

# Agenda

## **Thursday, May 10, 2012**

Registration

3:00 p.m. – 7:00 p.m.

NC Welcome Reception

8:30 p.m. – 11:00 p.m.

## **Friday, May 11, 2012**

Registration

7:30 a.m. – 2:00 p.m.

Task Force Subcommittee Meetings

8:00 a.m. – 9:45 a.m.

*All Task Force members are welcome and encouraged to attend their Task Force's Subcommittee meetings.*

Digital Learning Subcommittee

8:15 a.m. – 9:15 a.m.

Energy Subcommittee

8:15 a.m. – 9:15 a.m.

Fiscal Policy Reform Working Group

8:15 a.m. – 9:15 a.m.

*Other Subcommittees to be Determined*

Workshop:

9:30 – 10:45

All ALEC members are welcome to attend.

Workshop:

11:00 a.m. – 12:15 p.m.

All ALEC members are welcome to attend.

Task Force Lunch Meetings

1:00 p.m. – 2:00 p.m.

*Task Forces will each begin serving at 12:45 for luncheon.*

Task Force Meetings

2:00 p.m. – 5:15 p.m.

- Civil Justice
- Commerce, Insurance, and Economic Development
- Communications and Technology
- Education
- Energy, Environment and Agriculture
- Health and Human Services
- Public Safety and Elections
- Tax and Fiscal Policy

Spring Task Force Summit Reception

6:30 p.m. – 8:30 p.m.

# AMERICAN LEGISLATIVE EXCHANGE COUNCIL

*A National Association for America's State Legislators ■ Jeffersonian Principles in Action!*

## MEMORANDUM

**TO: TAX AND FISCAL POLICY TASK FORCE MEMBERS**

**FROM: JONATHAN WILLIAMS, TASK FORCE DIRECTOR**

**DATE: APRIL 5, 2012**

**RE: 35 DAY MAILING—ALEC'S SPRING TASK FORCE SUMMIT: TAX AND FISCAL POLICY TASK FORCE**

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The American Legislative Exchange Council will host its Spring Task Force Summit on May 11<sup>th</sup> in Charlotte, North Carolina. **The Tax and Fiscal Policy Task Force will meet from 2:00 p.m. until 5:00 p.m. on Friday, May 11<sup>th</sup>.**

The joint **21<sup>st</sup> Century Commerce and Taxation Working Group** will convene on Friday, May 11<sup>th</sup> from 7:30 a.m. until 8:15 a.m. The **Fiscal Policy Reform Working Group** will then meet from 8:15 a.m. until 9:15 a.m.

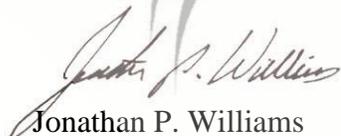
**Please find the following materials enclosed:**

- Spring Task Force Summit Tentative Schedule
- Task Force Meeting Tentative Agenda
- Draft Model Legislation Summaries
- Draft Model Legislation
- Articles of Interest
- ALEC Mission Statement
- ALEC Task Force Operating Procedures
- ALEC Meeting Reimbursement Policies

**Travel and Accommodations:** ALEC's Spring Task Force Summit and all task force meetings will be held in Charlotte, North Carolina at **The Westin Charlotte**. Please register for the conference online at [www.alec.org](http://www.alec.org). If you have any questions about registration, please call 202-742-8538.

I look forward to seeing all of you in Charlotte, for what is sure to be an excellent meeting. If you have any questions or comments regarding the meeting, please contact me at 202-742-8533 or by e-mail at [jwilliams@alec.org](mailto:jwilliams@alec.org).

Cordially,



Jonathan P. Williams  
Tax & Fiscal Policy Task Force Director

**TAX AND FISCAL POLICY TASK FORCE MEETING  
ALEC'S 2012 SPRING TASK FORCE SUMMIT  
CHARLOTTE, NORTH CAROLINA  
FRIDAY, MAY 11TH, 2:00 P.M. – 5:00 P.M.**

**Indiana Sen. Jim Buck – Public Sector Chair  
Bob Williams – Private Sector Chair  
Jonathan Williams – Task Force Director**

- 2:00 Call to Order, Welcome, and Introductions**  
Indiana Sen. Jim Buck  
Bob Williams – Freedom Foundation
- 2:05 Old Business – Approval of States and Nation Policy Summit Minutes**
- 2:10 A Report from the 21<sup>st</sup> Century Commerce and Taxation Working Group**
- 2:15 A Report from the Fiscal Policy Reform Working Group**
- 2:20 State Budget Solutions**  
Bob Williams – Freedom Foundation
- 2:30 Rich States, Poor States**  
Jonathan Williams – ALEC
- 2:40 Budget Reform in Mississippi**  
Rep. Greg Snowden – Speaker Pro Tempore, Mississippi
- 2:50 Income Tax Reform**  
Dr. Barry Poulson – University of Colorado
- 3:00 The Abuses of the Multistate Tax Commission (MTC)**  
Steve Kranz – Sutherland Asbill & Brennan LLP
- 3:20 Panel Discussion: Debunking Tax Myths**  
Josh Culling – Americans for Tax Reform  
Jonathan Small – Oklahoma Council of Public Affairs  
Jonathan Williams – ALEC
- 3:50 Privatization Efforts in the States**  
Len Gilroy – Reason Foundation

**4:00 Consideration of Proposed Model Legislation**

**I. Audit Equity and Process Simplification Act**

Susan Bittick – Ryan

Texas Rep. John Otto

**II. Facilitating Business Rapid Response to State Declared Disaster Act**

Sponsor: TBD

**III. Resolution on Taxation of Smokeless Tobacco Products versus Cigarettes**

Utah Sen. Wayne Niederhauser

Christopher Butler – Americans for Tax Reform

**4:55 New Business**

**5:00 Adjournment**



COMMON CAUSE  
Holding Power Accountable

**Tax and Fiscal Policy Task Force  
STFS 2012 Bill Summaries**

**Title:** Audit Equity and Process Simplification Act

**Sponsors:** Susan Bittick, *Ryan*

Representative John Otto, *Texas*

**Summary:**

Instead of reviewing every transaction in an audited period, state auditors project the error rate over the audited period to arrive at an amount of tax due. However, this practice does not provide an equal opportunity to identify and obtain credits for taxes paid in error. To procure reimbursement for overpayments, taxpayers must file refund claims for individual transactions on which taxes paid were excluded by auditors. As a result, auditors must audit voluminous transactions and documents to approve the refunds. This Act provides for a fair and reasonable refund process, which will allow for the reallocation of resources and should help generate significant cost savings for the state and its taxpayers.

**Title:** Facilitating Business Rapid Response to State Declared Disaster Act

**Sponsors:** TBD

**Summary:**

This Act amends the state public services law, state law, and tax law pertaining to declared disasters. Specifically, this Act addresses thresholds for establishing presence, residency or doing business in the state for out-of-state employees and companies. This Act also includes affiliates of in-state companies that temporarily provide resources and personnel in the state of emergency declared by either the Governor or the President of the United States.

*Dually referred to the Communications and Technology Task Force*

**Title:** Resolution on Taxation of Smokeless Tobacco Products versus Cigarettes

**Sponsors:** Senator Wayne Niederhauser, *Utah*

Christopher Butler, *Americans for Tax Reform*

**Summary:**

This resolution recognizes that tobacco harm reduction is a vital component in a successful tobacco control strategy. While abstaining from all tobacco is the best way for smokers to reduce their risk of disease, state governments must also consider if those who will not abstain can reduce their risk by switching to tobacco products that present less risk. Research shows that 85 percent of U.S. smokers are unaware that smokeless tobacco products present less risk than cigarettes. Therefore, this resolution calls for transparency in terms of accurate and complete information on the relative risks of smokeless tobacco products. Furthermore, this resolution also finds that excise taxes for smokeless tobacco products should reflect their relative risk in order to avoid arbitrary economic barriers to less risky products for consumers.

*This draft resolution below is for 21<sup>st</sup> Century Commerce and Taxation Working Group consideration only. The Task Force will not vote on this bill for the Spring Task Force Summit:*

**Title:** Resolution Urging Congress to Restore State Sales Tax Collection Sovereignty

**Sponsors:** TBD

**Summary:**

The Supreme Court of the United States held in *Quill* (1992) that a state cannot require a retailer without a physical presence in the state to collect tax on sales to consumers in the state. Importantly, the Court recognized “that the underlying issue is not only one that Congress may be better qualified to resolve, but also one that Congress has the ultimate power to resolve.” Congress should act, consistent with the American Legislative Exchange Council (ALEC) Principles of Taxation, to authorize states, subject to the enactment of any necessary state laws, to require all retailers whose sales to consumers in the state exceed a minimum threshold to collect applicable sales taxes on sales in the state.

