

JUNE 2015

# Veritas

A PUBLICATION OF THE TEXAS PUBLIC POLICY FOUNDATION

**TEXAS LEGISLATURE**

## THE *84th* REGULAR SESSION IN REVIEW

*&* Liberty's New Address  
Grand Opening



Texas Public Policy  
FOUNDATION

# Veritas

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## PRESIDENT'S MESSAGE

Dear friend,

I write to you after the close of yet another biennial Texas Legislative session. The 84th Texas Legislature was historic: that's easy to say, because they are all historic, but I think there is a case to be made that this one was easily the most interesting and unusual since, well, at least the 2011 session, where this Foundation was instrumental in producing the first all-cuts Texas state budget in over half a century. Four years later, I think we can enter the 2015 session into that same book.



The bottom line is this: though there was much left undone in this legislative session, as there is in every legislative session, the terms on which the public conversation and legislative debate turned were terms largely set by the liberty movement—at the forefront of which was, as always, our Foundation. Well before the convocation of the 84th Texas Legislature, our scholars set forth the terms for an acceptable conservative budget, in conjunction with our friends and allies in the Conservative Texas Budget coalition. Months prior, not just to the legislative session, but to the elections themselves, we were out front preparing the battlefield for the victory we see now.

Did it work? The answer is in the outcomes. And the outcomes testify eloquently: spending was held within acceptable limits, and the great debate of the legislative session was between the two houses, contending over which tax cuts they preferred. I think we can agree that any time our politicians are arguing over how and where to cut taxes—instead of how and where to increase spending—we have won a critical debate.

In this issue of *Veritas*, you will read about what we won, and what we have yet to achieve, in the Texas state budgeting process. Budgeting is, to borrow from the classical description of economics, a "dismal science," but it is also the core of all other policymaking. As the American Founders understood, the power of the purse is power itself—and so that is why we who love liberty must exercise endless vigilance upon it.

I am also pleased to share with you in this issue a piece on the debut of our Center for the American Future, which will take the fight for liberty into the judiciary. For too long, the left and the fans of big government have dominated the courts: which is why, for example, when there is a particularly contentious issue before the public, they almost always seek to place it before a judge rather than the democratic people. It turns out that a major lesson of the modern age is that Thomas Jefferson was more right than not in his suspicion of an elite judiciary—and so we are contending directly on that field. Robert Henneke, who will direct this new Center, has written a marvelous piece that I hope you will take the time to read.

The work of this Foundation is never done. We were warned generations past that "the price of liberty is eternal vigilance," and so we understand that the end of a legislative session is not the end of our work. Nor is it the end of the privilege of defending liberty under the Lone Star. That never ends, and it is a fight handed down from generation to generation. Our forefathers waged that struggle at places like San Jacinto, and thanks to them, we have the privilege of waging it in more peaceful fashion in the homes and communities of the Texas they won.

It's a great and fateful mission. And there's nothing else we'd rather do.

Brooke Rollins  
President and CEO

# Veritas

*Veritas* is a publication of the Texas Public Policy Foundation, a 501(c)3 nonprofit, nonpartisan research institute. The Foundation's mission is to promote and defend 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. Our goal is to lead the nation in public policy issues by using Texas as a model for reform.



# THE 84th REGULAR SESSION IN REVIEW

The 2015 regular session of the Texas Legislature achieved a great deal thanks to the hard work of the many officeholders, activists, civil-society groups, and Texans who animated its work and provided its direction. Though there remains much to be done in securing a Texas that is strong and free, the 84th Texas Legislature did its part in making progress toward that end.

Based on the Foundation's key issue areas, we can assess the 84th's accomplishments—and tasks undone—in the following spheres.

## Fiscal Policy

The area of Fiscal Policy saw some of the biggest wins for Texas. The list of achievements is impressive:

1. A conservative state budget that grew just 3.6 percent, falling below the 6.5 percent maximum requested by the Conservative Texas Budget coalition.
2. One of the largest state tax cuts in Texas history, at \$3.8 billion.

3. The safeguarding of \$11 billion in rainy day monies. The state's rainy day fund remains whole.
4. An end to highway-fund diversions.
5. A decrease in budget gimmicks.

We began these discussions the day the last session ended—in May of 2013. What a gift to see these ideas become reality—a gift for all Texans—but most importantly those at the bottom rung of the economic ladder. Better jobs, higher pay, more opportunity to achieve the American dream—this is what was achieved.

