Memorandum

To: Education Task Force Members
From: David J. Myslinski, Director, Education Task Force
Re: Updated 35-Day Mailing—Education Task Force Meeting
Date: March 31, 2011

The American Legislative Exchange Council (ALEC) will host its 2011 Spring Task Force Summit on April 28–29, 2011, at the Hilton Cincinnati Netherland Plaza in Cincinnati, Ohio. The full Education Task Force will meet 2:00 p.m. – 5:00 p.m., Friday, April 29. The Education Task Force is excited to announce the appointment of our new Task Force Chairs. Please welcome our new Public Sector Chair Rep. David Casas, Georgia, and our returning Private Sector Chair Mickey Revenaugh, Connections Academy. Both have been appointed by ALEC’s National Chairmen to serve a two-year term. In addition to the Task Force Meeting, there will be several education events that day, as listed below. All subcommittees are open to all Task Force members, and everyone is highly encouraged to participate in the subcommittees.

Higher Education Subcommittee
Friday, April 29, 2011
9:30 a.m. – 10:15 a.m.

K–12 Education Reform Subcommittee
Friday, April 29, 2011
10:30 a.m. – 11:00 a.m.

Education Task Force Luncheon
Sponsored by K-12
Friday, April 29, 2011
12:30 p.m. – 1:30 p.m.

Education Task Force Meeting
Friday, April 29, 2011
2:00 p.m. – 5:00 p.m.

About the 35-Day Mailing
The 35-Day Mailing comprises the information you will need for ALEC’s 2011 Spring Task Force Summit. Please review all agendas, proposed legislation, and Task Force operating procedures to be an active discussant in legislation review and policy presentations.
In addition to receiving the 35-Day Mailing via e-mail, you may also access it on the Education Task Force’s webpage at www.alec.org (click on the “Task Force Member Area” tab). Keep in mind that you will need your ALEC username and password to access the 35-Day Mailing material online. If you don’t have an ALEC login, or if you would like to change your username and password, contact Briana Mulder at (202) 742-8507 or at bmulder@alec.org.

**Registration**
The deadline to register and get housing for ALEC’s Spring Task Force Summit in Cincinnati on April 28-29 has been extended. You have until April 6th to get a room at the conference rate and receive a $50 discount on registration.

You can register for the Spring Task Force Summit by visiting ALEC’s website at www.alec.org. You may also register by faxing in the enclosed registration form to (202) 331-1344, or by calling (202) 742-8538.

**Enclosed Materials**
You will find these materials in the following pages:

- Registration and Housing Forms
- Agenda-At-A-Glance
- Education Task Force Overview
- Agenda for the Higher Education Subcommittee
- Agenda for the K-12 Education Reform Subcommittee
- Agenda for Education Task Force Luncheon
- Agenda for the Education Task Force Meeting
- Draft Meeting Minutes from ALEC’s 2010 States & Nation Policy Summit
- Proposed Model Legislation:
  - **Higher Education Transparency Act**
    Sponsored by Michael Poliakoff, ACTA
  - **Education Savings Account Act**
    Sponsored by Scott Jensen, Alliance for School Choice
  - **Performance Audit Act**
    Sponsored by Harry Stille, Evergreen Freedom Foundation
- Education Task Force Roster
- ALEC’s Mission Statement, Scholarship Policy by Meeting, and Task Force Operating Procedures

**Questions?**
I look forward to seeing you next month in Cincinnati! If you have any questions or concerns regarding the meeting, feel free to contact me at dmyslinski@alec.org or (202) 742-8531.
ATTENDEE
REGISTRATION / HOUSING FORM

Early Registration deadline is March 23, 2011
Housing cut-off date is March 23, 2011

ATTENDEE INFORMATION

Last Name _________________________________________ First Name ______________________________ Middle Initial _____ Badge Nickname ____________________

Organization
Title ____________________________________________ ___________________________________________________ ________________________________________________

□   Non-Profit Non-Member (501(c)(3) status required)
□  Quad
□  Dbl/Dbl
□  Single

* All rates DO NOT include 17% STATE tax/ CITY OCCUPANCY tax. (subject to change)

□   Government rate Not Available

□   I do not require a reservation at this time.

