NATIONAL CENTER FOR POLICY ANALYSIS

Inequities in Texas Telecom Taxation

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Telecommunications, cable and wireless service consumers pay a barrage of federal, state and local taxes and fees imposed on these services and their providers. Telecom services are usually taxed like tangible goods and other intangible services, but taxes and fees vary among states and cities. California has the highest state sales tax rate (7.50 percent), while Colorado has the lowest (2.9 percent).

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Executive Summary

Many states do not charge sales taxes on certain items. State sales tax exemptions vary, but are regularly granted for purchases of products used in manufacturing final goods. States that typically exempt equipment used to manufacture a tangible good do not always allow the same deduction for equipment used to provide an intangible good, such as telecom or broadband services. As a result, telecom and wireless services are subject to "double taxation," in which both an intermediary good and the services provided are taxed. Until recently, Texas taxed telecom and wireless services in this manner. Currently 20 states exempt on at least one or more services (telecom, voice or broadband), whereas 30 states tax all three. However, Texas consumers continue to face a heavy tax burden that varies widely from city to city.

Sales taxes. Texas consumers pay a 6.25 percent sales and use tax on cable and wire-line services. Municipalities, counties, special purpose districts and transit authorities may impose additional taxes, up to a total of 8.25 percent.

State/Local Cable Franchise Fee. Cable video providers pay a state-imposed monthly franchise fee of up to 5 percent of gross revenues for the use of public right-of-way (infrastructure). Municipalities also impose an additional one percent Public Education and Government (PEG) franchise fee. Revenues generated by the PEG cover cable television providers' capital costs for local public and educational access channels.

Right-of-Way Fees. Telecommunications providers must compensate municipalities for use of the public rights of way in the municipality. The right-of-way fee is considered a rental payment for the use of public property and is assessed at fair market value. However, the fee is passed on to consumers.

Texas Universal Service Fund. The Public Utilities Commission levies a fee for the Texas Universal Service Fund (TUSF) on all voice services, including local, long distance, pager and wireless. Telecommunication providers pay an average tax of 3.4 percent of taxable communications receipts, and pass that cost on to consumers.

911 Emergency Service Fee and Equalization Surcharge. These fees are assessed for emergency telecommunication services. Consumers pay a set $0.50 fee every month, along with an variable fee averaging $0.25 for areas served by Emergency Communications Districts, the equivalent of a 2.14 percent unregulated tax. One percent equalization surcharges are also imposed on consumers, based on the cost of intrastate long-distance services.

Public Utility Commission Fee. The state assesses a 0.0017 percent fee on all public utility service providers (which includes certified telecommunication providers) to fund the Public Utility Commission.

The 10 most populous Texas cities generated more than $300 million in fee and tax revenue from cable television and telephone services in 2011. In the 10 most populous Texas cities:

- The average effective tax rate (AETR) on cable television ranged from 14.13 percent in San Antonio to 14.25 percent in most of the top 10 cities.
- The AETR for a fixed-line phone ranged from 21.79 percent in San Antonio to 27.16 percent in Arlington.

Major metropolitan areas such as Houston, San Antonio and Dallas maintain the lowest tax rates, and consequently the lowest annual burden for consumers. Arlington, Laredo and Corpus Christi, on the other hand, suffer triple-digit annual tax burdens for basic telephone services.

Adjusted for population and tax burden distributions, cities with lower populations and lower median household incomes carry a much larger share of the tax burden than more populous and higher-income areas:

- Laredo, for example, has the lowest population and lowest median household income of the top 10 Texas cities.
- Consumers in Laredo pay a 15 percent greater share of the total average state aggregate consumer tax burden than their share of the state population.

The evidence suggests that for every 1 percent increase in the AETR (on fixed-line voice services), the regressivity of the tax burden increases about 4 percent.

The tax treatment of the Texas telecom industry is far from equitable. The industry faces tax hurdles not imposed on other industries or in other states. The Texas legislature should consider the following options:

Streamline Business and Cable Franchise Taxes for Cable Providers. In Texas, non-satellite cable providers are subject to a cable/video franchise fee that is not required of satellite cable providers.

Reduce Right-of-Way Fees to their Original Intended Use. State law allows municipalities to derive up to 21 percent of their revenue from right-of-way fees. This may benefit local coffers, but it burdens consumers and the telecom industry. Right-of-way fees should be assessed annually based on the actual maintenance and operating costs of public rights of way.

