

TEXAS PUBLIC POLICY FOUNDATION

# Liberty Action Agenda

*Strategy to secure freedom  
for Texas & America*

2014-2015





# Texas Public Policy Foundation's **Lone Star Liberty Action Agenda**

## EXECUTIVE SUMMARY

Texas is a beacon of liberty, industry, and opportunity unmatched by the other 49 states. In the worst national economic times since the Great Depression, the Lone Star State has flourished—not because of Washington, D.C., but despite it. The Texas secret is no secret at all: here, in the proudest and most vibrant state in the proudest and most vibrant nation in the world, we are the last bastion of what is known as the American Dream.



That Dream—of opportunity, endeavor, fairness, and liberty—is still in full force in Texas. Texas will reintroduce it to America. And the Texas Public Policy Foundation is the catalyst to make it all happen.

In this document, the *Lone Star Liberty Action Agenda*, the Texas Public Policy Foundation sets forth its agenda and ambitions from now through the close of the 84th Texas Legislature in 2015 to generate transformative and actionable change in the direction of liberty both in Texas and in the country at large. Here we lay out our assessments of achievable change in policy arenas from taxation to regulation to immigration to energy to environmental policy to justice and beyond.

This is not a wish list. This is a *do* list. The Texas Public Policy Foundation has shown it can change the conversation, change the state, change the country, and change the world. As you read this *Lone Star Liberty Action Agenda*, know that it is backed with a quarter-century of effective, empirical, and energetic accomplishment.

That record, extraordinary as it is, is just a prelude to what comes next.

## BACKGROUND: THE TEXAS THREAT ... AND THE THREAT TO TEXAS

Texas is changing, and America is changing too. Unfortunately, they seem to be headed in opposite directions. The Lone Star State gains population at an astonishing rate, attracts unprecedented numbers of international and domestic migrants, creates jobs at double the per capita pace of the rest of the nation, and assumes a place at the leading edge of business and commerce. Meanwhile, the United States at large remains stuck in neutral. Labor force participation is at a 34-year low, business owners are uncertain of what rules Washington may foist upon them, and shockingly high unemployment persists despite years of D.C.'s best efforts.

Today, the difference between governance from Washington, D.C. and from Austin, Texas is the difference between impoverishment and prosperity. It is the difference between the ethic of dependency and the American Dream.

That difference is no accident: it's the difference between a federal government that doesn't trust the resourcefulness and entrepreneurialism of the average citizen, and a state government that does. The triumph of Texas in the Age of Obama isn't as much a success story for government action as it is an example of government having the wisdom to know when *not* to act. "The cultivated mind is the guardian genius of democracy," said the Republic of Texas' second president, Mirabeau Lamar, and what the Lone Star State has shown is that the same mind must be free to do its best work.

Texas, in other words, is where liberty proves its case.

It is the mission of the Texas Public Policy Foundation to take what's right about Texas and make it even better. It is our mission to remind America of its best self as a land of liberty. And it is our mission to anticipate and craft an

agenda for freedom that understands what the people of Texas and America are going through and what they are capable of achieving if only given the freedom to strive, to risk, and to endure.

This is the essence of the *Lone Star Liberty Action Agenda*: a template for action that will take our Foundation and our Texas to the next level of effectiveness and impact ... and strive to bring America along with it.

## WHY THE TEXAS PUBLIC POLICY FOUNDATION?

The Texas Public Policy Foundation was established nearly a quarter-century ago in San Antonio, Texas, for two simple purposes: to secure education reform and school choice for Texas children and tort reform. Those are still major institutional goals—the people of Texas deserve no less—but as the years went by, the Foundation learned that a law-ordered liberty in the Founders’ sense cannot be taken in parts. It must be grasped, and advanced, in whole. And so the Foundation found itself drawn inexorably into other arenas, always with the same goal of freedom for Texas: criminal justice reform, economic policy, fiscal policy, environmental policy, energy policy, Tenth Amendment advocacy, education policy, higher education policy, and beyond. A little policy institute of about four people in San Antonio is now a major policy institute of nearly forty people in Austin.

And it all happened because the Foundation never shrank from the big fights that mattered.