□   ALEC Legacy Member
□   ALEC Legislative Member/ Non-Task Force Member
□   ALEC Legislative Task Force Member

**Save $50 on registration by booking your hotel room in ALEC’s headquarter hotel**

REGISTRATION

□   ALEC Legislative Task Force Members
□   ALEC Private Sector Task Force Voting Member
□   ALEC Legislative Member/ Non-Task Force Member
□   Private Sector Member/ Non-Task Force Member
□   Legislative/ Non-Member
□   Private Sector/ Non-Member
□   ALEC Non-Profit Member (501(c)(3) status required)
□   Non-Profit Member (501(c)(3) status required)
□   Legislative Staff / Government
□   ALEC Legacy Member

METHOD OF REGISTRATION PAYMENT

Credit Card: Credit cards will be changed immediately. Please fax to the above number for processing.

□   Amer Express □ Visa □ MasterCard

□   Other: ____________________________

Promo Code ______________
TOTAL REGISTRATION FEES: $ __________

Note: Registration forms with enclosed payments must be postmarked by March 23, 2011, to be eligible for early registration rates. Forms and/or payments received after March 23, 2011, will be subject to the on-site registration rate. If registering after March 23, 2011, please bring completed form and payment to register on-site.

REGISTRATION CANCELLATION / REFUND INFORMATION

Online registrants will receive immediate email confirmation. If registering by form, confirmation will be emailed, faxed, or mailed within 72 hours of receipt of payment.

Reservations cancelled prior to 5pm Eastern March 23, 2011 are subject to a $100 cancellation fee. Registrations are non-refundable after 5pm Eastern March 23, 2011.

REGISTRATION / HOUSING FORM

Hilton Cincinnati Netherland Plaza - Cincinnati, OH

April 28-29, 2011

Housing cut-off date is March 23, 2011

□   Non-Profit Non-Member (501(c)(3) status required)
□  Quad
□  Dbl/Dbl
□  Single

**Save $50 on registration by booking your hotel room in ALEC’s headquarter hotel**

METHOD OF HOUSING RESERVATION

□   Please use the same method of payment as above.

Credit Card: Credit cards will be used to guarantee the reservation.

□   Amer Express □ Visa □ MasterCard □ Discover

□   Other: ____________________________

Exp Date (mm/yy) __________ Security Code __________

Note: Cutoff for reservations at the ALEC rate is March 23, 2011. After March 23, 2011, every effort will be made to accommodate new reservations, based on availability and rate.

HOUSING CONFIRMATION INFORMATION

Online reservations will receive immediate email confirmation. Reservations received by form will be confirmed via email, fax, or mail within 72 hours of receipt.

Housing cut-off date is March 23, 2011

**Save $50 on registration by booking your hotel room in ALEC’s headquarter hotel**

□   I do not require a reservation at this time.

Arrival Date ______________ Departure Date ______________
□   Sharing room with ______________

□   Special requests

□   ADA room required: __________ Audio __________ Visual __________ Mobile

□   Rollaway / crib:

□   Other: ____________________________

□   ADA room required:

Government rate Not Available

* All rates DO NOT include 17% STATE tax/ CITY OCCUPANCY tax. (subject to change)

Note: Cutoff for reservations at the ALEC rate is March 23, 2011. After March 23, 2011, every effort will be made to accommodate new reservations, based on availability and rate.

METHOD OF HOUSING RESERVATION

□   Please use the same method of payment as above.

Credit Card: Credit cards will be changed immediately. Please fax to the above number for processing.

□   Amer Express □ Visa □ MasterCard □ Discover

□   Other: ____________________________

Exp Date (mm/yy) __________ Security Code __________

Checks: Payment must be in U.S. currency drawn on a U.S. bank. Please make check payable to ALEC Registration and send to above address.