While the telecom industry's changing and ever-evolving technology has benefitted consumers greatly, the state of Texas still tethers the industry to outdated and burdensome laws and taxes. Moreover, Texas may be losing out to other states that provide tax exemptions for equipment used to provide services. The telecom industry still has room to grow in Texas, and the legislature should recognize the opportunities that an equitable business and consumer telecom tax system would help bring to the state.

About the Authors

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Introduction

Telecommunications, cable and wireless service consumers pay a barrage of federal, state and local taxes and fees imposed on these services and their providers.[1]

Telecom services are usually taxed like tangible goods and other intangible services, but taxes and fees vary among states and cities. California has the highest state sales tax rate (7.50 percent), while Colorado has the lowest (2.9 percent).[2] The highest local rate is 7 percent in Wrangell, Alaska. But Tuba City, Arizona, has the highest combined state and local sales tax (13.725 percent).

Many states do not charge sales taxes on certain items. State sales tax exemptions vary, but are regularly granted for purchases of products used in manufacturing final goods. States that typically exempt equipment used to manufacture a tangible good do not always allow the same deduction for equipment used to provide an intangible good, such as telecom or broadband services. As a result, telecom and wireless services are subject to "double taxation," in which both an intermediary good and the services provided are taxed. Until recently, Texas taxed telecom and wireless services in this manner. Currently 20 states exempt on at least one or more services (telecom, voice or broadband), whereas 30 states tax all three.

However, consumers face a heavy tax burden that varies widely from city to city. This report will examine the specific tax burden Texas imposes on consumers of telecom, cable and wireless services.

Telecom Taxes and Fees Passed on to Consumers

Texas consumers pay a 6.25 percent sales and use tax on cable and wire-line services. Municipalities, counties, special purpose districts and transit authorities may impose additional taxes, up to a total of 8.25 percent. For this study, the NCPA applied the relevant taxes to each of the top 10 metropolitan areas in the state of Texas. Service-specific taxes and fees are described below.

State/Local Cable Franchise Fee. Cable video providers pay a state-imposed monthly franchise fee of up to 5 percent of gross revenues for the use of public right-of-way (infrastructure). Municipalities also impose an additional one percent Public Education and Government (PEG) franchise fee. Revenues generated by the PEG cover cable television providers' capital costs for local public and educational access channels.[3]

"The tax burden on telecommunication services vary widely from city to city."

Before 2005, cable companies wishing to operate in specific cities made local franchise agreements with each municipality.[4] Cities were allowed to charge franchise fees of up to 5 percent of gross revenue. But in order to encourage competition, a 2005 law allowed new cable market entrants to obtain a statewide franchise license and pay a franchise fee of 5 percent of gross revenues without negotiating franchise agreements with individual cities. Cable providers under the old system of local franchise agreements had to wait until those agreements expired before they could opt for the more streamlined state franchise license. Today, the Public Utilities Commission (PUC) assesses and issues cable franchise fees and licenses.[5]

Voice Services. The fees and taxes levied on local and/or long distance services in Texas are:

Right-of-Way Fees. Texas imposes right-of-way fees for the use of public property in accordance with the state's constitution, which prohibits "gifting" public property to private entities.[6] Telecommunications providers must compensate municipalities for use of the public rights of way in the municipality. The Public Utilities Commission determines the amount.[7] The right-of-way fee is considered a rental payment for the use of public property and is assessed at fair market value.[8] However, the fee is passed on to consumers. And because it is a fee, and not a tax, there is no tax exemption.

The state levies right-of-way fees on a variety of companies for the use of public infrastructure (typically piping and wiring) to

Table I
Average Effective Tax Rate (AETR) and the Tax Burden for Fixed-Line Phone and Cable Television Service