If the states are the cockpit of real policy change in America today, then the Texas Public Policy Foundation is arguably the single most significant and effective think tank in America, on *all* sides of the ideological playing field. The Foundation’s policy influence is manifest: much of the “Texas Model” that has proven itself over the past half-decade is credited to—or, if you’re on the other side, blamed on—its work and advocacy. The Foundation has had a direct hand in most of the major reforms and policies that set Texas apart, including tort reform, tax reform, criminal justice reform, education reform, and



TPPF President Brooke Rollins listens as U.S. Senator Ted Cruz addresses the Foundation’s health care roundtable, which included Governor Rick Perry, Lt. Governor David Dewhurst, U.S. Senators John Cornyn and Ted Cruz, and Congressmen Joe Barton and Michael Burgess.

the impetus for fiscal restraint which the state adheres to, albeit imperfectly. When we contemplate the difference the Foundation has made in Texas, especially over the past decade, we are contemplating the difference between the exceptional Texas of today, and a Texas thankfully unrealized, in which it followed all the other big states on the downward trajectory of the Obama economy.

At TPPF, we don’t just think about Texas: we *change* it. And in changing Texas, we change America and the world.

Our relevance in America at large is evident in the great conversation over the Texas counterexample to Washington, D.C. It is evident in the national effect of our “Right on Crime” project that has taken the cause of conservative criminal justice reform into nearly 40 states. It is evident in our national media footprint, the equal of major Beltway institutions, with nearly 20 mentions *every day* in major outlets from *The New York Times* to *Fox* to *The Economist* and beyond. We even make our mark in international media and policy, with our personnel speaking in London, our commentary appearing in *Le Monde*, and our scholars consulted by governmental delegations

from Australian provinces to the Parliament of the United Kingdom.

This Foundation dominates the conversations that matter. And in dominating those conversations, it shapes and directs the policy that results. That's real power and, unlike those on the other side, we use power for liberty.

## HOW THE FOUNDATION MAKES IT ALL HAPPEN

How do we—with the support of thousands of donors—do it? How does a modestly sized think tank with a modest budget have this much influence and effect? In a word, we are *disruptive*. That doesn't mean we aren't constructive: to the contrary, we focus on crafting working alternatives and pragmatic solutions in all our research and recommendations. What disruption means is that we don't buy into a broken *status quo*—not in Austin, and certainly not in Washington, D.C. Instead, we find and reveal the flaws in the *status quo* so we can reorder events and policy in a pro-liberty fashion.

It's worth conceiving of our efficacy as founded in the three R's: *rapid*, *researched*, and *relevant*.

- We are **rapid** because speed matters in policymaking. The Foundation does not exist in the halls of academia, but in the real world of debate, discourse, and deliberation where it is the first movers who set the terms of discussion. Our sensitivity to events allows us to shape them as they occur. We know that speed is not a wished-for virtue, but an essential quality. The outcome is seen in our extraordinary media presence and in our ability to force our adversaries to react to us, rather than vice versa. Rapidity is nothing less than agenda-setting, and it's a role the Foundation seizes with eagerness.
- We are **researched** because we are not mere ideologues divorced from empiricism. Our roots as a think tank compel us toward high-quality and in-depth research that is robust, replicable, and relatable. It is not enough for us to recommend idealized solutions: we have a duty to produce actionable alternatives that can be enacted with a high degree of confidence. We have a further duty to do that most basic thing in a free society, and persuade others of our case. We do that through moral persuasion, yes, but always accompanied by rigorous facts and analyses. We owe it to ourselves to test our preferences, even when we might dislike the outcomes, and we owe it to our fel-

low Texans to respect their reason and discernment. The result: when the Foundation makes a recommendation, legislators and citizens take it seriously.

- We are **relevant** because we identify problems and seek solutions that matter to the individual Texan, the Texan home, and the Texan community. There is always the arena of “high policy,” where decisions are made on opaque matters that appear to only dimly connect to the average Texan's life and livelihood: and the Foundation operates there with assurance. But the Foundation does something else that few do: we draw the line between the policy and the person, explaining and making relevant the connection, in every case, between liberty within the state and prosperity for the citizen. Furthermore, when we craft our agenda, we ask ourselves not just what matters to us, but what matters to Texans, and we draw from the answers our own direction and determination.