There was one missing link in the arena of fiscal policy—an effective spending limit for the state budget. After years of seeing little progress toward strengthening Texas' weak spending limit, the Legislature made substantial headway toward broadening the base and calculating it using population growth and inflation. The Senate's stronger version of reform came back substantially weakened from the House and ultimately failed to pass. How-

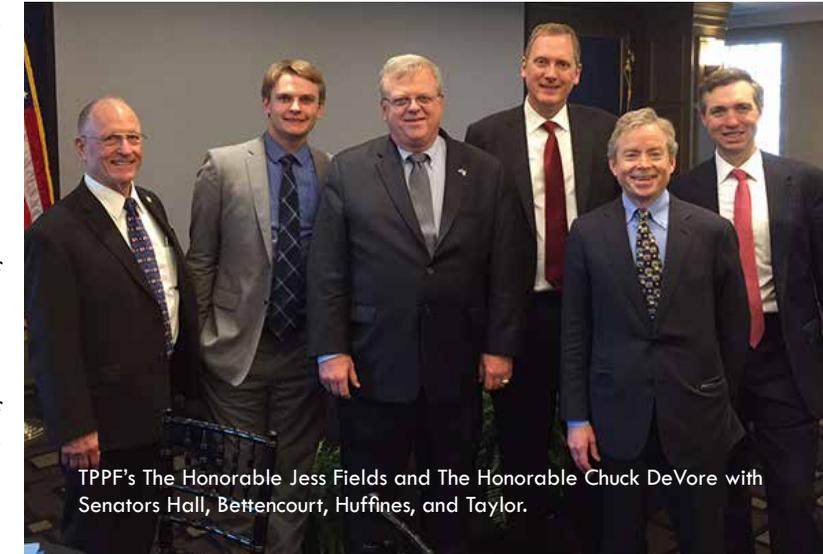
“The business franchise, or margin, tax was cut by 25 percent, returning \$2.6 billion to Texans. The \$1.2 billion balance of the relief package was property-tax relief in the form of an additional \$10,000 homestead exemption.”

ever, there was valuable dialogue toward fundamentally reforming the spending limit next session.

## Local Governance

In the arena of Local Governance, the 84th Texas Legislature saw conservatives aggressively challenge many long-held liberal notions of local governance—and win.

Some of conservatives' most notable victories came in the area of local debt. To help stem the rising tide of red ink, Texas lawmakers passed a series of reforms, including: restricting the use of capital appreciation bonds (CABs), which had allowed local governments to borrow now and defer principal and interest payments for decades; putting tighter restrictions on the issuance of certificates of obligation, or non-voter approved debt; and limiting “rolling polling,” an illicit practice



TPPF's The Honorable Jess Fields and The Honorable Chuck DeVore with Senators Hall, Bettencourt, Huffines, and Taylor.

that some local entities used to target certain voters by moving polling locations during the early voting process. On the flip side, conservatives also defeated an effort to allow some school districts—which are the most heavily indebted of any local government type—to get even further into debt by relaxing the 50-cent debt limit.

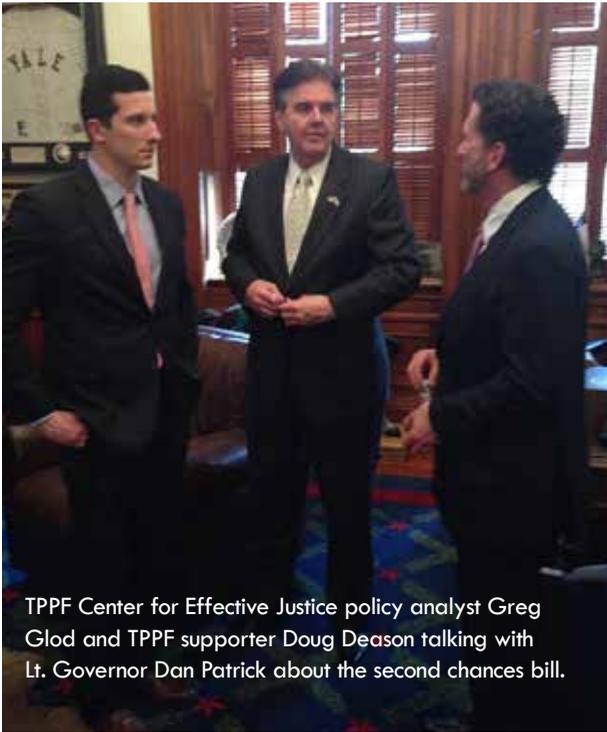
Conservatives were also successful in challenging the liberal interpretation of local control. A big illustration of this came with the Legislature's overwhelming approval of legislation to preempt municipal fracking bans, such as the one passed in Denton, which pose an obvious threat to the Texas economy and private property rights.

Impressively, those of the limited government mindset also scored a victory on both property tax relief and property tax reform. In addition

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The Honorable Jess Fields (center) of TPPF's Center for Local Governance, speaking to the Senate Committee on State Affairs regarding the Taxpayer Funded Lobbying Bill.