	AETR		Aggregate Consumer Tax Burden		Annual Household Burden	
City	Fixed-line Phone	Cable Television	Fixed-line Phone	Cable Television	Fixed-line Phone	Cable Television
Houston[1]	23.58%	14.25%	$45,818,655	$39,416,943	$ 99.03	$98.26
San Antonio[2]	21.79%	14.13%	$25,764,534	$23,776,535	$ 91.50	$97.39
Dallas[3]	23.03%	14.25%	$26,300,315	$23,167,189	$ 96.71	$98.26
Austin[4]	22.17%	14.25%	$18,070,770	$16,536,421	$ 93.10	$98.26
Fort Worth[5]	22.10%	14.25%	$14,361,532	$13,183,098	$ 92.81	$98.26
El Paso[6]	24.03%	14.25%	$12,756,619	$10,769,750	$100.91	$98.26
Arlington[7]	27.16%	14.00%	$ 9,062,037	$ 6,648,945	$114.07	$96.53
Corpus Christi[8]	25.13%	14.25%	$ 6,967,452	$ 5,624,234	$105.54	$98.26
Plano[9]	22.51%	14.25%	$ 5,537,766	$ 4,990,023	$94.54	$98.26
Laredo[10]	26.64%	14.25%	$ 4,196,056	$ 3,194,450	$111.90	$98.26
Average	23.81%	14.21%			**$100.01**	**$98.00**
Total			**$168,835,735**	**$147,307,587**		

Authors' calculations and source notes:

1. "Fiscal Year 2011 Budget," City of Houston Finance Department. Available at http://www.houstontx.gov/budget/11budadopt/II_GFR.pdf.

2. "Adopted Annual Operating and Capital Budget," Office of Management and Budget. Available at http://www.sanantonio.gov/budget/documents/FY2013/FY%202013%20Adopted%20Budget%20 Document.pdf.

3. "2011-2012 Adopted Annual Budget," Office of Financial Services. Available at http://www.dallascityhall.com/Budget/budgetFY_1112.html.

4. "2012-2013 Approved Budget Volume 1," City of Austin Financial Services. Available at https://assets.austintexas.gov/budget/12-13/downloads/Vol_I_Combined.pdf.

5. "City of Fort Worth General Fund Budget Summary FY2012," Budget and Research Division. Available at http://fortworthtexas.gov/uploadedFiles/Budget_and_Management_Services/FY2012/F-GeneralFund-ADOPTED.pdf.

6. "City of El Paso 2011 Budget," Office of Management and Budget. Available online at http://home.elpasotexas.gov/omb/_documents/FY2011%20Complete%20Budget%20Book.pdf.

7. "FY2011 Operating Budget," Office of Management and Budget. Available online at http://www.arlingtontx.gov/budget/pdf/FY_2011_4th_Qtr_BAR.pdf.

8. "FY2011-2012 Budget/Performance Report," Office of Management and Budget. Available online at http://www.cctexas.com/files/g37/2012budgetperformancerpt4thqtr.pdf.

9. "City of Plano Program of Service – Budget 2012-2013," Budget and Research Department. Available online at http://plano.gov/archives/89/2012-13%20Program%20of%20Service.pdf.

10. "FY2013 Annual Budget," Financial Services Department – Budget Division. Available online at http://www.ci.laredo.tx.us/Budget/Budget_Books/2012-2013/2012-2013_Budget_Book.pdf.

transfer products and services from source to consumer. A uniform method for assessing fees for natural gas, water, sewer, electric and telecoms is designed to be administratively simple for municipalities and certified telecommunication providers. It is also designed to be consistent with state and federal law, competitively neutral, nondiscriminatory, consistent with the burdens on municipalities created use of a public right of way, and to provide fair and reasonable compensation for the use the right of way.[9] In telecommunications, right-of-way fees historically applied only to traditional landline services.[10]

Before 2000, the right-of-way fee was assessed as a percent of gross revenues. But new legislation assessed right-of-way fees for each access line: residential voice, business voice and high-capacity data lines.[11] The use charges are updated annually by a specific formula. Consumers are still charged for each service with one exception: Internet-based television/phone services are only taxable as Internet services, despite increased traffic on these lines.

Texas Universal Service Fund. The Public Utilities Commission levies a fee for the Texas Universal Service Fund (TUSF) on all voice services, including local, long distance, pager and wireless.[12] The TUSF is a redistributive measure to ensure that rural, disabled and low-income customers can receive phone services. While the actual cost varies, telecommunication providers pay an average tax of 3.4 percent of taxable communications receipts, an amount they pass on to consumers.

911 Emergency Service Fee and Equalization Surcharge. These fees are assessed for emergency telecommunication services. Texas consumers pay a set $0.50 fee every month, along with an variable fee averaging $0.25 for areas served by Emergency Communications Districts, the equivalent of a 2.14 percent unregulated tax. One percent equalization surcharges are also imposed on consumers, based on the cost of intrastate long-distance services.

Public Utility Commission Fee. The state assesses a 0.0017 percent fee on all public utility service providers (which includes certified telecommunication providers) to fund the Public Utility Commission.

