



Insights into Public Policy in the Lone Star State

VERITAS

Texas Public Policy Foundation

Issue 2 ☆ July 2007

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The Foundation's Brooke Dollens Terry, education policy analyst and Marc Levin, Director of the Center for Effective Justice, talk with KWEL's Craig Anderson in Midland.

SAVE the DATE

The date has been set for the **6th Annual Policy Orientation for the Texas Legislature**

**January 9 & 10, 2008
Sheraton Austin Hotel**

Texas Legislature: The 80th Session in Review

Since 2005, the Foundation has increased its presence around the Capitol with its sold-out annual Policy Orientation, monthly policy primers that thoroughly examine issues of importance, timely research and recommendations on complex policy issues, and the indispensable *Legislator's Guide to the Issues*. Yet most importantly, the Foundation has grown to include six full-time analysts on the ground in Austin, in addition to dozens of widely respected research fellows in Texas and around the country who lend their expertise to the Foundation's work.

- testified on more than 130 pieces of legislation at varying stages in the legislative process;
- authored more than 60 publications ranging from written testimony to our in-depth policy perspectives; and
- spent countless hours in legislative hearings, responding to questions from the media, acting as a resource to legislators and their staff, and monitoring the debates at the Capitol.

Demonstrating the value of having analysts in Austin, over the course of the 140-day biennial session, our policy team:

At the sound of the closing gavel, we asked our analysts to recount the session and their work for free markets and limited government during this 80th Texas Legislature. You won't find politics in

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Texas Public Policy Foundation *Mission*

The Foundation's mission is to improve Texas by generating academically sound research and data on state issues, and by recommending the findings to opinion leaders, policymakers, the media, and general public.

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Veritas

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Texas Public Policy Foundation
900 Congress Ave., Suite 400, Austin, TX 78701
(512) 472-2700 • (512) 472-2728 Fax
www.TexasPolicy.com
info@texaspolicy.com

Mission Statement

The Texas Public Policy Foundation is a 501(c)3 non-profit, non-partisan research institute guided by the core principles of limited government, free markets, private property rights, individual liberty, and personal responsibility.

The Foundation's mission is to improve Texas by generating academically sound research and data on state issues, and by recommending the findings to opinion leaders, policy makers, the media, and general public. The work of the Foundation is conducted by academics across Texas and the nation and is funded by hundreds of individuals, foundations, and corporations. The Foundation does not accept government funds or take contributions to influence the outcomes of its research.

The President's Message

The close of the 80th Texas Legislature saw a tumultuous race to the finish in an effort to get legislation passed before session's end. Up to the last few minutes, policymakers used our research in making important public policy decisions and implemented many of our policy recommendations for a freer, more prosperous Texas.

Of course, there is no doubt we still have work to do to bring free markets and limited government to all Texans. For this reason, our staff is diligently working on new research necessary to advance free market, limited government solutions to the issues facing Texas when the Legislature reconvenes in 2009.


One of our priorities following the close of the 80th Session was to bring the “view from Congress Avenue” to Texans all across the Lone Star State. So, with our firm belief that an informed public is the key to a more effective government, we delivered a session review as part of our policy primer series to Dallas, Midland, San Antonio, and later this fall to Houston. Sold-out audiences—including legislators and elected officials—came from around the state to hear Foundation policy experts weigh in on the issues of 2007 and help frame the debate for issues to come.

“We focus our research on the areas where we can have the greatest impact and where our perspective is most important.”

Many of you kept tabs on the session and the Foundation's impact by looking at our home page's Daily Update, which gave you a timely look at the Foundation's testimony and work on key issues. During the interim, we'll rework the Daily Update to provide a forum for timely responses and thoughts about the day's news and on the importance of free markets and limited government ideas.

During the session, our website was also an indispensable source for free market news and ideas for the Texas Legislature, public, and media. May was a record month for TexasPolicy.com with 22,405 total visits to the site.

Although things are relatively quiet in the halls of the Capitol—filled now with mostly tourists and their families—the Foundation is busy preparing for the future. We have just begun mapping out a research agenda for the next 18 months in which we're identifying the free market solutions to the issues emerging for the 81st Session. As always, we focus our research on the areas where we can have the greatest impact and where our perspective is most important.

