



July 14, 2011

Hon. Douglas Shulman
Commissioner, Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, DC 20224

Dear Commissioner Shulman:

I write on behalf of my client Common Cause to request that the Internal Revenue Service investigate what appears to be massive under-reporting of lobbying by the American Legislative Exchange Council ("ALEC"). Further, the Service should review the organization's operations to determine whether its tax-exempt status should be revoked due to excess lobbying or, alternatively, because ALEC appears to operate primarily to further private business interests and not to advance a charitable purpose.

The Organization

ALEC is an Illinois nonprofit corporation recognized by the Service as exempt from federal income taxation under Code section 501(c)(3). In 2009 it reported revenues of nearly seven million dollars, and expenditures slightly in excess of that amount.

ALEC describes itself as built on a vision of a nonpartisan membership association for conservative state lawmakers.¹ It is governed by a Board of Directors that apparently consists of incumbent state legislators. ALEC has a second, parallel "Private Enterprise Board" whose role seems to be largely that of an honorary or advisory committee. Exhibit 1 attached indicates that the Private Enterprise Board Chair plays a role in appointing and removing private sector Task Force members. ALEC offers two forms of membership: Legislative and Private Sector. Legislative members are incumbent state legislators who pay \$100 for a two-year membership. Private sector (or corporate) members pay a minimum of \$7000.

The largest portion of ALEC's work² is conducted through nine Task Forces covering various issue areas. Each Task Force has two co-chairs, one state legislator and one corporate representative, and the task force members also include ALEC members from both sectors. The task forces develop policies, position papers, and most notably generate model legislation that is put forward as the officially endorsed legislative position of the organization. These model bills are listed on the organization's web site but the text is hidden behind a password-protected wall, accessible only to ALEC members. ALEC itself describes the role of its task forces as "model bill movers," and it boasts that each year over 1000 bills based on ALEC Model Legislation are

¹ See

<http://www.alec.org/AM/Template.cfm?Section=History&Template=/CM/HTMLDisplay.cfm&ContentID=13643>
(visited July 13, 2011).

² \$2,634,723 of expenditures in 2009 out of a total of \$5,549,647 in claimed program service expenses.



introduced in state legislatures around the country. (See attached Exhibit 2, ALEC corporate membership brochure, available at http://www.alec.org/am/pdf/Corporate_Brochure.pdf.)

ALEC's bylaws were apparently amended in 2007 and attached to its Form 990 for that year. In this governing document the organization lists seven means by which it pursues its broad corporate purposes. These include "3. Disseminate model legislation and promote the introduction of companion bills in Congress and state legislatures," and "5. Formulate legislative action programs." (See Exhibit 3.) In addition, the bylaws create the position of State Chairmen, whose duties explicitly include, "working to ensure introduction of model legislation."

The Law

Organizations qualify for tax exemption under Code section 501(c)(3) only if "no substantial part of [their activities] is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h))." Section 501(h) in turn, in combination with section 4911, allows most charities to elect to measure their lobbying under an expenditure test, which provides specific definitions and exceptions for both direct and grass roots lobbying. It provides limits for total and grass roots lobbying, imposes an excise tax on organizations that exceed either limit in a given tax year, and provides for loss of exemption only if the organization "normally" (using a four year moving average) exceeds either lobbying limit by more than 50%.

In contrast to the specific and detailed definitions provided under the 501(h) expenditure test and its associated regulations, the statutory default "no substantial part" test is vague and uncertain. By the words of the statute it applies only to efforts to influence legislation, but what types of activity or discussions of public policy will be classed as such an effort is unclear. Regulations, however, provide that an organization is considered to be attempting to influence legislation if it advocates the adoption or rejection of legislation.³ Treas. Reg. § 1.501(c)(3)-1(c)(3)(ii)(b). In addition, there is no statutory or regulatory definition of "substantial," although a review of the relevant case law leads most practitioners to conclude that activities that do not exceed five percent of overall operations will not be considered substantial. Finally, the "no substantial part" test is not limited to measuring expenditures, and the Service has indicated that it will consider volunteer efforts, along with even less tangible factors such as public perception and efficacy of legislative efforts.

ALEC Lobbies Extensively

Despite its extensive activities developing and promoting legislation (as discussed in greater detail below), ALEC claims on its Form 990 that it does no lobbying at all. For 2009 and 2008 it answered "no" to Part IV, Question 4, and as a consequence did not complete Schedule C or provide any further information on this question. In prior years (2002-2007) on the old Form 990, it completed both parts VI-A (required for charities electing under section 501(h)) and VI-B

³ An organization will not be denied exemption under this provision if it has elected the 501(h) expenditure test and is not denied exemption under those rules. *Id.* § 1.501(c)(3)-1(c)(3)(ii).



(required for those under “no substantial part”) of Schedule A, claiming variously “N/A” or entering zeroes on every line. It is thus impossible to tell from ALEC’s information tax return whether it has elected to be governed by the expenditure test of section 501(h), or whether it remains subject to the statutory default “no substantial part” limitation on lobbying activities. Under either test, however, ALEC engages in a measurable amount of lobbying and has thus filed false tax returns when it claims otherwise. In addition, it appears highly likely that ALEC’s lobbying exceeds the limited amount permissible for a 501(c)(3) organization.

According to ALEC’s own tax returns, its largest program area in terms of expenditures is the operation of its task forces. In turn, the primary function of these task forces is development and dissemination of model bills, with the intent that they be introduced and passed in as many state legislatures as possible.

The organization’s second largest area of expenditures is for meetings held several times a year. These are opportunities for “private sector” members (corporate representatives) to interact with legislators and advocate for favored policies. The agendas include discussions of specific legislation and specific legislative proposals supported by the organization. Indeed, in many cases the proposals were developed by ALEC itself as its own model bill.

Under the default statutory test, it seems incontrovertible that ALEC is substantially and indeed primarily engaged in attempting to influence legislation. All of its efforts are geared toward developing and promoting favored state legislation. These proposals are generated in a private process where the business interests of its corporate members are highlighted, then shared only with the organization’s legislator members so they can take the proposals back to their states and introduce them as their own ideas.⁴ Its governing documents state that promotion of introduction of bills at the Federal and state levels and formulation of legislative action programs are two of the seven means by which ALEC pursues its purposes.

ALEC’s lobbying function is demonstrated in its own publicly available materials. Its recruitment brochure for private sector membership (Exhibit 2), for instance, describes model legislation as “the centerpiece of the Task Forces.” It claims that, “To date, ALEC has considered, written, and approved hundreds of model bills, resolutions, and policy statements. Historically, during each legislative cycle, ALEC legislators introduce more than 1,000 pieces of legislation based on these models, approximately 17 percent of which are enacted.” The brochure further emphasizes ALEC’s legislative policy work and the opportunity it provides for corporate members to promote their policies and set the agenda for the organization and its state legislative members, “ALEC provides the private sector with an unparalleled opportunity to have its voice heard, and its perspective appreciated, by the legislative members. . . This partnership identifies issues and then responds with common-sense, result-oriented policies. The two groups

⁴ Contrast this approach with other organizations that develop model legislation, most notably the National Conference of Commissioners on Uniform State Laws, which works through an open process, accepts members from any ideological position, and generates work products that are publicly disseminated and include detailed analysis and comment rather than just legislative text made available only to members who share a common ideology.



work in unison to solve the challenges facing the nation, with results that will define the American political landscape in the 21st century.” In other words, ALEC itself presents its key function as creating a forum for corporate members to present their views on policy to legislators who after legislative drafting by staff and members then introduce those views as legislation, after obtaining the organization’s seal of approval.

The record demonstrates that ALEC does not just develop model bills, it actively encourages their adoption and provides resources to its members who may be seeking to move ALEC bills in their legislatures. An example of such a communication is attached as Exhibit 4. This is the web version of an e-mail directed to ALEC’s legislator members, highlighting for them a set of new model bills approved by its Board and offering talking points and other materials to support their use. Tellingly, it includes the message, “As always, please let us know if ALEC can provide you with legislative resources.” In other words, ALEC makes a practice not only of promulgating model bills as some sort of “best practices” or publicly available reference source, but affirmatively and privately provides resources to those legislators promoting these bills. Under any definition, this is lobbying.

A public records request made by Common Cause to the Ohio Senate provided many more examples of ALEC communicating with legislators in support of its legislative agenda. These documents represent one example of such communications, between the organization and a single one of its legislator members. They represent, therefore, the tip of the iceberg, not the total sum of the organization’s lobbying communications. The documents include:

- Civil Justice Task Force Public Sector Member Survey January 2010. In addition to gathering general issue information, this document specifically offers a list of resources designed to help promote legislation the member may be working on. (Exhibit 5)
- E-mail March 5, 2010. From ALEC staff member to state Senator Seitz, encouraging him to introduce a specific bill endorsed by ALEC and offering “support” should he do so. (Exhibit 6)
- E-mail March 29, 2009. Between ALEC staff member and task force co-chair, indicating that agenda for upcoming task force meeting would include discussion of specific legislative proposals. (Exhibit 7)
- E-mail May 21, 2009. Exchange between ALEC staff member and state Senator. The staffer urges consideration of specific revisions to Ohio Code proposed by Ohio Chamber of Commerce. (Exhibit 8)
- E-mail July 6, 2009. Asking ALEC members to sign on to a letter opposing specific aspects of then-pending federal health care reform legislation. The letter was addressed to Senator Robert Byrd and copied to multiple other Congressional leaders. (Exhibit 9)

Each of these either constitutes or reflects legislative lobbying activity conducted or supported by ALEC. Together they draw a picture of an organization that was not truthful when it reported engaging in no lobbying on its 2009 and 2010 tax returns.

Under the section 501(h) expenditure test, a communication is considered direct lobbying if it is



made to a legislator (or legislative body employee) and it refers to and reflects a view on specific legislation, including not only bills introduced in the legislature but a specific legislative proposal that the organization supports or opposes. Treas. Reg. §§ 56.4911-2(b)(1)(ii) and -2(d)(1)(ii). Thus, any communication from ALEC to its legislator members on the subject of a specific legislative proposal will qualify as lobbying. Every message informing members of newly approved model bills constitutes direct lobbying. Discussions at organizational meetings constitute lobbying where they include presentation of the organization's position on specific legislative proposals.

