Texas's school M&O property taxes partially fund government schools based on school finance formulas determined by the Texas Legislature. These taxes amounted to \$25.6 billion in 2017, equal to 43% of all property taxes levied in Texas. This system has numerous problems, resulting in several school finance lawsuits over the last half century, with the current system still questionably constitutional.

Given the high burden this tax places on Texans' prosperity, we provide two options to eliminate school districts' M&O property taxes: Swapping property taxes for final sales taxes or buying down property taxes with surplus state funds.

Property taxes are an inefficient type of tax, based on arbitrary appraisal determinations and high administrative costs.

Both options require spending restraint and a constitutional amendment prohibiting school districts from again imposing an M&O tax after its elimination.

For the sales tax swap, we recommend replacing school M&O property taxes with final sales taxes by (mostly) broadening the sales tax base. This would allow Texas to increase the fair-

ness of the Tax Code, to broaden the tax base to collect more final sales taxes, and to keep the maximum sales tax rate competitive with other states.

In 2017, the last year for which data is available from the Texas comptroller's website, Texas provided an estimated \$42 billion in exemptions, exclusions, and discounts to the final sales tax base, requiring a higher tax rate and higher burden on those taxed. If carefully done, many of these exemptions can be eliminated in a fair manner.

While this means payment of more sales taxes, Texans would pay only about half of what they paid in property taxes. Texans would benefit from this immediate swap because it brings permanent property tax relief, relies on slower-growing sales taxes, and bases collections on objective market exchanges rather than the subjective

valuations by appraisal districts. This plan should go along with spending restraint to hold down or even use surplus state dollars to buy down the sales tax rate over time.

For the buydown option, we recommend that the state limit the increase of general revenue-related funds per biennium and use 90% of the resulting surplus to buy down school districts' M&O property taxes over time until they are eliminated.

This means that school M&O property taxes would be frozen as the state provides an increasing portion of government school funding. If state tax receipts kept up with past trends and spending is limited to 4% per biennium, this elimination process would take about a decade. This option would be dependent on legislatures sufficiently limiting spending every session until elimination of the school M&O property tax, and it shows that there is a clear tradeoff between providing property tax relief and increasing spending. With the property tax burdening Texans so heavily, legislators should do everything they can to achieve its elimination.

Economists at the Baker Institute at Rice University studied the economic effects of both options for M&O elimination and found that each plan would lead to increased economic output and more jobs created, but the benefits of both options could be negated if other property tax jurisdictions raise taxes too much. Fortunately, there were valuable reforms in Senate Bill 2 in the 2019 Legislature. This bill lowered the rollback rate trigger to call for an automatic voter election to 3.5% for local taxing entities other than school districts, whose rate was reduced to 2.5%. This reform must be maintained, and the rollback rate trigger even lowered, to protect taxpayers from skyrocketing tax bills.

High taxes are always and everywhere a spending problem, so any path to tax relief must be paired with limiting government spending. By doing so, Texas could shift to a more efficient and fairer sales tax-dominated system. In this way, Texans can be assured meaningful, lasting property tax relief and an improved Texas Model that will sustain prosperity for generations.

Here's what Texas lawmakers can do:

- ★ Phase out or eliminate Maintenance & Operations school property taxes.

Local Spending Limits

Texas families have their own spending limits. But local Texas governments don't.

In spite of mass unemployment and recession-like conditions following the COVID-19 pandemic, many cities and counties continue to tax-and-spend as though it is business as usual. This spendthrift behavior is alarming, especially in light of past research showing a major discrepancy between actual expenditure growth vs. population and inflation.

The problem with local overspending is, of course, that it results in high property taxes. Given what’s happened, it should come as no surprise that “Texas has some of the highest property tax rates in the nation.”

With the situation out of hand, state lawmakers must help get local budgets under control. Lawmakers can move in this direction by expanding Texas’s constitutional Tax and Expenditure Limit (TEL) to include city and county expenditures. The same fiscal discipline expected of state government should be demanded of local governments too.

Getting spending under control is the key to getting taxes under control.

Lawmakers should also work to strengthen the TEL. Instead of basing the limit on the growth of personal income, the limit should be based on population and inflation. This is a better measure of a Texan’s ability to afford the cost of living. The current measure (personal income growth) means

that government grows as people get wealthier. That makes for a poor restriction.

With these modest changes made, state lawmakers can get local governments back on track and help ease the burden of sky-high property taxes over time. Getting spending under control is the key to getting taxes under control. As Dr. Arthur Laffer, one of President Ronald Reagan’s chief economic advisors, said once: “Government spending is taxation.”

What lawmakers can do:

- ★ Enact and expand local and state spending caps and expenditure limits.



RIGHT ON CRIME

Texans' Voice for Public Safety

The Texas we are forging together must be a Texas that makes room for redemption. So many of our Texas heroes—Davy Crockett and Sam Houston, to name just two—came here seeking a fresh start and a second chance. And they found it.

We here in Texas have learned that it's not enough to be tough on crime; we must be right on crime. Our conservative values inform our criminal justice policies. It's better—and far less expensive—to turn a person's life around than it is to keep him or her locked up. We have made much progress in Texas since the Right on Crime effort began in 2007. But there's still work to do.