*Dually referred to the Communications and Technology Task Force.*



COMMON SENSE  
Holding Power Accountable

# Audit Equity and Process Simplification Act

## *Summary*

Typically, a state tax auditor does not review every transaction in an audited period. Instead, the auditor uses a sample of transactions to ascertain an underpayment or “error rate.” The auditor then projects the error rate over the audited period to arrive at an amount of tax due.

Auditors generally endeavor to review accounts that may include tax underpayments, as reviewing certain tax-paid accounts are not efficient. Although this practice works well for assessments, it does not provide an equal opportunity to identify and obtain credits for taxes paid in error. To procure reimbursement for overpayments, taxpayers must file refund claims for individual transactions on which taxes paid were excluded by auditors in the audit scope. State auditors are then obligated to audit voluminous transactions and documents to approve the refunds.

This Act provides for a fair and reasonable refund process, which will allow for the reallocation of resources and should help generate significant cost savings for the state and its taxpayers.

## *Model Legislation*

{Title, enacting clause, etc.}

**Section 1.** This Act may be cited as the Audit Equity and Simplification Act.

**Section 2.** {Statement of legislative intent.}

**WHEREAS**, the state utilizes sample and projection techniques to assess sales or use tax on tax underpayments;

**WHEREAS**, it is agreed that the Department of Revenue’s use of sample and projection methods to assess underpaid taxes has been found to be an acceptable alternative to performing detail audits;

**WHEREAS**, tax overpayments, like underpayments, typically involve thousands of transactions, among hundreds of thousands of transactions of non-errors, and the use of the same sample and projection methods in verifying overpayments will result in similarly efficient use of state and taxpayer (large and small) resources;

**THEREFORE BE IT RESOLVED** that it is the intent of the legislature through this Act to provide for a method by which taxpayers may use sample and projection techniques to determine tax overpayments in the same manner used by the Department of Revenue to sample and project tax underpayments.

**Section 3.** {Eligible Taxpayers.}

47 A. Eligible taxpayer means:

48

49 1. A person with a valid sales or use tax permit who has erroneously remitted tax on the  
50 purchase or use of tangible personal property and/or taxable services; or

51

52 2. A person who has purchased items for use in this state and has erroneously paid sales  
53 tax to a permitted retailer or use tax to the state.

54

55 **Section 4. {Refund of Overpayments.}**

56 B. An eligible taxpayer may obtain a reimbursement for all amounts determined to have  
57 been overpaid by either:

58

59 1. Taking a credit on one or more sales tax returns; or

60

61 2. Filing a claim for refund with the Department of Revenue within the limitation period  
62 as specified by statute.

63

64 **Section 5. {Refund Audit Method.}**

65 An eligible taxpayer may use a projection based on a sample of transactions to estimate  
66 the amount of tax overpayments. The Department of Revenue shall adopt guidelines  
67 specifying procedures for estimating and claiming a credit or refund under this Act. Such  
68 guidelines must be the same or substantially similar to the methods used by the  
69 Department of Revenue to assess tax. An eligible taxpayer shall use such guidelines to  
70 sample and to project overpayments of sales and use taxes. An eligible taxpayer shall  
71 provide documentation and any records pertaining to the refund request, including the  
72 method of estimation, to the Department of Revenue upon request.

73

74 **Section 7. {Effective date.}**

75 This Act shall become effective Month x, 20XX of the following year in which the Act  
76 is enacted.

77

78



COMMITTEE ON CAUSE  
Holding Power Accountable

# Facilitating Business Rapid Response to State Declared Disaster Act

## *Summary*

An Act to amend the public services law, state law and tax law, in relation to thresholds for establishing presence, residency or doing business in the state for out-of-state employees and companies including affiliates of in-state companies that temporarily provide resources and personnel in the state during a state of emergency declared by either the Governor or the President of the United States.

## *Model Legislation*

{Title, enacting clause, etc.}

### **Section 1. {Short Title.}**

This Act may be cited as the “Facilitating Business Rapid Response to State Declared Disasters Act of 2012”.

### **Section 2. {Findings.}**

The Legislature finds that –

A. During times of storm, flood, fire, earthquake, hurricane or other disaster or emergency, many companies bring in resources and personnel from other states throughout the U.S. on a temporary basis to expedite the often enormous and overwhelming task of cleaning up, restoring and repairing damaged buildings, equipment and property or even deploying or building new replacement facilities in the state.

B. This may involve the need for out-of-state companies, including out-of-state affiliates of companies based in the state to bring in resources, property and/or personnel that previously have had no connection to the state, to perform activity in the state including but not limited to repairing, renovating, installing, building, rendering services or other business activities and for which personnel may be located in the state for extended periods of time to perform such activities.

C. During such time of operating in the state on a temporary basis solely for purposes of helping the state recover from the disaster or emergency, these companies and individual employees should not be burdened by any requirements for business and employee taxes as a result of such activities in the state for a temporary period.

32 D. The state’s nexus and residency thresholds are intended for businesses and individuals in  
33 the state as part of the conduct of regular business operations or who intend to reside in the state  
34 and should not be directed at companies and individuals coming into the state on a temporary  
35 basis to provide help and assistance in response to a declared state disaster or emergency.

36 E. To ensure that companies may focus on quick response to the needs of the state and its  
37 citizens during a declared state disaster or emergency it is appropriate for the legislature to deem  
38 that such activity for a reasonable period of time during and after the disaster or emergency for  
39 repairing and restoration of the often devastating damage to property and infrastructure in the  
40 state shall not establish presence, residency, nor doing business in the state nor any other criteria  
41 for purposes of state and local taxes, licensing and regulatory requirements.

### 42 **Section 3. {Definitions.}**

43 For purposes of this Act, the following terms shall have the following meanings:

44 “Registered Business in the State” (or “Registered Business”) means a business entity that is  
45 currently registered to do business in the state prior to the declared state disaster or emergency.

46 “Out-of-State Business” means for purposes of this legislation a business entity that has no  
47 presence in the state and conducts no business in the state whose services are requested by a  
48 Registered Business or by a state or local government for purposes of performing Disaster or  
49 Emergency Related Work in the state. This shall also include a business entity that is affiliated  
50 with the Registered Business in the State solely through common ownership. The “Out-of-State  
51 Business” has no registrations or tax filings or nexus in the state prior to the declared state  
52 disaster or emergency.

53 “Out-of-State Employee” means for purposes of this legislation an employee of an Out-of-State  
54 business who does not work in the state. “Disaster or Emergency Related Work” means  
55 repairing, renovating, installing, building, rendering services or other business activities that  
56 relate to infrastructure that has been damaged impaired or destroyed by the Declared State  
57 Disaster or Emergency.

58 “Infrastructure” means for purposes of this legislation property and equipment owned or used by  
59 communications networks, gas and electric distribution systems, water pipelines, and public  
60 roads and bridges and related support facilities that services multiple customers or citizens  
61 including but not limited to real and personal property such as buildings, offices, lines, poles,  
62 pipes, structures and equipment.

63 “Declared State Disaster or Emergency” means a disaster or emergency event for which a  
64 Governor's State of Emergency Proclamation has been issued or for which a Presidential  
65 Declaration of a Federal Major Disaster or Emergency has been issued.

66 “Disaster Period” means a period that begins within ten days of the first day of the Governor’s  
67 Proclamation or the President’s Declaration (whichever occurs first) and that extends for a period  
68 of sixty calendar days after the end of the declared disaster or emergency period.

69 **Section 4. {Obligations After Disaster Period.}**

70 A. Business and employee status during disaster period.

71 1. An Out-of-State Business that conducts operations within the state for purposes of performing  
72 work or services related to a Declared State Disaster or Emergency during the Disaster Period  
73 shall not be considered to have established a level of presence that would require that business to  
74 register, file and remit state or local taxes or that would require that business or its out of state  
75 employees to be subject to any state licensing or registration requirements. This includes any and  
76 all state or local business licensing or registration requirements or state and local taxes or fees  
77 such as unemployment insurance, state or local occupational licensing fees and sales and use tax  
78 on equipment used or consumed during the disaster period, public service commission or  
79 secretary of state licensing and regulatory requirements. For purposes of any state or local tax on  
80 or measured by, in whole or in part, net or gross income or receipts, all activity of the Out-of-  
81 State Business that is conducted in this state pursuant to this Act shall be disregarded with  
82 respect to any filing requirements for such tax including the filing required for a unitary or  
83 combined group for which the Out-of-State Business may be a part.

84 2. Any Out-of-State Employee as defined herein shall not be considered to have established  
85 residency or a presence in the state that would require that person or that person’s employer to  
86 file and pay income taxes or to be subjected to income tax withholdings or to file and pay any  
87 other state or local tax or fee during the Disaster Period. This includes any related state or local  
88 employer withholding and remittance obligations.