If ALEC is covered by the 501(h) election, it may argue that many of its communications with members are excluded from the definition of lobbying by virtue of the special rules for communications with the organization's own members, which provide that expenditures for a communication that refers to, and reflects a view on, specific legislation are not lobbying expenditures if: the communication is directed only to members of the organization; the specific legislation is of direct interest to the organization and its members; and the communication does not directly encourage the member to engage in direct or grass roots lobbying. Treas. Reg. 56.4911-5(b).⁵ In context, however, this provision does not provide a sweeping exception that allows an organization whose membership consists of legislators to lobby them on specific legislation without limit. Rather, this is setting out a slightly more lenient rule for communications to members than applies to communications to the general public, so that messages that include an indirect lobbying call to action (as defined in Treas. Reg. § 56.4911-2(b)(2)(iv)) are not captured as lobbying. It applies to communications the organization makes to its members as members, not when it targets them in their capacity as legislators. *Cf.* Treas. Reg. § 56.4911-2(b)(4) Example 7 (an organization is not engaged in direct lobbying when its newsletter includes an article reflecting a view on a pending bill even though a Senator is among the subscribers, because the communication is sent to the Senator in her capacity as subscriber rather than in her capacity as a legislator).

Even if an extremely literal reading of this regulation were considered to support the conclusion that ALEC can recruit legislators to join as members and then communicate with them about legislating without lobbying, in many instances the communication does directly encourage the recipient to engage in direct lobbying. When an ALEC member is urged to introduce one of ALEC's model bills, they are *ipso facto* being asked to communicate with other legislators regarding that specific legislative proposal – in other words, they are being asked to lobby.

Thus, the evidence clearly demonstrates that ALEC engages in lobbying despite its reports to the contrary. The substantiality of this lobbying effort is demonstrated by the amounts expended for its task force work (\$2,634,723 in out of total program expenses of \$5,549,647 in 2009), and its conferences which inherently include communications with legislators about specific legislation (\$1,955,457 in 2009). Given ALEC's failure to report so much as a penny spent on lobbying, the available evidence indicates it is flagrantly disregarding its obligation to report and disclose amounts spent on lobbying and likely is lobbying in excess of the limited amount consistent with

⁵ The July 6, 2009 e-mail is not even arguably covered by this rule, as it directly encourages the recipient to engage in direct lobbying by signing on to the letter to federal legislators.



501(c)(3) exempt status. The IRS should conduct an audit to determine the extent of ALEC's lobbying activities and impose appropriate penalties.

ALEC Serves Private Interests not Charitable Purposes

In addition to the concerns about excess and unreported lobbying outlined above, it appears that ALEC's fundamental purpose is to advance the private legislative agendas of its corporate members. While this may be appropriate for some kinds of tax-exempt organizations, such as 501(c)(6) trade associations, it is inconsistent with the requirement that a 501(c)(3) organization be operated "exclusively" for charitable and educational purposes.

ALEC was originally created to further "conservative" principles. While people on different sides of the aisle may disagree about the desirability of such principles, it must be conceded that this apparently represented the desire of the organization's founders to promote what they believed to be the public good. Over time, however, the organization has evolved into a platform whereby private commercial interests pay substantial sums of money to put their legislative interests in front of state legislators who can promote appropriate legislation. It develops and promotes model bills in task forces where only private business interests and legislators participate; there seems to be no attempt to review considerations of public benefit or social good. The driving force is promotion of corporate business interests. This would be all well and good for a chamber of commerce, but it is not charitable.

Yet by claiming to be a charity and calling participating legislators "members" ALEC attempts to evade disclosure of its lobbying, allows corporate members to deduct their payments as charitable contributions rather than non-deductible lobbying expenses, and does an end-run around state ethics laws intended to restrict the ability of businesses to buy access to legislators in order to promote their policy agendas. The IRS should stop allowing the continuation of this charade.

Sincerely,

A handwritten signature in black ink, appearing to read 'Elizabeth Kingsley', written over a horizontal line.

Elizabeth Kingsley

cc: Lois Lerner, Director of Exempt Organizations Division
Nanette M. Downing, Acting Director, Exempt Organizations Examinations

Exhibit 1

AMERICAN LEGISLATIVE EXCHANGE COUNCIL

ALEC

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 ~~Task Forces are responsible for developing an annual budgets,~~ 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-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.

- 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 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. ~~At the ALEC Annual Meeting, each Task Force will be responsible for determining an operating budget for the succeeding calendar year. The Executive Director will notify the Task Force Co-Chairs, at the ALEC Annual Meeting, what inflation factor will be used by the Task Force to determine the operating~~

~~and programming budgets. Task Force membership and budget information will be reported to the Executive Director by the Public and Private Sector Task Force Co-Chairs. The Executive Director will present this information to the Board of Directors at its regular fall meeting.~~

- F. 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.
- G. 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 31st, 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 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*

- 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.
- 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.
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- 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 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 ~~fax~~ 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 ~~faxed~~ 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 ~~faxed~~ 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 policy statements be mailed or ~~faxed~~ 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 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.
 - 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.

Exhibit 2



WHAT IS ALEC?

With nearly 2,000 members, ALEC is the nation's largest nonpartisan, individual membership association of state legislators. Well over 100 ALEC members hold senior leadership positions in their state legislatures. ALEC's alumni include almost 80 current members of Congress and sitting or former governors.

ALEC's goal is to ensure that each of its legislative members is fully armed with the information, research, and ideas they need to be an ally of the free-market system.



A DYNAMIC PARTNERSHIP

One of ALEC's greatest strengths is the public-private partnership. ALEC provides the private sector with an unparalleled opportunity to have its voice heard, and its perspective appreciated, by the legislative members.

ALEC members benefit from this partnership of business leaders, policy experts, and legislators through networking, conferences, Task Force meetings, and Issue Briefings.

This partnership identifies issues and then responds with common-sense, result-oriented policies. The two groups work in unison to solve the challenges facing the nation. The results are policies that will define the American political landscape in the 21st century.



ALEC is a nonprofit 501(c)(3) organization. All contributions are fully tax deductible to the extent allowed by law. ALEC's tax ID number is 52-0140979.

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WASHINGTON, D.C. 20005
PHONE: 202-466-3800 FAX: 202-466-3801
WWW.ALEC.ORG

AMERICAN LEGISLATIVE EXCHANGE COUNCIL
ALEC
PRIVATE SECTOR MEMBERSHIP



VALUE OF MEMBERSHIP

Through ALEC's Resource Center, the ALEC staff provides research, policy analyses, scholarly articles, reference materials, and expert testimony on a wide spectrum of issues.

MEETINGS AND NETWORKING OPPORTUNITIES

- ❖ **SPRING TASK FORCE SUMMIT**
An intensive meeting of ALEC's Task Force members, the Summit is designed to keep members abreast of new developments in the states with Task Force meetings, and hearings on pressing issues.
- ❖ **ANNUAL MEETING**
Approximately 2,000 legislators, business executives, and public-policy experts gather for four days to discuss issues and develop policy. Each meeting features 35 to 40 workshops, plenary sessions, and Task Force meetings, as well as numerous networking opportunities at social events.
- ❖ **STATES AND NATION POLICY SUMMIT**
The Summit introduces the ALEC agenda to newly elected and freshman state legislators for a three-day conference of intensive educational sessions addressing issues that will be at the top of agendas the following year.

POLICY PUBLICATIONS

ALEC produces numerous publications on current policy topics such as:

- ❖ **ALEC STATE FACTOR**
A periodic publication on the issues facing state legislators
- ❖ **REPORT CARDS AND SPECIAL STUDIES**
State-by-state analyses of critical issues such as education, natural resources, health, and tax and fiscal policy
- ❖ **ALEC ACADEMY AND STATE ISSUE SEMINARS**
Throughout the year ALEC holds issue-specific seminars in 20 to 30 state capitols. The ALEC Academy is a special two-day intensive program on a specific issue, featuring national experts as faculty
- ❖ **INSIDE ALEC**
Timely current-event and policy articles for ALEC members are published 10 times a year
- ❖ **ALEC WEB SITE**
ALEC's Web site (www.alec.org) features news, lectures, publications, Task Force updates, the ALEC calendar, and more than 700 pieces of model legislation that can be easily downloaded

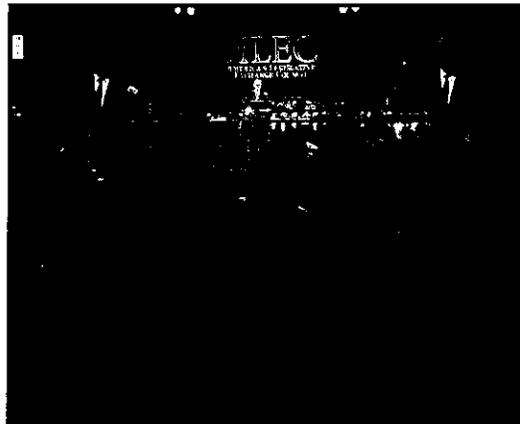
ALEC NATIONAL TASK FORCES

ALEC's national Task Forces serve as public-policy laboratories where legislators develop model policies to use across the country. The nine Task Forces commission research, publish issue papers, convene workshops, distribute issue alerts, and serve as clearinghouses of information on free-market policies in the states.

The centerpiece of the Task Forces is ALEC's model legislation. To date, ALEC has considered, written, and approved hundreds of model bills, resolutions, and policy statements. Historically, during each legislative cycle, ALEC legislators introduce more than 1,000 pieces of legislation based on these models, approximately 17 percent of which are enacted.