But, none of our efforts would ever reach fruition without the support and dedication of YOU—our amazing supporters. It is your uncompromising commitment to a free and prosperous Texas that makes our work so truly rewarding. Thank you! 



Brooke Rollins
President

80th Texas Legislature in Review, from page 1

these snapshots—just policy and principles.

Center for Fiscal Policy

Byron Schломach, Ph.D. & Talmadge Heflin

When the 79th Texas Legislature passed its 2006-07 budget, it did so with an 18 percent increase in spending—far outpacing the state’s projected growth in population and inflation. As a result of government’s growing burden on taxpayers, the Foundation’s Center for Fiscal Policy prepared for the 2007 session with a priority on limiting growth in state spending, preventing tax increases and encouraging tax relief, and bringing more transparency to state spending.

With \$14 billion in new revenue available to appropriators, the need for tax and expenditure limits was obvious. Not only would the state take in more revenue than it needed to meet existing obligations, but the surplus gave legislators a chance to accelerate growth in government. Yet even as lawmakers balked at limiting growth in expenditures and failed to pass legislation that would have created such taxpayer protections, the state’s two-year budget approved by legislators grew by 9.3 percent—just tenths of a percent over our estimated growth in population and inflation over the next two years.

Successful efforts to limit the growth of the budget meant a substantial part of the surplus remained. We put a high priority on returning those funds to taxpayers, and worked closely with legislators

“With \$14 billion in new revenue available to appropriators, the need for tax and expenditure limits was obvious.”



fighting to accelerate property tax relief with an additional 9 cents on top of the tax cuts promised in the 2006 special session. We produced numbers to show that the state could afford the cut now and in the future. Unfortunately, an amendment on the House floor gutted the bill and the Senate proved unwilling to restore the bill to its original intent to give Texas taxpayers additional property tax relief.

With a budget coming in roughly equal to population and inflation, but no additional tax relief to return the surplus to taxpayers’ pockets, the good news and the bad news are the same: the Legislature left \$7 billion on the table.

Legislators did speed the end of the Telecommunications Infrastructure Fund (TIF) tax, which was slated to expire in 2011 but will now end at the start of fiscal year 2009. As a result, Texans will avoid paying some \$630 million in taxes that would have been collected over the next three years. Having already

accomplished its purpose, the tax now collects more than \$200 million a year and is spent as General Revenue. This is a victory for taxpayers who will see tax relief in their phone bills.

Even as some legislators considered tax cuts, others offered tax increases. Legislation allowing an additional one cent of sales tax for transit purposes in certain counties in the Dallas/Fort Worth area dangled over legislators for much of the session. Had it passed, our research found that the DFW area would have been home to the second highest sales tax rate in the nation and it would have laid a foundation for similar tax increases to spread across the state.

Finally, our research has long recommended greater transparency in budgeting and spending. Following our longtime effort to have itemized school district spending posted, a bipartisan effort now directs state agencies to post their check registers online as a searchable, comprehensive database.

Center for Education Policy

Jamie Story & Brooke Dollens Terry

Without the school finance reform debate dominating the education landscape as it has for years, legislators dealt with a wide range of education bills on a myriad of topics.

School choice has been a Foundation priority since our founding. This session, we continued to promote school choice, working as part of a large, bipartisan coalition which included parents, private schools, policy experts, and legislators. Unfortunately, bills to grant school choice to urban students, children with autism, and foster children went without hearing on either the House or Senate floors.

Motivated by the shocking statistics on the state's high dropout rate, Senator Royce West, a Democrat from Dallas and longtime member of the Texas Senate, filed legislation that would have created the largest school choice program in the country. Our research has consistently shown that the best way to address the dropout problem is to empower students and parents to choose the educational settings that best meets their needs.

Although the Legislature failed to approve school choice legislation, it did pass a bill expanding access to online courses for students across the state through the creation of a virtual school network. Public, private, and even home-schooled students will be able to enroll in a variety of courses through distance learning. This legislation provides students some important flexibility and additional choice in their education.

While school choice would introduce the most meaningful competition to education, public schools are hamstrung by rigid requirements that often prevent even the best schools from making important decisions for the benefit of students. Regulations, burdensome documentation requirements, and numerous levels of appeal make it nearly impossible for principals to fire ineffective teachers. Since strong teachers make a significant impact on student learning, the Foundation has long supported legislation allowing school leaders to reward strong teachers and dismiss ineffective ones. Legislation that would have addressed teacher employment issues like these failed to pass this session, but will remain a priority for the Foundation over the interim.

legislators with information on the pay raises the state's best teachers received as a result of incentive pay, and the pay cut they would receive if the Legislature opted to use the funds for an across-the-board raise for all school workers instead.