89 B. Transaction taxes and fees.

90 Out-of-State Businesses and Out-of-State Employees shall be required to pay transaction taxes  
91 and fees including but not limited to fuel taxes or sales/use taxes on materials or services subject  
92 to sales/use tax, hotel taxes, car rental taxes or fees that the Out-of-State Affiliated Business or  
93 Out-of-State employee purchases for use or consumption in the state during the Disaster Period,  
94 unless such taxes are otherwise exempted during a Disaster Period.

95 C. Business or employee activity after disaster period.

96 Any Out-of-State Business or Out-of-State employee that remains in the state after the Disaster  
97 Period will become subject to the state’s normal standards for establishing presence, residency or  
98 doing business in the state and will therefore become responsible for any business or employee  
99 tax requirements that ensue.

100 **Section 5. {Administration.}**

101 A. Notification of out-of-state business during disaster period.

102 1. The Out-of-State Business that enters the state shall, upon request, provide to the {Designated  
103 Agency} a statement that it is in the state for purposes of responding to the disaster or  
104 emergency, which statement shall include the business' name, state of domicile, principal  
105 business address, federal tax identification number, date of entry, and contact information.

106 2. A Registered Business in the State shall, upon request, provide the information required in  
107 paragraph 1 of this section for any affiliate that enters the state that is an Out-of-State Business.  
108 The notification shall also include contact information for the Registered Business in the State.

109 B. Notification of intent to remain in state.

110 An Out-of-State Business or an employee that remains in the state after the Disaster Period shall  
111 complete state and local registration, licensing and filing requirements that ensue as a result of  
112 establishing the requisite business presence or residency in the state applicable under the existing  
113 rules.

114 C. Procedures. The {Designated Agency} shall promulgate necessary regulations, develop  
115 and issue forms or online processes to carry out these administrative procedures.

116 **{Section 6.} Effective Date.**

117 This Act shall be effective immediately.



COMMON CAUSE  
Holding Power Accountable

# Resolution on Taxation of Smokeless Tobacco Products Versus Cigarettes

## *Summary:*

This resolution recognizes that tobacco harm reduction is a vital component in a successful tobacco control strategy. While abstaining from all tobacco is the best way for smokers to reduce their risk of disease, state governments must also consider if those who will not abstain can reduce their risk by switching to tobacco products that present less risk. Research shows that 85 percent of U.S. smokers are unaware that smokeless tobacco products present less risk than cigarettes. Therefore, this resolution calls for transparency in terms of accurate and complete information on the relative risks of nicotine products that are not smoked. Furthermore, this resolution finds that excise taxes for smokeless tobacco products should reflect their relative risk in order to avoid arbitrary economic barriers to less risky products for consumers.

## *Resolution:*

**WHEREAS**, states have pursued for decades policies intended to encourage citizens who smoke to quit, and to discourage others who don't smoke from starting; and

**WHEREAS**, while cigarette smoking rates have declined substantially over the period from 1965-2004, the rate of decline has slowed in recent years and the Centers for Disease Control and Prevention estimates that approximately 19% of Americans continue to smoke cigarettes, which remain the most popular form of tobacco in the United States; and

**WHEREAS**, cigarettes are not only the most popular form of tobacco, they are also riskier than other forms of tobacco; and

**WHEREAS**, while no tobacco product has been shown to be safe, there is a scientific consensus that smokeless tobacco presents substantially less risk of disease and premature death than cigarettes; and

**WHEREAS**, this consensus includes numerous public health organizations, such as the Institute of Medicine, the American Council on Science and Health, the Royal College of Physicians, and the World Health Organization, each of which have recognized the fact that there is a continuum of risk among tobacco product types, and that the risks associated with cigarette use are substantially higher than those associated with the use of non-combustible products; and

**WHEREAS**, while abstaining from all tobacco is clearly the best, most effective way for smokers to reduce their risk of disease and premature death, it is appropriate to consider whether those who won't abstain can substantially reduce their risk of disease and premature death by switching from cigarettes to tobacco products that present less risk; and

**WHEREAS**, research shows that 85% of U.S. smokers are unaware that smokeless tobacco products present less risk than cigarettes; and

**WHEREAS**, the risk of death and disease associated with the use of smokeless tobacco products is widely accepted to be at least 90% less than that associated with cigarette smoking, yet the excise tax burden on smokeless tobacco fails to properly reflect this dramatically lower risk; and

50 **WHEREAS**, excise taxes are intended to discourage lawful but unhealthy behavior of citizens;  
51 and

52  
53 **WHEREAS**, the General Assembly of the Commonwealth of Kentucky resolved in 2005 (in  
54 part) “Taxing tobacco products according to relative risk is a rational tax policy and may well  
55 serve the public health goal of reducing smoking-related mortality and morbidity and lowering  
56 health care costs associated with tobacco-related disease”; and

57  
58 **WHEREAS**, the state of Indiana passed H.B. 1004 in May, 2011 stating that “The Indiana  
59 general assembly finds that the tax rate on smokeless tobacco should reflect the relative risk  
60 between such products and cigarettes”; and

61  
62 **WHEREAS**, free-market solutions are consistent with the American Legislative Exchange  
63 Council’s mission; and

64  
65 **WHEREAS**, the free market only flourishes when consumers have ample and accurate  
66 information to allow them to make decisions as well as a tax and regulatory policy that does not  
67 create economic barriers to consumer choice; and

68  
69 **WHEREAS**, “tobacco harm reduction” is a free-market solution to a societal problem that  
70 involves policies to encourage adult smokers who are engaged in lawful but unhealthy behaviors  
71 to consider switching to a less risky behavior; and

72  
73  
74 **Therefore, the American Legislative Exchange Council finds:**

- 75  
76  
77 1. The ratio of excise taxes for cigarettes to smokeless tobacco products should reflect their  
78 relative risk to avoid arbitrary economic barriers to less risky products for consumers.  
79  
80 2. Tobacco harm reduction should be included as one component of a comprehensive  
81 tobacco control strategy, complementing efforts to increase smoking cessation (or  
82 quitting) and reduce smoking initiation (or starting smoking); and  
83  
84 3. In addition to advising its citizens to quit using tobacco or to never start, state  
85 governments should advise current cigarette smokers that using smokeless tobacco has  
86 been scientifically shown to be less harmful than smoking cigarettes.  
87  
88 4. In public health communications, taxpayer dollars should only be used to disseminate  
89 accurate and complete information on smokeless tobacco products.

**DRAFT – FOR DISCUSSION PURPOSES ONLY – DRAFT**

**Resolution Urging Congress to Restore State Sales Tax Collection Sovereignty**

**Summary**

The Supreme Court of the United States held in *Quill* (1992) that a state cannot require a retailer without a physical presence in the state to collect tax on sales to consumers in the state. Importantly, the Court recognized “that the underlying issue is not only one that Congress may be better qualified to resolve, but also one that Congress has the ultimate power to resolve.” Congress should act, consistent with the American Legislative Exchange Council (ALEC) Principles of Taxation, to authorize states, subject to the enactment of any necessary state laws, to require all retailers whose sales to consumers in the state exceed a minimum threshold to collect applicable sales taxes on sales in the state.

**Resolution to Congress**

**WHEREAS**, the Supreme Court of the United States held in *Quill v. North Dakota*, 504 U.S. 298 (1992) that the “dormant” or “negative” Commerce Clause of the United States Constitution prohibits a state from requiring a retailer to collect sales tax on sales to consumers in the state unless the retailer has physical presence in the state, and;

**WHEREAS**, the Supreme Court further held “that the underlying issue is not only one that Congress may be better qualified to resolve, but also one that Congress has the ultimate power to resolve,” and;

**WHEREAS**, the sales tax, as applied to consumer purchases, is the most transparent tax levied by state and local governments, and;

**WHEREAS**, the sales tax is, from the individual consumer’s perspective, one of the simplest taxes imposed by state and local governments, and more than 20 states have worked to make it simpler for retailers that collect the tax in multiple states, and;

**WHEREAS**, the most complex aspect of sales taxation for consumers is the requirement to pay “use” tax directly to the state when sales tax is not collected by the retailer, and;

**WHEREAS**, current federal policy prohibiting uniform sales tax collection violates the principle of economic neutrality by favoring some retailers over others and encouraging consumers to evade paying legally owed taxes, and;

**WHEREAS**, this federal policy also violates the principle of equity and fairness because it uses the tax system to pick winners and losers in the marketplace, and;

**WHEREAS**, the sales tax is the one major tax that is frequently both a state and local tax, and uniform collection of the sales tax will help to strengthen state and local tax systems, and;