Other Fees. Telecom companies also pass on substantial federal taxes, fees and surcharges to the Texas consumer.[13] Cursory analysis suggests the equivalent of an additional 3 percent federal excise tax on all local and long-distance services. The Federal Communications Commission Subscriber Line (18.6 percent), Federal Universal Service Fund (4.7 percent), and Local Number Portability Charges (0.94 percent) are all variable. Conservative estimates place combined state and federal average effective tax rates for Texas wire-line telephone consumers in the range of 45 percent to 50 percent for the average consumer bill.

Calculating the Average Effective Tax Rates for Texas Telecom Consumers

Due to the proprietary nature of telecom capital investment data, the specific cost of taxation on intermediary goods used to produce telecom services cannot be accurately estimated at the state level. However, since most taxes and fees described above are passed on to consumers, it is possible to examine the tax burden of the telecom industry through taxes paid by the consumers.[14]

Including taxable corporate expenditures, licensing, permits and fees, the 10 most populous Texas cities generated more than $300 million in fee and tax revenue from cable television and telephone services in 2011.

Current tax schemes are based on the premise that franchise and right-of-way fees are used to maintain related public infrastructure and provide valuable services that stimulate economic growth. Some of the more egregious fees, like the Universal Service Fund Fee, are redistributive measures designed to offset the cost of providing service to low-income or rural consumers. However, this fee is ultimately offset by increased Extended Area, 911 and right-of-way fees passed on to consumers in rural areas. The maximum combined state and local tax rate for Texas is 8.25 percent. Table I illustrates the percentage of service costs paid in taxes and fees (average effective tax rate). In the 10 most populous Texas cities:

- The average effective tax rate (AETR) on cable television

Table II

Consumer Burden in Excess of Maximum Tax Rate

	Fixed-line Phone		Cable Television	
	Aggregate	Per Household	Aggregate	Per Household
AETR	$168,835,735	$100.01	$147,307,587	$98.00
8.25%	$ 60,048,878	$ 34.65	$ 85,473,897	$56.89
Difference	**$108,786,857**	**$ 65.36**	**$ 61,833,691**	**$41.11**

Sources: Authors' calculations based on 2010 Census, Texas Telecom tax liabilities as reported by the Texas Comptroller of Public Accounts, and aggregate revenue generation gathered from budgetary analysis of top 10 Texas cities; "Cable Customers 1998-2011," National Cable & Telecommunications Association, available at http://www.ncta.com/Stats/CablePhoneSubscribers.aspx; "Report on Average Rates for Cable Programming Services and Equipment," Federal Communications Commission, available at http://www.fcc.gov/document/report-average-rates-cable-programming-service-and-equipment-0.

ranged from 14.13 percent in San Antonio to 14.25 percent in most of the top 10 cities.

- The AETR for a fixed-line phone ranged from 21.79 percent in San Antonio to 27.16 percent in Arlington.

Major metropolitan areas such as Houston, San Antonio and Dallas maintain the lowest tax rates, and consequently the lowest annual burden for consumers. Arlington, Laredo and Corpus Christi, on the other hand, have supporting tax rates far in excess of 5 percent above comptroller minimums, as well as triple-digit annual tax burdens for basic telephone services.

Table II indicates the potential for significant taxpayer savings if the state applied fees more uniformly. A statewide 8.25 percent tax rate on all telecom services would save consumers more than $170 million annually. Texas consumers already pay among the highest telecom rates in the country. Traditional telecommunication tax structures lead to average effective tax rates that are sometimes two or three times the rate of satellite service providers. Economies of scale in the telecommunications and cable television industries make it much cheaper for providers to bundle services. Unfortunately, despite provider bundling, taxes and fees for cable, Internet and phone services are still independently charged to the consumer. Lower income households are more price sensitive to externalities, and their expenditures for services are lower. Thus, these households are often unable to purchase bundles, which would lower their average effective tax rate. Instead, they must choose more expensive standalone services. Thus, many telecom consumers use the Internet to circumvent the extensive taxes and fees on phone and cable television services.[15]

Current Taxes and Fees Are Regressive. Texas state taxes and fees impose a total minimum AETR of 20 percent on telephone services and an additional 2 percent to 7 percent tax burden based on location, services, usage and prescribed access line fees. Because right-of-way fees are applied universally, the tax and fee incidence is much greater for households with smaller than average expenditures for telecom services. Thus, the average effective tax for fixed-line telephone service is regressive, meaning that low-income consumers pay a larger share of their income in taxes than high-income consumers.