In addition, the Foundation's paper on end-of-course exams provided a blueprint for reforming the state's accountability system. Among its recommendations was replacing the high-stakes, cumulative exit exam administered in 11th grade with end-of-course exams administered at the end of each core subject in high school. As passed by the Legislature, the exams will begin in 2011-2012 and be factored in to a student's grades as a requirement for graduation.



State Representative Nathan Macias talks with Foundation board member Tim Lyles and education policy analysts Jamie Story and Brooke Dollens Terry at the 80th Session in Review Policy Primer in San Antonio.

Fortunately, efforts to dismantle the nation's largest incentive pay system for teachers were unsuccessful. The Foundation has been a major proponent of a competitive system that rewards teaching excellence. We armed

Other efforts this session included legislation requiring all Texas school districts to post their financial records online, as well as guarding against the unnecessary expansion of public pre-K in Texas. The Foundation has

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Marc Levin, Director of the Center for Effective Justice, discusses justice issues with State Representative Jerry Madden, Chairman of the House Corrections Committee, at a recent 80th Session in Review Policy Primer in Dallas.

should divert enough nonviolent offenders to address the projected capacity needs at a fraction of the cost of new prisons. Consistent with our support of competition throughout government, these new community-based facilities will be privately operated and subject to competitive bidding. A maximum of 4,000 new prison beds could still be built, but only with the Legislative Budget Board's approval.

We also supported efforts to give crime victims a greater role in the system, recognizing that crime is primarily an offense against the victim, not the state. Acknowledging this, the Legislature approved a bill directing the Texas Juvenile Probation Commission to conduct a study on juvenile victim-offender mediation and make policy recommendations to the Legislature. Another bill was passed that requires graffiti offenders to clean up the mess they created.

Education and criminal justice collide as 80 percent of Texas prisoners are school drop-outs, and the 100,000 students at Disciplinary Alternative Education Programs (DAEPs) are six times more likely to drop out. The Legislature enacted our recommendations of establishing minimum state standards and accountability for DAEPs and a norm-referenced diagnostic exam on intake and outtake, providing a barometer as to whether learning is occurring.

Finally, overcriminalization has become a problem, whether in licensing professions or disciplining students. According to our research, there are

also long advocated for more financial transparency for taxpayers, and has applauded the Governor, Comptroller, and the Texas Education Agency for leading the way by posting their expenditures online.

Center for Effective Justice

Marc Levin, Esq.

The Center for Effective Justice focuses on policies that promote efficiency in the criminal justice system, empower crime victims, reform offenders, reduce crime, and ensure that criminal law does not reach ordinary activities that pose no threat to public safety. The Center's work was recognized in a unanimous resolution passed by the Texas House.

The session was driven by the abuse scandal at the Texas Youth Commission and the projected need for another 17,300 prison beds by 2012,

which would cost \$1.6 billion to build and billions more to operate. The Legislature largely followed the Center's recommendations for addressing both of these challenges by emphasizing alternatives to incarceration for nonviolent offenders. While a crisis at a state agency usually results in more spending, the new budget for TYC is actually lower because the number of youths incarcerated will be reduced from 4,700 to 3,100. The drawdown will be accomplished through review panels that ensure youth who have been rehabilitated are released, and that misdemeanants, such as youth convicted of graffiti or alcohol possession, will no longer be accepted.

In adult corrections, we advocated solutions such as converting TYC lockups that will be closed, probation reforms, more drug courts, and increased capacity in treatment and intermediate sanctions facilities. This

more than 1,700 offenses already on the books. Since any violation of occupational rules is a Class A misdemeanor, punishable by up to 180 days in jail, efforts to license new occupations such as interior designers, lactation consultants, mechanics, and journeymen would have expanded the scope of criminal law to new areas. Not only do such licensing schemes misuse criminal law and undermine economic freedom, they cost the U.S. economy over \$35 billion. In addition, legislators also curbed the reach of criminal law by repealing the ability of school districts to issue criminal citations to students for routine misbehavior that does not violate a state or local criminal law.