**DRAFT – FOR DISCUSSION PURPOSES ONLY – DRAFT**

47 **WHEREAS**, consumption taxes, like the sales tax with appropriate exemptions to minimize tax  
48 pyramiding on business inputs, are among the most economically neutral taxes and are a  
49 necessary component to achieve effective competitiveness, and;

50  
51 **WHEREAS**, the sales tax is one of the most stable sources of state revenue and provides  
52 certainty for both states and taxpayers,

53  
54 **WHEREAS**, federal legislation authorizing states to require all retailers whose sales to  
55 consumers in those states exceed a minimum threshold to collect sales taxes has garnered support  
56 from businesses and business groups large and small and organizations across the political  
57 spectrum, and;

58  
59 **WHEREAS**, such federal legislation would allow states to improve the collection of legally  
60 owed sales taxes and thus provide flexibility to lower tax rates for all taxpayers;

61  
62 **NOW THEREFORE LET IT BE RESOLVED**, ALEC urges Congress to enact legislation,  
63 consistent with ALEC Principles of Taxation, to authorize states, subject to the enactment of any  
64 necessary state laws, to require all retailers whose sales to consumers in the state exceed a  
65 minimum threshold to collect applicable sales taxes on sales in the state, and;

66  
67 **BE IT FURTHER RESOLVED**, copies of this resolution shall be distributed to all Governors  
68 and members of the United States House of Representatives and United States Senate.



COMMON CAUSE  
Holding Power Accountable

**DRAFT – FOR DISCUSSION PURPOSES ONLY – DRAFT**

**Resolution Urging Congress to Restore State Sales Tax Collection Sovereignty**

**Summary**

The Supreme Court of the United States held in *Quill* (1992) that a state cannot require a retailer without a physical presence in the state to collect tax on sales to consumers in the state. Importantly, the Court recognized “that the underlying issue is not only one that Congress may be better qualified to resolve, but also one that Congress has the ultimate power to resolve.” Congress should act, consistent with the American Legislative Exchange Council (ALEC) Principles of Taxation, to authorize states, subject to the enactment of any necessary state laws, to require all retailers whose sales to consumers in the state exceed a minimum threshold to collect applicable sales taxes on sales in the state.

**Resolution to Congress**

**WHEREAS**, the Supreme Court of the United States held in *Quill v. North Dakota*, 504 U.S. 298 (1992) that the “dormant” or “negative” Commerce Clause of the United States Constitution prohibits a state from requiring a retailer to collect sales tax on sales to consumers in the state unless the retailer has physical presence in the state, and;

**WHEREAS**, the Supreme Court further held “that the underlying issue is not only one that Congress may be better qualified to resolve, but also one that Congress has the ultimate power to resolve,” and;

**WHEREAS**, the sales tax, as applied to consumer purchases, is the most transparent tax levied by state and local governments, and;

**WHEREAS**, the sales tax is, from the individual consumer’s perspective, one of the simplest taxes imposed by state and local governments, and more than 20 states have worked to make it simpler for retailers that collect the tax in multiple states, and;

**WHEREAS**, the most complex aspect of sales taxation for consumers is the requirement to pay “use” tax directly to the state when sales tax is not collected by the retailer, and;

**WHEREAS**, current federal policy prohibiting uniform sales tax collection violates the principle of economic neutrality by favoring some retailers over others and encouraging consumers to evade paying legally owed taxes, and;

**WHEREAS**, this federal policy also violates the principle of equity and fairness because it uses the tax system to pick winners and losers in the marketplace, and;

**WHEREAS**, the sales tax is the one major tax that is frequently both a state and local tax, and uniform collection of the sales tax will help to strengthen state and local tax systems, and;

**DRAFT – FOR DISCUSSION PURPOSES ONLY – DRAFT**

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52 certainty for both states and taxpayers,

53  
54 **WHEREAS**, federal legislation authorizing states to require all retailers whose sales to  
55 consumers in those states exceed a minimum threshold to collect sales taxes has garnered support  
56 from businesses and business groups large and small and organizations across the political  
57 spectrum, and;

58  
59 **WHEREAS**, such federal legislation would allow states to improve the collection of legally  
60 owed sales taxes and thus provide flexibility to lower tax rates for all taxpayers;

61  
62 **NOW THEREFORE LET IT BE RESOLVED**, ALEC urges Congress to enact legislation,  
63 consistent with ALEC Principles of Taxation, to authorize states, subject to the enactment of any  
64 necessary state laws, to require all retailers whose sales to consumers in the state exceed a  
65 minimum threshold to collect applicable sales taxes on sales in the state, and;

66  
67 **BE IT FURTHER RESOLVED**, copies of this resolution shall be distributed to all Governors  
68 and members of the United States House of Representatives and United States Senate.



COMMON CAUSE  
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## Taxes matter more than sunshine

By Jonathan Williams & Christine Harbin 3:15 PM 12/14/2011

A recent study from the left-wing Center on Budget and Policy Priorities (CBPP) concludes, almost laughably, that taxes do not motivate people to leave high-tax states. The study's authors argue that weather may have more of an effect on migration patterns than tax rates.

If that were true, wouldn't people be moving to California and Hawaii in droves? Census data shows that this simply isn't happening. Over the last 20 years, 3.6 million more Americans have moved out of California than have moved in, and 130,000 more Americans have moved out of Hawaii than have moved into the state. In striking contrast, Florida gained 2.3 million net residents during that same period.

The authors of the CBPP study point to the fact that Florida lost population in 2008 and 2009. This view ignores the big picture. Migration to Florida slowed when the real estate bubble burst, and it has since recovered. Moreover, Florida enjoyed a strong recovery in 2010, with a net gain of 55,000 domestic migrants, according to the latest data from the U.S. Census Bureau.

What makes Florida different from California and Hawaii? It has a much better tax climate. The argument that weather matters more than taxes falls flat on its face when you consider Alaska (a state that doesn't have an income tax) suffered only half the population loss Hawaii (the state with the highest personal income tax) did over the past decade.

If weather matters more than taxes, then why is Alaska performing so well compared to California and Hawaii? Alaska may have the worst climate in the country and California and Hawaii arguably have the best, but Alaska has out-performed both states on nearly every measure, according to *Rich States, Poor States: ALEC-Laffer Economic Competitiveness Index*, a report from the American Legislative Exchange Council.

Census data consistently shows that people choose where to live, engage in commerce and invest based on economic competitiveness. High taxes drive many people and businesses to move to lower-tax states, and those people take their tax revenues with them. State tax policies play a significant role in determining which states prosper and which states fall behind in terms of economic performance.

Over the last decade, on net, more than 4.2 million individuals have moved out of the 10 states with the highest state and local tax burdens (measured as a percentage of personal income). Conversely, during the same period, more than 2.8 million Americans migrated to the 10 states with the lowest tax burdens. Put differently, every day on average — weekends and holidays included — 1,265 individuals left the high-tax states, nearly one a minute.

If taxes didn't matter, then why would this be?

Population isn't the only thing repelled by high taxes — income, investment and consumption are as well. When people escape from a state, they take their tax revenues with them. They take their businesses and jobs, too.

The authors of the CBPP study claim that there is no proof wealthy people relocate in response to higher tax bills. However, logic, numerous academic studies and abundant anecdotal evidence say otherwise. For instance,

when Maryland enacted a special income tax on millionaires in 2008, it saw a 33 percent decline in tax returns from millionaire households. The authors of the CBPP study attempt to dismiss this exodus as a simple result of the recession, but that argument doesn't hold water. According to a Bank of America-Merrill Lynch study of federal tax return data on people who migrated from one state to another, Maryland lost \$1 billion of its net tax base in 2008 because of out-migration.

The folks at CBPP and other left-wing tax groups generally attempt to argue that high taxes, especially on the ever-changing category of people known as "the rich," are necessary to promote fairness and collect revenue. However, these dedicated class warriors often forget a very basic fact: Many high-income earners are actually small businesses that pay taxes through the individual side of the tax code, so millionaire taxes are often paid by small business owners and operators, making these misguided policies job-killers, plain and simple.

State elected officials obviously have little control over their states' 10-day forecasts, but they do control their states' tax climates. We know tax policy is not the only reason people are motivated to live, invest or grow a business in a state, but it plays a significant role. State lawmakers should keep this in mind as they shape public policy.

*Jonathan Williams serves as Tax and Fiscal Policy Task Force Director at the American Legislative Exchange Council, as well as Director of the Center for State Fiscal Reform. Williams is a co-author of [Rich States, Poor States](#). Christine Harbin is the Research Manager at the Center for State Fiscal Reform at the American Legislative Exchange Council.*



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## Eliminating tax is key to state growth

BY JONATHAN WILLIAMS AND MEAGHAN ARCHER | Published: March 23, 2012

As policymakers nationwide look to bolster economic growth, they are increasingly considering changes in tax policy. [Oklahoma](#) lawmakers are on the right track. Eliminating Oklahoma's personal income tax would boost the state's competitiveness and economic development efforts.