## OUR AGENDA

The *Lone Star Liberty Agenda 2014-2015* is simple enough in concept: defend and extend liberty in Texas and provide a model for America. The timeframe for this agenda extends from right now through the end of the 84th Regular Session of the Texas Legislature in June 2015. We are laying the groundwork for a truly transformative legislative session, and then execute it in the few short weeks allotted by our state constitution.

We can do it. We've done it before. And this time, we'll be more ambitious than ever.

Our agenda is comprised of seven major parts, each with several constituent actions that together create a broad-front approach to restoring liberty in Texas, and in America.

### Part I: Turn the Tide on State and Local Government Spending

Texas does far better than most other states in the level of its spending and the rate of spending growth, and TPPF is a big reason why. Nevertheless, the sad reality is that government in Texas—to say nothing of Washington, D.C.—has still grown at a rate exceeding any reasonable demand on public resources or constitutional requirements. Even if the rate of population growth plus

inflation is taken as a limit on state budget growth, that limit has been radically exceeded in the past generation: since fiscal 2004-05, total state spending increased by 67 percent versus population growth and inflation of only 46 percent. Local governments are even worse: the burden of spending growth at the local level has increased local debt to almost five times that of the state figure. Though we've come a long way, government in Texas grows too much.

This isn't just a budgetary problem: big government means money taken away from the homes, communities, and entrepreneurs of Texas for the purposes of those who did not earn it. When we talk about the growth of the state, we are talking about a real burden with real consequences for the individual and for families. They do, after all, pay those bills.

In the upcoming 2015 legislative session, the Legislature should take the following steps to halt the growth of government in Texas at both the state and local levels:

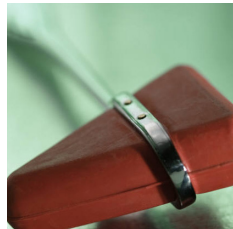
- **Eliminate** the margin tax entirely, to make Texas the *only* state without a business tax and without a personal income tax.
- **Create** a sales tax reduction fund that will use future budget surpluses to cut the Texas sales tax.
- **Adopt** a statutory tax and expenditure limitation that would restrict the increase in state spending (both non-federal funds and all funds) by the Legislature to the rate of inflation plus population growth.
- **Ensure** that the growth of the 2016-17 state budget stays within the rate of inflation plus population growth.
- **Require** local voter approval for property tax rates that result in an increase in local property tax revenue in excess of 5 percent.
- **Reform** the Sunset process so that programs, agencies, and statutes can only be privatized, downsized, or eliminated.

## Part II: Improve the Quality and Efficiency of Health Care in Texas

Health care is at the center of the left's ambitions to have Washington, D.C. take over the major sectors of our economy and therefore our lives. With costs spiraling as a consequence of decades of federal intervention, now accelerated by the early stages of ObamaCare, the sense of crisis in health care mounts and, given the nature of the sector, is felt directly by Americans in their lives and homes.

This Foundation seeks to achieve two major ends in health care: first, to decouple Texas health care from Washington, D.C.'s aggressive mismanagement; and second, to introduce free market principles into Texas health care as a means of controlling costs, increasing access, and producing better outcomes for all Texans—not just the ones fortunate enough to have the money or connections to thrive under ObamaCare. Therefore, the Legislature should:

- **Pass** Medicaid block grant legislation at the state and federal levels, allowing Texans to design health care for Texas, not federal bureaucrats.
- **Block** the expansion of Medicaid or the establishment of an ObamaCare health insurance exchange.



## Part III: Improve the Quality and Efficiency of Education in Texas

Education is a major responsibility of governance in Texas, and Texas used to be an innovator in this sphere. Few know that in the days of the Republic, families with children received stipends from the government to defray the costs of schooling, at the school of the parents' choice. The old Republic of Texas, with a *de facto* scholarship system, was more innovative in education than the present-day state of Texas has managed to be in more than a century. Furthermore, it has only been in the past generation that the state's higher education establishment has fought hard against accountability, transparency, and affordability.

To improve educational opportunity and outcomes for Texas children, the Legislature should:

- **Define and clarify** in statute the state's educational responsibilities under the Texas Constitution.
- **Provide** Texas families freedom of choice in their children's education.