Policing Reform	72
Reentry	73
Victim Restitution	73
Sentencing	73
Communication	74
Bail and Grand Jury Reform	74
Juvenile Justice	75
Efficiency Audits	76

Policing Reform

Our brave police officers protect us, but there’s much discussion lately about policing. Austin is the latest progressive city to defund its police department (by \$150 million for the current fiscal year).

Why has the “defund” movement gained such traction? There have been high-profile killings by police officers of members of the public—often minorities. And there are other issues: a lack of transparency; unions complicating the ability to properly train, discipline, and remove individuals who do not serve and protect; over-criminalization; and the militarization of the police culture.

But defunding the police isn’t the answer. Reduced resources would surely make these issues much worse. Budget cuts decrease the ability of a police agency to train its officers and hamper its ability to attract quality recruits. Furthermore, it would reduce law enforcement’s ability to use innovative programs to improve public safety and public relations.

Proper training can accomplish an incredible amount of improvement in both recruits and in-service officers—but only if we start with and retain high-quality officers. Not everyone should be a police officer, and no amount of training can prepare a person unsuited for this line of work. Block training, where the recruits receive a specific number of hours to comply with the specific training requirements, is an acceptable method of delivery under the current standards, but it is not an effective method for training police officers in the complex skills they need to perform their jobs.

Secondly, agencies must be able to discipline officers when they deviate from their mission. The goal of discipline is to fix a problem so it does not happen again, to guide an officer back on track. Terminating officers for unforgivable offenses or because they cannot respond to training or discipline is also necessary and should not be confused with discipline. Police unions unfortunately represent a barrier to both processes and often interfere with the departments’ goals and visions by keeping officers working who should not be, or preventing necessary discipline from occurring where termination is not needed.

Reestablishing the role of our police as protectors of our rights, keepers of the peace, and integral members of our communities is vital to the restoration of public safety.

Reestablishing the role of our police as protectors of our rights, keepers of the peace, and integral members of our communities is vital to the restoration of public safety. To this end, police agencies must develop and implement true community engagement initiatives to include the members of their communities in the policing process.

The Legislature has a role in law enforcement. ***Here are some concrete steps lawmakers can take to ensure policing is done right:***

- ★ Develop a comprehensive model to identify, train, assign, retain, promote, and support police officers.

Reentry

The reality is that 95% of people in prison will eventually be released. But even after someone has paid his or her debt to society, the tolls of incarceration are extensive and far-reaching, limiting opportunities for employment, housing, financial stability, and education. Faced with these challenges, the cycle of crime too often repeats itself, putting communities at risk.

Effective reentry policies and programming remove barriers to transformation so that people can go from prison to paycheck and keep our communities safe.

Texas lawmakers can:

- ★ Reform reentry policies to reduce recidivism and keep our streets safe.

Victim Restitution

When a property crime or a violent crime occurs, the primary aggrieved party is the individual victim, not the government, and thus the compensation should go primarily to the individual victim, not the government.

Our system now focuses more on prosecuting defendants for the harm they have done to society at large, rather than the harm they have done to their victim. It is important to pay attention to the effect crime has on society, but we must not neglect the victim's rights.

Texas legislators should:

- ★ Guarantee that crime victims are the first to recover restitution.

Sentencing

For more than a decade, conservative states have shown that smart sentencing reforms can safely reduce prison populations while decreasing crime.

Texas lawmakers can:

- ★ Provide greater transparency in sentencing.

Communication

What if we could improve the quality of communications between police officers and others in positions of authority—and those over whom they exercise it?

In justice system encounters, communications in which there is no underlying trust can contribute to grave consequences. This can take the form of an arrest that goes off the rails or the 150,000 cases every year in which a person on community supervision is revoked to prison for violating conditions, though not charged with a new offense.

Progress requires a communications paradigm that is courteous and reinforces trust, thereby achieving the desired result through motivation rather than force. Evidence suggests this will translate into positive outcomes, whether it is greater cooperation with police or reduced criminal activity.

Here's what Texas lawmakers can do:

- ★ Develop strategies to build trust between local law enforcement and policed communities, creating open communication for public input with actionable steps to implement reforms.

Bail and Grand Jury Reform

A million people are booked into Texas jails every year. Texas counties face significant expenses associated with pretrial detainees, who account for nearly 60% of county jail inmates.

As an example, according to a study by the Judicial Council and Texas A&M, more than 9,000 low-risk defendants over a 3.5-year period from 2013 to 2016 remained in the Tarrant County jail on bail of \$2,000 or less, meaning they could not afford to pay a bondsman a nonrefundable premium that is typically 10% of the total, in this case \$200.

Counties across the state are inconsistent when it comes to promptly assessing pretrial defendants' risk level and mental health status as well as expeditiously providing counsel. These steps are vital to

ensuring that costly jail space is prioritized. Actuarial tools, such as the Public Safety Assessment, that do not require an interview and account for factors such as any prior serious offenses and instances of absconding, can be administered within minutes.