TPPF Center for Effective Justice policy analyst Greg Glod and TPPF supporter Doug Deason talking with Lt. Governor Dan Patrick about the second chances bill.

tion to the permanent increase in the home-  
stead exemption, pending voter approval, the  
Legislature also passed a reform that requires  
local taxing entities to achieve a supermajority  
before raising property taxes. This reform  
will bring more accountability to the system  
and, hopefully, slow the growth of Texas' pun-  
ishing property tax burden.

### Effective Justice

*Texas continued making strides toward conser-  
vative Effective Justice reform in the 84th.* Many  
items that were included in TPPF's *Legislator's  
Guide to the Issues* were translated into conser-  
vative criminal justice policy championed by  
members from across the ideological spectrum.

The 84th Texas Legislature also made it easier  
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censing burden on professions like barbers and  
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dozen licensing increases from becoming law.

**The 84th Texas Legislature also made it easier for Texans to make a living, softening the licensing burden on professions like barbers and cosmetologists, while keeping over a dozen licensing increases from becoming law.**

The Legislature also codified the common law  
rule of lenity and established a commission  
to review criminal laws located outside of the  
penal code and recommend redundant or un-  
necessary laws for removal.

Texas took the monumental step in expand-  
ing nondisclosure for adjudicated, first-time,  
low-level misdemeanants, better facilitating  
ex-offenders' reintegration into the economy.  
Further, the Legislature approved civil in-  
demnity of landlords who safely lease to reha-  
bilitated ex-offenders.

The Legislature also passed several criminal  
justice reforms that promise to save the state  
money over the course of the next two years.  
By allowing judges to award diligent partici-  
pation credits to state jail inmates, offend-  
ers are able to take ownership of their own  
rehabilitation process and may earn small  
amounts of time off of their sentence by suc-  
cessfully completing programs or training.  
Further, the Legislature raised property of-  
fense thresholds to parity with the dollar val-  
ue when they were originally passed, allowing  
victims to be made whole more easily.

Last but not at all least, Texas children also  
benefited, seeing the decriminalization of tru-  
ancy and requirement that schools do more  
to keep kids in class without resorting to the  
criminal justice system.

### Energy & Environment

*Texans concerned with Energy and the Environment racked up real victories this session.* The battle over the EPA's  
Clean Power Plan (CPP) is still being  
waged in the press, in the federal arena,  
and within the Texas executive branch.  
However, there wasn't much of a fray  
over the issue in the 84th Texas Legisla-  
ture. Legislators declined to pass legisla-  
tion related to the CPP, including some  
that would have taken an affirmative  
stance against the EPA's unconstitutional  
overreach to take over Texas' electric  
grid. This fight is far from over, though,  
as Texans will likely see the CPP's effects  
reaching into 2017 with problems for the  
85th Texas Legislature to address.

This session did provide good news for  
improving environmental regulation and  
economic growth in Texas, as long-awaited  
reform for contested case hearings became  
law. This reform will streamline the con-  
tested case hearing process and reduce the  
amount of time and money spent on the  
hearing process, enhancing economic com-



TPPF's Leigh Thompson and Bill Peacock testifying before House International Trade & Intergovernmental Affairs against the EPA's Clean Power Plan.

petitiveness in Texas. Similarly, the Legis-  
lature made it more difficult for local gov-  
ernments to sue businesses under the state's  
environmental laws. These actions often  
amounted to duplicative regulation by the  
state and local governments, and seemed  
more about increasing local government  
revenue rather than about the environment.

Another high note for this session was  
Texas' expressly preempting governance  
of oil and gas regulations, leaving munic-  
ipalities the ability to regulate surface ac-  
tivity in a commercially reasonable man-  
ner, so long as it does not amount to a de  
facto ban on oil and gas operations.

Lastly, much needed moves were made to  
study the use and development of brack-  
ish groundwater in Texas. Legislation  
calling for a delineation of zones, where  
brackish water exists and could be used to  
free up fresh water in order to meet Tex-  
ans' projected needs by 2060, also passed  
this session.

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Economist Dr. Vance Ginn, and many other TPPF policy experts, provide a valuable resource for the media during the legislative session.



James Quintero, director of the Center for Local Governance, discusses one of the many victories of the 84th session—reforms to stem the rising tide of red ink in local debt.

## Economic Freedom

*The cause of Economic Freedom was meaningfully advanced by the 84th Legislature.* Texas has built its economic success on a foundation of the Texas Model: lower taxes, less regulation, a sound civil justice system, and reduced reliance on the federal government.