Note: Cutoff for reservations at the ALEC rate is March 23, 2011. After March 23, 2011, every effort will be made to accommodate new reservations, based on availability and rate.
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<td><strong>Friday, April 29</strong></td>
<td>Registration</td>
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<td>ALEC Joint Board of Directors Meeting</td>
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<td>Workshop: Budget Transparency</td>
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<td><strong>Task Force Meetings</strong></td>
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<td>Telecommunications and Information Technology</td>
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<td><strong>Spring Task Force Summit Reception</strong></td>
<td>5:00 p.m. - 6:30 p.m.</td>
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<td>Board of Directors Dinner</td>
<td>7:00 p.m. - 9:00 p.m.</td>
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*by invitation only*
Education Task Force
2011 Overview
www.alec.org/Education

Task Force Mission Statement:

To promote excellence in the nation’s educational system by advocating education reform policies that promote parental choice and school accountability, consistent with Jeffersonian principles of free markets and federalism.

Executive Committee Members

Public Sector Chair: Rep. David Casas, Georgia
Private Sector Chair: Ms. Mickey Revenaugh, Connections Academy

Public Sector Members:
– Sen. Nancy Spence, Colorado, Immediate Past Chair

Private Sector Members:
– Kevin Corcoran, Lumina Foundation for Education, Higher Education Subcommittee
– Tim Keller, Institute for Justice, K-12 Education Reform Subcommittee
– Don Lee, K12, Digital Learning Subcommittee
– Robert Enlow, The Foundation for Educational Choice, Immediate Past Chair

Task Force Subcommittees:

1) Higher Education
2) K-12 Education Reform
3) Digital Learning

Issue Areas:

1) Digital and distance learning
2) Higher education
3) Parental choice in education
4) Private sector involvement in education
5) School funding
6) Teacher certification
7) Teacher salary and performance pay
8) School transparency and accountability
Recent Model Legislation:

**A-Plus Literacy Act** – This bill is a comprehensive set of K–12 reforms written as an omnibus education reform act. This omnibus bill completely incorporates three existing ALEC model bills: the Alternative Teacher Certification Act, the Great Schools Tax Credit Program Act, and the Special Needs Scholarship Program Act in addition to five new ones: A-Plus Accountability and Transparency Program Act, School Recognition Program, Opportunity Scholarships, the Reading is Fundamental Literacy Program, and the AP Success Bonus Plan.

**Credit Articulation Agreements Act** – This bill would require statewide degree transfer agreements to transfer associate of arts degrees and associate of science degrees from one state institution of higher education to another.

**Founding Principles Act** – This bill would require during the high school years the teaching of a semester-long course on the philosophical understandings and the founders’ principles, which are the foundation of our form of government for a free people, as incorporated in the Declaration of Independence, the United States Constitution, and the Federalist Papers.

**Great Teachers and Leaders Act** – This bill reforms the practice of tenure, known as nonprobationary status in some states.

**Higher Education Accountability Act** – This bill would promote transparency in taxpayer-funded public institutions of higher education by requiring them to provide annual information on student and faculty engagement, student achievement, institutional efficiency, and other meaningful gauges of success.

**Parent Trigger Act** – This bill would place democratic control into the hands of parents at school level. Parents can, with a simple majority, opt to usher in one of three choice-based options of reform: (1) transforming their school into a charter school, (2) supplying students from that school with a 75 percent per pupil cost voucher, or (3) closing the school.

**Student-Centered Funding Act** – The bill would create a student-centered finance model based on a weighted student formula in which money “follows” a child to his or her school.

**Virtual Public Schools Act** – This bill would allow the use of computer- and Internet-based instruction for students in a virtual or remote setting.

**Future Direction for Task Force:**

The Education Task Force will continue to promote school choice across the country, using its flagship publication, *Report Card on American Education*, as a framework for
states. The Task Force will also promote reforms in higher education that lead to more quality college graduates with meaningful degrees.

**Task Force Meeting Dates:**

Spring Task Force Summit, Cincinnati, OH  
Friday, April 29, 2011

ALEC’s 38th Annual Meeting, New Orleans, LA  
Friday, August 5, 2011

States & Nation Policy Summit, Scottsdale, AZ  
Thursday, December 1, 2011

**Task Force Publications:**

*Report Card on American Education: Ranking State K-12 Education Performance, Progress, and Reform, 16th Edition*

*Inside ALEC*, Focus on Education (September/October, 2010)

*10 Questions State Legislators Should Ask About Higher Education*

*School Choice and State Constitutions: A Guide to Designing School Choice Programs*

**Staff Contact Info:**

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Director  
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Higher Education Subcommittee Meeting
ALEC’s 2011 Spring Task Force Summit | Friday, April 29, 2011
9:30 a.m. – 10:15 a.m.