The grand jury system is also in need of reform. A grand jury receives the facts of the case solely from the perspective of the state. While this is mostly hyperbole, the

The state now wields a tremendous amount of unfettered power in how facts and evidence are presented to a grand jury.

process seems to have strayed from its original purpose of protecting citizens from an overzealous and despotic government, which was an early concern for those responsible for crafting America's new constitution in the 1780s.

The state now wields a tremendous amount of unfettered power in how the facts and evidence are presented to a grand jury, and examples of grand juries being used as a means to legitimize prosecutions motivated by other objectives than searching for justice are too frequent to ignore.

In Texas, counsel for witnesses are not statutorily granted any representation during the proceeding, prosecutors can bring grand jury after grand jury if the previous one does not return an indictment, exculpatory evidence is not required to be presented, and the whole proceedings are not required to be transcribed.

In 2015, the controversial "pick-a-pal" system that allowed judge-appointed jury commissioners to choose the individuals who would sit on the grand jury was eliminated. These juries have been shown to skew toward being populated with individuals tied to law enforcement and thus potentially biased in their views of the case.

Even with this reform, very few safeguards are implemented to protect the accused or witnesses who could be subject to prosecution based upon their testimony.

Here's what lawmakers can do to improve the system:

- ★ Ensure our bail system serves the public first through risk-based assessments and bring greater transparency to the grand jury system.

Juvenile Justice

Youthful offenders are more impressionable than adult offenders and have longer lives ahead of them. This raises the stakes for dealing with delinquent youth, as the success and failure of policies have a far-reaching effect on future public safety and taxpayer costs. Sentencing youth to ineffective, inappropriate programs and facilities could place a one-time nonviolent offender on a path of wrongdoing.

It costs some \$441.92 per youth per day to house juveniles in state lockups operated by the Texas Juvenile Justice Department (TJJD). Although this cost has been growing steadily, it stems in large part from successful efforts to reduce the population in these facilities from more than 5,000 in 2005 to less than 900 in 2018. As fewer kids are committed to the remaining five state-run institutions, the statewide system becomes less efficient as economies of scale are lost.

In 2015, a regionalization plan was enacted with the goal of further downsizing the state lockups by diverting youth to regional facilities. This allows youth to remain closer to their families and communities while shrinking costs for taxpayers. Regional facilities are smaller, more manageable environments that benefit juveniles in need of structured rehabilitative programming. Regionalization keeps juveniles in local

settings for therapeutic treatment and allows for more seamless reentry back into the community.

Lawmakers can advance juvenile justice in Texas by:

- ★ Implementing a community-based, “closer-to-home” model of juvenile justice.

Efficiency Audits

A Government Accountability Inspection (GAI) or efficiency audit could make communities safer and criminal justice more efficient by looking for wasteful spending. When conducted properly, such audits let an outside auditor do a deep dive into an entity’s budget and operations to examine fiscal management, efficiency, and utilization of resources.

Unlike regular audits, an efficiency audit seeks to determine the relationship between certain inputs, such as the amount of tax dollars spent, and the outcomes achieved.

Texas legislators should:

- ★ Develop a third-party efficiency audit in city governments to ensure police resources are being best used to keep the public safe.

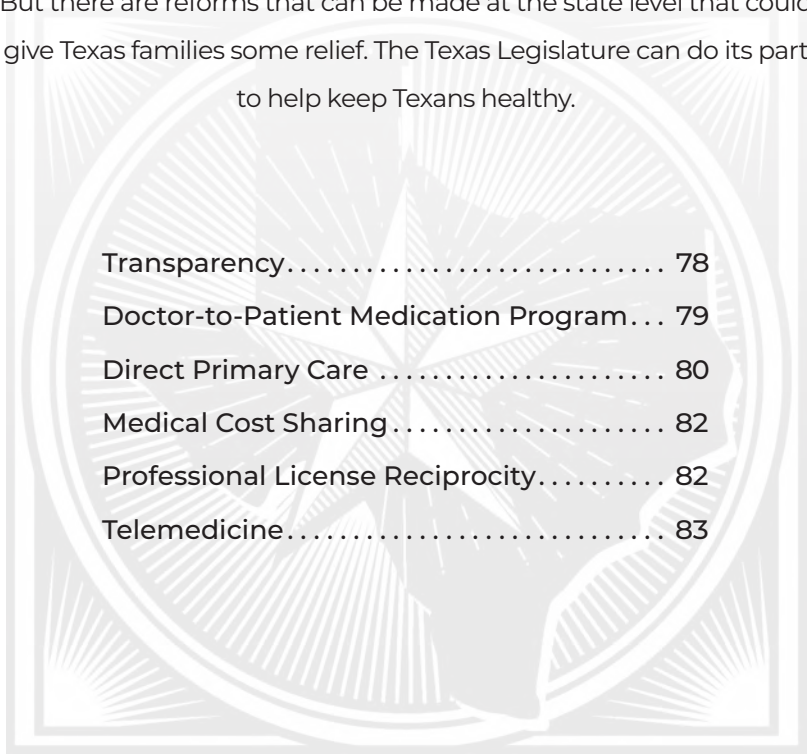
RIGHT ON HEALTHCARE

Making Healthcare Affordable and Accessible

The Texas we are forging together is a Texas for families. It's a wide-open land filled with opportunity, where hard work pays off and people can prosper. It's a state that stands for freedom.