To this end, lawmakers in the 84th Texas Legislature placed a renewed emphasis on reforms that would make the civil courts system more equitable as well as more resistant to legal gamesmanship. Plaintiff's attorneys, for instance, will no longer have free rein to investigate and disclose a defendant's net worth. The Legislature also opened up asbestos litigation to greater transparency, ensuring that information about a claimant's asbestos exposure remains discoverable throughout the proceedings.

Other reforms took umbrage with government overreach. As an example, the comptroller's office will now maintain a database to better keep track of the thousands of entities authorized to condemn private property. Unfortunately, several measures to further improve property rights failed to pass, including one that would

have ensured the right of property owners to seek compensation for city actions that reduce the value of their property.

Another good result was the defeat of efforts to reduce consumer access to capital. Lawmakers resisted an attempt to interfere with the ability of Texas property owners to secure market-based tax relief, such as a property tax loan. And several bills that would have restricted consumers' ability to receive short-term loans were defeated.

There were some setbacks, including the Legislature's failure to implement a remedy for the fraudulent practices currently plaguing the casualty insurance market, and its decision to increase the amount of the Texas Windstorm Insurance Association's subsidies along the coast. Also, widely supported legislation designed to rein in abuses by labor unions failed to pass. Among other things, the bill would have prohibited governments from deducting union dues from government employees' paychecks.

## Education Freedom

*In the area of Education Freedom, we met more success than ever before—but there remains much left to do.* Around the nation, more and more states are supporting school choice. Twenty years ago, there was only one school choice program in the nation. Now there are 45 programs in 23 states and Washington, D.C. These programs provide educational options so that all children—regardless of their ZIP code or ability to pay—have the opportunity to enroll in an excellent school. In fact, in the same time that the 84th Texas Legislature met, four new school choice programs were created in Nevada, Montana, Mississippi, and Tennessee.

So why not in the Lone Star State? It wasn't for lack of effort from the liberty movement. Education freedom got further in this legislative session than it ever has before: for the first

“Twenty years ago, there was only one school choice program in the nation. Now there are 45 programs in 23 states and Washington, D.C. These programs provide educational options so that all children—regardless of their ZIP code or ability to pay—have the opportunity to enroll in an excellent school.”

time in 20 years, school choice was passed by the Texas Senate. However, school choice legislation died in the House without ever receiving a public hearing.

Nevertheless, there was a victory for increased flexibility through the charter school system. Under current law, colleges and universities are allowed to establish and operate charter schools only in their county. This session, the county-level restriction was lifted, thereby allowing universities to provide charter school options to more Texas students, especially since there is no cap on the number of university charters that may be created.

Finally, there was an improvement on public school ratings. Under current law, public schools are given one of three accountability ratings by the Texas Education Agency: Met Standard, Improvement Required, or Not Rated. This provides parents little information about how their schools are actually doing. The Legislature improved that this session by passing legislation that requires the TEA to rate schools based on an A to F scale, providing greater clarity for parents and communities.

## Health Care

*In Health Care, Texas achieved its major must-win goal this session.* Though Medicaid reform as such was never taken up, the 84th Legislature nevertheless declined to



TPPF's education policy analyst, Michael Barba, and economist, Dr. Vance Ginn, fighting for school choice for all Texas students.

contemplate the expansion of Medicaid under Obamacare—a major win for Texas. State lawmakers in both chambers were content to ignore Medicaid expansion bills, and call for the federal government to issue a Medicaid block grant.

The Legislature also passed bills that will allow state employees to select a consumer-driven health plan with an HSA, prevent the state from regulating direct primary care as health insurance, and expand the use of telemedicine in Texas.

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Dr. Thomas Lindsay, director of TPPF's Center for Higher Education, in conjunction with the Institute for the Study of Western Civilization at Texas Tech University, hosted a summit on Western Civilization where academics from across the country came together to discuss the importance of expanding the study of this specific discipline.

## Higher Education

*Last but not least, the arena of Higher Education saw a continued push for real reform in the 84th.* The Legislature adopted a handful of innovative policies designed to reduce the cost of higher education, both for students and for the state of Texas. The Texas College Work-Study Program was reformed to enable work-study students to do their work in the private sector. This will enable the program to serve more students, as well as make the program more useful to participants.