#### Part IV: Rely on Market Competition to Improve Texas Roads

With nearly 20 percent population growth in the past decade, there is no question that Texas needs more basic infrastructure. Electrical generation, transportation, and water are all pressing concerns that must be addressed by the state. The problem is that the attendant projects are frequently big-dollar endeavors fraught with opportunity for those who would raise taxes and grow government.

With a growing population and a robust economy, there is no question that there is pressure on Texas' transportation infrastructure. Though more spending is the common answer to solve this problem, there are other worthy alternatives. Ending the restrictions on design-build procurement could save as much as \$1.2 billion per year over traditional design-bid-build contracting. In addition, ending diversions from the State Highway Fund could save \$650 million annually. If the constitutional amendment on the November 2014 ballot for transportation funding passes, this would add another \$1.7 billion per year. Collectively, these measures would add \$3.55 billion annually towards transportation funding and, if needed, more could be funded from General Revenue without raising tax rates.

To put into place real solutions for Texas' transportation infrastructure, the Legislature should:

- **Remove** governmental restrictions on the development of innovative practices in the financing, design, building, and private ownership/operation of Texas' transportation infrastructure.
- **End** the diversion of transportation funds for non-infrastructure functions.

#### Part V: Rely on Market Competition to Improve Texas' Water Supply

Abundant and reliable water supplies are essential both to a thriving economy and to personal well-being. As Texas continues to grow, we need more market-oriented methods to expedite development of the abundant water resources in this state. Unfortunately, a number of state and federal regulatory impediments now block access to millions of acre-feet of water in the state, and prevent existing resources from flowing to their most valuable use. A well-functioning water market requires well defined property rights to water, something that is not sufficiently clarified in current Texas water law.

To ensure that Texas can meet its growing water needs, the Legislature should:

- **Clarify and strengthen** private property rights in, and eliminate governmental restrictions on, the ownership, transfer, development, and efficient use of surface water and groundwater.

#### Part VI: Promote Liberty, Strengthen the Texas Economy via Free Markets and Property Rights

The Texas Model of low taxes and spending, less regulation, and a strong civil justice system has made our economy the envy of the nation. Yet more needs to be done. There are still too many hindrances on individuals and firms trying to make it in the marketplace. At the local level, property rights still don't receive the protections called for in the U.S. and Texas Constitutions. To promote the liberty of all Texans, the Legislature should:

- **Eliminate** subsidies, high taxes, and excessive regulation in the Texas electricity market.
- **Breakdown** barriers to work by stopping new occupational licenses and eliminating many existing licenses.
- **Stop** the overcriminalization of business activity and market transactions.
- **End** eminent domain abuse and regulatory takings.

## Part VII: Restore State Sovereignty Under the Tenth Amendment to the Constitution

The rise and expansion of Washington, D.C. has been facilitated and accompanied by a concurrent diminishment of the powers of the states. Whereas the American Founders envisioned the states as possessing all authority not explicitly delegated to the federal government—even enshrining the concept in the Tenth Amendment—we now live in an era in which the federal government does nearly anything it wishes. Meanwhile, the states are constrained, often radically so, by federal power and its trappings.

This isn't just a question of one government versus another. The diminution of state power is a function of the diminution of individual liberty, and our personal freedoms won't be restored until the states themselves are restored to their proper place under the Tenth Amendment.

Therefore, to help restore Texas state sovereignty, the Legislature should:

- **Create** a working immigration reform agenda, actionable by the state, to secure the border and to break the impasse on immigration policy with action in Austin rather than D.C.
- **Assemble** a coalition of states to challenge and defeat the federal drive to restrict American energy production.
- **Defend** Texas education from federal overreach including the centralized national Common Core master plan, and federal efforts to kill school choice for parents, students, and taxpayers.

### COMMUNICATIONS: GETTING THE WORD OUT

At the Texas Public Policy Foundation, we don't do policy for its own sake—we do it to change Texas and America for the sake of life, liberty, and the pursuit of happiness. That's why we have developed an effective and engaged communications strategy that relies upon the aforementioned principles of rapidity and relevance

to generate a media footprint much larger than one might expect.

To put our communications work in context, a few major points:

Since 2011, we have nearly *quadrupled* our media footprint, both in terms of aggregate mentions and audience.