ALEC'S NINE TASK FORCES MEMBERSHIP DUES

Civil Justice	\$3,000
Commerce, Insurance & Economic Development	\$2,500
Education	\$2,500
Health & Human Services	\$3,000
International Relations	\$10,000
Natural Resources	\$3,000
Public Safety & Elections	\$2,500
Tax & Fiscal Policy	\$3,000
Telecommunications & Information Technology	\$5,000



MEMBERSHIP LEVELS & BENEFITS

WASHINGTON CLUB \$7,000
 ❖ 3 contacts on ALEC publications and policy papers mailing list
 ❖ Access to Members Only section of the Web site (www.alec.org)

MADISON CLUB \$12,000
 ❖ 5 contacts on ALEC publications and policy papers mailing list
 ❖ Access to Members Only section of the Web site (www.alec.org)
 ❖ One Annual Meeting Registration
 ❖ One States & Nation Policy Summit Registration
 ❖ Invitation to the Leadership Dinner at the Annual Meeting
 ❖ Discount advertising rates in ALEC publications

JEFFERSON CLUB \$25,000
 ❖ 5 contacts on ALEC publications and policy papers mailing list
 ❖ Access to Members Only section of the Web site (www.alec.org)
 ❖ One Annual Meeting Registration
 ❖ One States & Nation Policy Summit Registration
 ❖ Invitation to all ALEC VIP events
 ❖ Reserved table seating for the Opening Luncheons at ALEC meetings
 ❖ Invitation to Board Reception and Board Dinner at the Annual Meeting
 ❖ Discount advertising rates in ALEC publications

NOTE:

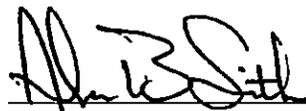
- All membership packages include the following benefits:
- ❖ Opportunity to join any number of Task Forces
 - ❖ Networking opportunities at the state and national levels at all meetings
 - ❖ Invitations to Special Events
 - ❖ Discounted registration for all company representatives to ALEC events
 - ❖ Discounted exhibit booth rates at ALEC meetings

Exhibit 3

**American Legislative Exchange Council
Form 990, Part VI, Line 77 - Changes to Organizing Documents
Year Ended December 31, 2007**

52-0140979

I hereby certify, under penalty of perjury, that the attached bylaws of the American Legislative Exchange Council are a complete and accurate copy as approved.

 Alan W. Sitt, Exec. Director 8/17/2008

Name/Title

Date

**AMERICAN LEGISLATIVE EXCHANGE COUNCIL
BYLAWS**

**ARTICLE I
NAME**

Section 1.01 The name of the corporation shall be the American Legislative Exchange Council (referred to hereinafter as ALEC).

**ARTICLE II
PURPOSES**

Section 2.01 The purposes and objectives of ALEC shall be to work in cooperation with the private sector to promote individual liberty, limited government and free enterprise. To achieve such goals ALEC shall:

1. Assist legislators in the states by sharing research information and staff support facilities;
2. Establish a clearinghouse for bills at the state level, and provide for a bill exchange program;
3. Disseminate model legislation and promote the introduction of companion bills in Congress and state legislatures;
4. Improve communications between state legislators and Members of congress;
5. Formulate legislative action programs;
6. Strengthen the position of state and local government relative to the federal governments; and
7. Develop liaison with legislators in other countries on problems of mutual concern.

**ARTICLE III
MEMBERSHIP**

Section 3.01 Members. The membership of ALEC shall consist of such persons who accept membership through payment of dues and subscription to the principles of the organization as set forth in Article III, Section 3.03.

Section 3.02 Terms and Conditions. The Board of Directors may prescribe the terms and conditions (including the setting of dues, fees and assessments) for the initiation, maintenance, suspension or termination of membership.

Section 3.03 Qualifications for Membership. Full Membership shall be open to persons dedicated to the preservation of individual liberty, basic American values and institutions, productive free enterprise, and limited representative government, who support the purposes of ALEC, and who serve, or formerly served as members of a state or territorial legislature, the United States congress, or similar bodies outside the United States of America.

Section 3.04 State Membership. A state or other political sub-division thereof, may become a member of ALEC. Such membership fees will be established as set forth in Section 3.02.

Section 3.05 Additional Classes of Members. The Board of Directors may establish more than one class of members, determine their designation, and any particular qualifications for such membership in addition to those prescribed in Section 3.03.

Section 3.06 Membership List. The Secretary of ALEC shall oversee maintenance of a membership list in which the names and addresses of all members in good standing shall be inscribed.

Section 3.07 Termination of Membership. Upon charges preferred against any member in writing and filed with the Secretary, and upon consideration by the Directors and the affirmative vote of not less than three-fourths of the Directors present at any regular or special meeting called for such purpose, at which a quorum is present, a member shall be expelled or suspended for cause. The written resignation of any member shall be filed with the Secretary and shall be effective on the date of such filing unless a later date is specified. Any member who has been suspended, or expelled, may be reinstated by the affirmative vote of three-fourths of the Directors present at any regular or special meeting called for such purpose at which a quorum is present, and upon such terms and conditions as the Directors may designate.

ARTICLE IV MEETINGS OF MEMBERS

Section 4.01 Annual Meeting. An annual meeting of the members shall be held at the place, date and time determined by the Board of Directors.

Section 4.02 Special Meeting. Special meetings of the members may be called by the

National Chairman of the Board of Directors, or a majority of the Board of Directors.

Section 4.03 Notice of Meeting. Notice of the annual meeting, or of any special meeting shall be mailed to each member at the address shown on ALEC'S books not less than ten (10) days before any such meeting. It shall state the place, day and time of such meeting.

Section 4.04 Conduct of the Meeting. The National Chairman or a designee of the chairman shall preside at each meeting of the members.

Section 4.05 Rules of the Meeting. Meetings of ALEC shall be conducted under the guidelines of Robert's Rules of Order, except as otherwise provided.

ARTICLE V BOARD OF DIRECTORS

Section 5.01 General Powers. The business and affairs of ALEC shall be managed by its Board of Directors. The Board of Directors shall exercise general supervisory power over all aspects of the administration of ALEC, but it is authorized to delegate such powers, duties, or responsibilities to such Directors, officers, members, or employees as it may by resolution provide.

Section 5.02 Number. The number of members of the Board of Directors shall be twenty-three (23). Eighteen Directors shall be nominated and elected by the Board of Directors. Three (3) Directors shall be elected by the Board of Directors from a list of six (6) nominees supplied by the State Chairmen, one of whom shall be the Chair of the State Chairs. Two (2) Directors shall be elected by the Board of Directors from a list of four (4) nominees supplied by the Task Force Chairs, all four of whom shall be Task Force public sector chairs.

Section 5.03 Election and Term. Directors will be elected at each annual meeting for a term to commence at the first Board of Directors meeting following the 15th of November. Vacancies for unexpired terms may be filled by the board at any of its meetings. One-third of the Directors nominated and elected by the Board of Directors shall be elected each year and their term shall be three (3) years with no limit on succession. The term of those Directors elected, as nominees of the State Chairmen and Task Force Chairs, shall be one (1) year. They may be elected to only one succeeding term without an interruption in their term of service. Those Directors elected from the list of nominees supplied by the State Chairmen and the Task Force chairs may be from any state.

Section 5.04 Qualifications. Directors must be a member of ALEC and serve as an elected state legislator at the time of their election or reelection to the Board, and for the duration of their term on the Board, except the Immediate Past National Chairman.

Section 5.05 Removal and Vacancies. The Board of Directors may remove any Director with or without cause by the affirmative vote of three-fourths of the Directors present at a meeting at which a quorum is present. Such action shall not be taken except upon thirty- (30) days written notice to such Director whose removal is proposed. For purposes of this section, cause may include failure to attend two consecutive regular board meetings without a reason approved by the Board. Members of the Board of Directors who vacate their Legislative position, for whatever reason, may serve at the pleasure of the Chairman until the next Board of Directors meeting when they will be replaced, except as otherwise provided by these bylaws.

Section 5.06 State Restriction. Of the 18 members nominated and elected by the Board of Directors, only one Board member may serve from any one State, except that States having a former National Chairman on the Board of Directors shall be permitted an additional Board member.

Section 5.07 Annual and Regular Board of Director Meetings. An annual meeting of the Board of Directors shall be held in conjunction with the annual meeting of the members for the purpose of electing officers and carrying on such business as may properly come before the meeting. Such meeting shall be held at the place where the members meetings are held. The Board of Directors may adopt a schedule of additional meetings, which shall be considered regular meetings. All meetings of the Board shall be held at a place designated by the National Chairman.

Section 5.08 Special Meetings. Special meetings may be called by the National Chairman or by a majority of the Members of the Board of Directors.

Section 5.09 Notice of Meetings. All meetings of the Board of Directors shall be held at a place designated in the call. Notice of such meetings may be given orally or in writing, but not less than ten (10) days prior to such meeting. Notice may be waived by any Director, but such waiver shall be in writing. Notice of special meetings held during the annual or regular meetings shall be given not less than twenty-four (24) hours prior to such meeting.

Section 5.10 Joint Meetings and Voting Privileges. A joint meeting of the ALEC Board of Directors and the Private Enterprise Board of Directors will be held at least once annually, and may be scheduled as directed by the ALEC National Chairman, or at the request of a majority of the ALEC Board of Directors. Voting will be the exclusive right of the ALEC Board of Directors.

Section 5.11 Quorum and Voting. One-third of the Board of Directors shall constitute a quorum. All matters to be decided at any meeting at which a quorum is present shall be by the affirmative vote of the majority of the Directors present except in instances where a vote of a greater number is required by law or by these Bylaws. Each Director shall, at every meeting, be entitled to one vote. A Director may not vote by

proxy.

Section 5.12 Rules Governing Conduct of Meetings. All meetings will be conducted under the guidelines of Robert's Rules of Order, except as otherwise provided.

Section 5.13 Telephonic Meetings. According to procedures adopted by the Board of Directors, they may participate in a regular or special meeting, or conduct the meeting through the use of any means of communication by which all Directors participating may simultaneously hear each other during the meeting. A Director participating in a meeting by these means is deemed to be present in person at the meeting.

Section 5.14 Action Without Meeting. The Board of Directors may take any action without a meeting, which could be taken at a meeting by execution of written unanimous consent which shall be filed and recorded by the Secretary in the same manner as if the meeting had been held. The action taken shall be effective when all Directors have approved the consent, unless the consent specifies a different effective date.

Section 5.15 Compensation. No Director shall be entitled to any compensation for his services as a Director, except reimbursement for expenses as authorized by the National Chairman according to procedures established by the Board of Directors.