Adjusted for population and tax burden distributions, cities with lower populations and lower median household incomes carry a much larger share of the tax burden than more populous and higher-income areas:

- Laredo, for example, has the lowest population and lowest median household income of the top 10 Texas cities.
- Yet consumers in Laredo pay a 15 percent greater share of the total average state aggregate consumer tax burden than their share of the state population.[16]

The evidence suggests that for every 1 percent increase in the average effective tax rate (on fixed-line voice services), the regressivity of the tax burden increases about 4 percent. As a result, the current system decreases aggregate consumption and targets low-income, low-population areas.

Policy Recommendations

Early in 2013, Texas legislators finally approved regulations that allow manufacturing sales tax exemption for intermediary goods used to produce telecom services. This change could now increase investment in Texas over what it otherwise might be. However, the heavy tax burden on consumers represents a deadweight loss that may limit them from purchasing additional telecom, wireless or cable products. In order to foster investment, fairness in competition and reduce the producer and consumer tax burden, the Texas legislature should consider the following options:

Streamline business and cable franchise taxes for cable providers. In Texas, non-satellite cable providers are subject to a cable/video franchise fee that is not required of satellite cable providers. This circumstance provides a competitive advantage to satellite television providers. Satellite services do not yet have the technological ability to bundle services such as cable, Internet and telephone, limiting its competitive advantage. Technological advances and the shrinking customer base for landline phones increasingly benefits satellite services.[17]

Reduce right-of-way fees to their original intended use. Right-of-way fees produce more revenue than intended needed for operation and maintenance of rights of way. State law allows municipalities to derive up to 21 percent of their revenue from right-of-way fees. While this may benefit local coffers, it burdens consumers and the telecom industry, and provides a competitive advantage to satellite television over cable television. Right-of-way fees should be assessed annually based on the actual maintenance and operating costs of public rights of way. For instance, right-of-way fees for 2013 could be determined based on average maintenance costs over a three-year period, such as 2010 to 2012. A three-year average, as opposed to one year, would smooth unanticipated costs during a given year.

Conclusion

While the telecom industry's changing and ever-evolving technology has benefitted consumers greatly, the state of Texas still tethers the industry to laws and taxes that are outdated and burdensome. The telecom industry still has room to grow in Texas, and the legislature should recognize the opportunities that an equitable business and consumer telecom tax system would help bring to the state.

Appendix

Methodology for Calculating Consumer Tax Burden

All taxes and fees described in this study are controlled by the state only. Federal regulatory fees are not considered. This analysis applies the state and local tax rates to each of the top 10 metropolitan areas in Texas. Because the specific number of subscribers for a metropolitan area is largely considered proprietary information, and is often unreported, 2011 data from the National Cable and Telecommunications Association (NCTA) were used for nationwide cable video and phone subscriptions.[18] The 2010 U.S. Census Bureau population ratio estimates for Texas metropolitan areas and NCTA percentages were used to determine active cable subscriptions for defined metropolitan areas.

Cable Video Services. Local and state tax rates were obtained through phone interviews with the Texas Public Utilities Commission, State Comptroller's Office and municipal budget officials. The cable television tax incidence was calculated by multiplying the estimated number of cable television subscriptions for each metropolitan area by the average monthly cost of $57.46, as reported by the Federal Communications Commission.[19] This number was then multiplied by the appropriate average effective tax rate (AETR) and by 12 to represent annual costs:

AETR = Combined State and Local Tax Averages + State Franchise + PEG or**;**

AETR = 8.21+5+1 = 14.21%

Annual Tax Burden = (Subscriptions x $57.46) x 14.21% x 12

Fixed-Line Phone Services. The NCPA estimated average household wire-line telephone bills at $35 per month in order to calculate the percent incidence of municipal right-of-way fees. Costs for wired telephone services have varied greatly over the last five years, due to the advent of Voice over Internet Protocol, service bundling, and increasing numbers of households who maintain only wireless telephone service. In 2007, the cost of cable and wire line phone service varied from $30 to $50, and an author survey of 2012 CTPs showed the range of wire or cable service is $20 to $50 per month.[20] National Health Statistics 2011 survey data indicates that 60.1 percent of Texas households have fixed-line phone service.[21]

Aggregate Fixed-line Tax Burden = (HH x .601) ($35 x AETR) x 12.

