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Veritas

A PUBLICATION OF THE TEXAS PUBLIC POLICY FOUNDATION

CHANGING LIVES. LEADING FOR LIBERTY. SINCE 1989.

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TEXAS PUBLIC POLICY
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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.

PRESIDENT'S MESSAGE

A few weeks ago, our staff was honored to spend some time with our beloved friend, former Senator Phil Gramm, as he shared with us his thoughts on *Governing versus Protesting*. Delivered in his inimitable way through story, Senator Gramm explained his concern that too many today seem so profoundly committed to every part of their respective agendas that they are unable to see when opportunities arise for actually making progress, based on principle, toward their very own goals. He observed that such compromise has come to have a negative connotation. Senator Gramm's remarks were timely.



Both the 85th Regular Session and First-Called Special Session were filled with conflict. But even so, I was so proud of our team of happy policy warriors who worked hard to build relationships of trust among those who agree and disagree with us through the free exchange of ideas in a civil and respectful manner. They were able to find avenues of progress on our agenda by advancing a win-win mentality—including some compromise—that held fast to truths rooted in human nature, human endeavor, and human flourishing.

Most of our Special Session accomplishments fell under the aegis of *Think Local Liberty*, a project of our Center for Local Governance. TPPF effectively changed the debate from one about regulatory control by local government officials to local liberty for taxpayers and voters like you. Our successes are outlined in *The Future of Liberty in Texas*. No, we didn't get everything we wanted, but we now stand much closer to the goal line.

Meanwhile, in *Preserving Liberty: Knowing When to Stand and Fight*, you will find a thoughtful discussion of the nature of the policy debate today and how TPPF will continue to advance liberty not just here in the Lone Star State but all across America.

You will also find some encouraging news about our progress in bringing the new generation of conservatives into the fold through our Liberty Leadership Council. Having lived through the collapse of the American health care system, this generation has begun to believe that government should provide universal health care. In *Millennials' Misplaced Trust in Government Health Care* you will find sound arguments countering the top three myths about universal health care.

One of Governor Abbott's emergency priorities for the 85th Legislature was reform of the Texas foster care system. While progress thus far is much too slow, community-based solutions are showing promise of success. Your Texas Public Policy Foundation has become the "go-to" source for information and solutions in this debate. This issue of *Veritas* offers a full overview of the problem, a description of the new unfolding foster care model, and the personal experience with foster care by a member of our donor family.

As this issue of *Veritas* was readied for print, we learned that President Trump was nominating our very own Kathleen Hartnett White, TPPF distinguished senior fellow and director of our Armstrong Center for Energy and the Environment, to the Council on Environmental Quality. You can read more about this exciting news in *Happenings & Updates*.

You are among a growing cadre of friends who share a commitment with all of us at TPPF to the values of respect, integrity, and toleration; and to a belief that government is limited to securing those individual rights necessary for the advancement of liberty and growth of prosperity. I am so very grateful for all that you have done—whether by contributing your funds or lending your support some other way—to help us carry forward the flag of freedom. Our work has not ended; and it can only endure with you by our side.

In liberty,

Brooke Rollins
President and CEO



THE FUTURE OF LIBERTY IN TEXAS

by Bryan Mathew

Texas has earned a reputation as a land of opportunity and promise. The Texas Model of low taxation, less regulation, and strong property rights bolsters a societal framework where Texans are empowered to provide for themselves and their families. The key insight of the Texas Model is that when individuals enjoy secure political and economic rights, they will act on their knowledge to engage in mutually beneficial exchanges, resulting in “win-win” outcomes that no central planner could produce. This is the promise of liberty.

Despite the demonstrable benefits of the Texas Model, liberty at the local level in the Lone Star State is under attack. Texas’ local governments are increasingly moving toward technocratic models of development that rely on greater central planning and higher taxation. These have been made manifest in policies like forced municipal annexation, rising property tax burdens, and local tree ordinances that are eminent domain in all but name. By virtue of these abuses, local governments are frustrating Texans’ fundamental freedoms.

That Texas is being California-ized at the local level made the special session of the 85th Texas Legislature a truly historic opportunity to push back against this trend toward big government locally. And while conservatives didn’t win every battle, the Texas Public Policy Foundation’s *Think Local Liberty* project successfully challenged old paradigms and helped change state law to protect and promote local liberty.

From a narrative perspective, the special session marked the end of local control as the default policy framework by which lawmakers evaluate local government policies, with local liberty replacing it as the dominant perspective.

For years, local governments have been able to forestall conservative-minded reforms by using local control as a shield. With local control—as promoted by local government officials—the state delegates wide authority to local governments under the theory that local officials best know how to govern their communities. In its extreme form, local control is used to justify the position that local government policies should never be limited or checked by the state government—despite the fact that local governments have been created by the state.

By contrast, the concept of local liberty recognizes that liberty is about people, not local governments that intrude on the people’s God-given right to life, liberty, and property rights. Accordingly, the local liberty framework rebuts the presumption that simply because local governments are closer to the people, they can permissibly invade Texans’ constitutional and fundamental rights. Instead, local liberty insists that like all governmental power, local control must be restrained within constitutional bounds.

These competing policy perspectives came to a head in the special session battles over forced municipal annexation and structural property tax reform. Under reigning annexation procedures, people who decided to live, work, and raise their families outside of a city’s limits could be forced to become city residents against their consent. This led to a pattern of strategic city annexations of revenue-rich areas in order to shore up unsustainable fiscal policies instead of pruning the city budget. Reformers recognized that municipal annexation should be subject to the consent of the to-be-annexed areas, either by petition or by vote.

Local control advocates claimed that forced annexation is needed for cities to manage regional develop-

ment, and that to require consent from areas to be annexed would be a grave threat to cities' survival. In response, Texas policymakers insisted that consent of the governed is a bedrock constitutional principle on which the state is based, and that it is unjust to force a new municipal government upon people by city officials they did not elect, to pay off debt they did not run up, and to finance services they do not want. By highlighting the violation of Texans' fundamental rights, local liberty advocates won a major victory that began to unravel the forced annexation regime by requiring a vote to authorize annexation in a county with a population of 500,000 or more, which would impact the 12 largest counties across Texas that constitute about 63% of the state's population.