It's been said taxpayers vote with their feet toward more favorable locations. Our research confirms this: Americans vote strongly toward states without income taxes. When tax rates are too high, taxpayers move from high-tax states to low-tax states. Businesses also vote with their feet — and dollars. Abolishing the anti-growth personal income tax will allow small-business owners, many of whom pay the highest state personal income tax rate, to focus on creating better products and services for their customers — and in the process create jobs.

Our research outlines the inverse relationship between high income taxes and state economic prosperity. We compare the economic performance of the nine states with no personal income tax ([Alaska](#), [Florida](#), [Nevada](#), [New Hampshire](#), [South Dakota](#), [Tennessee](#), [Texas](#), [Washington](#) and [Wyoming](#)) with the nine highest personal income tax states. Our research indicates personal and corporate income taxes are among the worst taxes for state growth.

Many critics of eliminating the personal income tax argue that states will lose revenue and need to make up the difference with drastic spending cuts or tax increases in different areas. However, having a broader base of taxpayers will help offset revenue costs associated with eliminating the income tax. Therefore, states wanting to eliminate their income taxes do not need to raise other taxes or drastically cut spending to do so. Using surplus dollars will allow Oklahoma to eliminate the income tax while its tax base expands and economy grows.

The nine states without personal income taxes saw total state revenue growth double the growth in the nine states with the highest personal income tax rates. This may be counterintuitive, but it shows how states that avoid income taxes attract more people, thereby broadening the base from which other taxes are collected. Population growth over the past decade was almost 14 percent in no-income-tax states, compared with 6.5 percent in states with the highest income taxes. Finally, the no-income-tax states have been havens to Americans seeking better opportunities, with almost 8 percent job growth over the past decade, while the high-tax states haven't seen a half-percent growth in that time.

Oklahoma legislators aren't alone in working to lower their state's tax burden. The [Kansas House of Representatives](#) and [Gov. Sam Brownback](#) have both put forth plans to lower, and ultimately eliminate, the state income tax. Another neighbor, [Missouri](#), may see a ballot initiative in November to eliminate its income tax.

Now more than ever, states must find ways to attract businesses and people to foster economic growth and job creation. Oklahoma's plan to phase out its personal income tax is an important policy that would enhance Oklahoma's economic competitiveness and create much-needed development. Eliminating Oklahoma's income tax would send a clear signal to investors and job creators across [America](#): Oklahoma is open for business.

Williams serves as director, and Archer as a research analyst, for the [American Legislative Exchange Council's Center for State Fiscal Reform](#).



## Opinion: Cutting N.J. income tax will grow the state's economy

Thursday, March 08, 2012

By Caroline Casagrande

What do Florida, New Hampshire and Washington state have in common?

They're among nine states that not only weathered the worst economic recession of our generation, but found ways to make their economy stronger, attract new people and create jobs when the rest of the nation floundered.

From 2001 to 2010, these nine states saw employment increase by 5.4 percent when the rest of the country remained stagnant. And these nine states, which had represented one-fifth of the country's population, can take credit for 35 percent of the population growth in America over the last decade, according to a recent study by the nonpartisan American Legislative Exchange Council (ALEC).

What do these states have in common that allows them to grow jobs during horrific economic times?

No income tax.

In New Jersey, we're on our way to replicating the job-creating economic successes of the "prime nine" states, even though we're still among the "maligned nine" states that have the highest income taxes.

The income tax-free states grew employment by 5.4 percent, while tax-heavy states saw jobs decline by 1.7 percent.

That's why Gov. Christie is proposing to cut income taxes for everyone. It will keep money in people's pockets and help bring back the jobs that disappeared over the last decade as state government in Trenton taxed and spent the state into economic ruin.

The Wall Street Journal recently called legislative proposals in other states to cut the income tax good for "long-term growth," and called attempts to use additional income-tax revenue to relieve property taxes "short-term politics."

And, it's not even good short-term politics. Remember what happened to Gov. Jon Corzine in 2009 when he raised income taxes? He was one of nearly 120,000 New Jerseyans who lost a job that year.

Franklin D. Roosevelt, who knew something about emerging from horrific economic times, once said: "Do something. If it works, do more of it. If it doesn't, do something else."

New Jersey has repeatedly tried raising taxes to relieve property taxes. It has never worked. In fact, the income tax itself began as a way to reduce property taxes. Do you know anyone whose property taxes went down since 1976?

New Jersey lost an entire decade of progress (and 156,000 jobs), proving that you can't lower one tax by raising another.

Taxes increased by \$11 billion from 2002 to 2009, and nearly every time they increased a tax, Statehouse politicians promised property taxes would be relieved, yet the property-tax burden increased 6 percent per year and 60 percent cumulatively from 2002 to 2010.

Remember when state lawmakers shut down the state to raise the sales tax in 2006 to offer “historic” levels of property-tax relief? It didn’t work. The higher sales tax remains, but the property-tax relief was history after just one year.

We need to stop doing what doesn’t work. That’s why Gov. Christie and the bipartisan Legislature ended those failed tactics and launched the most aggressive and effective assault on property taxes in New Jersey history. We put a tight cap on property taxes and saved property taxpayers \$120 billion over the next 30 years through pension and health-care reform.

We are working to do more, such as ending the payout for workers’ unused sick and vacation time and allowing towns to opt out of Civil Service employment mandates, which can hinder towns’ ability to cut costs and save property taxpayers money.

Our comprehensive approach to tax reform has businesses and homeowners optimistic about our state’s future for the first time in several years.

If we continue to do what has been working, we will continue to create more private-sector jobs, in addition to the 60,000 that have been added in the past two years.

Adding jobs won’t just improve our unemployment rate, but will likely achieve precisely what short-sighted critics of Gov. Christie’s income tax cut say it won’t: property-tax relief.

Raising other taxes has not lowered property taxes, but reducing the income tax may, because it will keep forcing government to spend within its means while encouraging businesses to create jobs in New Jersey.

More businesses and jobs in our economy mean a greater share of the tax burden is shifted away from property taxpayers.

Many other states have seen the wisdom of low income-tax rates. They know that reducing the income-tax burden creates jobs and builds a strong economic foundation. I’m eager to see New Jersey follow suit.

In the last two years, New Jersey has added more than 62,000 private-sector jobs, and our economic outlook rank has improved from 48th to 45th in the nation this year, according to ALEC.

Our plan to make New Jersey affordable and create jobs is working. We can’t stop doing what is working — we need to do more of it.

*Caroline Casagrande (R-Freehold) represents the 11th District in the New Jersey General Assembly.*



## Mission Statement

The American Legislative Exchange Council's mission is...

To advance the Jeffersonian Principles of free markets, limited government, federalism, and individual liberty through a nonpartisan public-private partnership among America's state legislators, concerned members of the private sector, the federal government, and the general public.

To promote these principles by developing policies that ensure the powers of government are derived from, and assigned to, first the People, then the States, and finally the Federal Government.

To enlist state legislators from all parties and members of the private sector who share ALEC's mission.

To conduct a policy making program that unites members of the public and private sector in a dynamic partnership to support research, policy development, and dissemination activities.

To prepare the next generation of political leadership through educational programs that promote the principles of Jeffersonian democracy, which are necessary for a free society.

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## American Legislative Exchange Council TASK FORCE OPERATING PROCEDURES

### *I. MISSION OF TASK FORCES*

Assume the primary responsibility for identifying critical issues, developing ALEC policy, and sponsoring educational activities which advance the Jeffersonian principles of free markets, limited government, federalism, and individual liberty. The mission will be accomplished through a non-partisan, public and private partnership between ALEC's legislative and private sector members in the specific subject areas assigned to the Task Force by the Board of Directors.

### *II. TASK FORCE RESPONSIBILITIES*

- A. Task Forces have the primary responsibility for identifying critical issues and developing ALEC's official policy statements and model legislation appropriate to the **specific subject areas** of the Task Force.
- B. Task Forces serve as forums for an exchange of ideas and sharing of experiences between ALEC's state legislator and private sector members.
- C. Task Forces are responsible for developing and sponsoring the following educational activities appropriate to the specific subject area of the Task Force:
  - publications that express policy positions, including, but not limited to State Factors and Action Alerts;
  - educational communication and correspondence campaigns;
  - issue specific briefings, press conferences and press campaigns;
  - witness testimony and the activities of policy response teams;
  - workshops at ALEC's conferences; and
  - specific focus events.
- D. The Executive Director is to develop an **annual budget**, which shall include expenses associated with Task Force meetings and educational activities. A funding mechanism to finance all meetings and educational activities proposed by Task Forces must be available before they can be undertaken.