But Texas families worry about their access to healthcare. They've seen their health insurance premiums and deductibles climb ever higher, forcing them to make the kind of tough choices no one in Washington seems to be talking about. The Affordable Care Act has failed in every respect. And the COVID-19 pandemic has only brought into sharper focus the limits of our healthcare system.

But there are reforms that can be made at the state level that could give Texas families some relief. The Texas Legislature can do its part to help keep Texans healthy.



Transparency.....	78
Doctor-to-Patient Medication Program... ..	79
Direct Primary Care	80
Medical Cost Sharing.....	82
Professional License Reciprocity.....	82
Telemedicine.....	83

Transparency

It seems like every Texas family has opened that “surprise” bill from the doctor—the portion of a visit that insurance didn’t cover. Healthcare is unique; it’s an industry that doesn’t tell consumers its prices until after services are rendered. People know the prices in advance for almost all goods and services they purchase—the items on the grocery store shelves, houses, and automobiles, for example.

But healthcare is different. Prices for the same or similar services and treatments can vary widely, both among regions, among facilities within a region, and even within a facility, based on the payer. Patients feel they have limited knowledge about costs—and even less power over them.

How has healthcare resisted the pressures of the free market? First, most people are not directly spending their own money, so they lack incentives to obtain value from their consumption decisions. With employer-sponsored health insurance, premiums are aggregated, and employers and insurers are in key decision-making roles. This isolates individual employees and consumers from the marginal financial cost of their healthcare decisions.

Second, markets are largely noncompetitive, increasingly dominated by large, integrated hospital systems consisting of inpatient facilities, outpatient facilities, and physician practices.

Finally, people rely very heavily on doctors for referrals. Since doctors are increasingly part of these consolidated hospital systems, they generally refer patients for services within the system regardless of price. All these features diminish price competition in healthcare.

Of course, some healthcare markets are more transparent—for services such as LASIK eye surgery and cosmetic procedures. In these markets, prices tend to be transparent with robust competition among providers. Under these conditions, the result is generally what is found in other markets: prices drop over time, while quality improves.

The Surgery Center of Oklahoma, for example, posts prices on a consumer-friendly website. Over the 11 years it has posted these prices, it has changed them four times—lowering them each time.

What can be done to bring down costs—and frustrations—in Texas? We can make the healthcare industry, and in particular prices, more transparent.

Most people are not directly spending their own money, so they lack incentives to obtain value from their healthcare consumption decisions.

There are four key ways in which price transparency can help make our healthcare system better:

1. Consumers and patients will be better informed.
2. Better-informed employers will be able to help workers shop for value.
3. Employers will be more empowered to monitor insurer effectiveness and to eliminate counterproductive middlemen.
4. And high-cost providers will feel pressure to find ways to lower their prices.

These elements together will create additional free market pressures—including competition—among providers. Price becomes a bigger part of the referral system, and Texans can make their choices with more of the information they need.

That’s why Texas lawmakers should:

- ★ Require greater transparency in healthcare prices by ensuring patients have access to pricing information before they are provided a service or treatment.

Doctor-to-Patient Medication Program

The majority of Texans get a prescription from their physician then travel to a pharmacy to get it filled. Yet 45 states allow physicians to both prescribe and dispense medications, a practice known as physician dispense or doctor-to-patient medication program, to some extent. Texas is behind the curve with no allowance for physician dispense in most of the state.

For doctors, physician dispense makes sense. They’re better able to monitor whether their patient is following their advice. In 2018, nearly 30% of Americans did not take their prescriptions as recommended because of the cost. Nineteen percent did not fill their prescriptions, 18% took over-the-counter drugs instead, and 12% cut their pills in half or skipped doses due to cost.

Physician dispense can improve medication adherence by making prescription-filling more convenient and providing patients the opportunity to take their first dose in their physician’s office with the assistance or supervision of a doctor or nurse. Physician dispense will expand physicians’ ability to provide care, improve patients’ experience, and reduce the underuse of medications.

For patients, physician dispensing is both safe and convenient. And most importantly, in a recent study of Medicare Advantage patients trying the new system, 87% said that the model improved their ability to take their medication.

Currently, only some Texans can take advantage of physician dispense. Since 1999, Texas has allowed physician dispense in rural areas, so long as no pharmacies operate within 15 miles of the care facility. Texas physicians can also dispense free drug

samples or dispense a maximum 72-hour supply of drugs to patients with “immediate needs,” intended to ensure proper treatment until the patient can access a pharmacy.

Texas should allow physicians to dispense medications across the state of Texas in a manner that grants physicians maximum flexibility to perform this service. It is a safe and effective policy for Texans.

Lawmakers can:

- ★ Create a voluntary doctor-to-patient medication program so patients can safely, affordably, and more easily get the drugs they need.