Section 5.16 Chairman Emeritus. All former National Chairmen, in good standing, shall be designated as Chairman Emeritus and shall be entitled to participate as ex-officio members of the Board of Directors, and perform such duties as authorized by the National Chairman. A Chairman Emeritus, who is no longer a member of the Board of Directors, shall not be counted in the determination of a quorum or entitled to vote.

Section 5.17 Election of Officers. The Board of Directors shall elect, from among its membership, the Officers of ALEC.

ARTICLE VI OFFICERS

Section 6.01 Officers. The officers of ALEC shall consist of a National Chairman, a First National Vice Chairman, a Second National Vice Chairman, a Secretary, and a Treasurer. In addition there may be such other officers as may be designated from time to time by the Board of Directors, in accordance with these Bylaws. No two positions may be held by the same individual.

Section 6.02 Election and Qualification. In accordance with the procedures established in Article VIII, Section 8.04, the Nominating Committee shall submit the names of the proposed slate of new officers to the Board of Directors at the annual meeting. Nominations may be submitted by any Director to the Nominating Committee. There is no automatic succession of officers through the chairs of ALEC.

Section 6.03 Terms of Office. The officers shall be elected at the annual meeting of the Board of Directors or at such other meetings of the Directors as shall be called for such purposes. The officers elected at the annual meeting shall take office at the first Board of Directors meeting following the 15th of November. Unless otherwise determined by resolution, officers shall hold office for one year and until their successors shall be elected and qualified. The Chairman shall hold office for one term and may not succeed his or herself.

Section 6.04 Resignation. Any officer may resign at any time by giving written notice of his or her resignation to the Chairman or to the Secretary. Any such resignation shall take effect at the time specified therein or, if no time is so specified, upon its receipt by the appropriate officer. Acceptance of a resignation shall not be necessary to make it effective.

Section 6.05 Removal. The Board of Directors may, remove any officer from his or her office with or without cause by the affirmative vote of three-fourths of the Directors present at a meeting at which a quorum is present. Such action shall not be taken except upon thirty- (30) days written notice to the officer whose removal is proposed.

Section 6.06 Vacancies. A vacancy in the office of National Chairman, during his term, shall automatically be filled by the First Vice Chairman. Other vacancies in any office shall be filled by a vote of a majority of the Board of Directors.

ARTICLE VII DUTIES OF OFFICERS

Section 7.01 The National Chairman. The National Chairman shall be the chief executive officer and shall conduct the general and active management and direction of the business and affairs of ALEC and shall have general supervision over other officers and the Executive Director and staff, subject, to the control of the Board of Directors. The National Chairman shall preside at all meetings of the members and Board of Directors. He or she shall be empowered to appoint committees and shall, ex officio, be a member of all such committees.

The National Chairman may sign, execute and deliver in the name of ALEC all deeds, mortgages, bonds, contracts, and other instruments, except in cases where such signing, execution or delivery thereof shall be expressly delegated otherwise by the Board of Directors, by these Bylaws or by the laws of the State of Illinois. He or she shall perform all duties incident to the office of National Chairman and such other duties as may from time to time be assigned by these Bylaws or by the Board of Directors.

Section 7.02 The First National Vice-chairman. In the event of the temporary absence or disability of the Chairman, the First Vice-chairman shall perform all of the

duties of the Chairman. At all other times, the First Vice-chairman shall perform such duties and exercise such powers as from time to time may be assigned to him or her by these Bylaws, the Board of Directors or the Chairman.

Section 7.03 The Second National Vice-chairman. The Second National Vice Chairman shall perform such duties and exercise such powers as from time to time may be assigned to him or her by these Bylaws, the Board of Directors or the Chairman.

Section 7.04 The National Secretary. The Secretary shall attend the meetings of the Board of Directors, of the members of ALEC, of the Executive Committee of the Board of Directors and shall record all of the proceedings of such meetings and shall be the custodian of the seal and shall affix the seal to all such documents as may be required by law. The Secretary shall give or cause to be given notice of all meetings of the members and of the Board of Directors in accordance with the provisions of these Bylaws and shall keep copies of these Bylaws available for inspection by the membership, the officers or the Board of Directors. In general, the Secretary shall perform such duties incident to the office of Secretary and other duties as may from time to time be assigned by these Bylaws, the Board of Directors or the Chairman.

Section 7.05 The National Treasurer. The Treasurer shall be authorized to collect all monies payable to ALEC, shall be charged with the care and custody of the funds, and shall make such disbursements as are necessary from such funds. He or she shall keep the financial and bank accounts and shall enter in detail all receipts and disbursements and shall report thereon at the request of the Board of Directors or the Chairman. The books of account of ALEC shall be open at all times for inspection of the Board of Directors and any officer. The Treasurer shall perform all duties incident to the office of Treasurer and such other duties as may from time to time be assigned to him or her by these Bylaws, the Board of Directors or the Chairman.

The Board of Directors is empowered to assign certain financial responsibilities in particular circumstances. Checks issued by the corporation shall be signed by the Executive Director and countersigned by either the National Chairman, The Treasurer or any other person designated by the Board of Directors, except that funds from the petty cash fund containing not more than One Thousand Dollars (\$1,000.00) may be disbursed for unanticipated expenses on the signature of the Executive Director.

ARTICLE VIII COMMITTEES OF DIRECTORS

Section 8.01 Committees. There shall be an Audit Committee, a Nominating Committee, an Executive Committee, and any such committees as appointed by the National Chairman. The Board of Directors shall have the power to direct the Chairman to appoint or terminate Committees.

Section 8.02 Executive Committee. The Executive Committee shall be composed of Officers, the Immediate Past Chairman and the Executive Director (non-voting), and shall have powers as delegated by the Board of Directors to take actions between Board meetings. Four (4) members of the Committee shall constitute a quorum not including the Executive Director. The Committee shall annually consider and shall submit to the Board of Directors for approval a long-term strategic plan.

Section 8.03 Audit Committee. The Audit Committee shall be composed of Directors who shall review the financial records of ALEC and provide fiscal reports and recommendations to the Board of Directors, and shall review the work of an independent auditor who shall conduct an annual audit of ALEC.

Section 8.04 Nominating Committee. The Nominating Committee shall be appointed from the Board of Directors by the National Chairman and shall consist of the National Chairman, serving as Chairman of the committee, and past National Chairmen who are serving on the Board of Directors. The committee shall consist of five (5) members. In the event there are less than four (4) eligible past Chairmen the National Chairman may appoint an additional member or members from the Board of Directors as required. The Nominating Committee shall submit a list of candidates for election as Officers and Directors including three names from the list of six nominees submitted by the State Chairmen and the list of four (4) nominees submitted by the Task Force Chairs. In so far as possible, consideration shall be given to geographic balance and bipartisan representation, The Nominating Committee may not nominate any of its members for positions enumerated in Article VI.

Section 8.05 Committee Meetings. Committee meetings will be convened at the call of the Committee Chairman with the consent of the National Chairman, or as may be authorized by the Board of Directors.

ARTICLE IX EXECUTIVE DIRECTOR

Section 9.01 Appointment. With the approval of the Board of Directors, the National Chairman shall appoint and determine the salary and conditions of the Executive Director. The Executive Director shall serve at the pleasure of the Board of Directors.

Section 9.02 Duties and Powers. The Executive Director shall be the chief administrator of ALEC responsible for management functions under the direction of the National Chairman. He shall manage and direct all activities of ALEC as prescribed by the Board of Directors. He shall employ, and may terminate, members of the staff necessary to carry on the work of ALEC, shall fix their compensation within the approved budget, subject to the direction and approval of the National Chairman and the Board of Directors, and supervise them in the conduct of their duties.

ARTICLE X
STATE CHAIRMEN AND STEERING COMMITTEE

Section 10.01 Appointment. All State Chairmen are appointed by the National Chairman. All Private Sector State Chairmen are appointed by the ALEC State Chairman, and confirmed by both the Private Enterprise Board Chairman, and the National Chairman. Each ALEC State Chairman shall appoint a Private Sector State Chairman to serve concurrently with the State Chairman.

Section 10.02 Term. State Chairmen serve for a two- (2) year term, and may be reappointed by the National Chairman.

Section 10.03 Duties. State Chairmen duties shall include recruiting new members, working to ensure introduction of model legislation, suggesting task force membership, establishing state steering committees, planning issue events, and working with the Private Enterprise State Chairman to raise and oversee expenditures of legislative scholarship funds.

Section 10.04 Meetings. State Chairmen shall meet at least three (3) times a year in conjunction with scheduled meetings of the National Board.

Section 10.05 Elections. State Chairmen and Private Sector State Chairmen shall meet at the ALEC Annual Meeting to separately elect a Chairman and a Private Sector Co-Chairman from their respective members whose duties shall be to preside at their meetings. Pursuant to Article V, Section 5.02, State Chairmen shall nominate six members, one of whom shall be the Chair of the State Chairs, whose names shall be submitted to the ALEC Board of Directors Nominating Committee for consideration as ALEC Directors. The duty of the Private Sector Cochairman is to assist the Chairman in fund rising and private/public sector recruitment and retention. The Chairman of the State Chairmen and the Private Sector Co-chairman may not serve more than two (2) consecutive two- (2) year terms. In addition, the State Chairmen shall establish an Executive Committee: composed of the following: Chairman of the State Chairmen (who will Chair the Executive Committee) the Private Sector Cochairman of the State Chairmen, and the three designated public sector State Chairmen currently serving on the ALEC Board of Directors, and three Private Sector State Chairmen selected by the Private Sector State Chairmen. The Executive Committee shall meet at the Fall Board Strategic Planning Meeting, and at the Annual Meeting.

Section 10.06 Steering Committee. State Steering Committees shall consist of a State Chairman, a Vice Chairman from the opposite party, if appropriate, Senate and House Membership Coordinators, Legislative Issue Coordinators and such other members as set forth in ALEC'S strategic plan.

Section 10.07 State Scholarship Accounts. All funds for ALEC State Scholarship

Accounts shall be deposited in accounts designated by the ALEC Board of Directors. State Chairmen are prohibited from establishing, maintaining, or utilizing any other such accounts for ALEC purposes. Violation of this section shall constitute grounds for (1) immediate removal from a leadership position, and (2) dismissal from membership in accordance with these bylaws.

