

Testimony

Testimony Before the Work Group on Blockchain Matters

by Zach Whiting and David Dunmoyer

Dear Chair Reyes and Members of the Texas Work Group on Blockchain Matters:

As an initial matter, the first author previously served as an Iowa state senator and assistant majority leader. The author also served as chair of the Labor and Business Relations Committee and a member of the Commerce Committee, both of which jurisdictionally overlap with the committees of origin of HB 1576. The author takes very seriously the need for oversight of administrative bodies, study committees, and working groups to ensure legislative intent is captured and third-party authority is not exceeded.

The Texas Public Policy Foundation is spearheading a new technology policy initiative to provide research and support for Texas lawmakers to ensure Texas is the best state for responsible, values-driven technological innovation. TPPF's mission is to develop a bold, light-touch, conservative approach to technology policy, innovation, and cultural issues—with an emphasis on promoting morality and civic virtue, and protecting the privacy, safety, security, autonomy, and dignity of Texans, Texas culture, and values. Ultimately, technological innovation and policy should serve humanity, not the other way around. I greatly appreciate the Working Group's role in this and the diverse range of members and experts providing research and policy recommendations.

We have previously written that, with the right conditions and a prudent approach to policies governing this space, Texas has the potential to be the preeminent powerhouse in America for blockchain and virtual currencies because of its people, resources, and values. We share the Legislature's vision of realizing the full potential of blockchain and distributed ledger technologies through common sense policies. And with tenuous geopolitical realities in Central and East Asia¹ and a blockchain exodus from China,² Texas can become the global powerhouse in this space.

Furthermore, Texas is experiencing a population boom because of its tax, regulatory, economic, cultural, and geographic advantages. This population boom presents great workforce opportunities and challenges. Secondary and post-secondary education, apprenticeships, up-skilling, and a diverse workforce are opportunities to take Texas to the next level.

Texas must retain its reputation as a tax- and regulatory-friendly state, which emphasizes the need for prudent policymaking and regulation. As new technologies emerge, there is a chicken-and-egg conundrum for policymakers. That is, should legislators allow technology to flourish in the marketplace and then come in with an unanticipated regulatory framework? Or should legislators work with industry to articulate a comprehensive framework as early as possible that defines the parameters and provides clear guidelines within which the industry can engage in the marketplace? Both happen—and neither is inherently right or wrong. And, indeed, in the case of blockchain we are faced with a degree of both.

In the author's experience as a legislator and congressional staffer, most individuals in business prefer a light-touch, clear, and consistent regulatory framework not subject to whimsical or arbitrary changes to give them predictability to operate with the long-term future in mind. Texas would be wise to heed this.

Below we outline three potential policy considerations in this space.

First, ensure the law is clear and updated to the 21st century to allow blockchain and distributed ledger technology to thrive. Blockchain technology has broad applications in areas like banking, finance, insurance, real estate, healthcare, supply chain, and network and cybersecurity, among others.³ To that end, the Uniform Law Commission has been working on a comprehensive update to the Uniform Commercial Code to capture a broad definition of "digital assets."⁴ If that project is completed in time, the Working Group and/or Legislature may wish to review and draw from this for code updates.

Second, crypto mining is an energy-intensive enterprise, so miners are looking for any and all ways to fuel mining while also being cognizant of the impact to the grid. One light-touch, sensible approach is to capture flare gas—an energy that can be recovered and converted into reliable power—and sell it back to cryptocurrency miners to fuel their computing farms.⁵ Given that this flare gas is currently squandered into thin air, one way to incentivize the capture and resale of flare gas is not subjecting it to taxation. This issue is bipartisan, with the potential for increased economic efficiency and decreased environmental impact.

Third, allow payments to state and local governments in Bitcoin or other forms of cryptocurrency and encourage the private sector to accept it as a viable form of payment. While there is market volatility in cryptocurrency, it is a matter of liberty to give individuals more choices within which to invest and spend their money. Other states are beginning to move in this direction—Colorado became the first state to accept cryptocurrency as payment for taxes and fees in early 2022—providing models to study and momentum to build off. In addition, other states like Arizona are pursuing legislation that would permit the use of cryptocurrency statewide.⁶ As we noted at the outset, Texas is poised to be a national and world leader on this issue and could present gold standard legislation in this space.

We will continue to monitor the implementation of House Bill 1576 and House Bill 4474. We applaud the state for creating the Work Group, are eager to follow the Work Group's progress, and await its recommendations.