## The Work Remaining

*Of course, there remains a great deal to do.* The American Founders warned us that the fight for liberty would never be over: it remains a constant struggle due to the nature of man and the corruption of power. In that light, we knew there would be more work to be done after the 84th Texas Legislature, and so it is. The Foundation, our allies, and the cause of freedom did

not get everything done that we would have wished. Some of the measures that failed and the work unfinished follows:

- As we noted above, freedom for parents to choose their children's schools remains a top priority, after school choice legislation died in the House without ever receiving a public hearing.
- Texas still needs a comprehensive spending limit that prohibits the entire budget from increasing more than population growth plus inflation, and we must remain vigilant with the budget in 2017 to ensure that the victory won this session leads to continued fiscal restraint.
- Texas should work to rein in growing abuses by labor unions. Among other things, we should prohibit governments from deducting union dues from gov-

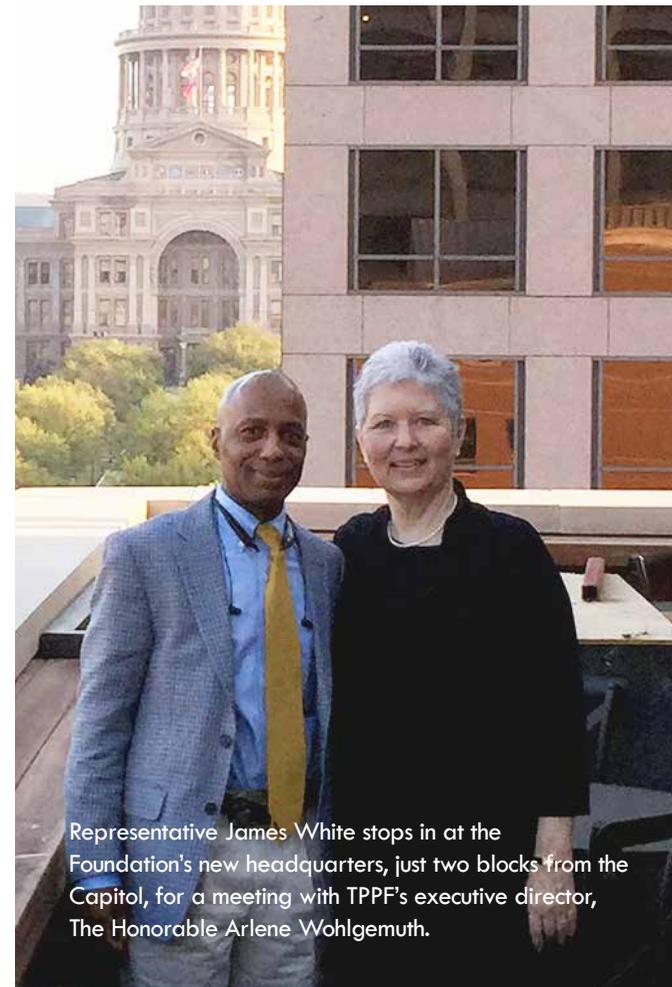
ernment employees' paychecks and stop unions from strong-arming employees and employers.

- Medicaid reform is badly needed by Texas and the other states, particularly in the form of block grants to states.
- The Sales Tax Relief (STaR) Fund would allow legislators to reduce the size of the appropriations bill while returning taxpayer dollars through a temporary reduction of the state sales tax rate.
- Property rights still need strengthening, including ensuring the right of property owners to seek compensation for city actions that reduce the value of their property.
- Texas should establish a Professional Charter program to provide experienced and qualified public school teachers with an expedited process by which they could establish and operate professional charter schools in Texas.

Nevertheless, this work remaining to be done does not diminish the real accomplishments in the 84th.

## Conclusion

In conclusion, the 84th Texas Legislature took a historic step forward in controlling the growth of government spending—and what didn't get done this time has a good chance of passage the next time, thanks to the groundwork laid now. Everyone in the liberty movement—from civil-society allies, to officeholders, to ordinary citizens—were successful in setting the terms of the public conversation early, and thereby shaping the policy outcomes to a remarkable degree.



Representative James White stops in at the Foundation's new headquarters, just two blocks from the Capitol, for a meeting with TPPF's executive director, The Honorable Arlene Wohlgemuth.

Both the achievement and the possibility are thanks to ordinary Texans, fired with a love of liberty, who stood up to demand liberty for themselves—and to give support to us, who give voice to their aspirations to be free. ★

**The 85th Texas Legislature begins on Tuesday, January 10, 2017.**



TPPF founder Dr. Jim Leininger opens the Allies and Alumni Breakfast with stories of both struggle and survival of one of the nation's first conservative think tanks.

## San Jacinto Day, April 21, 2015: Liberty's New Address opens for business

by Cara Dublin

In the canon of Texas history, some dates stand out as red-letter days. February 24, 1836: William Barret Travis vows Victory or Death from the Alamo. March 2, 1836: the new Republic of Texas is declared. April 21, 1836: Texan liberty proves its case in the decisive victory at San Jacinto.

One hundred seventy nine years after that victory, Liberty in Texas is taking a new stand.

On April 21, 2015, San Jacinto Day, the Texas Public Policy Foundation formally opened the doors of our new headquarters, the Michael S. Stevens Building at 901 Congress Avenue. Standing six stories tall, at 42,000 square feet, and just 352 yards from the Texas State Capitol, this majestic space represents the next step in, as Travis put it, "the name of Liberty, of patriotism, and everything dear to the American character."