**Agenda**

9:30 a.m.  Welcome and Introductions

9:40 a.m.  **Discussion: Higher Education Transparency Act**
Sponsored by Michael Poliakoff, American Council of Trustees and Alumni

10:00 a.m.  **Discussion: Performance Audit Act**
Sponsored by Harry Stille, Evergreen Freedom Foundation

10:15 a.m.  **Good of the Order/Adjournment**
K–12 Education Reform Subcommittee Meeting
ALEC’s 2011 Spring Task Force Summit | Friday, April 29, 2011
10:30 a.m. – 11:00 a.m.

Agenda

10:30 a.m.  Welcome and Introductions

10:35 a.m.  Discussion: Education Savings Account Act
Sponsored by Scott Jensen, American Federation for Children

11:00 a.m.  Good of the Order/Adjournment
Education Task Force Luncheon
Sponsored by K¹²
ALEC’s 2011 Spring Task Force Summit
Hilton Cincinnati Netherland Plaza | Friday, April 29, 2011
12:30 p.m. – 1:30 p.m.

**Agenda**

**12:30 p.m.**  Buffet Luncheon  
Please serve yourself

**12:45 p.m.**  Plenary Speaker  
Bryan Flood, Senior Vice President, Public Affairs, K¹²

**1:30 p.m.**  Networking Break

**2:00 p.m.**  Task Force Meeting Convenes
Education Task Force Meeting
ALEC’s 2011 Spring Task Force Summit | Friday, April 29, 2011
2:00 p.m. – 5:00 p.m.

Agenda

2:00 p.m. Welcome and Introductions
Sen. Nancy Spence, Colorado, Acting Public Sector Task Force Chair
Ms. Mickey Revenaugh, Connections Academy, Private Sector Task Force Chair

2:10 p.m. Subcommittee and Executive Committee Introduction
Ms. Mickey Revenaugh, Connections Academy, Private Sector Task Force Chair

2:25 p.m. Presentation: Current State of Higher Education
Michael Poliakoff, American Council of Trustees and Alumni

2:40 p.m. Discussion and Voting: Higher Education Transparency Act
Sponsored by Michael Poliakoff, American Council of Trustees and Alumni
Moderated by Ms. Mickey Revenaugh, Connections Academy, Private Sector Task Force Chair

3:00 p.m. Presentation: Competency-Based Learning
Susan Patrick, International Association of K–12 Online Learning (iNACOL)

3:15 p.m. Presentation: 25 Ways to Reduce Costs
Dr. Richard Vedder, The Center for College Affordability and Productivity

3:30 p.m. Discussion and Voting: Performance Audit Act
Sponsored by Harry Stille, Evergreen Freedom Foundation
Moderated by Ms. Mickey Revenaugh, Connections Academy, Private Sector Task Force Chair

3:50 p.m. Presentation: Private School Choice Across the States
Scott Jensen, American Federation for Children

4:05 p.m. Discussion and Voting: Education Savings Account Act
Sponsored by Scott Jensen, American Federation for Children
Moderated by Ms. Mickey Revenaugh, Connections Academy, Private Sector Task Force Chair

4:25 p.m. Presentation: Disruptive Innovation
Michael Horn, Innosight Institute – Invited

4:45 p.m. Presentation: State Authorization
Melissa Garrett, Bridgepoint

5:00 p.m. Good of the Order/Adjournment
Legislative Members in Attendance (18)
Rep. Eric Burlison, Missouri Legislature
Rep. Harry Brooks, Tennessee General Assembly
Rep. Kevin Brooks, Tennessee General Assembly
Sen. Barbara Cegavske, Nevada Legislature
Rep. Ann Coody, Oklahoma Legislature
Rep. Greg Forristall, Iowa Legislature
Sen. Don Gustavson, Nevada Legislature
Rep. Joe Harrison, Louisiana Legislature
Rep. Tim Jones, Missouri Legislature
Rep. Wes Keller, Alaska Legislature
Rep. Sally Kern, Oklahoma Legislature
Rep. Merlynn Newbold, Utah Legislature
Rep. Cindy Noe, Indiana Legislature
Sen. Nancy Spence, Colorado Legislature
Rep. Matthew Teeters, Wyoming Legislature
Sen. Don Vaughan, North Carolina General Assembly

