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TESTIMONY

TEXAS STATE AGENCY REVIEW

DUSTIN CHAMBERS
Senior Affiliated Scholar, Mercatus Center at George Mason University
Professor of Economics, Perdue School of Business at Salisbury University

Texas House of Representatives Judiciary and Civil Jurisprudence Committee

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Greetings Chair Leach, Vice Chair Johnson, and members of the committee. Thank you for the opportunity to testify before this committee.

My name is Dustin Chambers. I am a professor of economics at Salisbury University and a senior affiliated scholar at the Mercatus Center at George Mason University. My research focuses on income inequality, economic growth, and the excessive burden of regulation on lower income households. Any statements I make reflect only my opinion and do not reflect the opinions of Salisbury University or the Mercatus Center.

My testimony today focuses on three points related to HB 791:

1. Red tape reduces living standards for most Texans, especially the poor.
2. Poorly crafted regulations harm the Texas economy in general, particularly small businesses.
3. The reforms proposed in HB 791 are consistent with best practices adopted by other government agencies and jurisdictions to reduce red tape.

RED TAPE HARMS THE MOST VULNERABLE TEXANS

As of 2022, Texas was the fifth most regulated state in the nation, exceeded only by California, New York, New Jersey, and Illinois.[1] Texas's administrative law included 273,106 regulatory restrictions and an astonishing 19.3 million words.

[1] See the QuantGov, "State RegData," accessed April 18, 2023, https://www.quantgov.org/state-regdata-definitive-edition.

According to peer-reviewed research published in numerous academic journals, higher levels of regulations are associated with increased levels of poverty, income inequality, and mortality.[2] Specifically, a 10 percent increase in federal regulations that apply to industries in each respective state is associated with:

- 2.5 percent increase in the state's poverty rate
- 5.3 percent increase in the state's mortality index
- 0.5 percent increase in income inequality

Based upon these findings, the Mercatus Center has published estimates of how many Texas residents experienced harm from federal regulations.[3] It should be noted that these are underestimates of the negative impact of regulations, as they do not include state and local rules and ordinances. As of 2019, the growth of federal regulations is associated with:[4]

- 717,425 additional people living below the federal poverty line (3,870,944 actual residents versus 3,153,519 in the absence of regulation growth); and
- 4.55 percent increase in income inequality in the state.

RED TAPE HARMS THE TEXAS ECONOMY AND SMALL BUSINESSES

One highly cited study finds that US federal regulations trimmed the growth rate of the US economy by about 0.8 percentage points per year between 1977 and 2012.[5] Although this change in economic growth may seem small, the effects compound over time. For example, if the total number of regulations had been frozen over this period between 1980 and 2012, the US economy would have been $4 trillion (or 25 percent) larger in 2012. This is equivalent to just under $13,000 in lost output per person per year.

Focusing on the impact of industry-level regulations on the total number of firms and employment within that industry, multiple studies have found that higher levels of regulations are associated with fewer total firms and lower levels of employment.[6] Focusing on Texas specifically, the Mercatus Center has published

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[2] Given the better availability of data at the federal level, all these published studies examine the association between federal regulations and the various outcomes of interest. For the impact of regulations on poverty, see Dustin Chambers, Patrick A. McLaughlin, and Laura Stanley, "Regulation and Poverty: An Empirical Examination of the Relationship Between the Incidence of Federal Regulation and the Occurrence of Poverty Across the US States," *Public Choice* 180, (September 2019): 131–44, https://doi.org/10.1007/s11127-018-0603-8. For the impact of regulation on income inequality, see Dustin Chambers and Colin O'Reilly, "Regulation and Income Inequality in the United States," *European Journal of Political Economy* 72 (March 2022), https://doi.org/10.1016/j.ejpoleco.2021.102101. For the impact of regulations on mortality, see James Broughel and Dustin Chambers, "Federal Regulation and Mortality in the 50 States," *Risk Analysis* 42, no. 3 (March 2022): 592–613, https://doi.org/10.1111/risa.13774.

[3] For more details regarding the poverty and income inequality estimates for Texas, see Dustin Chambers and Colin O'Reilly, "The Regressive Effects of Regulations in Texas" (Mercatus Policy Brief, Mercatus Center at George Mason University, Arlington, VA, April 2022), https://www.mercatus.org/media/75796/download?attachment.

[4] Due to data limitations, these estimates considered growth only in federal regulations that were binding at the state level between 1997 and 2017. Therefore, these federal impacts are likely underestimates.