**III. GENERAL PROCEDURES**

- A.** Requests from ALEC members for policy statements, model legislation and educational activities shall be directed by the Executive Director to the appropriate Task Force, or the Board of Directors if the issue does not fall within the **jurisdiction** of any Task Force. The appropriate Public and Private Sector Task Force Co-Chairs determine the agenda for each Task Force meeting, and the meetings will be called and conducted in accordance with these Operating Procedures.

The Director of Policy with the consent of the Executive Director assigns a model bill or resolution to the most appropriate Task Force based on Task Force content and prior jurisdictional history 35 days before a Task Force Meeting. All Task Force Co-Chairs will be provided an email or fax summary of all **model bills and resolutions 35 days before** the Task Force meeting

If both the Co-Chairs of a Task Force are in agreement that they should have jurisdiction on model legislation or a resolution, the legislation or resolution will be considered by the Task Force. If the other Task Force Co-Chairs believe they should have jurisdiction or if the author of the model bill or resolution does not agree on the jurisdictional assignment of the bill, they will have **10 days after the 35-day mailer deadline** to submit in writing or by electronic appeal to the Director of Policy their intent to challenge the jurisdiction assignment. The Director of Policy will notify the Executive Director who will in turn notify the National Chair and the Private Enterprise Board Chair. The National Chair and the Private Enterprise Board Chair will in turn refer the matter in question to the Board of Directors Task Force Board Committee. The Director of Policy will establish a conference call for the Task Force Board Committee co- chairs, the author, the affected Task Force Co-Chairs and the Director of Policy at a time convenient for all participants.

**The Task Force Board Committee Co-Chairs** shall listen to the jurisdictional dispute by phone or in person within 10 days of the request. If both Task Force Board Committee Co-Chairs are in agreement that the Director of Policy made an incorrect jurisdictional referral, only then will the model bill or resolution be reassigned to a committee as they specify once agreed upon by the **National Chair and the Private Enterprise Board Chair**. The bill or model resolution is still eligible to be heard in whatever Task Force it is deemed to be assigned to as if submitted to the correct Task Force for the 35-

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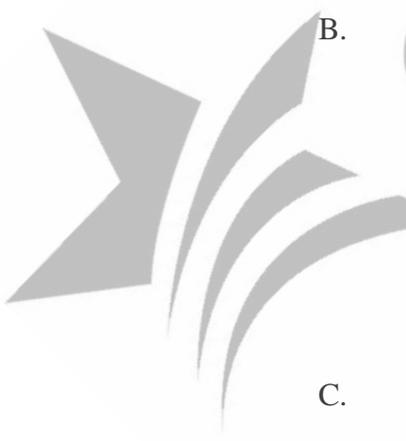
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day mailer. The National Chair and the Private Enterprise Board Chair decision is final on this model bill or resolution.

**Joint referral of model legislation and/or resolutions** are allowed if all the affected Task Force Co-Chairs agree. All model legislation and resolutions that have been referred to, more than one Task Force must pass the identical language in both Task Forces within two consecutive Task Force meetings. It is at the Task Force Co-Chairs discretion how they will handle the hearings of the model legislation or resolution. Both sets of co-chairs have the ability to call a working group, subcommittee, or simply meet consecutively or concurrently if necessary.

If the Task Force co-chairs both agree to waive jurisdiction, they may do so as long as another Task Force still has jurisdiction.

The National Chair and the Private Sector Board Chair will rely upon the Task Force Board Committee Co-Chairs for advice and recommendations on model legislation or resolutions when no jurisdiction in any of the existing Task Forces in operation can be found. The Task Force Board Committee Co-Chairs will work with the Executive Director and the Director of Policy to identify public and private sector Task Force members (not alternates) from the existing Task Forces should their expertise be of assistance to the Task Force Board Committee in reaching a determination and recommendation for approval by the National Chair and the Private Enterprise Board Chair.

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- B. **The National Chair and the Private Sector Board Chair** will rely upon the Task Force Board Committee Co-Chairs for advice and recommendations on model legislation or resolutions when no jurisdiction in any of the existing Task Forces in operation can be found. The Task Force Board Committee Co-Chairs will work with the Executive Director and the Director of Policy to identify public and private sector Task Force members (not alternates) from the existing Task Forces should their expertise be of assistance to the Task Force Board Committee in reaching a determination and recommendation for approval by the National Chair and the Private Enterprise Board Chair.
- C. **The Board of Directors** shall have ultimate authority over Task Force procedures and actions including the authority to create, to merge or to disband Task Forces and to review Task Force actions in accordance with these Operating Procedures. Nothing in these Operating Procedures prohibits the Board of Directors from developing ALEC policy; however, such a practice

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should be utilized only in exceptional circumstances. Before the policy is adopted by the Board of Directors, it should be sent to the Public and Private Sector Task Force Co-Chairs under whose jurisdiction the matter falls for review and comment back to the Board of Directors.

- D. The **operating cycle of a Task Force** is two years. A new operating cycle begins on January 1 of each odd numbered year and ends on December 31 of the following even numbered year. Task Force activities shall be planned and budgeted on an annual basis within each two-year operating cycle.
- E. If a Task Force is **unable to develop an operating budget**, the Board of Directors will determine whether to continue the operations of the Task Force. This determination will be made according to: (1) the level of membership on the Task Force, and (2) the need for continued services developed by the Task Force for ALEC.
- F. **The Board of Directors** shall have the authority to allocate limited general support funds to finance the annual operating budget of Task Forces that meet the requirements prescribed in Section III (E). The Executive Director shall determine, and report to the Board of Directors, the amount of general support funds available to underwrite such Task Forces.

#### IV. **MEMBERSHIP AND MEMBER RESPONSIBILITIES**

- A. The membership of a Task Force consists of legislators who are members in good standing of ALEC and are duly appointed to the Task Force, in accordance with Section VI (A) and private sector organizations that are full members of ALEC, contribute to the assessment for the Task Force operating budget, and are duly appointed to the Task Force, in accordance with Section VI (B). Private sector organizations that were full members of ALEC and contributed the assessment for the Task Force's operating budget in the previous year, can be appointed to the Task Force for the current year, conditional upon renewal of full ALEC membership and receipt of the current year's assessment for the Task Force operating budget prior to March 31<sup>st</sup>, unless an alternative date has been approved by the Executive Director.
- B. Each Task Force shall have least two **Co-Chairs**; a Public Sector Task Force Co-Chair and a Private Sector Task Force Co-Chair. The Public Sector Task Force Co-Chair must be a member of the Task Force and appointed in

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accordance with Section VI (A). The Private Sector Co-Chair must represent a private sector member of the Task Force and be appointed in accordance with Section VI(B). The Co-Chairs shall be responsible for:

- (1) calling the Task Force and the Executive Committee meetings to order, setting the agenda and co-chairing such meetings;
- (2) appointing and removing legislators and private sector members to and from the Task Force Executive Committee and subcommittees;
- (3) creating subcommittees, and determining each subcommittee's mission, membership limit, voting rules, deadlines, and term of service; and
- (4) selecting Task Force members to provide support for and against Task Force policies during formal Board reviews.

C. Each Task Force shall have an **Executive Committee** appointed by the Public and Private Sector Task Force Co-Chairs that is appropriate in number to carry out the work product and strategic plan of ALEC and the Task Force. The Executive Committee shall consist of the Public Sector Task Force Co-chair, the Private Sector Task Force Co-Chair, the subcommittee co-chairs, and the remainder will be an equal number of legislative and private sector Task Force members. The Executive Committee will be responsible for determining the operating budget and proposing plans, programs and budgets for the succeeding year in accordance with (Section V (B)); determining if a proposed educational activity conforms to a previously approved model bill, resolution or policy statement in accordance with (Section IX (F)); and determining if an emergency situation exists that justifies waiving or reducing appropriate time limits in accordance with (Section VIII (H)).

D. Each Task Force may have any number of **subcommittees**, consisting of Task Force members and advisors to focus on specific areas and issues and make policy recommendations to the Task Force. The Task Force Co-chairs, shall create subcommittees and determine each subcommittee's mission, membership limit, voting rules, deadlines, and term of service. Any model bill, resolution or policy statement approved by a subcommittee must be approved by the Task Force before it can be considered official ALEC policy.

E. Each Task Force may have advisors, appointed in accordance with Section VI (G). **Advisors** shall assist the members and staff of the Task Force. They shall be identified as advisors on official Task Force rosters, included in all official

Task Force mailings and invited to all Task Force meetings. Advisors may also have their expenses paid at Task Force meetings covered by the Task Force operating budget with the approval of the Task Force Co-Chairs. An advisor cannot be designated as the primary contact of a private sector Task Force member, cannot be designated to represent a private sector Task Force member at a Task Force, Executive Committee, or subcommittee meeting, and cannot offer or vote on any motion at a Task Force, Executive Committee, or subcommittee meeting.