Private Sector Members in Attendance (21)
John Carreon, Kaplan Higher Education
Paul DeGiusti, Corinthian Colleges, Inc
Ben DeGrow, Independence Institute
Liv Finne, Washington Policy Center
Melissa Garrett, Bridgepoint Education
Seth Gerson, National Board for Professional Teaching Standards
David Hansen, National Association of Charter School Authorizers
Leslie Hiner, Foundation for Educational Choice
Collin Hitt, Illinois Policy Institute
Matt Ladner, Goldwater Institute
Ken Meyer, Scantron
Vicki Murray, Pacific Research Institute
Clark Neily, Institute for Justice
Brian Newman, Association of Private Sector Colleges & Universities
Matt Oestriech, Heartland Institute
Michael Poliakoff, American Council of Trustees and Alumni
Mickey Revenaugh, Connections Academy
Harry Stille, Higher Education Research/Policy Center
Terry Stoops, John Locke Foundation
Michael Van Beek, Mackinac Center for Public Policy
Meeting began at 2:30 p.m.

The meeting began with an introduction by Task Force Chairs Sen. Nancy Spence and Mickey Revenaugh, followed by the recognition of new ALEC private sector members, Heartland Institute, Kaplan, Scantron, and National Board for Professional Teaching Standards.

Education Task Force members considered the *A-Plus Literacy Act*, sponsored by Dr. Matthew Ladner of the Goldwater Institute. After discussion, the legislation passed both the public sector and the private sector unanimously. The *A-Plus Literacy Act* was approved.

Education Task Force members considered amendments to ALEC’s *Open Enrollment Act*, sponsored by Ben DeGrow of the Independence Institute. After discussion, the amendments passed both the public sector and the private sector unanimously. The amendments to ALEC’s *Open Enrollment Act* were approved.

Education Task Force members considered the *Resolution in Support of Private Sector Colleges and Universities*, sponsored by Melissa Garrett of Bridgepoint Education. After discussion, the resolution passed both the public sector and the private sector unanimously. The *Resolution in Support of Private Sector Colleges and Universities* was approved.

Finally, Education Task Force members considered the *Parent Trigger Act*, sponsored by Marc Oestreich of the Heartland Institute. After discussion, the legislation passed both the public sector and the private sector unanimously. The *Parent Trigger Act* was approved.

The meeting adjourned at 5:30 p.m.
Higher Education Transparency Act

Summary

This act details information required of institutions of higher education to publish on their public website.

Model Legislation

AN ACT relating to requiring a public institution of higher education to establish uniform standards to make certain information available on the Internet.

Be it enacted by the legislature of [STATE]:

Section 1. {Internet Access to Course Information.}

(A) Each institution of higher education, other than a medical and dental unit, as defined by [STATE], shall make available to the public on the institution's Internet website the following information for each undergraduate classroom course offered for credit by the institution:

(1) A syllabus that:

(a) Satisfies all relevant academic standards adopted by the institution;

(b) Provides a brief description of each major course requirement, including each major assignment and examination;

(c) Lists all required or recommended reading;

(d) Provides a general description of the subject matter of each lecture or discussion; and

(e) Lists all guest lecturers, special presentations, and any assigned out-of-class activities.

(2) A curriculum vitae of each regular instructor that lists the instructor's:

(a) Postsecondary education;

(b) Teaching experience; and

(c) Significant professional publications;
(3) If available, a departmental budget report for the department under which the course is offered, from the most recent semester or other academic term during which the institution offered the course, showing operational expenses.

(4) The distribution of final grades in the course for the most recent semester in which it was offered; and

(5) A curriculum vitae made available on the institution's Internet website under Section (1) may not include any personal information, including the instructor's home address or home telephone number.

(6) The information required by must be:

(a) accessible from the institution's Internet website home page by use of not more than three links;

(b) searchable by keywords and phrases; and

(c) accessible to the public without requiring registration or use of a user name, a password, or another user identification.