We are confident that our work this session will save taxpayers' money, empower crime victims, prioritize prison space for violent offenders, keep students from becoming the next generation of criminals, and avoid criminalizing legitimate business activities.

Center for Health Care Policy


Mary Katherine Stout & Arlene Wohlgemuth

Texas' ranking as the state with the highest rate of uninsured people has drawn significant attention from the media and legislators. With no shortage of bad ideas on how to "solve the problem of the uninsured," the Texas Legislature spent significant time discussing creating—or expanding—government programs to get people insured.

Most notable was the expansion of the Children's Health Insurance Pro-

gram (CHIP) to cover an additional 100,000 children. To accomplish this, the Legislature reversed important reforms from the 2003 session by extending the period of eligibility from six months to a year, changing the income eligibility calculation to use net income instead of gross income, increasing the assets test (the value of vehicles for example), and eliminating the 90-day waiting period before CHIP benefits begin.

Through our research, the Foundation has consistently supported the 2003 reforms and testified in opposition to liberalizing the eligibility requirements. Senators amended the legislation to include an electronic income check at the six-month period, but problems with the accuracy and timeliness of the electronic data and



"At the Capitol, the Foundation is often the lone voice for free market, limited government solutions in health care. We play an important role by arming legislators with ideas and information that can improve health care for all Texans."

the erosion of personal responsibility remain problematic and continue to draw our opposition. Unfortunately, fewer than 20 House members and only one Senator opposed the measure to expand the program and increase the cost to taxpayers.

Over the interim, the Foundation worked closely with legislators and leadership offices to encourage meaningful Medicaid reform—a program

that costs taxpayers more than \$20 billion a year and is projected to cover some 3 million people over the next biennium. Prior to the session, the Foundation testified on possible reforms ultimately included in the major Medicaid reform legislation this session. Although the legislation included increased flexibility in establishing Medicaid benefits, increases in cost sharing for recipients, and reforming the hospital financing system, further reform in these areas remains important and necessary. The Foundation has been a strong proponent of a fixed federal grant for Medicaid that comes with greater flexibility for how the state runs its Medicaid program, and we will continue to urge Medicaid reforms in line with this goal.

Unfortunately, the Medicaid reform legislation also included a new subsidy program designed to help pay monthly premiums for employees of small businesses. The Foundation expressed opposition to furthering government's role in the provision of health insurance, noting that the subsidy will result in significant distortions in the marketplace; crowd out other private, unsubsidized coverage; and set the stage for growing government as costs increase.

Last summer, the Foundation published a paper on strengthening welfare reforms by eliminating work exemptions that currently excuse a rapidly growing 40 percent of the state's welfare caseload from working. Legislation strengthening welfare reform by making work the rule, rather than the exception, passed the Sen-

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ate, but failed to come up for a vote in the House Committee on Human Services.

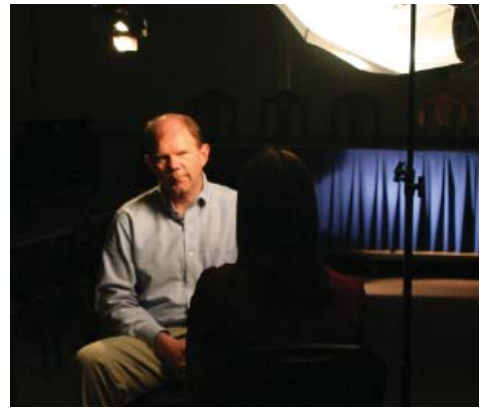
In looking for opportunities to bring more free market ideas and competition to health care, the Foundation continued to support a Health Savings Account option for state employees, and legislation to loosen restrictions on the practice of medicine to allow retail health clinics to open and operate with less regulation. Unfortunately, neither bill passed, but they represent free market solutions for health care.

At the Capitol, the Foundation is often the lone voice for free market, limited government solutions in health care. We play an important role by arming legislators with information and ideas that can improve health care for all Texans.

Center for Economic Freedom
Bill Peacock

Economic freedom relies on the ability to use and exchange private property with little restriction. The Center for Economic Freedom works with policymakers and staff to promote and protect this inherent right.