Direct Primary Care

It’s not really correct to call “Direct Primary Care” a new model for healthcare in Texas. Long before employer-based insurance (with the safety nets for the elderly and disabled, Medicare and Medicaid) became the standard, patients paid doctors for their care. There were no middlemen; there was the patient, and the provider. And they made the decisions.

Direct Primary Care (DPC, also called direct care) seems innovative now because we’ve moved so far away from that model. Government regulations combined with ever-more complex insurance standards have put third-party payers in charge of the decision making.

That frustrates not only the patients, it frustrates physicians, as well. No health-care provider wants to be second-guessed by a functionary behind a computer screen hundreds or thousands of miles from the examination room. No doctor wants to be limited to a maximum of, say, 7 minutes of face-time per patient, because human beings and their ailments are rarely so conveniently compartmentalized. And doctors and patients alike want the ability to follow up on treatments to ensure the best health outcomes possible.

Direct care practices seek to resolve the flaws of our current healthcare system by providing transparent pricing and strengthening the doctor-patient relationship. Direct care has gained momentum in primary care, surgery, pharmaceuticals, and dentistry. Direct care functions differently in each setting, but the central idea is that third-party payers are not involved, and prices are known before the patient sees the medical professional.

Expanding the availability of direct care to rural Texans, Texans in busy metropolitan areas, and even Texans on Medicaid could be of great benefit.

It's simple, really. Patients contract with direct care practices to receive a wide range of care at a convenient monthly price. Patients are allowed to see their provider as often as they like for preventative, wellness, and chronic care, and certain medical tests are included in the membership fee, depending on the membership agreement.

Typically, patients also have a high-deductible “catastrophic” insurance policy for things like hospitalization. But most of what the average family needs throughout the year will be covered by direct care—including some chronic illnesses, such as diabetes and heart disease, which can actually respond better to the kind of regular check-ins and solid relationships that direct care involves.

Now, it's often confused with “concierge” care—the kind of high-end specialized care that the wealthy can access. It's not that. It shares some similarities, but it's for the rest of us. The usual monthly fee for a direct care patient is \$77.

Many direct care providers connect with their patients through an app that allows for texts and email, eliminating the need for in-person appointments in many instances. Physicians can meet virtually with patients to diagnose illnesses and prescribe medication. Another benefit of direct care is flexibility and portability. If a patient has developed a strong relationship with a provider and the patient travels frequently or moves to a new city, the flexibility of email and phone calls allows the patient to continue to receive care from the same direct care provider. According to a recent study, 82% of direct care practices have physician email access and 76% allow patients to have 24-hour access to their direct care provider.

Employers looking to reduce healthcare costs for their employees can enroll their workers in direct primary care memberships in conjunction with a high-deductible policy, which can satisfy employees' needs as well as save money for the company. Companies that switch to membership agreements can see savings of 30% to 50% of their annual healthcare costs.

Currently, there are around 1,200 direct care practices in 48 states. States have the ability to regulate DPC as they see fit, and more than two thirds have crafted legislation to do so. Texas, like many other states, has codified that direct care does not fall under the category of insurance and should not be regulated as such.

Expanding the availability of direct care to rural Texans, Texans in busy metropolitan areas, and even Texans on Medicaid could be of great benefit. It can become another tool in developing better doctor-patient relationships and could be a good supplement for people who face healthcare plans with higher and higher deductibles.

Here's what lawmakers can do this session:

- ★ Create a pilot program to allow direct primary care into Texas's Medicaid population.

Medical Cost Sharing

Another “new” model is medical cost sharing. Medical cost-sharing plans are an alternative to traditional health insurance. Instead of operating with a network of providers, these organizations facilitate the sharing of medical costs among members, who pay a monthly amount which is shared to cover healthcare costs of other members.

These monthly amounts are usually smaller than traditional health insurance because the coverage is not as far-reaching. Generally, members will pay the majority of smaller costs out of pocket, and larger costs will be submitted for sharing. The members retain ultimate responsibility for paying their medical fees, because the organization is not contractually obligated to cover specific costs like an insurance company would be and does not always cover as many items as traditional insurance.

Medical cost-sharing organizations are similar to faith-based health care sharing ministries, but there are some key differences. Medical sharing will have an appeal beyond a specific religious group. Some sharing ministries prohibit behavior which clashes with their statements of belief, such as smoking, drinking, and extramarital sex, and they do not cover medical costs related to such activities. Medical cost sharing would not impose these limitations.

Medical cost sharing should be defined explicitly in Texas law as not being health insurance and thus exempted from insurance regulatory law. Medical cost-sharing plans do not operate as insurance companies and should not be regulated as such. This will allow them to operate more freely, bringing more low-cost options to the health coverage market and helping both individual Texans and small businesses.

The ACA significantly limited the amount of choice consumers have in the health-care system. Medical cost-sharing plans are one more choice we can give to Texas families.

Texas legislators can:

- ★ Allow medical cost-sharing agreements to operate freely without being regulated as “insurance.”

Medical cost-sharing plans do not operate as insurance companies, and should not be regulated as such.