Annual Household Burdens are a function of aggregate incidence divided by the number of applicable consumers:

AETR = TUSF + State and Local Tax Averages + PUC + 9-1-1 Fees + ROW

AETR = 3.4 + 8.25 + .0017 + 3.14 + 5.2 = 19.99 percent

Traditional municipal franchises are subject to contract fees negotiated with the city. The amount paid by customers varies every year depending on taxes incurred by the provider. Consumers are also subject to fees based on expenditures for long-distance services and additional services, such as Expanded Local Calling and Extended Area Services.

Tax Burden Inequality. Burden and Population Distribution inequalities for fixed-line telephone services:

Burden Distribution = (Local Tax Burden ÷ Aggregate Tax Burden) x 100

Population Distribution = (Fixed-line Households ÷ Aggregate Households) x 100

Burden/Population Distribution = [1- (Burden Distribution ÷ Population Distribution)]

For example, using the 2011 data for Laredo, Texas:

B=(4196056/168835735) x 100 = 2.49

P=(37498/1733012) x 100 = 2.16

B(P)=[1 - (2.49/2.16)] = -0.15

Hence, the tax Burden (B) as a function of the Population (P) is 15 percent greater for Laredo, Texas, than average. [See Table A-1.]

Less populous metropolitan areas (and less dense areas) have an even greater tax burden. Moreover, the funds generated by franchise and right-of-way fees far exceed maintenance costs. During the 2012 fiscal year in Houston, San Antonio, Dallas and Austin, the real cost of maintenance and services on all public utility infrastructure was between 2 percent to 10 percent of revenue generated by taxes and fees imposed on telecommunication consumers alone.[22] These franchise fees and conditions, as well as mandated access charges, are essentially used to pad municipal general revenue coffers at the expense of consumers. Thus, millions of Texas consumers are footing municipal expenditures through unregulated fee structures, funds that could potentially be used for additional consumer purchases. This runs contrary to the Third Court of Appeal's stated purposes of balancing tax structures with the need to raise revenue for the state and encourage economic development.

Appendix Table

Tax Burden for Fixed-Line Phone by Population

	Telephone		
Metropolitan Area	Percent of total telephone tax burden	Percent of total state population	Burden relative to Population (percent over/under)
San Antonio	15.26	16.25	-0.06
Fort Worth	8.51	8.93	-0.05
Austin	10.70	11.20	-0.05
Plano	3.28	3.38	-0.03
Dallas	15.58	15.69	-0.01
Houston	27.14	26.70	0.02
El Paso	7.56	7.29	0.03
Corpus Christi	4.13	3.81	0.08
Laredo	2.49	2.16	0.13
Arlington	5.37	4.58	0.15

Source: Authors' calculations based on city population estimates from "State and Country Quickfacts," U.S. Census, available at http://quickfacts.census.gov/qfd/states/48/4835000.html; and "Report on Average Rates for Cable Programming Services and Equipment," Federal Communications Commission, available at http://www.fcc.gov/document/report-average-rates-cable-programming-service-and-equipment-0.

Endnotes

1. "Understanding your Telephone Bill," Federal Communications Commission, www.fcc.gov.

2. Scott Drenkard, "State and Local Sales Taxes in 2012," Tax Foundation, February 14, 2012.

3. See S.B. 1087. Available at http://www.legis.state.tx.us/tlodocs/82R/billtext/pdf/SB01087I.pdf#navpanes=0.

4. Ibid.

5. Ibid.

6. Constitution of the State of Texas (1876), Article XI, "Municipal Corporations."

7. See "Texas Local Government Code," Section 283.055. Available at http://law.onecle.com/texas/local-government/283.051.00.html.

8. The Public Utility Commission defines a public right of way as the area "on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest. The term does not include the airwaves above a right-of-way with regard to wireless telecommunication [or data transmission]." Available at http://www.puc.texas.gov/industry/communications/row/Default.aspx.

9. "Issues Relating to the Establishment of, and Annual Revisions to, Access Line Rates for Texas Municipalities," Public Utilities Commission. Available at http://www.puc.texas.gov/industry/communications/row/orders/24640_order_2012.pdf.

10. Cellphone and data streaming services are regulated separately.

11. "Background Information on Municipal Public Rights-Of-Way Fees Set By Statute: Key Legislation from 1999, 2005 and 2011," Texas Municipal League and Texas Coalition of Cities for Utility Issues, August 13, 2012. Available at http://www.senate.state.tx.us/75r/senate/commit/c510/handouts12/0814-SnapperCarr.pdf.