(7) The institution shall make the information required by Subsection (a) available not later than the seventh day after the first day of classes for the semester or other academic term during which the course is offered. The institution shall continue to make the information available on the institution's Internet website until at least the second anniversary of the date on which the institution initially posted the information.

(8) The institution shall update the information required by Section 1 as soon as practicable after the information changes.

(9) The governing body of the institution shall designate an administrator to be responsible for ensuring implementation of this section. The administrator may assign duties under this section to one or more administrative employees.

(10) Not later than January 1 of each odd-numbered year, each institution of higher education shall submit a written report regarding the institution's compliance with this section to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over higher education.

(11) [As applicable, the [state] Coordinating Board may adopt rules necessary to administer this section].

Section 2. [Insert appropriate reference]Education Code, as added by this Act, applies beginning with the [year] fall semester.
Section 3. {Severability clause.}

Section 4. {Repealer clause.}

Section 5. {Effective Date.} This Act takes effect immediately.

N.B. A bill containing these provisions and more, H.B. No. 2504, was passed by the Texas House on May 8, 2009, by the following vote: Yeas 138, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2504 on May 29, 2009, by the following vote: Yeas 143, Nays 0, 1 present, not voting. H.B. No. 2504 was passed by the Senate, with amendments, on May 27, 2009, by the following vote: Yeas 31, Nays 0.
**Education Savings Account Act**

**Summary**

The Education Savings Account Act allows parents to use the funds that would have been allocated to their child at their resident school district for an education program of the parents’ choosing.

**Model Legislation**

**Section 1. {Title.} The Education Savings Account Act**

**Section 2. {Definitions.}**

(A) “Program” means The Education Savings Account program created in this subchapter.

(B) “Eligible student” means any elementary or secondary student who was eligible to attend a public school in [state] in the preceding semester or is starting school in [state] for the first time and is a member of a household whose total annual income does not exceed an amount equal to 2.5 times the income standard used to qualify for a free or reduced-price lunch under the national free or reduced-price lunch program established under 42 USC Section 1751 et seq.

(C) “Parent” means a resident of this state who is a parent, guardian, custodian, or other person with the authority to act on behalf of the child.

(D) “Department” means the state Department of Public Instruction or an organization chosen by the state.

(E) “Resident school district” means the public school district in which the student resides.

(F) “Participating school” means any private school that provides education to elementary and/or secondary students and has notified the Department of its intention to participate in the program and comply with the program’s requirements.

(G) “Private tutoring” means tutoring services provided by tutors accredited by a regional or national accrediting organization.

(H) “Eligible postsecondary institution” means a community college, an accredited university or an accredited private postsecondary institution.

**Section 3. {Basic Elements of The Education Savings Account Act.}**
(A) Any parent of an eligible student shall qualify for the state to make a grant to their child’s education savings account if the parents sign an agreement promising:

1. To provide an education for the eligible student in at least the subjects of reading, grammar, mathematics, social studies, and science;

2. Not to enroll their eligible student in a district or charter school.

(B) The state shall deposit into an Education Savings Account some or all of the state aid that would otherwise have been provided to the resident school district for the eligible student had they enrolled in the resident school district;

(C) Parents participating in the Education Savings Account program shall agree to use the funds deposited in their eligible student’s accounts for the following qualifying expenses to educate the eligible student:

1. Tuition and fees at a participating school.

2. Textbooks required by a participating school.

3. Payment to a licensed or accredited tutor.

4. Payment for purchase of curriculum.

5. Tuition or fees for a non-public online learning program.

6. Fees for national norm-referenced examinations, Advanced Placement examinations or similar courses, and any examinations related to college or university admission.

7. Contribution to the eligible student’s qualified tuition program established pursuant to 11 USC Section 529.

8. Educational services for pupils with disabilities from a licensed or accredited practitioner or provider.

9. Tuition and fees at an eligible postsecondary institution.

10. Textbooks required for college or university courses.

11. Fees for account management by private financial management firms approved by the Department.

(D) Grant amounts to Education Savings Accounts shall be calculated according to the following schedule:
(1) For students from households qualifying for the federal free or reduced-price lunch program, the amount granted to the student’s Education Savings Account shall be equal to the dollar amount the resident school district would have received to serve and educate the eligible student from state sources had the student enrolled there.