Similarly, several bills were filed to limit the growth in local property taxes by setting an automatic voter approval trigger—if local property taxes grew over a certain threshold in a given year, an automatic rollback rate election would be required. Through this election, voters could decide whether to give the local government the additional revenue, or whether to return it to their pocketbooks. Local control advocates stressed that since local taxes are locally set by locally elected officials, the state government should not be involved in reforming the system. In turn, local liberty reformers emphasized the strong liberty interest in reasonable taxation, and how oppressive taxation discourages economic activity, distorts investment decisions, and depresses job creation. Ultimately, the automatic property tax trigger garnered substantial support, but failed to cross the finish line by the special session's end.

There was also significant debate during the special session over the regulation of trees. Over 50 Texas cities prevent landowners from removing trees from their private property without receiving the city's permission, and often they must pay a mitigation fee to the city. Community leaders say these regulations are justified by the communal benefits they provide, such as improved property values for the neighborhood and better air quality.

Think Local Liberty argued that these intrusive tree ordinances should be done away with entirely—after all, trees are not a collective resource, but real property owned by the landowner. If a public benefit is being provided by a landowner's privately owned tree, then the public should pay for that benefit. Otherwise, the landowner should be free to develop her property as she sees fit, and remove the tree if she so desires.

While the discussion over this issue has been largely muted in the past, liberty advocates, leveraging a just-issued opinion from the attorney general, pushed this issue into the light of day and forced a robust public debate. While only incremental improvements were ultimately codified into law—i.e., HB 7 allows landowners to offset tree mitigation fees by planting new trees and disallows municipalities from imposing fees on homeowners removing trees that are under 10 inches in diameter—this was a positive opening move in a much longer contest to secure private property rights.

Although local control is no longer the default conceptual framework, it still remains a powerful tool in the hands of taxpayer-funded lobbyists and associations who seek to advance the interests of government rather than the individual. As policymakers turn their attention toward grappling with Texas' mounting local debt—Texans bear the second-highest per person local debt of the 10 most populous states—and to ending local corporate welfare, local governments will still protest that reformers are infringing on their “freedom” to govern according to local values. It will be up to efforts like *Think Local Liberty* to respond.

History taught the Founding Fathers that a society that protects individual liberty will flourish. Texas proves the Founders right—when people must take responsibility for their choices and when they are assured that they can enjoy the fruit of their labor, they thrive. Reformers must heed the lessons of the special session and adjust their advocacy accordingly, so that in Texas, the flame of liberty can continue to burn bright. ★



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PRESERVING LIBERTY KNOWING WHEN TO STAND AND FIGHT

by Bill Peacock

Fights over public policy are nothing new to Americans—or Texans. In the past, these were quarrels not unlike the infamous feud between Thomas Jefferson and Alexander Hamilton over their opposing visions for America.

As liberalism advanced in our country over the last century, public policy debates were often described in the press as simple disagreements with the arguments of both sides given equal weight. More recently, this roll of being a “neutral” arbiter has been abandoned by the press, resulting in a shift to the left in political coverage. Indeed, any pretense of neutrality has largely disappeared, with the press serving as a mouthpiece for the liberal establishment in the debate over the best way to govern our country and live our lives.

Unfortunately, many people on the right have not been up to the challenge of responding to the left’s assault.

The last 30 years have seen a steady retreat from many on the right in the political and cultural arenas. Ceding ground while regrouping has become for them the de facto means of dealing with the left. The problem is, every time we take a step back to regroup, the left advances. We’ve now reached a place on many issues where retreat is no longer possible. Not because of a sudden show of strength, but because we are surrounded.

The left has taken notice of this and changed the way they operate to take advantage of their relative strength. Increasingly, debate is being abandoned and replaced

with suppression. Now, the concept that ideas may be freely exchanged and expressed consistent with our rights to speech and association is discredited. Conservative ideas are hateful and harmful. Diversity means including any viewpoint, as long as the left approves. We’ve reached a point where “abridging the freedom of speech” is not just claimed to be morally correct, but required. Even if it takes violence to do so.

We’ve all seen instances of this. Mark Steyn provides a good summary:

But, as part of its general disdain for “speech”, the left now brands anyone it doesn’t like as “fascist”, and therefore illegitimate, and ripe for a bloody good hiding: Trump, [House Majority Whip Steve] Scalise ... Charles Murray, the liberal Middlebury professor who made the mistake of inviting Murray [to speak] and so had to be put in hospital

Instances like these are serving as a wakeup call to some who slept through the first and second acts. It has forced many in the conservative establishment to come to grips with what has been true all along—political debates are generally not about efficiency or differences of equally weighted opinion. Instead, they are very often battles over questions about the future of civil society.

Fortunately, while the conservative establishment was steadily retreating, movement conservatives have been fighting back. We joined the fight when many others didn’t for one very simple reason; we understood that

Like Ronald Reagan, we knew that there “are those in the world today, as there always have been, who ... preach revolution against tyranny, but they intend to replace it with the tyranny of totalitarianism.”

there was actually a battle taking place! Like Ronald Reagan, we knew that there “are those in the world today, as there always have been, who ... preach revolution against tyranny, but they intend to replace it with the tyranny of totalitarianism.” And we took Reagan’s advice when he pointed out, “The freedom we enjoy today has not always existed and carries no guarantees. In our search for an everlasting peace, let all of us resolve to remain so sure of our strength that the victory for mankind we won here is never threatened.”

For our fight to be successful, we need to understand the reasons for liberalism’s increasingly successful assault on American culture and politics. The reasons are many, but at its core, liberalism’s success stems from its ability to convince people that there are no absolute, universal truths, like those contained in our nation’s founding document:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness.

The flaws in the Declaration of Independence’s universal truths are exposed in its flawed results, says the left. Here’s one example from the Institute for Humane Education:

It took another century after the signing of the Declaration to include African Americans in our dream; and we still have much work to do for true equality in education, opportunity, pay, respect, and inclusion. It was almost 150 years after the signing that women were finally regarded as full citizens who were allowed to vote.

Of course, just because flawed human beings fail to live out universal truths does not invalidate them. Yet many people in America concerned about our failures are susceptible to such arguments, and fall into the logical fallacy of rejecting universal truth. R.C.

Sproul explains what happens to a society when this happens:

Who gives value to values, truth to truths and purpose to purposes? According to the relativist, there are approximately six billion answers to that question—that is, six billion potentially different and opposing ideas about truth; and according to the pluralist, you must accept them all as equal and valid. Welcome to the world of pluralism and relativism!