ARTICLE XI TASK FORCES

Section 11.01 Authority. Task Forces will be authorized by the Board of Directors for developing policy positions that promote ALEC purposes and objectives.

Section 11.02 Members. Task Forces will consist of legislators and private sector members of ALEC.

Section 11.03 General Powers. Task Forces are empowered to consider and debate legislative issues and to adopt model legislation, resolutions, and policy positions.

Section 11.04 Actions. All actions of the Task Force are to be submitted to the Board of Directors for adoption as ALEC policy positions.

Section 11.05 Procedure . Specific rules of procedure for the operation of task forces will be adopted by the Board of Directors. compiled and known as the Task Force Operating Procedures.

ARTICLE XII FINANCE

Section 12.01 General Provisions. ALEC shall be financed by proceeds from its membership dues and grants from public and private sector interests.

Section 12.02 Annual Budget and Amendments. The Executive Director shall present a proposed budget for the coming fiscal year to the Board of Directors who may amend and adopt the budget by a majority vote.

Section 12.03 Fiscal Year. The fiscal year shall begin on the First day of January and shall end on the Thirty-first of December.

Section 12.04 Audit. The books and records of ALEC shall be audited at least once annually by an independent auditor or accountant and approved by the Board of Directors.

Section 12.05 Contracts and Agreements. The Board may enter into contracts with government, private interests, or foundations for funding grants which are determined to be in the interests of ALEC and its philosophical purposes.

Section 12.06 Financial Statement. The Treasurer shall issue to the Board of Directors an annual statement of its financial condition as of the close of each fiscal year.

ARTICLE XIII GENERAL PROVISIONS

Section 13.01 Amendments. These Bylaws may be amended by the affirmative vote of a majority of the 23 member Board of Directors. A ten-day notice will be given in advance of any meeting called to change the Bylaws.

Section 13.02 Registered Agent. The name and address of the registered agent of the corporation shall be provided by resolution of the Board of Directors. Said registered agent shall be a citizen of the State of Illinois and reside therein.

Section 13.03 Principal Place of Business. The principal place of business of the corporation shall be, Washington, D.C. The Board of Directors may authorize other places of business to suit the needs of the corporation.

Section 13.04 The Seal of ALEC. The seal of ALEC shall be circular in form, shall bear its name in the margin thereof and shall indicate the facts of its corporation in the State of Illinois in the year of 1975.

ARTICLE XIV INDEMNIFICATION

Section 14.01 Indemnification of Officers, Board of Directors, Employees and Agents.

- (a) ALEC may indemnify any person who was or is party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding whether civil, criminal, administrative or investigative (other than an action or in the right of ALEC) by reason of the fact that he or she is or was a director, officer, employee, or agent of ALEC, or who is or was serving at its request as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys fees), judgments, fines and amount paid in

settlement actually and reasonable incurred by such person in connection with such action, suit or proceeding, if such person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of ALEC, and, with respect to any criminal action or proceeding had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or contedere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interest of the corporation or, with respect to any criminal action or proceeding, that the person had reasonable cause to believe that his or her conduct was unlawful.

- (b) ALEC may indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgement in its favor by reason of the fact that such person is or was a director, officer, employee or agent of ALEC, or is or was serving at its request as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney's fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit, if such person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to, the best interests of ALEC provided that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his or her duty to ALEC, unless, and only to the extent that the court in which such adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as the court shall deem proper.
- (c) To the extent that a director, officer, employee or agent of ALEC has been successful, on the merits or otherwise, in the defense of any action, suit or proceeding referred to in subsections, (a) and (b), or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by such person in connection therewith.
- (d) Any indemnification under subregion (a) and (b) (unless ordered by a court) shall be made by ALEC only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he or she has met the applicable standard of conduct set forth in subsection (a) and (b). Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such

action, suit or proceeding, or (2) if such a quorum is not obtainable, or even if obtainable, if a quorum of disinterested directors so directs, by independent legal counsel in a written opinion.

- (e) Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by ALEC in advance of the final disposition of such action, suit or proceeding, as authorized by the Board of Directors in the specific case, upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount, unless it shall ultimately be determined that he or she is entitled to be indemnified by ALEC as authorized in this Section.

The indemnification provided by this Section shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of disinterested directors, or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent, and shall inure to the benefit of the heirs, executors and administrators of such a person.

ARTICLE XV PRIVATE ENTERPRISE BOARD

Section 15.01 Creation. The formation of a Private Enterprise Board to support the activities and programs of ALEC is authorized.

Section 15.02 Bylaws. The Private Enterprise Board may establish and amend its bylaws subject to the approval of the ALEC Board of Directors.

Section 15.03 Membership. Members of the Private Enterprise Board are appointed by the National Private Enterprise Board Chairman with the advice and consent of the ALEC Board of Directors.

Section 15.04 Member Activities. Members of the Private Enterprise Board may be invited to attend all ALEC meetings and functions. The Chairman may appoint members of the Private Enterprise Board to serve on committees pursuant to rules adopted by the ALEC Board of Directors.

Section 15.05 Chairman. The Chairman of the Private Enterprise Board shall serve as a non-voting ex-officio member of the ALEC Board of Directors, and any Committee, excepting the Nominating Committee, at the appointment of the ALEC National Chairman.

Section 15.06 ALEC National Chairman. The ALEC National Chairman shall serve as an ex-officio member of the Private Enterprise Board and shall serve as the ALEC Board of Directors official contact between ALEC and the corporations and foundations whose representatives serve on the Private Enterprise Board.

Section 15.07 Limitations. The Private Enterprise Board is prohibited from entering into any contracts, establishing any checking account or deposit arrangement outside of that which exists between ALEC and any financial institution.

Section 15.08 Finances. All funds of the Private Enterprise Board shall be deposited in accounts designated by the Board of ALEC.

ARTICLE XVI NATIONAL CHAIRMAN'S COUNCIL

Section 16.01 Appointment and Term. The National Chairman's Council shall consist of thirteen (13) individuals. Members of the Council shall serve staggered three (3) year of terms, and may serve consecutive terms. Membership on the Council shall consist of the following:

1. The serving National Chairman, who shall also serve as the Chair of the Council;
2. The Immediate Past National Chairman, who shall also serve as Vice Chair of the Council, provided he/she has remained a public member in good standing;
3. Up to four (4) individuals who are former National Chairs and who have remained public members in good standing. Such members shall be nominated by the National Chair and require ratification by a majority vote of the Board of Directors. In the event that any such positions are not filled, including that of Vice Chair, for whatever reason, by former National Chairs, public sector members in good standing may be nominated to fill any such positions; provided that at all times the number of public sector members on the Council shall exceed by one the number of private sector members;
4. The current Private Enterprise Board chair and such other ALEC public sector members as nominated by the National Chairman and approved by the Board of Directors;
5. Up to five (5) individuals appointed from the private sector. Such members shall be nominated by the National Chair, upon the advice of the

Executive Director and the Chair of the Private Enterprise Board. All such nominations shall require ratification by a majority vote of the Board of Directors. The Executive Director shall develop criteria for eligibility for such membership, including minimum levels of grants, subject to approval by the Board of Directors.

The National Chairman may also appoint public and private sector members in good standing as non-voting, ex-officio members of the Council.

Section 16.02 Responsibilities. The National Chairman's Council shall be responsible for assisting in improving the financial stability of ALEC increasing the ALEC Reserve Fund; considering the establishment and management of an endowment fund for ALEC; providing financial advice concerning the financial management of ALEC; reviewing and Investigating the financial condition and operation of ALEC; and performing such other financially related duties as may be delegated to it from time to time by the Board of directors.

The National Chairman's Council shall be authorized to request reports, financial statements, and such other documentation from the Executive Director as are reasonably necessary to carry out its responsibilities. The Board of Directors shall require the Executive Director to comply with such requests unless refused as set forth in Section 16.05. If the Council determines in its best judgment that the Executive Director or the Board of Directors has acted or is acting imprudently or inadvisably with respect to ALEC'S finances, the Council shall be empowered to (1) authorize an independent audit and employ independent personnel if necessary, of any or all of ALEC'S funds and accounted including fund balance and any endowments as may be created; (2) meet with the Board of Directors, and report to the Board of Directors the results of any reviews undertaken; (3) make such written recommendations and reports relating to ALEC'S finances as may be necessary, but specifically with responsibility to identify any financial inefficiencies or irregularities and to report the some in writing to the Board of Directors with recommendations for corrective action; and/or (4) perform any such other ants reasonably necessary to carry out its responsibilities as prescribed by the Board of Directors.

Section 16.03 Reporting. The Council shall make written recommendations and report to the Board of Directors regarding ALEC'S financial management, accounting, financial procedures and financial organization. The Council shall report to the Board of Directors, as necessary, but not less than annually, in writing the results of its review(s). Any recommendations contained in such financial reports shall be binding on the Board of Directors unless refused as set forth in section 16.05.

Section 16.04 Meetings and Rules of Meetings. The National Chairman's Council shall hold its initial meeting, and any subsequent meetings, and shall meet at least twice each year, at such place and at such time as it deems necessary. Special meetings of the Council shall be held whenever

called by the Chairman or at the written request of any three or more members. A majority of members shall constitute a quorum for the transaction of business. Private sector members shall not be compensated for their service as a member of the Council. No staff person shall receive additional compensation beyond his/her regular salary for service to the Council. Members may not vote by proxy. No public members shall be entitled to any compensation for his/her service as a member of the Council, except reimbursement for expenses as authorized by the National Chairman according to procedures established by the Board of Directors. The Council shall establish any other such rules necessary for the conduct of such meetings.

Section 16.05 Override. The Board of Directors shall implement the recommendations of the National Chairman's Council, unless rejected by a two-thirds (2/3) vote of the full membership of the Board of Directors.

Exhibit 4

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ALEC Policy Solutions

ALEC provides you with sound policies and resolutions that offer limited-government, free-market solutions for your state. ALEC is pleased to present its **new model legislation** that was recently introduced at the 2011 Spring Task Force Summit in Cincinnati, Ohio, and approved by the ALEC Board of Directors. Also new to ALEC policies, you'll find talking points with each bill. These are for your use when communicating with constituents, conducting town hall meetings, or even talking to the press.