(2) For students from households with an annual income greater than the amount required to qualify for the free or reduced-price lunch program but less than 1.5 times that amount, the amount granted to the student’s Education Savings Account shall be equal to seventy-five percent of the dollar amount the resident school district would have received to serve and educate the eligible student from state sources had the student enrolled there.

(3) For students from households with an annual income greater than 1.5 times the amount required to qualify for the free or reduced-price lunch program but less than 2.0 times that amount, the amount granted to the student’s Education Savings Account shall be equal to fifty percent of the dollar amount the resident school district would have received to serve and educate the eligible student from state sources had the student enrolled there.

(4) For students from households with an annual income greater than 2.0 times the amount required to qualify for the free or reduced-price lunch program but less than 2.5 times that amount, the amount granted to the student’s Education Savings Account shall be equal to twenty-five percent of the dollar amount the resident school district would have received to serve and educate the eligible student from state sources had the student enrolled there.

(E) A participating school, private tutor, eligible postsecondary institution or other educational provider may not refund, rebate, or share a student's grant with a parent or the student in any manner. The funds in an Education Saving Account may only be used for educational purposes.

(F) Parents will be allowed to make payments for the costs of educational programs and services not covered by the funds in their accounts.

(G) A participating student shall be counted in the enrollment figures for his or her resident school district for the purposes of calculating state aid to the resident school district. The funds needed for a grant to an Education Savings Account shall be subtracted from the state school aid payable to the student's resident school district.

Section 4. {Administration of the Education Savings Account Act.}

(A) The Department\textsuperscript{5} will qualify private financial management firms to manage Education Savings Accounts.
(B) The Department will have the authority to conduct or contract for the auditing of accounts, and will at a minimum conduct random audits of accounts on an annual basis. The Department will have the authority to make any parent of an eligible student ineligible for the Education Savings Account program in the event of substantial misuse of the funds in the account.

(C) The Department will have the authority to refer cases of substantial misuse of funds to law enforcement agencies for investigation if evidence of fraudulent use of an account is obtained.

(D) The Department shall provide parents of participating students with a written explanation of the allowable uses of education savings accounts, the responsibilities of parents and the duties of the Department.

(E) The Department may deduct an amount from the grants to education savings accounts to cover the costs of overseeing the accounts and administering the program up to a limit of 3 percent.

(F) The Department shall establish reasonable fees for private financial management firms participating in the program based upon market rates.

(G) The Department shall make payments to eligible students’ Education Savings Accounts on a quarterly basis.

Section 5. {Accountability Standards for Participating Schools.}

(A) Administrative Accountability Standards. To ensure that students are treated fairly and kept safe, all participating, private schools shall:

(1) Comply with all health and safety laws or codes that apply to private schools;

(2) Hold a valid occupancy permit if required by their municipality;

(3) Certify that they comply with the nondiscrimination policies set forth in 42 USC 1981; and

(4) Conduct criminal background checks on employees. The participating school then shall:

(a) Exclude from employment any people not permitted by state law to work in a private school; and

(b) Exclude from employment any people that might reasonably pose a threat to the safety of students.
(B) Financial Accountability Standards. To ensure that funds are spent appropriately, all participating schools shall:

1. Provide parents with a receipt for all qualifying expenses at the school.

2. Demonstrate their financial viability by showing they can repay any funds that might be provided from Education Savings Accounts, if they are to receive $50,000 or more during the school year, by:

   (a) Filing with the Department prior to the start of the school year a surety bond payable to the state in an amount equal to the aggregate amount of the funds from Education Savings Accounts expected to be paid during the school year from students admitted at the participating school; or

   (b) Filing with the Department prior to the start of the school year financial information that demonstrates the school has the ability to pay an aggregate amount equal to the amount of the funds from Education Savings Accounts expected to be paid during the school year to students admitted to the participating school.\(^8\)

(C) Academic Accountability Standards. In order to allow parents and taxpayers to measure the achievements of the program:

1. Parents shall ensure that:\(^9\)

   (a) Each year their eligible student takes either the state achievement tests or nationally recognized norm-referenced tests that measure learning gains in math and language arts;

   (b) The results of these tests are provided to the state or an organization chosen by the state on an annual basis,\(^10\) beginning with the first year of testing;

   (c) The student information is reported in a way that would allow the state to aggregate data by grade level, gender, family income level, and race; and

   (d) The state or an organization chosen by the state will be informed of the eligible student’s graduation from high school.