This building is state-of-the-art. The Joe B. Hogsett Theater seats 175 and is equipped with cutting edge audio-visual equipment, including a livestreaming capacity that expands the reach of TPPF events far beyond our new walls. The elegant Red McCombs Event Center is similarly equipped to host speeches, luncheons, receptions, educational events, and much more. The new communications suite features studio space, a sound stage, an editing room, and other technology engineered to produce top-quality videos.

This building respects our state and local history. The new Albert and Ethel Herzstein Lobby is anchored by the carefully restored rubble stone wall of the original building. In the Creighton-Lomax Executive Board Room, the leaders of liberty in today's Texas gather around a custom table made from Long Leaf Pine wood salvaged from the original structure, some of which

also appears as the plank ceiling of the sixth floor Event Center Lobby. The Trisha and Chaz Neely Foyer, our main lobby, features an inlaid wood rendition of an iconic piece of Texas history: the famous "Come and Take It" cannon emblem from the battle of Gonzales.

This building represents our future. Above the seal, an oculus bears the visionary words: "Liberty, Freedom, and Opportunity." Our variety of office spaces and modern conference rooms are a dedicated home for the important, ongoing work of TPPF. The Governor Rick Perry Liberty Balcony offers wrap-around views of a bustling, busy downtown Austin, where the future of Texas is being made today.

This building is your building. This is the most important point. This is a building for Texans, by Texans. And it exists solely to further TPPF's mission, to promote and defend liberty, personal responsibility, and free enterprise in Texas and the nation.

On Grand Opening Day, the halls filled with friends and supporters, legislators,

policymakers, media, and those simply curious to know what 901 Congress is all about. Brilliant flowers bedecked the halls and tables at all the day's events as our state's most committed patriots gathered together for a celebration of liberty. Activities for the day included:

The Anson Jones Allies and Alumni Breakfast, where Lt. Governor Dan Patrick addressed a gathering of former TPPF staff and our allies in the fight for liberty in the Red McCombs Event Center;

The Sam Houston Lone Star Luncheon, where our most generous capital campaign donors gathered to hear Governor Greg Abbott and Attorney General Ken Paxton; and

*The Call of the Entrepreneur: Lessons and Innovation for the Next Generation*, our first official Policy Primer in the new building. Guests filled the Joe B. Hogsett Theater to hear Dr. Jim Leininger, TPPF founder and founder of Kinetic Concepts, Inc.; Red McCombs, founder of Red McCombs Automotive Group; and Jim Henry, CEO and Chairman of Henry Resources, LP. The policy

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1) Gov. Greg Abbott explains the importance of the Texas Public Policy Foundation to keeping Texas on the road to greater freedom and prosperity. 2) The Ann and Joe Kercheville Library. 3) Creighton-Lomax Executive Board Room. 4) Dr. James and Cecelia Leininger enjoy one of the many outside gathering spaces with Lt. Gov. Dan Patrick.

5) Brooke Rollins, TPPF president and CEO welcomes attendees to the grand opening celebration. 6) Texas entrepreneurs Dr. James Leininger, Red McCombs, Jim Henry, and Evan Baehr participate on the policy panel "Call of the Entrepreneur: Lessons and Innovation for the Next Generation." 7) The Albert and Ethel Herzstein Lobby provides a warm welcome to TPPF's friends and visitors. 8) Texas Attorney General Ken Paxton highlights the importance of TPPF's new headquarters just two blocks from the Capitol.

panel was moderated by Austin's own Evan Baehr, co-founder of Able Lending.

ends: and so in Texas, at last, we have a home that will endure as long as there is liberty to be defended.

Nearly 700 guests gathered at our Open House and Capitol Reception, including elected officials, appointed officials, government executives, legislative staffers, stakeholders, media, bloggers, and more.

As we initiate this new era for the Texas Public Policy Foundation, we establish a new date in the canon of Texas history and American history. This unforgettable Grand Opening Day is only the beginning.

This building is the culmination of several years of planning and effort, 26 years of work for liberty under the Lone Star, and the timeless dream of man to be free. It is a permanent edifice in America's most important state capital, dedicated to liberty, responsibility, and opportunity. The fight for freedom never

And so we add to the list of red-letter days—April 21, 2015: Liberty's New Address opens for business. ★

### Contribute to the Texas Public Policy Foundation today!

\_\_\_\_ I would like to advance freedom in Texas by contributing to the Texas Public Policy Foundation (TPPF). I would also like a free subscription to:  *Veritas*  *Texas Public Policy News (TPPN)* electronic newsletter.  \$\_\_\_\_\_.