Such is the dominant culture that we live in today. Except things haven’t quite gone as the progressives expected after 100 plus years of pursuing this pluralistic utopia. “We have been told,” says Douglas Wilson, “and for some time now, that we could have a stable, orderly society without a transcendental authority. So how’s that working out? We were told that common sense would enable us all to work together, regardless of the fact that we all believed different things about ultimate reality. Is that still true? We have gotten to the absurd point where people in Che! shirts are accusing Robert E. Lee of being a bad man.”

Conservatives aren’t the only ones who recognize this problem. Liberal progressives do too. Yet convinced of the righteousness of their position, they look to conservatives to explain the failure. Thus, we come to where we are today, where relativists don’t believe in relativism and pluralists don’t believe in pluralism. Progressive liberalism has become the universal truth of the left. Since conservatives straying from this orthodoxy are the cause of our problems, it is now perfectly acceptable to shut them down by any means. Uniform expression of progressive orthodoxy is the new diversity. William F. Buckley, Jr. described it this way, “Liberals claim to want to give a hearing to other views, but then are shocked and offended to discover that there are other views.”

Armed with this understanding, conservatives are better equipped to prepare for battle. For while under-

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standing that a battle is being fought is the first step, a successful engagement requires that we understand where the battle is being fought. Knowing that the left is targeting universal truths helps conservatives dig down into these policy battles to understand how to mount a defense.

Joining the Battle

The Texas Public Policy Foundation joined this battle almost 30 years ago. We came equipped with first principles derived from universal truths and used them to target two important policy issues at the vanguard of the battle with liberalism: tort reform and educational choice. Today, we still use our first principles, liberty, personal responsibility, and free enterprise, to draw battle lines at those policy areas most important to not just defending against progressivism but to advancing freedom. Here are a few areas where we are engaged in this battle today.

Education

Today's public education system is characterized by poor quality and high costs, pushes progressive liberalism, and limits parents' ability to have meaningful involvement in their children's education. Rather than their current focus on producing what progressive John Dewey described in 1899 as "creative, well-adjusted equalitarians [who] would make over American society in their own image," public schools should focus on being accountable to parents for meeting their educational goals for their children. This is why the Foundation favors Education Savings Accounts, which allow parents to tailor educational services to the unique needs of their child by selecting from one or more of a variety of services such as: private schools, online learning, tutoring, curricula, textbooks, etc. Parents could even save unused funds for college. Our efforts to secure education freedom will bring about the advent of a mutual-cooperation model of education, wherein bureaucratic dictates to parents (and a zero-sum perspective on school resources) are replaced by a true cooperative endeavor between parents and educators.

Health Care

While the government has harmed people through rationing health care, do not resuscitate orders, and

Medicaid's substandard care, it has also taken over a large sector of the economy and grown government to support its intervention—in Texas, health care spending is now the largest single cost in the state's budget. Because Obamacare, Medicaid, and other federally-driven health care programs are harming Texan's health and the Texas economy, the Foundation has engaged on this issue at the federal level. We are fighting for the complete repeal of Obamacare and crafting a replacement that gets the federal government out of the health care business—and out of our lives.

Energy

As residents of a state whose development of fracking technology has unleashed tremendous oil and natural gas reserves, Texans understand better than most how energy markets have fueled freedom and prosperity in this country. Unfortunately, too many regulators and politicians don't get it, and have turned to government regulations, subsidies, and mandates to determine how we generate energy in our country. Regulations that do nothing to help the environment are shutting down coal and nuclear plants, while subsidies and mandates are promoting inefficient wind and solar generation and electric cars. Unless something is done, we will experience European-style energy poverty. The Foundation's Fueling Freedom and Renewable Energy Subsidies projects are attacking the centralized planning of our energy supply in Washington and Austin so that we can continue the path to prosperity that has been fueled by energy markets—not mandates—for the last two centuries.

Local Governance

One thing the Foundation is constantly on the lookout for are new assaults on liberty in the public policy arena. That is why we founded our Center for Local Governance. In the almost four years since its founding, the Center has completely changed the dialogue on this issue. Local control, meaning city officials controlling what their citizens could do, has been replaced by local liberty, where citizens are empowered to make decisions for themselves without interference from state or local regulators. Annexation reform is the most recent example of this; next up is property tax reform and reducing local economic and land use regulation.

Corporate Welfare

More and more, businesses are seeking to earn profits through government subsidies and regulations that they can't earn in the market. The result is higher profits for politically-connected companies, higher prices for consumers, higher taxes for taxpayers—and less prosperity for our state and country. The Foundation is tackling this challenge in energy markets, title insurance, health care, education, and local tax abatements. We fight corporate welfare because it replaces mutually beneficial exchange with profit through cronyism and connections. In the process, it impedes long-term economic success. By its very nature, corporate welfare also has a negative impact on the principles of liberty, free association, and free information.

Government Spending

Government is too big today. It regulates too much, taxes too much, and spends too much. We need to decrease the size and scope of government by reducing government spending. Conservatives have had some success lately at reducing the growth of government spending in many states—especially Texas—through tax and expenditure limits. Ultimately, though, reducing the growth of government isn't enough—we need to stop the growth. The Foundation is working through its Conservative Texas Budget and other initiatives to halt the growth of government spending so we can once again experience widespread economic prosperity.

Half a League Onward with Confidence

The Founders of our country and our state were often better at identifying when a battle was taking place than we are today. From the Declaration of Independence's "dissolve[ing] the political bands which have

connected them with another" to Travis' drawing a line in the sand, our Founders were ready to defend liberty when it was necessary.

However, there are many ready today to defend and advance the cause of liberty. Grassroots conservatives, Tea Party organizations, the Foundation and many other free-market advocates have taken up the fight. Our weapons are the strength of our arguments, our willingness to engage, and our adherence to the universal principles of freedom.

We can't banish our opponents—and don't want to. This is a battle for the minds of Texans and Americans. We seek to persuade them, as Thomas Jefferson wrote in the Declaration, that "it is their right, it is their duty ... to provide new Guards for their future security." Not everyone will agree. But that is the beauty of democracy done right. We are not seeking to impose our will on others; instead, we are seeking a robust culture of respect, integrity, and toleration with institutions to protect individuals' ability to live their lives as they see fit and to add value to others.