[5] See Bentley Coffey, Patrick A. McLaughlin, and Pietro Peretto, "The Cumulative Cost of Regulations" *Review of Economic Dynamics* 38, (October 2020): 1-21. https://doi.org/10.1016/j.red.2020.03.004.

[6] See James B. Bailey and Diana W. Thomas, "Regulating Away Competition: The Effect of Regulation on Entrepreneurship and Employment," *Journal of Regulatory Economics* 52 (October 2017): 237–54, https://doi.org/10.1007/s11149-017-9343-9; Dustin Chambers, Patrick A. McLaughlin, and Tyler Richards,

estimates of the amount of harm Texas entrepreneurs and workers face as a result of federal regulations.[7] As noted above, these are underestimates of the negative impact of regulations, as they do not include state and local rules and ordinances. As of 2017, the growth of federal regulations is associated with an annual loss of:[8]

- 698 small businesses; and
- 9,861 jobs.

BEST PRACTICES FOR REFORM

With increasing evidence showing that regulations have profound and wide-reaching unintended consequences, there is a growing movement among US states to streamline their administrative laws and purge unnecessary red tape. To that end, Alabama, Arizona, Idaho, Kentucky, Ohio, Rhode Island, and Virginia have initiated comprehensive reviews of their existing regulations and have set regulation reduction targets ranging from 15 to 30 percent. In addition to regulatory budgeting rules, such as President Trump's 1-in-2-out rule (Executive Order 13771), states have used sunset provisions to compel the mandatory review of existing regulations, and in the case of Idaho, to reform the state's entire body of administrative laws[9]:

> "In 2019, Idaho did something that no other US state had ever done: it allowed all its existing regulations (which have sunset provisions) to expire. In one stroke, over 1,800 pages of regulations were eliminated. After reauthorizing legally necessary and critical regulations, the Gem State had eliminated 75 percent of all regulations, thus surpassing South Dakota as the least regulated state in the nation. Governor Brad Little also signed two key executive orders, which instituted a 1-in-3-out rule for new regulations and greatly eliminated occupational licensing restrictions."

Considering the federal government's poor track record of conducting periodic reviews as required by the 1980 Regulatory Flexibility Act,[10] and given Idaho's successful use of sunset provisions, the US Department of Health and Human Services (HHS) announced a regulation titled "Securing Updated and Necessary Statutory Evaluations Timely," or SUNSET on January 8, 2021. The proposed rule, which was later scuttled by the Biden administration, would have caused any regulation not reviewed within 10 years of its introduction—as already required by federal law—to expire.

"Regulation, Entrepreneurship, and Firm Size," *Journal of Regulatory Economics* 61 (April 2022): 108–34, https://doi.org/10.1007/s11149-022-09446-7; and Dustin Chambers, Patrick A. McLaughlin, and Oliver Sherouse, "Regulation, Entrepreneurship, and Dynamism" *Empirical Economics* (October 2022), https://doi.org/10.1007/s00181-022-02321-6.

7 See Chambers and O'Reilly, "The Regressive Effects of Regulations in Texas."

8 Due to data limitations, these estimates considered growth only in federal regulations that were binding at the state level between 1997 and 2015. Therefore, these federal impacts are likely underestimates.

9 See Dustin Chambers, "The Human Cost of Regulations and Some Possible Solutions" (Mercatus Policy Brief, Mercatus Center at George Mason University, Arlington, VA, November 2022), https://www.mercatus.org/media/157626/download?attachment.

10 By HHS estimates, only 15 percent of regulations adopted before 1990 have been reviewed, as required by the RFA. See James Broughel, "The Benefits of HHS's SUNSET Regulation" (Mercatus Policy Brief, Mercatus Center at George Mason University, Arlington, VA, January 2021), https://www.mercatus.org/research/policy-briefs/benefits-hhss-sunset -regulation.

HB 791, like the HHS SUNSET proposal, simply holds executive agencies accountable for following existing Texas law. It stipulates that reviews of existing rules must the conducted in a timely manner and the analysis must be transparent (i.e., the agency must publicly share its methodology, data, etc.). This bill promotes good governance, transparency, and accountability as well as creating incentives to identify red tape in a timely manner and remove it if warranted vis-à-vis the sunset mechanism.

CONCLUSION

Texas has far more regulations than any other state in the South, boasting nearly 100,000 more regulatory restrictions than the next most-regulated southern state (Louisiana) and 60 percent more regulations than Florida and 146 percent more regulations than Georgia. If the "Texas miracle" is to live on, the Lone Star State needs to take active steps to trim red tape.