Professional License Reciprocity

Many Texas residents have difficulty getting healthcare—medical, dental, mental, and behavioral—when they need it. There is a shortage of medical professionals, both

an insufficient number of medical professionals as well as maldistribution (meaning that they aren't located where they are needed most).

Everyone wants to know their healthcare provider—whether it's a doctor or a nurse or a radiologist—is qualified and competent. That's why Texas has licensing requirements for these professions. But are those licensing requirements excluding qualified providers?

One way for Texas to begin to address the shortage of healthcare professionals in the state is by making it easier and quicker for healthcare professionals licensed in another state to become licensed in Texas. If the burden to become a licensed professional in the state is reduced, more providers will be available to treat patients.

Here's one way. In 2019, Governor Abbott signed a bill making it easier and less costly for military spouses with certain out-of-state licenses to become licensed more quickly in the state of Texas. The legislation included healthcare professionals, among others. The bill simply requires that, instead of applying for a license from a state agency, the military spouse notify the appropriate state agency of an intent to practice in the state. The state agency then verifies with the appropriate jurisdiction the individual is licensed in, sends a confirmation to the individual, and then the individual is free to begin working in Texas. This legislation was a step in the right direction.

But it can be expanded. Also in 2019, Arizona became the first state to recognize most licenses from other states without requiring other states to reciprocate. Arizona did for all new residents what Texas did for military spouses—expediting the process and making it easier for new residents in the state to jump back in the labor market quickly after moving to the state.

Texas should follow Arizona's example:

★ Allow out-of-state licensed physicians reciprocity to practice in Texas.

Telemedicine

Something many Texas families have learned during the COVID-19 pandemic is that not every doctor visit needs to be in person. Telemedicine (also called telehealth) has really taken off in Texas, driven by stay-at-home orders and the temporary lifting of restrictions on the practice.

But there's much room for growth. Aside from those restrictions (which should be abolished permanently), there are other barriers in place. These include payment parity laws, lack of broadband access for some individuals, limitations on audio-only consultation, coverage from insurance plans, requirements for seeing a doctor in person before a telehealth appointment and interstate licensing (to name a few).

One barrier to wider usage of telehealth coverage is parity laws. Parity laws require insurance reimbursement for telehealth services at the same level as for in-person

health services. Thirty-two states have parity laws applying to private insurance companies.

Only 23 states have full parity laws, however. Full parity requires an insurer to cover telehealth services on the same basis as in-person services, which means the insurers often must add more health services to their coverage. The other nine states have partial parity laws, which only require insurance companies to cover telehealth services that would have been covered in an in-person visit. This means the insurers do not have to incorporate more coverage.

Parity laws are a two-edged sword. Proponents of parity laws argue that they provide a strong incentive for physicians to provide telehealth resources. If more physicians offer telehealth options, this will benefit patients—particularly low-income or rural patients who have difficulty getting to appointments—providing more options for treatment.

At the same time, presiding parity laws set a precedent for the state to mandate what coverage private insurance companies must provide. Also, when reimbursement for telehealth is required on the same basis as for in-person treatment, the potential for cost savings by using telehealth are lost, because providers would have a great incentive to charge more for the service. And finally, by enforcing full parity, the actual cost of care would be obscured further. Price transparency is a big part of what keeps telehealth costs low.

Another issue that restricts use of telehealth is the lack of broadband access in the rural areas which comprise much of Texas. This is essential for supporting the video technology required for telehealth under current regulations. According to the Texas comptroller’s office, only 69% of rural Texans have access to high-speed internet. Yet people in rural areas are one of the main demographics which telehealth aims to reach. Medicare and Medicaid, for instance, both require that telehealth provide interactive telecommunication systems which allow for audio and video permitting two-way, real-time communications. Not everyone’s internet access can handle that.

Fortunately, during the COVID-19 crisis, the CARES Act provided for several waivers of regular restrictions on telehealth, one of which was that requirement for Medicare and Medicaid. The waiver allows “telephone evaluation and management services, and behavioral health counseling and educational services” to be conducted using audio-only communications.

Something many Texas families have learned during the COVID-19 pandemic is that not every doctor visit needs to be in person.

This temporary waiver (which, again, should be made permanent) provides a blueprint for how to mitigate the broadband access issue for telehealth. Allowing audio-only communications for reasonable areas of telehealth where physical examination is not as important could be a way to allow patients in rural areas to access some aspects of telehealth, despite not having video technology support.

Medical licensing is managed by the individual states, which presents an obstacle for providers trying to provide telehealth services across state lines. That's because telehealth providers are required to be licensed in all the states to which they provide care, the same as in-person providers. Getting a medical license in every state can be a challenge.

There are a few proposed solutions to the interstate licensing challenge: special telehealth licenses, consultation exceptions, and reciprocity and endorsement.

The least complicated licensing approach is licensure by reciprocity or by endorsement. With reciprocity, states agree to accept the medical licenses of other states which meet their qualifications. With endorsement, an out-of-state physician has an expedited process to obtain a medical license in another state, based on the requirements of the state in which they were initially licensed.