To win this liberty, we must identify where the battle is taking place, draw the battle lines to halt the advance of our opponents, and then go on the offensive. The place to start is the same place our Founding Fathers started: with life, liberty, and the pursuit of happiness. Unlike the valiant Light Brigade that charged "half a league, half a league, half a league onward" into certain defeat, conservatives today can wade into battle confident of our ultimate success, equipped to prosper in our defense of liberty with the self-evident truths on which our nation was founded. ★



Bill Peacock is the vice president of research and the director of the Center for Economic Freedom at the Texas Public Policy Foundation. He has been with the Foundation since February 2005. Bill directs the research of the Foundation to ensure its accuracy, integrity, and application of free-market principles to the issues facing Texas and the nation. His own research focuses on economic freedom and growth, property rights, civil justice, and regulatory issues. Bill has extensive experience in Texas government and policy on a variety of issues, including economic and regulatory policy, natural resources, public finance, and public education.



MILLENNIALS' MISPLACED TRUST IN GOVERNMENT HEALTH CARE

by Jennifer Minjarez & Dr. Deanne Waldman

A Pew national survey shows that 67 percent of adults under 30 believe that government should provide universal health care. Yet, government health care poses a serious threat to millennials' financial independence and access to care—not to mention their liberty. The first step to educating this generation of future leaders is exposing universal health care myths.

Myth #1: Europe Has “Free” Health Care

During the 2016 presidential race, one candidate popularized the notion that America should adopt a European-style universal health care system, and captured the millennial vote consistently across polls. It is important for millennials to understand that health care is not “free” in European countries. These countries have some of the highest income tax rates in the world. Denmark, Germany, and Austria all have universal health care, and their income tax rates are 36.1, 39.7, and 34.9 percent respectively.

Because their health care systems are so expensive, European governments can only maintain universal coverage by rationing care. Patients wait longer to see primary care doctors who, strapped for time and resources, excessively refer patients to specialists, who cost more and take longer to see. In 2007, for example, 20 percent of colon cancer cases in Britain became incurable by the time treatment was available.

Myth #2: Universal Coverage = Universal Care

Universal “health care” actually means universal insurance coverage, not universal treatment. The government does not require doctors to treat everyone,

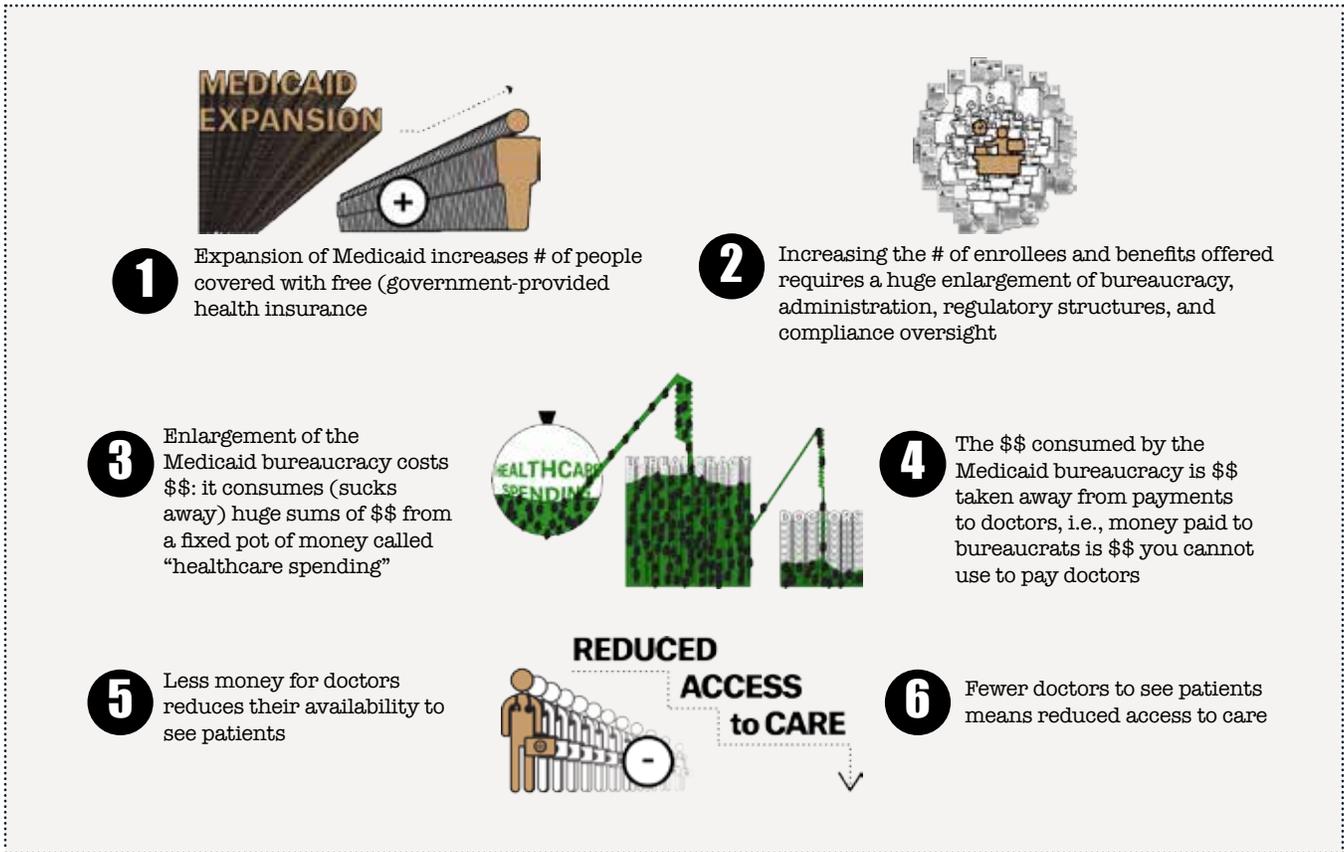
it only requires everyone to purchase health insurance through the Affordable Care Act (“Obamacare”). With or without health insurance, however, people still struggle to get care. This summer, a free clinic in Virginia attracted over 2,000 people in desperate need of medical care, despite being eligible for government programs like Medicaid. Last year, the Illinois Department of Human Services reported 752 Medicaid enrollees who died waiting for care.

Major health insurance companies are dropping out of the Obamacare exchanges, and doctors are refusing to accept Medicaid patients. A 2017 Merritt Hawkins survey shows that the average wait time to see a family physician is 56 days in mid-sized markets, and 29 days in large markets. Under a government run health care system, working-class Americans may have insurance, but they are getting less care.