- The result is that in just more than two years, we've gone from a modest statewide media presence to a major national and even international media presence.
- The Foundation's presence in media is now roughly equal to that of a major D.C. institution—achieved with one-fifth the funding and one-third the personnel.
- In 2013, the Foundation appeared in media around the country roughly 20 times *every day* and published almost 400 op-eds.
- We have run major statewide television advertising campaigns, purchased radio advertising campaigns, sponsored national talk radio shows, issued print op-ed campaigns, and directed social media efforts.

In short, the Texas Public Policy Foundation—in keeping with our ethic of *doing* things rather than simply *thinking* about them—is a credible and meaningful media force. An investment in our work is not merely a donation to an academic department: it is a direct support to direct communication with the average citizens and their influencers that generates the change we need.

### CONCLUSION: TIME FOR ACTION

Drawing from our experiences in the past quarter-century of policy action, we can generally affirm that each of these fights will require the following elements for success:

- **A solid background of data and policy analysis.** The Foundation's 35 policy personnel—including three Ph.D.'s and eight lawyers—provide an unparalleled depth and breadth of research and analysis.



- *A broad coalition of allies coalesced around a simple set of principles.* We have excelled at this task in past efforts. Given our growing prominence in the liberty movement in Texas and around the country, we will assuredly continue to build our coalition of supporters.
- *A well-funded media effort.* This Foundation does exceptional work with earned media, and has proven its speed and nimbleness in anticipating and crafting messaging that works. But earned media works best when it is built upon a base of sufficient funding, and so we will need an ample budget to drive home our messages for victory. Purchased media, in the form of advertisements and placements, is the ideal point of leverage for the generation of earned media—and indeed, the Foundation finds that the former is indispensable to maximizing the latter.
- *A clear message for the public.* This must exist for our major efforts, as it draws the line between our agenda and the will of the people of Texas.

The Texas Public Policy Foundation adheres to two simple principles in its action agenda:

- *Moral truth.* Policy is too often conceived as an actuarial exercise, or something best expressed on a spreadsheet. At the Foundation, we draw upon the work of eminences including Ronald Reagan (who grasped it intuitively) and Arthur Brooks (who grasped it with social science), in our understanding that all policy must address and contain a moral truth. This is related to emotion, but not purely emotive; it is, rather, at the intersection of emotion and reason, each amplifying and informing the other. This transforms policy agenda items like fiscal reform into questions of food on the dinner table; it changes policy aspirations like education reform into the hopes and dreams of a parent for their child; it renders governance process improvements like pension reform into the promise of one's golden years.
- *Speed.* The Foundation prizes due diligence, thoroughness, and accuracy, but it also prizes swiftness, anticipatory engagement, and a relentless pace of operations. In

short, we value speed in our efforts, not for its own sake, but for the effect it has on the public square. It is not uncommon to see our ideas covered in the media long before those of major officeholders. Our first-mover advantage sets the terms of the debate, establishes our narrative first in media, and magnifies our already efficient stewardship of funds and personnel that much more.

Taken together, moral truth and speed are powerful maxims by which to conduct an engagement of the magnitude anticipated for the coming months before the 84th Texas Legislature. The alternative is a dreary repetition of endeavors we've seen too often before: a futile effort to persuade the public that a spreadsheet constitutes a call to action; an emphasis on process improvements to governance when ordinary people are worried first and foremost about home, family, children, and neighborhood; and an agenda conducted almost wholly in reaction to the other side's.

At the Texas Public Policy Foundation, we do better. Our cause deserves no less, and in the spirit of the happy warrior, we press forward with uncommon readiness.

This effort, born in experience of the past and vision for the future, requires meaningful support to execute. In the desperate year 1940, with Britain standing alone against the might of the Axis empires and her treasury running low, Winston Churchill appealed to the United States for the arms and armor to defend the last bastion of freedom in Europe: "Give us the tools," he said, "and we'll finish the job." And, with Britain's prospects uncertain, the United States brought itself around to doing exactly that. We did it because it was the right thing to do, and also because that feisty island persuaded us, almost against reason, that it could win.

In the Lone Star State, we are blessed to have circumstances vastly better than those facing the redoubtable Churchill in the straits of 1940. Yet we too are threatened, not by an empire from without, but by ideas—of big government, of big spending, of big planning—that have found purchase among us. The good news is that they are ideas we can beat. But it will take all of us working together to finish the job. ★