One of the largest issues for telehealth is whether or not it is covered by insurance policies, because if people cannot have it covered by their health plan, they likely will not utilize this service. In Texas, insurance companies are not allowed to exclude a telemedicine medical service or a telehealth service from coverage under the plan solely because the service is not provided through a face-to-face consultation. This ensures that, at the least, providers who wish to offer some of their services virtually will not lose patients who do not have this covered by insurance.

The use of telemedicine has been growing rapidly, and the COVID-19 pandemic accelerated that. But even more Texans could benefit from this service, and lawmakers must work to ensure that barriers to care are removed.

Here's how:

- ★ Make permanent the liberalization of the use of telemedicine.



RIGHT ON IMMIGRATION

Prioritizing American Interests

The Texas we are forging together must be a Texas that welcomes newcomers—but that maintains the rule of law, protects the innocent, and never turns a blind eye to lawlessness.



Crime directly tied to inadequate border security and a broken immigration system—crime such as drug trafficking, human trafficking and smuggling—exact a steep price on Texas taxpayers. The more than \$800 million spent by the state on border security each biennium represents nearly one third of the budget of the Texas Department of Public Safety.

With nearly two thirds of the entire U.S.-Mexico border and the second highest illegal immigrant population in the nation, Texas suffers a disproportionate share of the burden of both historically deficient border security and a chronically dysfunctional national immigration system.

Both the state and unauthorized immigrants themselves are ill-served by a status quo that fails to align with legitimate labor needs that exist in Texas and other states, and which should be the primary basis for bringing in both temporary foreign workers as well as immigrants to the United States.

The fact that border security and immigration are primarily federal responsibilities doesn't prevent Texas and other states from taking constructive, proactive measures. On the contrary, to the extent that state actions are not preempted by federal law, states have the duty to act to support effective border security, combat illegal immigration, and foster lawful immigration. States can be force multipliers in both confronting and solving these challenges.

That's the beauty of the 10th Amendment. It gives us a model for federalism—the balance of powers between states and the federal government.

Measures such as SB 4, passed in 2017 by the Texas Legislature and upheld by federal courts, prohibits “sanctuary city” practices that facilitate lawlessness, by punishing local government department heads and elected officials who do not cooperate with immigration detainer requests by federal agents to turn over unauthorized immigrants who are subject to possible deportation.

States like Texas can also enhance enforcement of federal immigration law by boosting the participation of state and local law enforcement agencies in Immigration and Customs Enforcement's 287(g) program or the Warrant Service Officer (WSO) program. Both programs have proven to be effective in removing tens of thousands of dangerous criminals from communities throughout the country.

The U.S. Supreme Court has also recognized that federal immigration law “expressly reserves to the States the authority to impose sanctions on employers

hiring unauthorized workers, through licensing and similar laws.” Texas already mandates, for example, the use of E-Verify for public employees. Seven other states, in addition, have made E-Verify mandatory for all or most employers.

That’s the beauty of the 10th Amendment. It gives us a model for federalism—the balance of powers between states and the federal government. Other federal republics, such as Australia and Canada, have empowered their state and provincial governments with the ability to create their own sizeable, work-based immigration allotments within a broader federal structure. There is no reason why the U.S. could not rework its immigration system along similar lines.

Some specific proposals:

- ★ Boost the participation of state and local law enforcement agencies in Immigration and Customs Enforcement’s 287(g) program or the Warrant Service Officer program. Both have proven to be effective in removing tens of thousands of dangerous criminals from the country.
- ★ In the fight against human trafficking, ensure the participation of Texas law enforcement teams in the National Johns Suppression Initiative and fully align Texas law with the Trafficking Victims Protection Act.
- ★ Support the shift of the U.S. immigration system to a primarily work-based model, in which within the federal structure states are given a role in the evaluation and selection of legitimately needed immigrants for their workforces, as is already the practice in Australia and Canada.
- ★ Be prepared to assert the constitutional prerogative (United States Constitution, Article I, § 10) of states to repel foreign threats when “in such imminent Danger as will not admit of delay.”

With these and other measures, Texas lawmakers can:

- ★ Secure the U.S.-Mexico border.
- ★ End the twin scourges of human trafficking and drug trafficking.
- ★ Reform asylum rules that create loopholes and abuses.



CAMPAIGN AND POLICY DIRECTORS

CITIZENS DEFENSE

Derek Cohen, PhD, Policy Director
dcohen@texaspolicy.com

Michael Leland, Campaign Director
mleland@texaspolicy.com

ELECTION PROTECTION PROJECT

Chuck DeVore, Policy Director; TPPF Vice President of National Initiatives
cdevore@texaspolicy.com