Myth #3: Universal Health Care is Equal and Fair

Millennials may care deeply about fairness and equality, but they often demand equal outcomes rather than equal opportunity. In other words, they want everybody to have the same stuff, rather than the same rights and liberties.

Universal health care is neither equal, nor fair. The elderly and children consume the most care, but these populations generally do not earn income. In government run systems, such as Obamacare, their care is primarily funded by healthy, young members of society. Millennials are doomed to pay higher taxes and receive the least amount of care. As the generation with the highest amount of student debt, \$1.4 trillion, the



additional financial burden imposed through universal health care hardly seems fair.

Conclusion

Rather than so-called universal health care, free-market health care produces the best patient outcomes, while preserving individual liberty. Patients who are free to choose the price and level of care best suited for

them, from doctors free to practice as they have been trained, receive much better health care than under the one-size-fits-all approach of today’s massive universal health insurance schemes. In a world of diverse needs and preferences, universal health care systems only provide equal dissatisfaction, not equal, satisfactory care. ★



Jennifer Minjarez serves as a policy analyst with the Foundation’s Center for Health Care Policy. Jennifer graduated from the University of Arizona with a B.A. in Economics and a B.A. in Philosophy, Politics, Economics, and Law (PPEL). Her first great love is philosophy; her second is economics. Prior to joining the Foundation, Jennifer worked with a number of liberty-advancing organizations, such as the Goldwater Institute, Americans for Prosperity, and the Ayn Rand Institute. She is proud to continue this work in Texas.



Dr. Deane Waldman MD, MBA, is a retired pediatric cardiologist and system theorist analyst for American healthcare. He brings 37 years of clinical experience plus the business and administrative experience as Chief of Pediatric Cardiology at University of Chicago to the position of Director of the Center for Health Care Policy at the Texas Public Policy Foundation. His background and academic training include Yale, Chicago Medical School, Mayo Clinic, Northwestern, Harvard and Anderson Management Schools. He has authored more than 150 academic medical publications and more than 250 lay articles on both management and strategy in healthcare.



ALL HANDS ON DECK FOR FOSTER CHILDREN IN TEXAS

by Brandon Logan

Foster care in Texas has existed in a perpetual state of crisis for the past several decades. In 2016, high-profile deaths and public humiliations shed light on appalling failures of the state to care for its most vulnerable residents—foster children. Efforts to transform the broken foster care system have been made and failed, resulting only in more spending and less accountability. This past legislative session, the Texas Public Policy Foundation filled the vacuum of thought leadership with research and direction focused on the children—not the system.

Disaster at the hands of the Department of Family and Protective Services (DFPS), the state agency in charge of foster care, should come as no surprise to anyone. We have known of fundamental deficiencies with foster care since at least 2004, when the Texas Comptroller issued her *Forgotten Children Report*, which laid bare the same problems that still exist today. Since that time, DFPS has been engaged in continuous reorganization in the name of reform. Nevertheless, significant problems persist including overcrowding, placement instability, and child maltreatment in state care.

In response to the Comptroller's report, Gov. Perry declared child welfare reform an emergency item in 2005's 79th Texas Legislature. On filing the reform legislation, Sen. Jane Nelson stated, "Our protective service agencies are supposed to serve as a lifeline to children ... who are being abused or neglected, and other vulnerable citizens. That lifeline is broken, which is why it is so important that we press forward with these emergency reforms."

Under intense pressure from the Texas State Employees Union and other statists, the Legislature pressed

forward, transferring the responsibility for the placement and management of foster children from DFPS to private regional administrators. It also increased funding by \$250 million and added more state caseworkers to reduce caseloads.

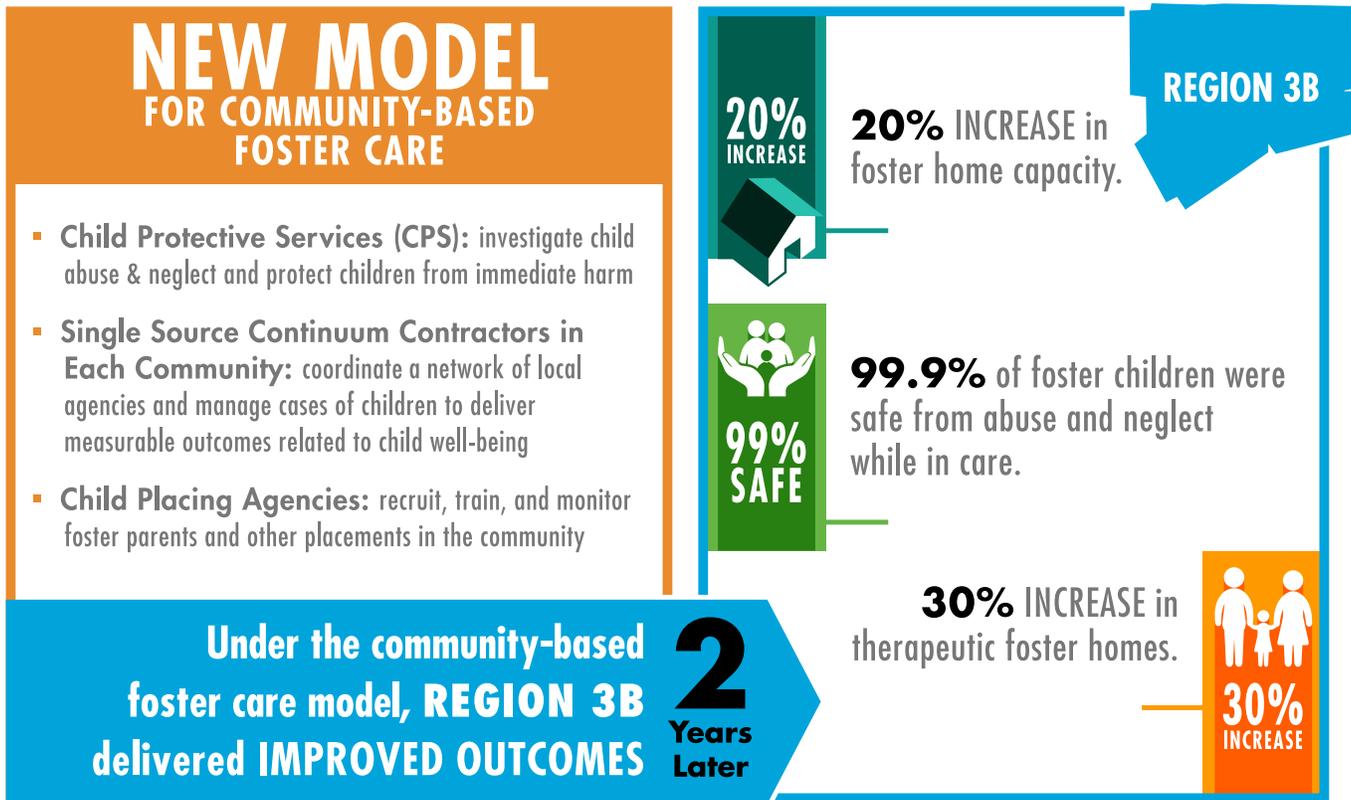
Unfortunately, within 6 months after Gov. Perry signed the reforms into law, two children died in foster care in separate tragedies. Not ones to let a crisis go to waste, detractors of reform pounced.