Go directly to your desired policy issue to see new ALEC model legislation:

<u>Lobbying Reform</u>	<u>Spending Cuts</u>	<u>Education Savings Accounts</u>
<u>Civil Liability Relief</u>	<u>Federal Health Care Reform</u>	<u>Higher Ed Accountability</u>
<u>Overcriminalization</u>	<u>Air Quality</u>	<u>Law Enforcement</u>
<u>Fighting Frivolous Lawsuits</u>	<u>Transportation and Infrastructure</u>	<u>Item-Reduction Veto</u>
<u>DNA Testing</u>	<u>Privatization</u>	<u>ALEC's Agriculture Principles</u>
	<u>ALEC's Energy Principles</u>	

As always, please let us know if ALEC can provide you with legislative resources. If you need talking points on other pieces of ALEC model legislation, testimony, or contact with policy advisors, please contact Michael Bowman, Senior Director of Policy at mbowman@alec.org, or any of our Task Force Directors, and we would be more than happy to help connect you with timely resources.

Fighting Frivolous Lawsuits [Back to top](#)

Resolution in Support of Fair Recourse and Effective Deterrence against Frivolous Claims

A single frivolous claim can easily cripple an individual or small business. Victims of lawsuit abuse have practically no recourse, under federal rules and many state rules, for an effective and fair way to seek reimbursement for their legal expenses. This Resolution encourages Congress to strengthen Rule 11 of the Federal Rules of Civil Procedure to empower defendants against frivolous actions and supports efforts on the state and federal levels to provide victims of frivolous lawsuits with an effective and fair means to seek reimbursement of their legal expenses.

[Full text of the model policy and talking points](#)

Transportation and Infrastructure [Back to top](#)

Resolution in Support of the Transportation Infrastructure Finance and Innovation Act

Leveraging private sector funding is critical to advancing major transportation projects in the state. This Resolution supports the *Transportation Infrastructure Finance and Innovation Act* (TIFIA), a program that helps to fund transportation projects and encourages private participation by providing credit assistance and low-interest direct loans.

[Full text of the model policy and talking points](#)

Privatization [Back to top](#)

State Council on Competitive Government Act

This Act creates a Council on Competitive Government in order to make government more efficient, cost-effective, and competitive. The Council includes key members of state leadership, whose purpose is to reexamine the method of delivering government services. The Council may elect to use competitive contracting with state agencies and private commercial sources in order to eliminate wasteful spending and provide higher quality services.

[Full text of the model policy and talking points](#)

Education Savings Accounts [Back to top](#)

Education Savings Account Act

Education Savings Accounts (ESAs) strengthen parental choice and retain funds for local school districts. ESAs allow parents to use the funds that would have been allocated to their child at their resident school district for educational programs or resources of the parents' choosing.

[Full text of the model policy and talking points](#)

Higher Education [Back to top](#)

Higher Education Transparency Act

Public institutions of higher education should be held accountable to legislators, students, and taxpayers. This Act requires public higher education institutions to publish certain information on their public website in order to increase institutional accountability and help students achieve success by clearly identifying course expectations.

[Full text of the model policy and talking points](#)

ALEC's Agricultural Principles [Back to top](#)

ALEC's Agriculture Principles affirm the core tenets of our agricultural and rural land policy. ALEC recognizes that the proper role of government involvement in agriculture is to limit and remove barriers for

agricultural production, trade and consumption throughout our innovative food system.

[Full text of the principles](#)

ALEC's Energy Principles [Back to top](#)

ALEC's Energy Principles define a comprehensive strategy for energy security, production and distribution in the states consistent with the Jeffersonian principles of free markets and federalism.

[Full text of the principles](#)

Air Quality [Back to top](#)

Regional Air Quality Interstate Compact

The *Regional Air Quality Interstate Compact* provides a constitutional means by which states can push back on the harmful regulatory overreach of the federal Environmental Protection Agency and restore regulation of air pollution as a primary responsibility of the state and local governments. The Compact creates a new commission comprised of representatives from member states to develop common guidance for implementation of the Clean Air Act.

[Full text of the model policy and talking points](#)

Federal Health Care Reform [Back to top](#)

Health Freedom Compact Act

The *Health Freedom Compact Act* prevents enforcement of the federal individual mandate within compacting states that have also passed ALEC's *Freedom of Choice in Health Care Act*.

[Full text of the model policy and talking points](#)

Item-Reduction Veto Spending Cuts [Back to top](#)

Item-Reduction Veto Constitutional Amendment

Need to restrain pork barrel spending in your state? The *Item-Reduction Veto Constitutional Amendment* endorses a constitutional provision which allows governors to reduce spending without striking the entire amount. Governors will not be forced into take-it or leave-it offers, and will therefore find it easier to control spending.

[Full text of the model policy and talking points](#)

DNA Testing [Back to top](#)

ALEC Resolution on DNA Testing and Victims' Rights

As a means of protecting and preserving victims' rights to justice and due process, ALEC supports state efforts that require all sexual assault kits collected are tested for DNA. This policy will aid law enforcement in identifying the guilty, and will also increase the efficiency of current spending on DNA testing. In addition, the use of public-private partnerships in DNA testing can minimize the incremental cost of the process and save taxpayer dollars.

[Full text of the model policy and talking points](#)

Civil Liability Relief [Back to top](#)

Civil Liability Relief for Employers Hiring Ex-Offenders Act

This Act ensures that an employer who hires an ex-offender cannot be sued on that basis alone, when that ex-offender does not have a violent or sexual offense on their record. This act will protect employers from unjust cause of action.

[Full text of the model policy and talking points](#)

Overcriminalization [Back to top](#)

Criminal Intent Protection Act

ALEC supports state efforts to protect citizens from criminalization by regulation – or unjust punishment due to vague or ambiguous criminal offenses. ALEC's *Criminal Intent Protection Act* will help reign in government overregulation and protect innocent, hard-working Americans by ensuring that criminal offense statutes include a criminal intent (mens rea) requirement.

[Full text of the model policy and talking points](#)

The Treating Accused Persons Fairly Act [Back to top](#)

ALEC believes that citizens should be protected from unjust punishment for alleged violations of unclear offenses. This Act will protect citizens' businesses, livelihoods and reputations by safeguarding due process rights and providing notice to citizens that conduct is unlawful. This legislation will codify the common-law rule of lenity, which directs a court to resolve ambiguous criminal law in favor of the defendant.

[Full text of the model policy and talking points](#)

Law Enforcement [Back to top](#)

Law Enforcement Officer Safety Equipment Fund Act

This Act ensures the safety of law enforcement officials who are the first line of defense in public safety. The Act provides an effective means of revenue for state law enforcement to put towards the purchase of safety equipment.

[Full text of the model policy and talking points](#)

Lobbying Reform [Back to top](#)

State Agency Lobbying Reform Act

State agencies use public funds to increase the size, scope and cost of the state agencies as well as to prevent budget cuts. This is taxpayer-funded lobbying, and it should be restricted. If such lobbying does occur, citizens should be given a full accounting of an agency's lobbying activities since it is being done with public funds.

[Full text of the model policy and talking points](#)

The American Legislative Exchange Council (ALEC) is the nation's largest nonpartisan, individual membership organization of state legislators. www.alec.org



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Exhibit 5

AMERICAN LEGISLATIVE EXCHANGE COUNCIL
ALEC

Civil Justice Task Force

Public Sector Member Survey

January 2010

*Fax or e-mail to:

Stephanie Linn

(202) 466-3801

slinn@alec.org

Your name: Bill Seitz

Your state: Ohio

What do you expect will be the most important legislative issues in your state in 2010?

- budget
- jobs
- economy

Do you expect to see in your state house in 2010 legislation dealing with reforming the legal system? This would include reforms that would help or hinder the legal system.

YES

NO

If yes, what do you expect in 2010?

There are several bad bills that have passed the House that would

-widen the CSPA to include mortgage servicers

-impose a moratorium on filing foreclosure cases

-bar admission of evidence that a plaintiff's medical bills were satisfied by a provider or insurer's discount.

There are several positive bills pending in the Senate that would
-codify the doctrine of cy pres in class action cases, with statutory safeguards
-establish that ER doctors are not liable for malpractice unless they act recklessly
-urge the Supreme Court to adopt the same offer-of-settlement/cost-shifting rule as is contained in Federal Rules of Civil Procedure

On which issues are you personally planning to focus in 2010?

My biggest two issues are criminal sentencing reform (SB 22) and election law reform (SB 8), but I will also be tackling casino legislation, legislation allowing privatization of school bus service, and legislation prohibiting illegal aliens from collecting workers comp benefits.

Are you planning to introduce ALEC Civil Justice model legislation this year?

YES

NO – For two reasons: a) Ohio has passed most of it already; b) Democrats control the House and Governor's seat, so prospects for success are dim

If yes, which pieces of legislation?

Are you aware of other legislators in your state working on issues relevant to ALEC's Civil Justice Task Force?

YES

NO

If yes, who and on which issues?

Steve Buchrer – medical malpractice reform (Senate Bill 86 – change standard of care from negligence to recklessness for emergency room care required by federal EMTALA law)

What information can ALEC provide to you as it pertains to legal reform?

Mark all of the following resources you would be interested in ALEC providing to you in 2010.

Model legislation

Resolutions to counter legislation that could worsen your state's legal system

In-depth policy papers

Short discussion pieces on ALEC model legislation

Talking points on ALEC model legislation

- Contact with advisors and policy experts
- Coordinated testimony (on a case-by-case basis)
- Issue briefings (on a case-by-case basis)
- Alerts for legislative members when your state is working on ALEC issues

Is there anything in particular you would like help with at this time?

Exhibit 6

Walter, Jamie

From: Amy Kjose [akjose@alec.org]
Sent: Friday, March 05, 2010 4:29 PM
To: Senator Seitz
Subject: ALEC's Private Attorney Retention Sunshine Act
Attachments: ALEC.civil.PrivateAttorneyRetentionSunshineAct.pdf; DIC.HB.07.PARSA.Discussion.doc
Sen. Seitz,

Thanks again for being a primary signatory of the letter to the National Association of Attorneys General. We haven't yet sent the letter out (waiting for the opportune time), but we have gathered over 30 signatures thus far.