Michael Leland, Campaign Director
mleland@texaspolicy.com

GOVERNMENT FOR THE PEOPLE

James Quintero, Policy Director
jqintero@texaspolicy.com

Charissa Huntzinger, Campaign Director
chuntzinger@texaspolicy.com

LIFE:POWERED

Brent Bennett, PhD, Policy Director
bbennett@texaspolicy.com

The Honorable Jason Isaac, Director
jisaac@texaspolicy.com

NEXT GENERATION TEXAS

Emily Sass, Policy Director
esass@texaspolicy.com

Stephanie Matthews, Senior Campaign Director
smatthews@texaspolicy.com

REMEMBER THE TAXPAYER

Rod Bordelon, Policy Director
rbordelon@texaspolicy.com

Alicia Pierce, Campaign Director
apierce@texaspolicy.com

RIGHT ON CRIME

Derek Cohen, PhD, Policy Director
dcohen@texaspolicy.com

Caroline Espinosa, Campaign Director
cespinosa@texaspolicy.com

RIGHT ON HEALTHCARE

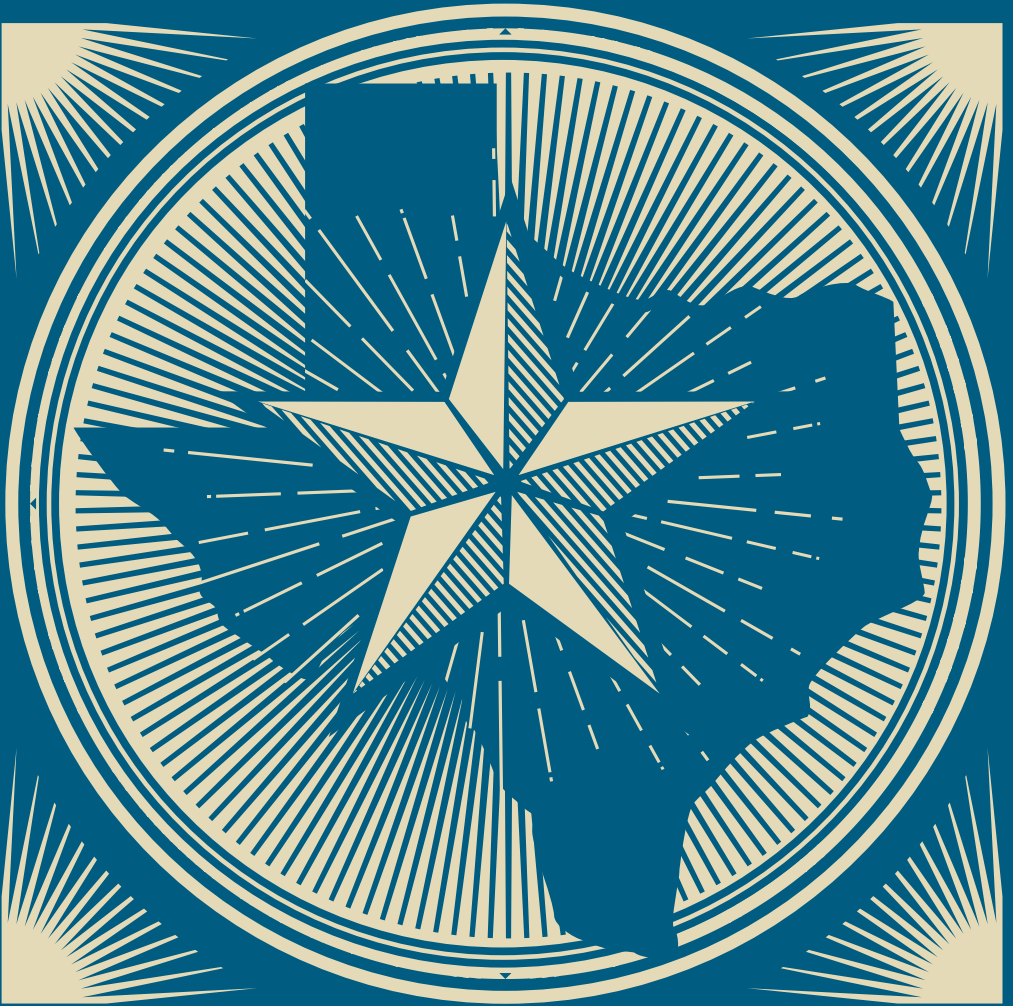
David Balat, Policy Director
dbalat@texaspolicy.com

Brian Phillips, Campaign Director; TPPF Chief Communications Officer
bphillips@texaspolicy.com

RIGHT ON IMMIGRATION

The Honorable John Hostettler, Policy Director; TPPF Vice President of
Federal Affairs
jhostettler@texaspolicy.com

Ken Oliver, Senior Campaign Director; TPPF Senior Director of Engagement
koliver@texaspolicy.com



The Texas Public Policy Foundation is a 501(c)3 nonprofit, nonpartisan research institute. The Foundation promotes and defends liberty, personal responsibility, and free enterprise in Texas and the nation by educating and affecting policymakers and the Texas public policy debate with academically sound research and outreach. Funded by thousands of individuals, foundations, and corporations, the Foundation does not accept government funds or contributions to influence the outcomes of its research.

The public is demanding a different direction for their government, and the Texas Public Policy Foundation is providing the ideas that enable policymakers to chart that new course.



**Texas Public Policy
Foundation**

901 Congress Ave., Austin, Texas 78701 | 512.472.2700 | www.TexasPolicy.com