Even though no private administration contracts had been signed and the deaths were totally unrelated to the reforms, detractors claimed the deaths portended the future under privatization. DFPS immediately put privatization contracts on hold and reform died. Sadly, the human toll of state-managed foster care did not stop.

Since the failure of reform in 2006, DFPS, special interests, and statewide media outlets have attributed continued DFPS failures to high caseloads and low employee retention. In response to demands for more funding and caseworkers, the Legislature tripled the agency's funding and workforce. Still outcomes for foster children did not improve.

In March 2011, Children's Rights (a national child advocacy organization) sued DFPS in federal court on behalf of children in foster care, alleging that Texas policies and practices expose foster children to an unreasonable risk of harm, including death.

The court issued its preliminary opinion in December 2015, highlighting significant deficiencies that affect the experiences of foster children both while in state



Child Protective Services Region 3b consists of Tarrant, Palo Pinto, Parker, Johnson, Hood, Somervell, and Erath counties.

care and after aging out. Summarizing the cumulative experience of Texas foster children, the U.S. District Judge in the case, Janis Jack, concluded children “almost uniformly leave State custody more damaged than when they entered.”

After her preliminary order detailed the tragic problems in the foster care system, Judge Jack delayed rendering a final order to give the state an opportunity to respond. In October 2016, the agency answered by asking for emergency funding to provide DFPS employees raises of at least 5 percent, including a \$12,000 increase in starting salaries at the agency. The Legislature begrudgingly obliged but warned dramatic reform would be forthcoming in the upcoming session. This is when the Texas Public Policy Foundation launched the Center for Families & Children to address the foster care crisis with thoughtful, common sense solutions.

As it had been in the 79th Legislature, foster care reform became a central focus of the 85th Legislature’s regular session, with Gov. Abbott naming it his first emergency item. An uncanny sense of déjà vu existed early in the session, as the previous proponents and

detractors of privatization lined up on either side of reform—the latter seeking a \$1.4 billion DFPS funding increase without substantial reform.

The Center for Families & Children was instrumental in steering the state away from more unaccountable funding and toward sustainable reform for foster children. Informed by failures and successes of privatization in other states and by a successful pilot program in Fort Worth (See “Communities Offer Promise for Children in Foster Care”), a regionalized reform model emerged called “community-based care,” which recognizes the limitations of the state and requires community engagement with foster children and families.

Over the last two decades, the number of children in the legal custody of the state has grown from 17,233 to 30,540. In 2016 alone, DFPS confirmed 36,166 instances of child abuse and neglect, removing 18,993 children from their homes. Children exiting DFPS care in 2016 spent an average of 20.7 months in state custody, while only 30.5 percent returned home to their parents.

continued >>

Because these 30,000 foster children are “wards of the state,” they are the responsibility of no one person or group. This direct connection is the missing ingredient in positive outcomes for kids.

Children in foster care are often placed far from their homes and separated from their siblings. They may spend time in unnecessarily restrictive settings like psychiatric hospitals or sleep overnight in agency offices. These are the unacceptable results of a lack of foster care capacity, caused by an increase in the number of children needing placement.

Why do bad things keep happening to Texas foster kids? In part, it is because the state agency cannot do for children what we want it to. The proper role of our state child protection system is as an emergency response system. We should not expect it to care for children or prevent bad things from happening to them. That is up to us as community members.

The Texas Public Policy Foundation has articulated the underlying philosophical dilemma with state management of foster care services: Diffusion of responsibility. Also called the “bystander effect,” diffusion of responsibility is a psychosocial phenomenon in which a person is less likely to take personal responsibility in an emergency when others are present. The level of personal responsibility decreases in relation to the size of the group present.

Because these 30,000 foster children are “wards of the state,” they are the responsibility of no one person or group. This direct connection is the missing ingredient in positive outcomes for kids. Children removed from Dallas and bounced through placements in Houston, San Antonio, and Austin, lose the connection to

their community. Not only does that affect children, through loss of school, social, and family relationships, but it also affects the responsibility community institutions feel to those children.

By increasing community responsibility, community-based care reverses this destructive collectivist thinking and the perverse incentives that destroy families and harm children. Each community has a lead agency (nonprofit or governmental entity) that coordinates the community response and measures performance. Children must remain within 50 miles of their homes, with their siblings, in safe, stable, family-like settings. If homes or services are lacking within that geographic area, the lead agency must engage community resources to meet the needs of children and families. There are no excuses.

Past experiences in Texas and in other states that have attempted significant foster care reform show the state is at the beginning of a long, rocky implementation process. As reform bill co-sponsor Rep. James Frank (Wichita Falls) said, “Passing Community-Based Care is just the start. Implementation is key. Results are what matter.” Meanwhile, the same detractors who reversed reform in 2006 wait to capitalize on the first tragedy by clawing back state control.

Hurricane Harvey demonstrated what communities working together can accomplish. Though the foster care crisis is a less visible emergency than a hurricane, the need is no less dire. As community-based care is implemented throughout the state, foster children and their families will need the same all-hands-on-deck attitude that Texas showed the world after Harvey.

Texans have shown what they can do without government. There is no turning back now. ★



Brandon J. Logan, J.D., CWLS, is the Director of the Center for Families and Children at the Texas Public Policy Foundation. Before joining the Foundation, Brandon represented hundreds of children as attorney and guardian in child welfare courts throughout Texas. Brandon has also represented parents, grandparents, and foster families in custody and adoption cases across the state. Brandon earned his undergraduate degree from Texas A&M University and his law degree from Texas Tech University. He is currently completing his dissertation in Human Development and Family Studies at Texas Tech University.