To further boost interest in the issue, we are encouraging as many states as possible to consider the Private Attorney Retention Sunshine Act (PARSA) legislation. So far, about 10 states have introduced bills. No pressure, but I thought I would e-mail you the bill and a discussion piece in case you are interested in introducing the bill in Ohio.

If you feel so inclined, ALEC would be happy to provide support. I look forward to hearing your thoughts on the matter.

All my best,
Amy

Amy Kjose
Civil Justice Task Force Director
American Legislative Exchange Council
(202) 742-8510

6/14/2011

Exhibit 7

Walter, Jamie

From: Crews, Jessica on behalf of Senator Seitz
Sent: Friday, May 29, 2009 7:00 PM
To: 'Amy Kjose'
Subject: RE: May 29 conference call
Attachments: 124_HB_412_ENR.pdf

Amy –

So sorry – my thoughts below in red. Fill me in on Monday at (513) 357-9332.

- Bill Seitz

From: Amy Kjose [mailto:akjose@alec.org]
Sent: Thursday, May 28, 2009 6:32 PM
To: Crews, Jessica
Subject: RE: May 29 conference call

Not a problem. He is an Ohio legislator first. Thanks for your help, Jessica!

Sen. Seitz,

Victor and I were discussing a few things over lunch last week that we wanted to run by you. First of all, I plan to allot more time for discussion on pieces of legislation as they seem to be lengthy of late (I am sure you will appreciate this.).

Next, I have had 2 presentation requests: One is from a woman at the Manhattan Institute who has done a study on Loser Pays. If you are interested, the report can be found [here](#). I have heard her present the paper and found her comments to be interesting and relevant to state legislators. Her suggested legislative solution ends up looking very similar to an offer of settlement provision, which makes the approach less "pie in the sky." If you are amenable, I will give her 15 minutes on the agenda. **Yes**

The second presentation request is from Lawrence McQuillan of the Pacific Research Institute. He would like to present his econometric study entitled "Tort Law Tally." He gives numbers measuring the change in tort losses (insurance premiums and damages paid out in courts) from before to after the enactment of various legal reforms (most of these reforms are based on ALEC model legislation). He has made an amiable attempt to quantify the effectiveness of certain legal reforms. You can find his report [here](#). I can give him 15 minutes on the agenda as well. **Yes**

Next, Victor and his colleagues are working on some legislation in response to the American Law Institute's Restatement of the Law Third Torts: Liability for Physical and Emotional Harm. Chapter 9 adopts a unitary standard of reasonable care, requiring landowners to owe a duty of reasonable care to all that may come on the land, from invitees to trespassers. They hope to develop some legislation in response to this problematic restatement. If you agree, we will allot time on the agenda for this. **Yes**

Rep. Nieves from NM also had a number of suggestions for our consideration as you probably remember from the task force meeting. He would like us to consider the UN Resolution on the Rights of the Child, nursing home liability, and court-mandated education spending increases. As I mentioned at the task force meeting, we have discussed the court-mandated spending issue in past, but can certainly revisit it as we have new members and the issue is unfortunately ever-relevant. However, our time on the agenda is always limited. A thought Victor and I discussed was to allow Rep. Nieves time on the agenda to speak on the rights of the child issue, then have the task force consider the other issues at future task force meetings. Thoughts? **Ok, but I would say nursing home liability is more in line with our real agenda. We don't have much sway with the U.N.! And, I did a nursing home liability reform bill in Ohio. See attached, passed some years back and still a**

model.

Victor also suggested that we move our "roundtable discussion" earlier in the agenda and alter it slightly. He (and I assume many other members) would like to hear from various legislators about certain ALEC bills they have recently or plan to take up in their legislatures. The intent behind this discussion would be to allow those at the table to get an idea of opportunities for proactive legislative campaigns in 2010. I would arrange for a few members to "lead" the discussion. (Perhaps a legislator who has introduced a specific ALEC bill could *briefly* mention his experience and encourage others to speak out if they foresee appropriate windows of opportunity in their states.) I think this is a great idea and would nicely facilitate the "Exchange" in ALEC's name. I look forward to your thoughts. **Yes**

If we include all of these suggestions on the agenda, we will have 25 minutes left on the agenda (1 or 2 more presentations). If you have any thoughts or requests, we can certainly oblige. Otherwise, we will take this to the Executive Committee on the conference call tomorrow.

I look forward to hearing your thoughts! Good luck with the budget!

- Amy

Here is the DRAFT agenda as it would look with the above:

- 2:30 p.m.** Call to Order, Welcome, and Introductions
Senator Bill Seitz (OH), Task Force Co-Chair
Victor Schwartz, Shook, Hardy & Bacon and Task Force Co-Chair
- 2:45 p.m.** Task Force Update
Amy Kjose, Civil Justice Task Force Director
- 2:50 p.m.** Civil Justice State Legislative Reform Update
Matt Fullenbaum, American Tort Reform Association (ATRA)
- 3:00 p.m.** **Subcommittee Update and Possible Vote: Resolution Opposing Insurance "Bad Faith" Legislation**
- 3:30 p.m.** **Discussion: Trespass bill**
Mark Behrens, Shook, Hardy & Bacon and Civil Justice Task Force Advisor
- 3:45 p.m.** Roundtable Discussion: Legislative Prospects in 2010
Led by:
- 4:10 p.m.** Presentation: Loser Pays
Marie Gryphon, Manhattan Institute
- 4:25 p.m.** Presentation: Tort Law Tally
Lawrence McQuillan, Pacific Research Institute
- 4:40 p.m.** U.N. Resolution on the Rights of the Child?
- 4:55 p.m.**
- 5:20 p.m.** For the Good of the Order
- 5:30 p.m.** Adjourn

Amy C. Kjose
Civil Justice Task Force Director

6/14/2011

American Legislative Exchange Council
(202) 742-8510

From: Crews, Jessica [mailto:Jessica.Crews@senate.state.oh.us]
Sent: Thursday, May 28, 2009 5:30 PM
To: Amy Kjose
Subject: RE: May 29 conference call

I gave him the message, but he's swamped with the budget right now. That'd be great if you want to send it in an email and then if he has questions/comments, he can respond. I'll make sure he sees it before the task force call tomorrow.

Thanks,

Jessie

Jessica Crews
Administrative Aide
Senator Bill Seitz
jessica_crews@senate.state.oh.us
(614) 466-8068

From: Amy Kjose [mailto:akjose@alec.org]
Sent: Thursday, May 28, 2009 5:21 PM
To: Crews, Jessica
Subject: RE: May 29 conference call

Any word? I shouldn't need more than 10 or 15 minutes to give him a quick overview of the expected task force agenda. If his schedule is too tight, I can probably sum everything up in an email.

Amy C. Kjose
Civil Justice Task Force Director
American Legislative Exchange Council
(202) 742-8510

From: Crews, Jessica [mailto:Jessica.Crews@senate.state.oh.us]
Sent: Thursday, May 28, 2009 2:14 PM
To: Amy Kjose
Subject: RE: May 29 conference call

I'll check with him and get back with you as soon as possible.

Jessica Crews
Administrative Aide
Senator Bill Seitz
jessica_crews@senate.state.oh.us
(614) 466-8068

From: Amy Kjose [mailto:akjose@alec.org]
Sent: Thursday, May 28, 2009 2:15 PM
To: Crews, Jessica
Subject: RE: May 29 conference call

Oo. Would he have a bit of time this afternoon or evening to chat? It isn't a problem for him to miss the second call, but the first call is for Victor and me to update him on some ideas for the task force agenda. This call should probably occur before the second call (so that we can have his okay to inform the executive committee of expected items on the agenda).

6/14/2011

Amy C. Kjose
Civil Justice Task Force Director
American Legislative Exchange Council
(202) 742-8510

From: Crews, Jessica [mailto:Jessica.Crews@senate.state.oh.us]
Sent: Thursday, May 28, 2009 1:14 PM
To: Amy Kjose
Subject: May 29 conference call

Amy,

Senator Seitz just learned that has to go to a mandatory budget meeting tomorrow from 10:00-12:00, so he will not be able to participate in the two calls tomorrow. Let me know if you plan to reschedule or just fill him in on what is discussed.

Thanks,

Jessie

Jessica Crews
Administrative Aide
Senator Bill Seitz
jessica.crews@senate.state.oh.us
(614) 466-8068

Exhibit 8

Walter, Jamie

From: Crews, Jessica on behalf of Senator Seitz
Sent: Thursday, May 21, 2009 9:04 AM
To: 'Amy Kjose'
Cc: Cybulskis, Erika
Subject: RE: Call
 Amy –

I am familiar with the issue. Sen. Goodman raised it with me. I ran it by our tort reform lawyers in private practice (Kurt Tunnell). They don't want to risk reopening the tort reform debate. Debt collectors don't exactly command a lot of sympathy these days, so I say we leave it alone. Tell Fiore that's where I am.

- Bill Seitz

From: Amy Kjose [mailto:akjose@alec.org]
Sent: Wednesday, May 20, 2009 12:24 PM
To: Cybulskis, Erika
Subject: Call

Hey Erika,

You are probably quite busy, but I just wanted to let you know briefly what I wanted to mention to you on the phone.

I wanted to let you and Sen. Seitz know about an interesting situation that I was just discussing with Tony Fiore over at the Ohio Chamber. You may already know about this, but the debt collection industry has come to the Chamber (and Sen. David Goodman) with concerns about the venue shopping provisions in O.R.C. § 2305.03(B), which provides: "No civil action that is based *upon a cause of action that accrued in any other state*, territory, district, or foreign jurisdiction may be commenced and maintained in this state if the period of limitation that applies to that action under the laws of that other state, territory, district, or foreign jurisdiction has expired or the period of limitation that applies to that action under the laws of this state has expired."

Apparently, the debt collection industry is having a difficult time filing claims against those with outstanding debts within the time allotted in the state that the credit card company does business (not Ohio). Plus, the contracts between the lenders and the borrowers elect the law of the state in which the company does business (which typically has a shorter statute of limitations than Ohio's). They would like to amend O.R.C. § 2305.03(B) so that they would be able to file a legal action in Ohio against residents of Ohio to collect their debt.