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# Visionary Spotlight

on *Paul Ivie*



**P**aul Ivie is a dedicated defender of liberty, a project manager and IT consultant, and one of TPPF's committed supporters. In March of 2015, Mr. Ivie donated his time and talents to help TPPF transition from our rented office space into our new, permanent headquarters building at 901 Congress Avenue. He took a moment to share why he values the work of TPPF and calls others to do the same.

## Why do you support the Texas Public Policy Foundation?

TPPF is doing work that is extremely important to our whole country—they are fighting the battles that need to be fought at a national level. My hope is that they will continue to succeed in Texas and the rest of the country will follow. Conservative ideas work, and they need to be implemented both in Texas as well as nationally.

## How and when did you first become involved with TPPF?

I heard about the 2013 Policy Orientation on the Bill Bennett show and decided to attend. I had a great time and took pages of notes, and met some very interesting people. In the breakout sessions, we discussed real changes that needed to occur, and I valued the fact that they also had dissenting voices on the panels. I think it is important to hear both sides of the story.

## What are your biggest policy concerns?

I am extremely interested in passing school choice. Schools are one of the few areas of our

country which do not compete for business, and their output reflects this. If parents could choose where their child attended school via a new system, it would cause a rapid improvement in quality. If there were only one restaurant in town and everyone had to go there for lunch, would it be as good as the many great choices offered in Austin? Or if everyone were forced to buy a car from the nearest dealership, what would happen if they preferred another brand? My nearest restaurant is a fast food burger joint that I prefer to avoid altogether. So why should we be forced to send our children to schools based on proximity? What if the third grade teacher is known as a terrible teacher, but is safely ensconced in her job because of effective tenure? Your child deserves better.

## What is the most important thing TPPF does?

I think TPPF's strength is being able to provide alternative ideas, so that when people get tired of trying the same old failing policies there will be some well-researched, workable ideas ready to implement. Milton Friedman said that

“Once TPPF has identified the biggest areas for concern in the public sector, and has researched and developed policy positions around those concerns, they grab the bull horn and make sure EVERYONE KNOWS ABOUT IT.”

our job is to develop alternatives to existing policies, to keep them alive and available until the politically impossible becomes the politically inevitable.

## Describe your experience working with the TPPF staff for two weeks.

I had the best time. They made me feel very welcome, as if I were part of the staff and had been there for years. Between their friendliness and like-minded ideas, I felt very much at home. I was able to go to lunch with a couple of people in whose work I am particularly interested. Economist Vance Ginn and I were able to talk about tax policy, and Director of the Center for Education Freedom Kent Grusendorf and I were able to talk about the school choice initiative and the bills being presented this session. It was incredibly engaging.

## Describe a typical day in the office at TPPF.

The staff were usually doing research, having quick meetings in the halls or offices, or going to the Capitol to meet with legislators. Many interesting conversations were taking place around me, and I knew that these people were helping effect change for issues that matter. Some people talk about change, but this group is actually making it happen. The office atmosphere was both businesslike and casual. The conversations were stimulating and often funny. The caliber of the people is superb, and their raw brainpower and depth of knowledge is amazing.

## Why did you decide to volunteer?

The timing was perfect for me. I had just finished a big project and had not started

a new one yet, so I had some free time. The TPPF move was about to happen, and since I have done a couple of those I thought I could assist. I happen to be in Information Technology, so I helped with both the network and telecom installations in between packing boxes! I am a big fan of their work and support them financially, so I thought I could support them in a more direct, hands-on way as well. I was in the new building wearing a hardhat just about every day. After the move I was able to spend a couple of days setting up printers and dealing with internet connectivity issues.

## What does TPPF's new headquarters mean for the future of the organization?

They are now on a fully equal footing with some of the other organizations represented at the Capitol, like the AFL-CIO and various teacher lobbying groups. Actually in my opinion they are on a superior footing, as they are two blocks from the Capitol, straight down Congress Avenue. Legislators on their way to lunch will be walking past the front door of this beautiful building. The amphitheater will allow them to host nationally known speakers in-house, and their upgraded video and communication equipment will allow them to both record and broadcast these meetings. The expanded and more visible presence of the building will help point out their growing importance as a force to be reckoned with in both Texas and national politics.

## Any other thoughts you would like to share?

If you get the opportunity to visit or volunteer, you should absolutely take it! ★

# Sand + ditch = jail?

## Foundation's litigation center to judicially oppose federal oppression

by **Robert Henneke**  
Director, Center for the American Future

Many of us dream to someday have a quiet place to retire. Ocie Mills had that goal and purchased two waterfront lots on Escambia Bay in Florida to build his dream house—mostly wooded, with large pine, oak, gum, bay, and magnolia trees, as well as lots of smaller trees and shrubs. He took the right steps in proceeding forward, obtaining a building permit from the county and having state officials come flag the protected area near the shore. A drainage ditch ran down the property, and Mr. Mills and his son Carey Mills brought sand in to level the area for his foundation.