Sincerely,

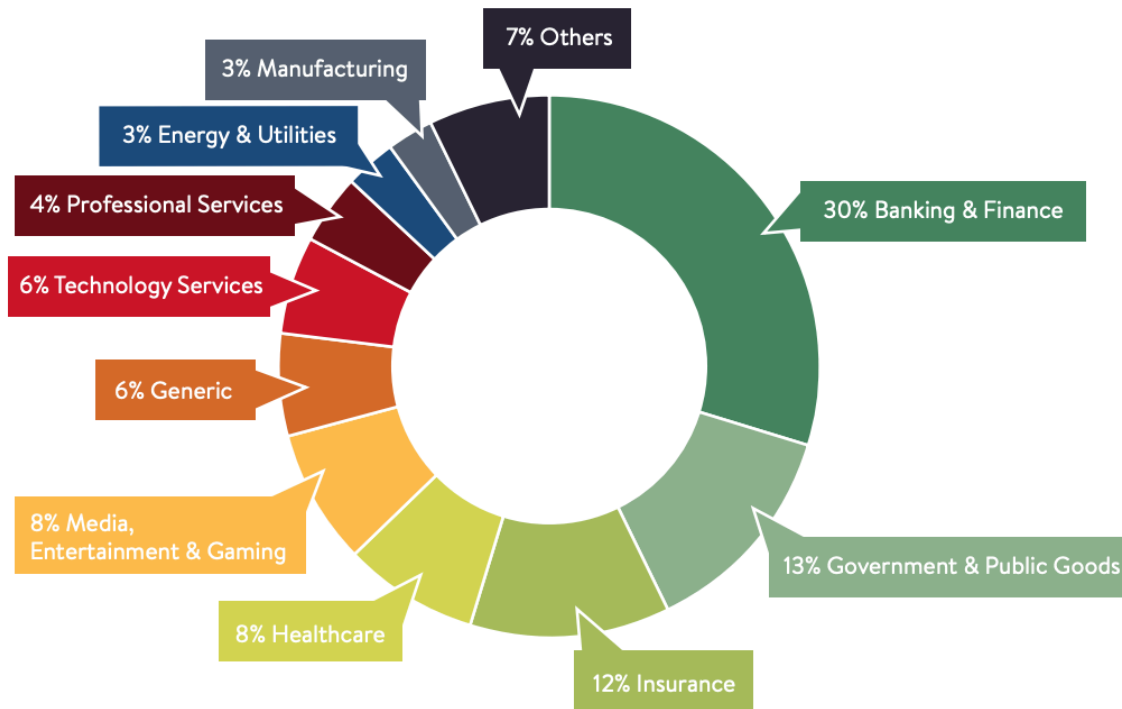
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¹ Browne, R (2022, April 29). *Sanctions threaten to cripple Russia's multibillion-dollar crypto industry*. CNBC. <http://www.cnn.com/2022/04/22/sanctions-could-hurt-russias-multibillion-dollar-crypto-industry.html>

² Sigalos, M. *China is kicking out more than half the world's bitcoin miners – and a whole lot of them could be headed to Texas*. CNBC. <http://www.cnn.com/2021/06/15/chinas-bitcoin-miner-exodus-.html>

³ Hileman, G. and Rauchs, M. (2017). *Global blockchain benchmarking study*. Cambridge Centre for Alternative Finance, University of Cambridge Judge Business School. <http://www.jbs.cam.ac.uk/faculty-research/centres/alternative-finance/publications/global-blockchain/#.YnvwaejMKUm>

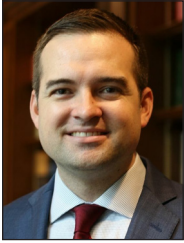


⁴ Smith, E. (2019, March 13). *The Uniform Commercial Code and Digital Assets: Legislative Initiatives*. *Uniform Law Commission*. <http://www.uniformlaws.org/blogs/edwin-smith/2019/03/13/ucc-and-digital-assets-legislative-initiatives>

⁵ SoEnergy International. (n.d.) *Flare Gas Power Generation*. Retrieved April 26, 2022 from <https://www.soenergy.com/gas-flare-capture/>

⁶ SB 1341. 55th Arizona Legislature. Second Regular Session (2022). <https://www.azleg.gov/legtext/55leg/2R/bills/SB1341P.pdf>

ABOUT THE AUTHORS



The Honorable Zach Whiting is senior fellow of Technology Policy at the Texas Public Policy Foundation.

Prior to joining the Foundation, he served as a state senator in his native state of Iowa. In the senate, Zach championed conservative values, protected personal liberties, and worked to reduce the size and scope of government. He served as assistant majority leader, chair of the Labor and Business Relations Committee, and vice chair of the Administrative Rules Review Committee.

Prior to the senate, Zach worked as a legislative assistant and policy advisor to a member of Congress. He graduated summa cum laude with a B.A. in political science from Stetson University and earned a J.D. from the Regent University School of Law.

He is excited to be a Texan and lives in Hays County with his wife and two kids.



David Dunmoyer is the chief of staff for the Foundation's executive team and is a former writer for the development team. He previously worked at a public affairs firm in Sacramento, his home town.

David has a BA in strategic communication from Texas Christian University and is currently pursuing his master of public affairs from the University of Texas at Austin. He enjoys playing guitar and piano, reading, and exercising.

About Texas Public Policy Foundation

The Texas Public Policy Foundation is a 501(c)3 non-profit, non-partisan research institute. The Foundation's 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.

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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.