12. This is separate from the federally mandated Universal Service Fund fee, which is charged at a similar rate.

13. Federal impositions are not within the purview of this study.

14. Total revenues from telecom franchise fees are based on author calculations of data from FY2011-2012 metropolitan budget analysis. Because it is difficult to determine the exact configuration of service subscriptions, annual burdens on Texas households were determined by taking total revenues divided by the number of households for each metropolitan area.

15. The Texas State Comptroller's office has recently expressed frustration about the inability to effectively tax Voice over Internet Protocol (VOIP) services such as Skype or Vonage. Revenues generated by taxes on more traditional telephone and television services have been increasing with the utilization of mobile phones and modern technologies, thus functioning as an inertial, disproportionate tax burden.

16. See Appendix.

17. "20 Questions and 20 Answers: Cable vs. Satellite TV," www.digitallanding.com.

18. "Cable Customers 1998-2011," National Cable & Telecommunications Association. Available at http://www.ncta.com/Stats/CablePhoneSubscribers.aspx.

19. This denotes the average monthly bill for Expanded Basic Service, which covers 85 percent of households. "Report on Average Rates for Cable Programming Services and Equipment," Federal Communications Commission. Available at http://www.fcc.gov/document/report-average-rates-cable-programming-service-and-equipment-0.

20. Michael D. Pelcovits and Daniel E. Haar, "Consumer Benefits from Cable-Telco Competition," Microeconomic Consulting & Research Associates. Available at http://www.micradc.com/news/publications/pdfs/ MiCRA_Report_on_Consumer_Benefits_from_Cable.pdf.

21. This percentage is adjusted to account for the 39.3 percent of Texas households which have only wireless phone service. Stephen J. Blumberg and Julian V. Luke, "Wireless Substitution: Early release of estimates from the National Health Interview Survey, July-December 2011," National Center for Health Statistics, 2012. Available at http://www.cdc.gov/nchs/data/nhsr/nhsr061.pdf.

22. Authors' calculations based on interviews with Office of Management and Budget staff and examination of 2011 Municipal Budgets.

The NCPA is a nonprofit, nonpartisan organization established in 1983. Its aim is to examine public policies in areas that have a significant impact on the lives of all Americans — retirement, health care, education, taxes, the economy, the environment — and to propose innovative, market-driven solutions. The NCPA seeks to unleash the power of ideas for positive change by identifying, encouraging and aggressively marketing the best scholarly research.

Health Care Policy.

The NCPA is probably best known for developing the concept of Health Savings Accounts (HSAs), previously known as Medical Savings Accounts (MSAs). NCPA President John C. Goodman is widely acknowledged (*Wall Street Journal*, WebMD and the *National Journal*) as the "Father of HSAs." NCPA research, public education and briefings for members of Congress and the White House staff helped lead Congress to approve a pilot MSA program for small businesses and the self-employed in 1996 and to vote in 1997 to allow Medicare beneficiaries to have MSAs. In 2003, as part of Medicare reform, Congress and the President made HSAs available to all nonseniors, potentially revolutionizing the entire health care industry. HSAs now are potentially available to 250 million nonelderly Americans.

The NCPA outlined the concept of using federal tax credits to encourage private health insurance and helped formulate bipartisan proposals in both the Senate and the House. The NCPA and BlueCross BlueShield of Texas developed a plan to use money that federal, state and local governments now spend on indigent health care to help the poor purchase health insurance. The SPN Medicaid Exchange, an initiative of the NCPA for the State Policy Network, is identifying and sharing the best ideas for health care reform with researchers and policymakers in every state.

NCPA President John C. Goodman is called the "Father of HSAs" by *The Wall Street Journal*, WebMD and the *National Journal*.

Taxes & Economic Growth.

The NCPA helped shape the pro-growth approach to tax policy during the 1990s. A package of tax cuts designed by the NCPA and the U.S. Chamber of Commerce in 1991 became the core of the Contract with America in 1994. Three of the five proposals (capital gains tax cut, Roth IRA and eliminating the Social Security earnings penalty) became law. A fourth proposal — rolling back the tax on Social Security benefits — passed the House of Representatives in summer 2002. The NCPA's proposal for an across-the-board tax cut became the centerpiece of President Bush's tax cut proposals.