This session, the Texas Legislature sought to bring electricity prices down by re-regulating the state's electricity market. The Foundation's research argued against such a move, showing that the primary factor behind higher electricity prices was the 200 percent increase in natural gas prices since 2001. Instead of *causing* high prices, it seems electric deregulation allowed the state to *avoid* what would have been higher prices in the face of increases in the cost of natural gas.



Bill Peacock, Director of the Foundation's Center for Economic Freedom, is interviewed for television following the end of session .

Further highlighting Texas' strong market, a Foundation report by Dr. Robert Michaels of Cal-State Fullerton concluded that "Texas is competitive electricity's greatest success story in the United States, if not the world. Furthermore, competition has brought substantial benefits to Texas in only a few years, both in absolute terms and relative to other states."

Although the bills re-regulating the market were alive to the end, they failed to pass. As a result, the state's electric market—which was only fully deregulated as of January 1—will have time to demonstrate the full benefits of deregulation.

In addition to fending off regulation, the Center for Economic Freedom worked with the Center for Fiscal Policy to encourage lawmakers to repeal the Telecommunications Infrastructure Fund (TIF) tax. The Foundation's recent research shows that Texans pay the third highest level of state and local telecommunication taxes in the nation. While other state and local taxes, municipal franchise fees, and charges for the Universal



The Honorable Talmadge Heflin, Visiting Research Fellow at the Foundation, chats with Texas Railroad Commissioner Elizabeth Ames Jones at a sold-out 80th Session in Review Policy Primer in Dallas.


Service Fund remain and contribute to Texas' high telecommunications tax ranking, Texas taxpayers will be thankful to save more than \$630 million in taxes they would have paid before the TIF tax was scheduled to end in 2011.

Finally, the Center for Economic Freedom became a primary source of information for policymakers on eminent domain reform and property rights protections in the wake of the U.S. Supreme Court's *Kelo* decision in 2005. The decision, which blessed economic development activities as a "public use" for the purpose of takings, sparked outrage around the country. Texas lawmakers responded with a quick fix to the problem in a 2005 special session on school finance, with more meaningful property rights protections still necessary.

This session, the Legislature passed what would have been Texas' most important property rights legislation in decades. The legislation (vetoed by Governor Perry) would have defined public use more narrowly so as to re-establish constitutional property



Foundation board member, Tim Lyles (San Antonio), introduces the policy experts: Brooke Rollins, President; Mary Katherine Stout, Director of the Center for Health Care Policy; Bill Peacock, Director of the Center for Economic Freedom; Jamie Story, Education Policy Analyst; and Byron Schlomach, Ph.D., Director of the Center for Fiscal Policy.

rights protections. The bill also would have banned takings that were not for a public use. In his veto statement, the Governor pointed primarily to the increased cost of compensating property owners for takings and diminished access by the Texas Department of Transportation. The Foundation has become a leading expert on property rights legislation in Texas and will continue to urge legislators to revisit this issue and strengthen property rights protections for Texans across the state. 

If you are looking for more on a particular issue, you'll find an archive of all Texas Public Policy Foundation publications and legislative updates on the Foundation's website, **www.TexasPolicy.com**, along with new publications and in-depth analyses of specific issues from the legislative session released throughout the summer.

Renew Your Support Today!

Have you renewed your support of the Texas Public Policy Foundation this year? If yes, THANK YOU! You are helping us determine the strength of our budget and dictate how aggressively we can pursue the issues that matter to you most. Your contribution ensures that legislators have the information they need as they make decisions that affect every one of us—almost 23 million Texans!

If you haven't already mailed in your tax-deductible contribution, please do so TODAY. We are counting on you to make a difference in Texas by supporting independent research and free market ideas that are free from government funding.

Please mail your gift now to: Texas Public Policy Foundation, 900 Congress Ave., Ste. 400, Austin, TX 78701. YOU can make a difference!

Don't Know Much About History

Colleges fail to teach next generation about America's heritage

by Brooke Rollins

“Whenver the people are well-informed,” Thomas Jefferson wrote in 1789, “they can be trusted with their own government.” No doubt the Founding Fathers’ faith in self-government would be challenged today with the reality of how little Americans know about their heritage.