**V. Task Force Budgets**

- A. Each Task Force shall develop and operate a yearly budget to fund meetings.
- B. The **operating budget** shall be used primarily to cover expenses for Task Force meetings, unless specific funds within the budget are authorized for other use by the Task Force. The operating budget shall be assessed equally among the private sector members of the Task Force. The Executive Director, in consultation with the Task Force Co-Chairs shall determine which costs associated with each meeting will be reimbursed from the operating budget. Any funds remaining in a Task Force's operating budget at the end of a year are transferred to ALEC's general membership account.
- C. The operating budget shall not be used to cover Task Force meeting expenses associated with **alternate task force members'** participation, unless they are appointed by their State Chair to attend the Spring Task Force Summit with the purpose to serve in place of a Task Force Member who is unable to attend. Task Force meeting expenses of alternate task force members shall be covered by their state's scholarship account.
- D. The **programming budget** shall be used to cover costs associated with educational activities. Contributions to the programming budget are separate, and in addition to operating budget contributions and annual general support/membership contributions to ALEC. The Executive Director shall determine the contribution required for each educational activity.

**VI. PROCESS FOR SELECTING TASK FORCE MEMBERS, CHAIRS, COMMITTEES AND ADVISORS**

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- A. Prior to February 1 of each odd-numbered year, the current and immediate past National chairman will jointly select and appoint in writing **three legislative members and three alternates to the Task Force** who will serve for the current operating cycle, after receiving nominations from ALEC's Public and Private State Chairs, the Executive Director and the ALEC Public and Private Sector members of the Board. At any time during the year, the National Chairman may appoint in writing new legislator members to each Task Force, except that no more than three legislators from each state may serve as members of any Task Force, no legislator may serve on more than one Task Force and the **appointment cannot be made earlier than thirty days** after the new member has been nominated. In an effort to ensure the nonpartisan nature of each Task Force, it is recommended that no more than two legislators of any one political party from the same state be appointed to serve as members of any Task Force. A preference will be given to those ALEC legislator members who serve on or chair the respective Committee in their state legislature. A preference will be given to legislators who sponsor ALEC Task Force model legislation in the state legislature.
- B. Prior to January 10 of each odd-numbered year, the current and immediate past National Chairman will jointly select and appoint in writing **the Task Force Chair** who will serve for the current operating cycle, after receiving nominations from the Task Force. Nominations will be requested by the outgoing Task Force Chair and may be placed in rank order prior to transmittal to the Executive Director no later than December 1 of each even-numbered year. No more than five names may be submitted in nomination by the outgoing Task Force chair. The current and immediate past National Chairmen will jointly make the final selection, but should give strong weight to the recommendations of the outgoing Task Force Chair. In an effort to empower as many ALEC leaders as possible, State Chairs and members of the Board of Directors will not be selected as Task Force Chairs. Task Force Chairs shall serve for one operating cycle term. Where special circumstances warrant, the current and immediate past National Chairmen may reappoint a Task Force Chair to a second operating cycle term.
- C. Prior to February 1 of each odd numbered year, the Public and Private Sector Task Force Co-Chairs will select and appoint in writing the legislative and private sector members of the **Task Force Executive Committee**, who will serve for the current operating cycle. The Public and Private Sector Task Force Co-Chairs will select and appoint in writing the legislative and private sector members and advisors to any subcommittee.

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- D. Prior to February 1 of each year, the Private Enterprise Board Chair and the immediate past Private Enterprise Board Chair will select and appoint in writing the private sector members to the Task Force who will serve for the current year. The appointment letter shall be mailed to the individual designated as the primary contact for the private sector entity. At any time during the year, the Chair of the Private Enterprise Board may appoint in writing **new private sector members** to each Task Force, but no earlier than thirty days after the new member has qualified for full membership in ALEC and contributed the assessment for the appropriate Task Force's operating budget.
- E. Prior to January 10 of each odd-numbered year, the Chair of the Private Enterprise Board and the immediate past Private Enterprise Board Chair will select and appoint in writing the **Task Force Private Sector Co-Chair** who will serve for the current operating cycle, after receiving nominations from the Task Force. Nominations will be requested by the outgoing Task Force Private Sector Chair and may be placed in rank order prior to transmittal to the Chair of the Private Enterprise Board. The Chair and the immediate past Chair of the Private Enterprise Board will make the final selection, but should give strong weight to the recommendations of the outgoing Private Sector Task Force Co-Chair. In an effort to empower as many ALEC private sector members as possible, Private Enterprise State Chairs and members of the Private Enterprise Board will not be selected as Private Sector Task Force Co-Chairs. Private Sector Task Force Co-Chairs shall serve for one operating cycle term. Where special circumstances warrant, the current and immediate past Chair of the Private Enterprise Board may reappoint a Task Force Private Sector Chair to a second operating cycle term.
- F. Prior to February 1 of each odd-numbered year, the Task Force Private Sector Co-Chair will select and appoint in writing the **private sector members of the Task Force Executive Committee**, who will serve for the current operating cycle. The Task Force Private Sector Co-Chair shall select and appoint in writing the private sector members of any subcommittees.
- G. The Public and Private Sector Task Force Co-Chairs, may jointly appoint subject matter experts to serve as **advisors** to the Task Force. The National Chair and the Private Enterprise Board Chair may also jointly recommend to the Task Force Co-Chairs subject matter experts to serve as advisors to the Task Force.

**VII. REMOVAL AND VACANCIES**

- A. The National Chair may remove any Public Sector **Task Force Co-Chair** from his position and any legislative member from a Task Force with or without cause. Such action will not be taken except upon thirty days written notice to such Chair or member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive Task Force meetings.
- B. The Public Sector Task Force Co-Chair may remove any legislative member of an **Executive Committee or subcommittee** from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive meetings.
- C. The Chairman of the Private Enterprise Board may remove any **Private Sector Task Force Co-Chair** from his position and any private sector member from a Task Force with cause. Such action shall not be taken except upon thirty days written notice to such Chair or member whose removal is proposed. For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues. .
- D. The Private Sector Task Force Co-Chair may remove any **private sector member of an Executive Committee or subcommittee** from his position with cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues.
- E. The Public and Private Sector Task Force Co-Chairs may remove an **advisor** from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such advisor whose removal is proposed.
- F. Any member or advisor may **resign** from his position as Public Sector Task Force Co-Chair, Private Sector Task Force Co-Chair, public or private sector Task Force member, Task Force advisor, Executive Committee member or subcommittee member at any time by writing a letter to that effect to the Public Sector and Private Sector Task Force Co-Chairs. The letter should specify the

effective date of the resignation, and if none is specified, the effective date shall be the date on which the letter is received by the Public and Private Task Force Co-Chairs.

- G. All **vacancies** for Public Sector Task Force Co-Chair, Private Sector Task Force Co-Chair, Executive Committee member and subcommittee member shall be filled in the same manner in which selections are made under Section VI. All vacancies to these positions must be filled within thirty days of the effective date of the vacancy.

#### **VIII. MEETINGS**

- A. **Task Force meetings** shall only be called by the joint action of the Public and Private Sector Task Force Co-Chairs. Task Force meetings cannot be held any earlier than thirty-five days after being called, unless an emergency situation has been declared pursuant to Section VIII (H), in which case Task Force meetings cannot be held any earlier than ten days after being called. It is recommended that, at least once a year, the Task Forces convene in a common location for a joint Task Force Summit. **Executive Committee meetings** shall only be called by the joint action of the Public and Private Sector Task Force Co-Chairs and cannot be held any earlier than three days after being called, unless the Executive Committee waives this requirement by unanimous consent.
- B. **At least forty-five days** prior to a task force meeting any model bill, resolution or policy must be submitted to ALEC staff that will be voted on at the meeting. At least thirty-five days prior to a Task Force meeting, ALEC staff shall distribute copies of any model bill, resolution or policy statement that will be voted on at that meeting. This requirement does not prohibit modification or **amendment** of a model bill, resolution or policy statement at the meeting. This requirement may be waived if an emergency situation has been declared pursuant to Section VIII(H).
- C. **All Task Force meetings are open** to registered attendees and invited guests of ALEC meetings and conferences. Only regular Task Force Members may introduce any resolution, policy statement or model bill. Only Task Force members will be allowed to participate in the Task Force meeting discussions

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and be seated at the table during Task Force meetings, unless otherwise permitted by the Public and Private Sector Task Force Co-Chairs.