Then, federal officials appeared claiming Mr. Mills' property a "wetland" and prosecuting both him and his son for "discharging pollutants into the navigable waters of the United States." Ocie and Carey Mills were prosecuted, convicted, and spent 21 months in prison—all for putting sand into a ditch.

Since its inception during FDR's New Deal programs, the modern administrative state has exploded to the level of a quasi-fourth branch of government—unresponsive to the will of the people it regulates. The mission of the Foundation's new litigation Center for the American

Future is to fight back against this type of federal regulatory abuse that threatens our individual rights and liberties.

Last year, Congress passed 72 laws signed by the President. In the same period, federal agencies adopted 3,659 rules totaling 79,311 pages of new regulations. These federal economic, environmental, and health and safety regulations cost Americans \$1.86 trillion annually or nearly \$15,000 per American family. Today, over 300,000 federal regulations are criminally enforceable.

For the past decade, Texas has led the fight from a statewide perspective in opposing the federal government's oppressive policies. In many cases, Texas has fought the fight alone—and succeeded in pushing back against abusive regulatory policies.

Not always is Texas the ideal plaintiff to advance the cause of freedom. While government versus government litigation may address an important legal issue, it omits the specific impact upon Americans that makes the fight worth fighting. In some situations, state government lacks legal standing to oppose federal

“The Center adds a new facet to the Foundation's unique Texas mission to promote and defend liberty, personal responsibility, and free enterprise. The Center will act to defend Texas and Texans and, through this advocacy, advance principles of liberty on a national scope.”

action targeting individual citizens and businesses.

The Center adds a new facet to the Foundation's unique Texas mission to promote and defend liberty, personal responsibility, and free enterprise. The Center will act to defend Texas and Texans and, through this advocacy, advance principles of liberty on a national scope.

The Center will be unique and standalone from those other conservative groups already in the fight, specifically in the following ways:

### 1. Fighting for Texas, Impacting the Nation

Sadly, the onslaught of abuse and overreach from the current Administration provide abundant opportunities to advance the Center's mission. The Center will focus on advancing issues that arise here in Texas as a method of impacting the nation.

### 2. Engaging at all Judicial Levels

The standard playbook for our liberal opponents includes their participation at the administrative level during the inception of a proposed regulation. As a result, conservatives

consistently find themselves on defense, while liberals remain on the offensive. In addition to the district and appellate courts, the Center will engage in the rulemaking process at the administrative level through submission of comments and advocacy in order to influence the final regulatory proposal.

### 3. Leveraging the Foundation's Strengths

The Foundation's experience, reputation, depth of knowledge, and established relationships with businesses, elected officials, and grassroots organizations provides a tremendous resource bank from which the Center will draw. The Center will integrate the Foundation's policy experts into the process for litigation development.

With the Environmental Protection Agency's recent adoption of its Waters of the United States (WOTUS) rule, the federal government now seeks to expand the Clean Water Act to give it authority over any ditch, ravine, pond or land that might temporarily pool water. The next "Ocie Mills" might be a dryland farmer in the Texas panhandle. This time around, the Center for the American Future will be there to join the fight. ★

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Twitter: @robhenneke



**The Honorable Robert Henneke** is the Director of the Center for the American Future at the Texas Public Policy Foundation. Before joining the Foundation, Robert served as the twice-elected Kerr County Attorney where he fought to protect the community through tough prosecution and brought conservative values to county government. Robert began his legal career serving as an Assistant Attorney General in the General Litigation division under the leadership of Texas Attorney General Greg Abbott. He is a member of the State Bar of Texas and is admitted to practice before the United States Court of Appeals for the Fifth Circuit, as well as the Federal District Courts in the Eastern, Western, Northern and Southern Districts of Texas.



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# *Save the Date!*

## Friedman Legacy Day

Join us as part of a larger celebration of the life and works of Dr. Milton Friedman. Hosted not only in Texas at TPPE, but around the globe, “Friedman Legacy Day” is our way of remembering renowned economist Dr. Milton Friedman and the impact he and his ideas have had on us, our country, and the world.

We will jump start the global celebrations early on July 30th—the day before what would have been Milton’s 103rd birthday—as we gather to keep Dr. Friedman’s legacy alive.

**THURSDAY, JULY 30, 2015**

2:00 pm - 3:30 pm

Red McCombs Event Center, 6th Floor

Texas Public Policy Foundation

901 Congress Ave.

Austin, TX 78701