In anticipation of the Fourth of July, *Tonight Show* host Jay Leno took his “Jaywalking” camera crew to the streets to ask people questions about the number of original colonies, who made the first American flag, and the title of the National Anthem, among others. It is hardly surprising that almost all of the half dozen people he interviewed ranging from a college professor to a teenage boy were unable to answer the questions correctly. Two years ago, the same roving game of trivial pursuit produced a National Football League-bound student from UCLA who declared Ben Franklin the first president of the United States.

Week after week, the segment entertains viewers with such grand demonstrations of ignorance as people willingly reveal on national television just how little they know. The sketches are at once entertaining and depressing. Sadly they reveal significant deficiencies in civic education.

“Those who care deeply about the future of this country—moreover the future of liberty and freedom—know that civic virtue is essential to the system of self-government we enjoy today.”

For its recent and aptly titled report, “The Coming Crisis in Citizenship: Higher Education’s Failure to Teach America’s History and Institutions,” the Intercollegiate Studies Institute asked students at 50 of the nation’s institutions of higher education about history, government, foreign affairs, and the economy. Among them were three Texas colleges and universities: Baylor University, West Texas A&M, and the University of Texas at Austin. The results suggest no shortage of candidates for Mr. Leno’s sidewalk shtick.

After three years of undergraduate coursework, seniors scored an average of 53.2 percent, while 22 of the 50 schools have average scores below 50 percent. More

than half could not identify the correct century when the first colony of Jamestown was established.

Twenty-eight percent believed that Gettysburg was the battle that brought the Revolutionary War to an end.

Fewer than half of the students knew that it was the Declaration of Independence that so boldly declared “we hold these truths to be self-evident, that all men are created equal.”

Shockingly, in some cases students knew less at the end of their college years than when they first set foot on campus. But these scores are hardly an indictment on colleges and universities alone. The average improvement during one’s undergraduate years was a mere 1.5 points (almost three points for Texas), highlighting failures in civic education in K-12 days as well.

The report concludes that “students don’t learn what colleges don’t teach,” arguing that student knowledge will improve when schools require students to take more courses in American history and economics. The same can

be said for all of education whether in middle and high school classrooms or on college campuses.

Ultimately those who care deeply about the future of this country—moreover the future of liberty and freedom—know that civic virtue is essential to the system of self-government we enjoy today.

With the fanfare of Independence Day passed, it is appropriate that we do more than pay tribute to our nation. Indeed, we might wonder whether students failing at civics also fail our country, and how well we are preparing future generations to lead this country in the tradition of its founders. ★

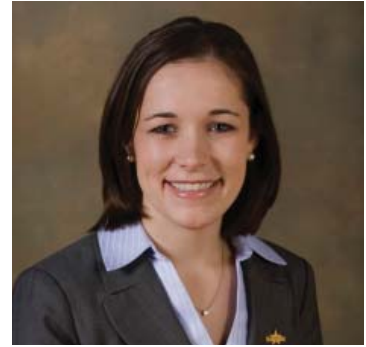


Foundation Profile

Sally Lay, Donor Relations Manager

Sally Lay joined the Foundation in December 2006 to help us keep donors abreast of our research and activities. Through mail packages and personal communication, Sally acknowledges the importance of our supporters.

Most recently, Sally worked on a successful campaign towards the election of Texas Comptroller Susan Combs. Sally played instrumental roles for the campaign in finance administration, fundraising, donor relations, and travel coordination. Sally's campaign experience will contribute significantly to the fundraising goals of the Foundation.



Sally Lay

While obtaining a B.A. in Studio Art from the University of Texas at Austin in 2005 and being a member of the Tri Delta Sorority, Sally was the creative force behind her family's small business—creating original designs, forming marketing concepts, and managing customer relations nationwide.

As a third generation Austinite, Sally is a proud Texan who enjoys water sports, photography, painting, and live music.

The Foundation is thrilled to have Sally on our team! 

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*6th Annual Policy Orientation
for the Texas Legislature*

**January 9 & 10, 2008
Sheraton Austin Hotel
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Mark your calendars today! You won't want to miss the premier policy event of the year taking place this January 9 & 10, 2008. The *6th Annual Policy Orientation for the Texas Legislature* is a must-attend policy symposium bringing together legislators, policy experts, and the public to address the most critical issues facing the 81st Legislature.

Join the many experts and policymakers who will frame the debate on the issues impacting the future of the Lone Star State.

Stay tuned to our website at www.TexasPolicy.com for further information.

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