COMMUNITIES OFFER PROMISE FOR CHILDREN IN FOSTER CARE



FOR NEARLY TWO DECADES Texas has struggled with how to fix its horribly broken child welfare system. Finally, in 2011 legislation directed that a community-based foster care system be designed within each of the Department of Family and

Protective Services' 17 regions. The first community-based contract was signed in 2013 with ACH Child and Family Services of Fort Worth, and this first successful attempt at redesign in a mostly urban area has shown tremendous promise.

For more than 100 years ACH has worked to fulfill its mission of protecting children and preserving families. Today this Fort Worth non-profit spans multiple campuses housing 14 different programs and offers a mature continuum of care touching 2,582 children and families annually. Programs include counseling, behavioral care, temporary supportive housing for families, a youth emergency shelter, residential care, foster care, adoption, homeless outreach and youth safety programs, and supervised independent living for young adults aging out of foster care.

Now ACH is building on its legacy by bringing the community together to confront the complex problems associated with child abuse and neglect and family separation as the Single Source Continuum Contractor (SSCC) for Foster Care Redesign in the seven North Texas counties (Tarrant, Palo Pinto, Parker, Johnson, Hood, Somervell, and Erath) comprising CPS Region 3b.

ACH entered the arena of Foster Care Redesign having done its homework. Its leadership sat on the Fiscal Matters subcommittee of the Public-Private Partnership advisory group that recommended the Foster Care Redesign approach, while staff traveled to other states

studying how they achieved better outcomes for children and learning from their innovations and mistakes.

To rally the community and to manage the functions of their contract, ACH launched a new division in 2014. "Our Community, Our Kids" (OCOK) was named to convey the underpinning philosophy that abused and neglected children who live in our community belong in our community, and we have a responsibility for their well-being. This model differed significantly from a previously-failed SSCC rollout in rural western Central Texas and from the state's traditional approach of centralized care from Austin.

After only two years under Foster Care Redesign, every stakeholder involved in Region 3b saw improved outcomes, including CPS itself. Such success was possible because, in part, ACH and their Our Community, Our Kids division have gone above and beyond. From the beginning community leaders told Legislators that the project was underfunded, and it is. ACH has demonstrated their commitment to the success of this pilot project by supplementing state funding with millions of dollars from their own funds.

Based on the success of ACH and Our Community, Our Kids, the 85th Legislature provided for expansion of this community-based model to five more regions over the 2018-2019 biennium. Included in the provisions is the transitioning of case management from CPS to the SSCC. Pending adequate state funding, ACH intends to improve the span of control and level of caseloads, moving more decision making to the local level.

Communities across Texas will have the opportunity to do what ACH has done for the children of North Texas. That is good because a federal judge stands poised to place Texas CPS under federal oversight if these reforms fail. ★

LEADING, FOSTERING, AND MODELING FAMILY LIFE

In 2016, Vim Head helped establish the Texas Public Policy Foundation's Liberty Leadership Council chapter in Houston. Vim still serves as Co-chairman of the Houston Council and is a TPPF Visionary.

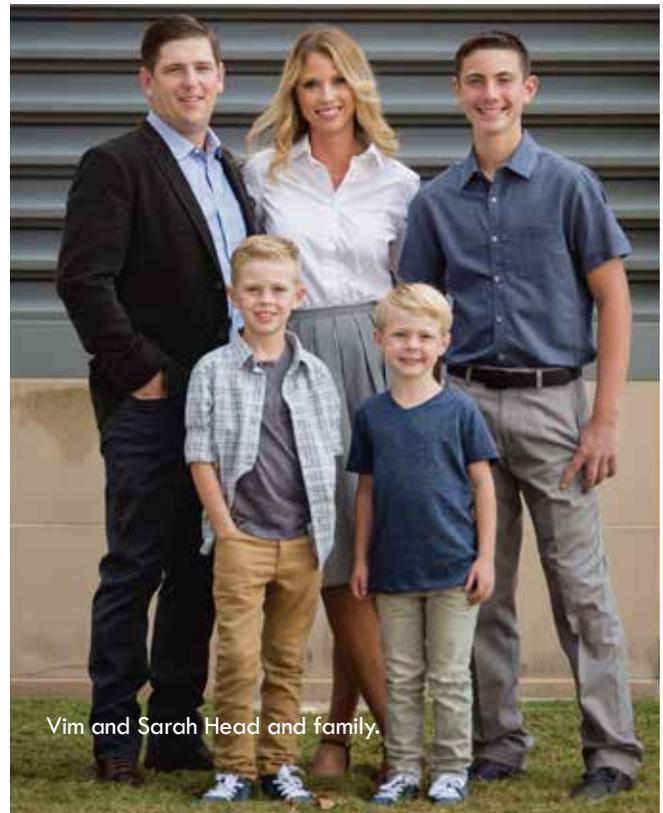
At about the same time, TPPF created the Center for Families & Children to turn around the beleaguered state child welfare system. Because Vim and wife Sarah were interested in becoming foster parents, he reached out to Center Director Brandon Logan to learn more about the system.

From the time they were dating, Vim and Sarah Head knew they wanted to be adoptive parents. After high school, Vim went on to earn a degree in Finance and Economics from Texas State University's McCoy School of Business, and Sarah received a degree in mathematics from Texas A&M. They married in 2007.

While Vim advanced through his career to become President and Founding Partner of several multi-specialty surgical centers, Sarah pursued a career as a human resources benefits analyst. But with a growing family, she ultimately chose to stay at home with their three boys: William, who just entered high school, Vim Jr., who started third-grade this fall, and Paxton, an active first grader. Weekends find mom, dad, and boys attending church, spending time on their neighborhood lake, watching the boys play sports, hunting, or on their property in Navasota.

For Vim and Sarah—as busy as they were with their young brood—the desire to adopt remained. When they first began to talk seriously about it, the Heads assumed they would pursue international adoption. But in researching adoption, Vim says, “it became clear that there is just so much need in our own backyard.” As a result, they decided to learn more about becoming foster parents with the ultimate goal of finding an adoptive child who could fit into their loving family.

The Heads registered with a nearby child placing agency, completed the extensive training required for foster care certification, and were approved to foster.



Vim and Sarah Head and family.