While borrowed money should certainly be returned, the purity of Ohio's legal reforms shouldn't be picked apart. This may very well be a problem between the lenders and the debt collections agencies, but I hear that Sen. Goodman seems convinced that this issue should be addressed by the Ohio legislature. They have put together a few different suggestions (see below). Unfortunately, they are exception provisions. And as you know, starting down the exception path is not typically a good idea for legal reform. I expect Tony Fiore to reach out to Sen. Seitz if he hasn't already, but I wanted to bring this to your and Sen. Seitz' attention. If anyone can conceptualize such specificities and come out with an "outside-the-box" solution, Sen. Seitz can.

I hear that Sen. Goodman is very open to discussion.

I don't mean to throw this on you, but I thought you would appreciate knowing about this if you don't already.

Give me a call if you would like to chat further. ALEC has never seen this particular issue come up, so I

6/14/2011

don't have much experience with the situation, but I would be happy to relay further information that I have come across.

All my best,
Amy

ADVOCATES ARE PROPOSING THE FOLLOWING LANGUAGE:

Ohio Revised Code § 2305.03

(A) Except as provided in division (B) of this section and unless a different limitation is prescribed by statute, a civil action may be commenced only within the period prescribed in sections 2305.04 to 2305.22 of the Revised Code. If interposed by proper plea by a party to an action mentioned in any of those sections, lapse of time shall be a bar to the action.

(B) No civil action that is based upon a cause of action that accrued in any other state, territory, district, or foreign jurisdiction may be commenced and maintained in this state if the period of limitation that applies to that action under the laws of that other state, territory, district, or foreign jurisdiction has expired or the period of limitation that applies to that action under the laws of this state has expired; except that where the cause of action accrued against a resident of this state and no action could be maintained under the laws of that other state, territory, district, or foreign jurisdiction as provided in 15 U.S.C. § 1692i(a), the statute of limitations of this state shall apply.

OR

~~"except that the period of limitations that applies to that action under the laws of this state applies if a debt collector brings any legal action on a debt against any consumer in the case of an action to enforce an interest in real property securing the consumer's obligation and the real property is located in this state, or in the case of any legal action on a contract debt against any consumer and the consumer signed the contract sued upon in this state or the consumer defendant resides in this state at the time of the commencement of the action."~~

OR

"except that where the cause of action accrued against a resident of this state and no action could be maintained under the laws of that other state, territory, district, or foreign jurisdiction against the resident of this state consistent with long-arm jurisdiction, the statute of limitations of this state shall apply."

Text of 15 U.S.C. § 1692i(a) under the Fair Debt Collections Practices Act (FDCPA)

§ 811. Legal actions by debt collectors

(a) Any debt collector who brings any legal action on a debt against any consumer shall—

- (1) in the case of an action to enforce an interest in real property securing the consumer's obligation, bring such action only in a judicial district or similar legal entity in which such real property is located; or
- (2) in the case of an action not described in paragraph (1), bring such action only in the judicial district or similar legal entity—

- (A) in which such consumer signed the contract sued upon; or
- (B) in which such consumer resides at the commencement of the action.

(b) Nothing in this title shall be construed to authorize the bringing of legal actions by debt collectors.

Link to Federal Trade Commission publication:

<http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre27.pdf>

Potential issue: *The FDCPA is frequently used by plaintiff lawyers to bring a class action suits against a debt collector for violating the FDCPA's terms.*

* * * * *

Amy C. Kiose
Civil Justice Task Force Director
American Legislative Exchange Council
1101 Vermont Ave, NW
11th Floor
Washington, D.C. 20005
(p) (202) 742-8510
(f) (202) 466-3801

Exhibit 9

Adamczyk, Matt

From: Vukmir, Leah
Sent: Monday, July 06, 2009 5:07 PM

Subject: FW: Sign-On to ALEC's Health Reform Letter

Attachments: Image001.gif; ALEC Letter on Federal Health Reform.pdf; Resolution on Preserving States' Rights Regarding Federal Health Insurance Exchanges and a Public Plan.pdf

From: Ellen Chambers [mailto:echambers@alec.org]
Sent: Mon 7/6/2009 4:30 PM
To: Dave Myslinski
Subject: Sign-On to ALEC's Health Reform Letter

Join ALEC's Initiative Against Federal Health Reform Efforts That Trample States' Rights

Dear ALEC Legislator:

As you may be aware, on June 24, ALEC National Chairman, Virginia House Speaker Bill Howell, and ALEC HHS Task Force Chelrmen, Iowa Representative Linda Upmeyer, sent this letter to Congressional leadership detailing ALEC's concerns with the Medicare-modeled "public plan" and national health insurance exchange.

The letter highlights ALEC's *Resolution on Preserving States' Rights Regarding Federal Health Insurance Exchanges and a Public Plan*, passed at the 2009 Spring Task Force Summit, which deems the public plan anti-competitive and invokes the Tenth Amendment to the U.S. Constitution in calling the national health insurance exchange a "federal takeover" of the states' role in regulating health insurance.

We invite you to join ALEC's efforts by [learning more about federal health reform](#)—and most importantly, by adding your name to [this letter](#). We'll add all of the signatories and then resend the letter to Congressional leadership in the coming weeks.

If you are an ALEC legislator and would like to sign on to this [letter](#), contact Dave Myslinski at (202) 742-8531 or dmyslinski@alec.org. For more information about ALEC's federal health reform initiative, contact me at the phone number or e-mail listed below.

Cordially,

Christie Herrera
Director, [Health and Human Services Task Force](#)
[American Legislative Exchange Council](#)
1101 Vermont Avenue, N.W., 11th Floor
Washington, D.C. 20005
christie@alec.org
Direct: 202-742-8505
Fax: 202-468-3801

June 24, 2009

The Honorable Robert C. Byrd
President Pro Tempore
United States Senate
311 Hart Senate Building
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker
United States House of Representatives
235 Cannon House Office Building
Washington, DC 20515

Dear Senator Byrd and Speaker Pelosi:

We are writing to express our concern with recent federal health reform efforts—particularly, the Medicare-modeled “public plan” and a national health insurance exchange—which we believe would trample states’ rights and lead Americans down the road to single-payer health care.

The American Legislative Exchange Council (ALEC) represents more than 1,800 state legislative members. ALEC is the nation’s largest nonpartisan, individual membership association of state legislators. Approximately one-third of all state legislators belong to ALEC, in addition to 78 ALEC “alummi” in Congress and more than 300 private-sector companies, national trade associations, and non-profit organizations.

ALEC’s lawmakers recently approved the Resolution on Preserving States’ Rights Regarding Federal Health Insurance Exchanges and a Public Plan, which deems the public plan anti-competitive and invokes the Tenth Amendment to the U.S. Constitution in calling the national health insurance exchange a “federal takeover” of the states’ role in regulating health insurance.

As a representative to such a broad coalition of state interests, ALEC questions the wisdom and practicality of the public plan and the national health insurance exchange. Our concerns include:

* *The public plan will not be competitive.* It’s an unlevel playing field when the public plan can shift costs to our states’ private insurers because of low doctor and hospital reimbursement rates, and then raid the federal treasury for unlimited subsidies. Government will only compete when it can change the rules to win. To have government serve simultaneously as a regulator and a competitor defies common sense.

* *The national health insurance exchange represents a federal takeover of the states’ role in regulating health insurance.* States are the primary regulators of the health insurance market today. They provide aggressive oversight of all aspects of the market and ensure a local, responsive presence for consumers. A national health insurance exchange would undermine states’ oversight role in health insurance and shift decision-making from states to Washington.

* *The national health insurance exchange would lead to a “Robin Hood in reverse” funding scheme in which states with lower health care costs subsidize states with higher costs.* Health care costs vary considerably among states. If the national health insurance exchange leads to creating a regional or national pool, low-cost states would subsidize high-cost states. While this may be a good deal for a high-cost state, low-cost states would end up paying more for health insurance premiums.

* *The public plan and national health insurance exchange will lead to single-payer health care.* Political pressure to keep public plan premiums low and benefits high will result in the “crowding out” of private sector insurance alternatives. The Lewin Group estimates that as many as 119 million Americans will drop private coverage and enroll in the government plan. This represents a 60 percent reduction in the number of Americans with private health insurance—not to mention a significant drop in much-needed state premium tax revenue.

We all share the goal that patients deserve to choose their own quality, affordable, private health coverage. But health reform shouldn’t just be the job of the federal government. These goals are being advanced—and achieved—by state legislators nationwide. ALEC is a national leader in promoting many patient-centered health reforms at the state level, including:

* The Freedom of Choice in Health Care Act, introduced by seven states this session, which preserves patient rights to make health coverage decisions in the state constitution.

* The Health Care Choice Act for States, introduced by 10 states this session, which allows patients to purchase

quality, affordable health coverage across state lines.

* The Affordable Health Insurance Act, enacted in Georgia last session, which provides state tax breaks to individuals, businesses, and insurers who buy and sell high-deductible health plans.

* The Mandated Benefits Review Act, enacted in 29 states, which provides an institutional check on costly health insurance mandates that keep people uninsured.

We wanted to thank you for taking the time to read this letter. Again, ALEC is troubled by the public plan and national health insurance exchange, which we believe will trample states' rights and lead Americans down the road to single-payer health care. Our health policy staff welcomes the chance to work with you on developing patient-centered, free-market reforms—and we look forward to sharing with you the stories of ALEC's state legislators who are advancing and achieving these goals every day.



Cordially,

William J. Howell
Speaker of the House, Virginia
National Chairman, ALEC

Linda Upmeyer
Minority Whip, Iowa House
Chair, ALEC HHS Task Force

Alan B. Smith
Executive Director
ALEC

cc: Sen. Harry Reid, Majority Leader
Sen. Mitch McConnell, Minority Leader
Sen. Jon Kyl, Minority Whip
Rep. Steny Hoyer, Majority Leader
Rep. James E. Clyburn, Majority Whip
Rep. John Boehner, Minority Leader
Rep. Eric I. Cantor, Minority Whip