- D. ALEC private sector member organizations may only be represented at Task Force and Executive Committee meetings by the individual addressed in the **appointment letter** sent pursuant to Section VI (D) or a designee of the private sector member. If someone other than the individual addressed in the appointment letter is designated to represent the private sector member, the designation must be submitted in writing to the Public and Private Sector Task Force Co-Chairs before the meeting, and the individual cannot represent any other private sector member at the meeting.
- E. All Task Force and Executive Committee meetings shall be conducted under the guidelines of **Roberts Rules of Order**, except as otherwise provided in these Operating Procedures. A copy of the Task Force Operating Procedures shall be included in the briefing packages sent to the Task Force members prior to each meeting.
- F. A majority vote of legislative members present and voting and a majority vote of the private sector members present and voting, polled separately, are required to approve any motion offered at a Task Force or Executive Committee meeting. A vote on a motion to reconsider would be only with the sector that made the motion. Members have the right, in a voice vote, to abstain and to vote present by roll-call vote. In all votes a member can change their vote up until the time that the result of the vote is announced. Only duly appointed members or their designee as stated in Section VIII (D) that are present at the meeting may vote on each motion. **No proxy, absentee or advance voting is allowed.**
- G. The Public Sector Task Force Co-Chair and the Private Sector Task Force Co-Chair, with the concurrence of a majority of the Executive Committee, polled in accordance with Section VIII (F), may schedule a **Task Force vote by mail or any form of electronic communication** on any action pertaining to policy statements, model legislation or educational activity. The deadline for the receipt of votes can be no earlier than thirty-five days after notification of the vote is mailed or notified by any form of electronic communication, unless an emergency situation is declared pursuant to Section VIII (H), in which case the deadline can be no earlier than ten days after notification is mailed or notified by any form of electronic communication. Such votes are exempt from all rules in Section VIII, except: (1) the requirement that copies of model legislation and

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policy statements be mailed or notified by any form of electronic communication with the notification of the vote and (2) the requirement that a majority of legislative members voting and a majority of the private sector members voting, polled separately, is required to approve any action by a Task Force.

- H. For purposes of Sections VIII(A), (B) and (G), an **emergency situation** can be declared by:
- (1) Unanimous vote of all members of the Task Force Executive Committee present at an Executive Committee meeting prior to the meeting at which the Task Force votes on the model bill, resolution or policy statement; or
  - (2) At least three-fourth majority vote of the legislative and private sector Task Force members (voting in accordance with Section VIII (F)) present at the meeting at which the members vote on the model bill, resolution or policy statement.
- I. Ten Task Force members shall **constitute a quorum** for a Task Force meeting. One-half of the legislative and one-half of the private sector members of an Executive Committee shall constitute a quorum for an Executive Committee meeting.

## IX. **REVIEW AND ADOPTION PROCEDURES**

- A. All Task Force policy statements, model bills or resolutions shall become **ALEC policy** either: (1) upon adoption by the Task Force and affirmation by the Board of Directors or (2) thirty days after adoption by the Task Force if no member of the Board of Directors requests, within those thirty days, **a formal review by the Board of Directors**. General information about the adoption of a policy position may be announced upon adoption by the Task Force.
- B. The Executive Director shall notify the Board of Directors of the approval by a Task Force of any policy statement, model bill or resolution within ten days of such approval. Members of the Board of Directors shall have thirty days from the date of Task Force approval to review any new policy statement, model bill or resolution prior to adoption as official ALEC policy. Within those thirty days, any member of the Board of Directors may request that the policy be

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**formally reviewed** by the Board of Directors before the policy is adopted as official ALEC policy.

- C. A member of the Board of Directors may request a formal review by the Board of Directors. The **request must be in writing** and must state the cause for such action and a copy of the letter requesting the review shall be sent by the National Chairman to the appropriate Task Force Chair. The National Chairman shall schedule a formal review by the Board of Directors no later than the next scheduled Board of Directors meeting.
- D. The review process will **consist of key members of the Task Force**, appointed by the Task Force Chair, providing the support for and opposition to the Task Force position. Position papers may be faxed or otherwise quickly transmitted to the members of the Board of Directors. The following is the review and adoption procedures:
- **Notification of Committee:** Staff will notify Task Force Chairs and the entire task force when the Board requests to review one of the Task Forces' model bills or resolutions.
  - **Staff Analysis:** Will be prepared in a neutral fashion. The analyses will include:
    - History of Task Force action
    - Previous ALEC official action/resolutions
    - Issue before the board
    - Proponents arguments
    - Opponents arguments
  - **Standardized Review Format:** To ensure fairness, a set procedure will be used as the format to ensure the model bill/resolution has a fair hearing before the Board.
    - Task Force Chair(s) will be invited to attend the Board Review
    - Task Force Chair(s) will decide who will present in support and in opposition for the model bill/resolution before the Board.
    - Twenty minutes that is equally divided will be given for both sides to present before the Board.
    - It is suggested that the Board not take more than twenty minutes to ask questions of the presenters.
    - Presenters will then be excused and the Board will have a suggested twenty more minutes for discussion and vote.

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- All votes will be recorded for the official record.
  - **Notification of Committee:** The Director of Policy will notify presenters immediately after the vote. If the Board votes to send the model bill/resolution back to the task force, the Board will instruct the Director of Policy or another board member what to communicate.
- E. **The Board of Directors can:**
- (1) Vote to affirm the policy or affirm the policy by taking no action, or
  - (2) Vote to disapprove the policy, or
  - (3) Vote to return the policy to the Task Force for further consideration providing reasons therefore.
- F. Task Forces may only undertake educational activities that are based on a policy statement, model bill or resolution that has been adopted as official ALEC policy, unless the Task Force votes to undertake the educational activity, in which case the educational activity is subjected to the same review process outlined in this Section. It is the responsibility of the Task Force Executive Committee to affirm by three-fourths majority vote conducted in accordance with Section VIII that an educational activity conforms to a policy statement, model bill or resolution.

## X. EXCEPTIONS TO THE TASK FORCE OPERATING PROCEDURES.

Exceptions to these Task Force Operating Procedures must be approved by the Board of Directors.

## **SCHOLARSHIP POLICY BY MEETING**

### ***ALEC Spring Task Force Summit:***

1. ***Spring Task Force Summit Reimbursement Form:*** ALEC Task Force Members are reimbursed by ALEC up to \$350.00 for travel expenses. Receipts must be forwarded to the ALEC Policy Coordinator and approved by the Director of Policy.
2. ALEC Task Force Members' room & tax fees for up to a two-night stay at the host hotel are covered by ALEC.
3. Registration fees are not covered; however, Task Force Members may submit registration expenses for payment from their state scholarship account upon approval of the State Chair.
4. *Official Alternate Task Force Members* (chosen by the State Chair and whose names are given to ALEC more than 35 days prior to the meeting to serve in place of a Task Force Member who cannot attend) are reimbursed in the same manner as Task Force Members.
5. ***State Scholarship Reimbursement Form:*** Any fees above the set limit, or expenses other than travel and room expenses can be submitted by Task Force Members for payment from their state scholarship account upon the approval of the State Chair. Receipts must be submitted to the State Chair, who will submit the signed form to the Director of Membership.
6. *Non-Task Force Members* can be reimbursed out of the state scholarship fund upon State Chair approval. Receipts must be submitted to the State Chair, who will submit the appropriate signed form to the Director of Membership.

### ***ALEC Annual Meeting:***

***State Scholarship Reimbursement Form:*** State scholarship funds are available for reimbursement by approval of your ALEC State Chair. Expenses are reimbursed after the conference, and may cover the cost of travel, room & tax, and registration. Receipts are to be submitted to the State Chair, who will then submit the signed form to the Director of Membership.

### ***ALEC States & Nation Policy Summit:***

1. ***States & Nation Policy Summit Reimbursement Form:*** ALEC offers two scholarships per state to cover the cost of travel, room & tax, and registration not to exceed \$1,000.00 per person for a total of \$2,000.00 per state. ALEC scholarship recipients must be named by the ALEC State Chair. Expenses are submitted to the State Chair and reimbursed after the conference. The State Chair submits the signed form to the Director of Membership.
2. ***State Scholarship Reimbursement Form:*** Any other fees or payments must come out of the state scholarship account, with the approval of the State Chair. Receipts must be submitted to the State Chair, who submits the signed form to the Director of Membership.

### ***ALEC Academies:***

***Academy Reimbursement Form:*** Attendees of ALEC Academies are reimbursed by the Task Force Committee hosting the Academy. Attendees will receive a form at the Academy, and will be reimbursed up to \$500.00 for travel, and room & tax fees for a two-night stay by ALEC. Receipts must be forwarded to the appropriate Task Force Director and approved by the Director of Policy.