As school ended this May, they welcomed their first foster child—a 9 year old girl—into their home for a two-month placement. Child Protective Services had a plan to provide parenting skills to her family, to counsel the young girl, and to reunite them as the 2017 school year began. Time will tell whether this plan works out.

The Head family found this first experience a positive, hopeful one. They have decided to wait and see whether their first foster child will be able to remain with her family, before opening their home to another child, because they want the child to have a familiar place to return if efforts to reunify the family fail.

“These kids did nothing to deserve the situation they are in,” concludes Vim. “Perhaps the parents made some bad choices, but the children didn’t choose bad parents. From our personal perspective, I hope that by modeling a loving family, Sarah and I can change the trajectory of these children’s lives and help stop the generational curse of child abuse and neglect.” ★

WAYS TO GIVE

YEAR-END GIVING THROUGH AN IRA CHARITABLE CONTRIBUTION

As the end of the 2017 tax year approaches, remember that the IRA charitable designation is now permanent for individuals over 70 ½ years of age who are receiving minimum IRA distributions. Making a year-end charitable gift from your IRA may provide greater tax benefits to you, as it counts toward your annual Required Minimum Distribution. Especially taxpayers who take the standard deduction will benefit from the IRA charitable contribution since charitable contributions are deductible only to taxpayers who itemize their deductions. Each taxpayer must evaluate their personal tax situation to determine the best approach to their year-end charitable giving.

LONE STAR RISING CAPITAL CAMPAIGN

It's not too late to join the Lone Star Rising Capital Campaign! In addition to your annual contribution, you can permanently add your name to the list of patriots investing in the future of Texas with a special gift of between \$1,000 and \$25,000. Your gift may be paid over five years. The following naming opportunities are available in recognition of your generosity.

- \$1,000: Listing on the Lone Star Rising Capital Campaign Donor Wall in the headquarters Lobby
- \$5,000: Name plate on a beautiful Hogsett Theater Chair (52 opportunities available)
- \$10,000: Name plate on a Perry Balcony Bench (2 opportunities available)
- \$15,000: Staff Office Name Recognition (50 opportunities available)
- \$25,000: Name Recognition in a variety of areas (14 opportunities available)

To invest in the Lone Star Rising Capital Campaign Freedom Fund, contact Shari Hanrahan at (512) 627-9831 or shanrahan@texaspolicy.com.



Happenings & UPDATES

TPPF's Kathleen Hartnett White to Chair the Council on Environmental Quality

On Thursday, October 12, President Donald Trump announced his intent to nominate TPPF's own Kathleen Hartnett White to the Council on Environmental Quality and, upon confirmation, to designate her as chair.

White will leave her position as TPPF distinguished senior fellow and director of the Armstrong Center for Energy and the Environment, where she co-authored *Fueling Freedom: Exposing the Mad War on Energy*. Previously, she was Chairman of the Texas Commission on Environmental Quality. White's work has been recognized through awards from the Texas Water Conservation Association, Colorado River Foundation, and Texas Chemical Council.

"We congratulate Kathleen on this important opportunity and know she will serve our nation with the same determination and common sense that have been her hallmarks in Texas," said Brooke Rollins, TPPF.

TPPF's Victory over Clean Power Plan

In May 2015, the Center for the American Future, the TPPF litigation center, intervened in a lawsuit led by the State of Texas as part of a 28-state coalition challenging

the Obama Administration's Clean Power Plan. In question was the legal authority of the Environmental Protection Agency to even mandate such a plan.

On February 9, 2016, the U.S. Supreme Court ordered the EPA to stay enforcement of the plan until a lower court could rule on the lawsuit—the first time the high court had ever stayed a regulation before a judgment by the lower Court of Appeals.

By late 2016, TPPF President Brooke Rollins, Kathleen Hartnett White, and then-Fueling Freedom Project Director Doug Domenech began to advise the new Administration on energy and environmental issues. In March 2017, the Administration announced its desire to unwind Obama-era energy policies, and followed-through on October 10 with an executive order directing the repeal the Clean Power Plan.

"The move by the White House resets the board with respect to the unprecedented vast authority the agency claimed during the previous administration, said Robert Henneke, TPPF's general counsel and director of the litigation center. "Individual states and the free market will again be allowed the freedom to determine how best to generate and regulate energy." ★



LIBERTY LEADERSHIP COUNCIL GROWS DRAMATICALLY

The TPPF Liberty Leadership Council has engaged 602 young professionals in five chapters across Texas less than two years after organizers Vim Head and former Board Member Mayes Middleton hosted the first meeting in Houston. The council now boasts chapters in Austin, Dallas, Fort Worth, Houston, and Midland, with a sixth chapter in San Antonio planned for 2018.

The Liberty Leadership Council was born of a realization that young professionals under 40 are stepping onto the stage as primary drivers of culture, politics, and policy. Rather than waiting on the sidelines of this cultural and political change-over, TPPF has enlisted a dynamic group of young professionals, aged 40 or younger, who want to learn about and advance freedom, liberty, and prosperity in Texas.

Each of the current Liberty Leadership Councils holds Council members-only events as well as other events designed to recruit new young professionals in their area. Ultimately, TPPF envisions a state-wide-level Council with representatives from each chapter and an annual statewide conference to bring everyone together for policy briefings and networking.

If you know a young professional who might be interested in the Liberty Leadership Council or would like more information, please contact Olivia White at owhite@texaspolicy.com or (512) 472-2700.





LEFT TO RIGHT: The Austin LLC chapter held its kick-off party on February 15 at the home of Don and Lenee Bennett with 30 new members, key TPPF policy staff, CEO Brooke Rollins, and the family dog attending. | On September 26 Texas Railroad Commissioner Ryan Sitton joined 35 members of the Midland LLC and spoke about the impact of their generation on Texas energy opportunities. TPPF President Brooke Rollins named Commissioner Sitton an honorary member of the Liberty Leadership Council. | With 60 new members in attendance at its kick-off event in early 2017, the Dallas LLC chapter held a follow-up event on September 20 at Nick & Sam's with TPPF Executive Vice President Kevin Roberts. | Thirty members of the Houston LLC received an update on July 26 from Brandon Logan, Director of the TPPF Center for Families and Children, on foster care reform efforts in Texas. | On August 9 the Fort Worth LLC launch took place at Chimy's restaurant with nearly 60 young professionals, Brooke Rollins, other TPPF experts and chapter leaders attending.



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