NCPA research demonstrates the benefits of shifting the tax burden on work and productive investment to consumption. An NCPA study by Boston University economist Laurence Kotlikoff analyzed three versions of a consumption tax: a flat tax, a value-added tax and a national sales tax. Based on this work, Dr. Goodman wrote a full-page editorial for *Forbes* ("A Kinder, Gentler Flat Tax") advocating a version of the flat tax that is both progressive and fair.

A major NCPA study, "Wealth, Inheritance and the Estate Tax," completely undermines the claim by proponents of the estate tax that it prevents the concentration of wealth in the hands of financial dynasties. Senate Majority Leader Bill Frist (R-TN) and Senator Jon Kyl (R-AZ) distributed a letter to their colleagues about the study. The NCPA recently won the Templeton Freedom Award for its study and report on Free Market Solutions. The report outlines an approach called Enterprise Programs that creates job opportunities for those who face the greatest challenges to employment.

Retirement Reform.

With a grant from the NCPA, economists at Texas A&M University developed a model to evaluate the future of Social Security and Medicare, working under the direction of Thomas R. Saving, who for years was one of two private-sector trustees of Social Security and Medicare.

The NCPA study, "Ten Steps to Baby Boomer Retirement," shows that as 77 million baby boomers begin to retire, the nation's institutions are totally unprepared. Promises made under Social Security, Medicare and Medicaid are inadequately funded. State and local institutions are not doing better — millions of government workers are discovering that their pensions are under-funded and local governments are retrenching on post-retirement health care promises.

Pension Reform.

Pension reforms signed into law include ideas to improve 401(k)s developed and proposed by the NCPA and the Brookings Institution. Among the NCPA/Brookings 401(k) reforms are automatic enrollment of employees into companies' 401(k) plans, automatic contribution rate increases so that workers' contributions grow with their wages, and better default investment options for workers who do not make an investment choice.

The NCPA's online Social Security calculator allows visitors to discover their expected taxes and benefits and how much they would have accumulated had their taxes been invested privately.

Environment & Energy.

The NCPA's E-Team is one of the largest collections of energy and environmental policy experts and scientists who believe that sound science, economic prosperity and protecting the environment are compatible. The team seeks to correct misinformation and promote sensible solutions to energy and environment problems. A pathbreaking 2001 NCPA study showed that the costs of the Kyoto agreement to reduce carbon emissions in developed countries would far exceed any benefits.

Educating the next generation.

The NCPA's Debate Central is the most comprehensive online site for free information for 400,000 U.S. high school debaters. In 2006, the site drew more than one million hits per month. Debate Central received the prestigious Templeton Freedom Prize for Student Outreach.

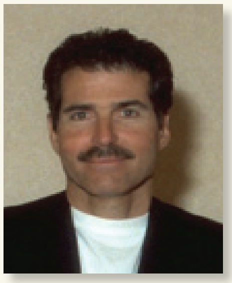
Promoting Ideas.

NCPA studies, ideas and experts are quoted frequently in news stories nationwide. Columns written by NCPA scholars appear regularly in national publications such as the *Wall Street Journal*, the *Washington Times*, *USA Today* and many other major-market daily newspapers, as well as on radio talk shows, on television public affairs programs, and in public policy newsletters. According to media figures from Burrelles*Luce*, more than 900,000 people daily read or hear about NCPA ideas and activities somewhere in the United States.

What Others Say About the NCPA

"The NCPA generates more analysis per dollar than any think tank in the country. It does an amazingly good job of going out and finding the right things and talking about them in intelligent ways."

Newt Gingrich, former Speaker of the U.S. House of Representatives



"We know what works. It's what the NCPA talks about: limited government, economic freedom; things like Health Savings Accounts. These things work, allowing people choices. We've seen how this created America."

John Stossel,
host of "Stossel," Fox Business Network

"I don't know of any organization in America that produces better ideas with less money than the NCPA."

Phil Gramm,
former U.S. Senator

"Thank you . . . for advocating such radical causes as balanced budgets, limited government and tax reform, and to be able to try and bring power back to the people."

Tommy Thompson,
former Secretary of Health and Human Services

The NCPA is a 501(c)(3) nonprofit public policy organization. We depend entirely on the financial support of individuals, corporations and foundations that believe in private sector solutions to public policy problems. You can contribute to our effort by mailing your donation to our Dallas headquarters at 12770 Coit Road, Suite 800, Dallas, TX 75251, or visiting our Web site at www.ncpa.org and clicking "Support Us."