2. The state or an organization chosen by the state shall:

   (a) Ensure compliance with all student privacy laws;

   (b) Collect all test results; and
(c) Provide the test results, associated learning gains and graduation rates to the public via a state Web site after the third year of test and graduation-related data collection. The findings shall be aggregated by the students' grade level, gender, family income level, number of years of participation in the scholarship program, and race.

(D) Participating School Autonomy. A participating private school is autonomous and not an agent of the state or federal government and therefore:

(1) The Department or any other state agency may not in any way regulate the educational program of a participating private school or education provider that accepts funds from an education savings account;

(2) The creation of The Education Savings Account Program does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools or education providers beyond those necessary to enforce the requirements of the program; and

(3) Participating private schools and education providers shall be given the maximum freedom to provide for the educational needs of their students without governmental control.

Section 6. {Responsibilities of the Department of Public Instruction.}

(A) The Department shall ensure that eligible students and their parents are informed annually of which schools will be participating in the Education Savings Account Program. Special attention shall be paid to ensuring that lower-income families are made aware of the program and their options.

(B) The Department shall create a standard form that parents of eligible students can submit to establish their student’s eligibility for the Education Savings Account Program. The Department shall ensure that the application is readily available to interested families through various sources, including the Internet.

(C) The Department may bar a participating school or education provider from the Education Savings Account Program if the Department establishes that the participating school or education provider has:

(1) Routinely failed to comply with the accountability standards established in Section 5; or

(2) Failed to provide the eligible student with the educational services funded by the Education Savings Account.
(D) If the Department decides to bar a participating school or education provider from the program, it shall notify eligible students and their parents of this decision as quickly as possible.

(E) The Department shall adopt rules and procedures as necessary for the administration of the Education Savings Account Program.

Section 7. {Responsibilities of Resident School Districts.}

(A) The resident school district shall provide a participating school or education provider that has admitted an eligible student under this program with a complete copy of the student's school records, while complying with the Family Educational Rights and Privacy Act of 1974 (20 USC Section 1232 g).

(B) The resident school district shall provide transportation for an eligible student to and from the participating school or education provider under the same conditions as the resident school district is required to provide transportation for other resident students to private schools as per current law. The resident school district will qualify for state transportation aid for each student so transported.

Section 8. {Effective Date.} The Education Savings Account Program will be in effect beginning with the fall semester of the next school year.

Endnotes

These notes are intended

1 The definition for an eligible student in this model legislation includes all children of school age. The authors believe that all children should receive public support for their education regardless of whether they attend a public or private school, whether they are just starting school, or have already dropped out. Please note that this inclusive definition will significantly increase the number of students in your state receiving public support for their education and thereby either increase the costs to taxpayers or reduce the level of assistance available to support each student. Legislators wishing to draft a bill that saves money will want to limit eligibility largely to students who attended a public school in the semester prior to first receiving a grant to their Education Savings Account. Because many of the grants to Education Savings Accounts will be less than what the state would have spent on the student’s behalf at their public school of residence, the state will achieve a savings that would make it possible to extend these accounts to additional students including children who are attending school in the state for the first time (such as kindergartners and new residents) or existing private school students in the “school entry grades” of kindergarten and ninth grade.

2 This bill designates the Department of Public Instruction as the agency regulating the Education Savings Account Act. The intent was to name the existing agency in the state that is responsible for public school finances and private school regulation. Alternatively, legislators may choose to consider other capable departments, create a new small agency, or contract with a private nonprofit organization to oversee the program if they are concerned about the hostility the program would face from the existing state education department.

3 This model legislation allows students to use the funds in their Education Savings Account to attend a private school. The authors support giving parents the widest possible array of choices so that they can choose the education that best meets their child’s needs. In states without open enrollment programs
individuals who share their religious beliefs. National origin, or disability, take care not to interfere with the ability of religious institutions to hire someone with a criminal background who they believe is no longer a threat to students, such as someone who committed nonviolent crimes or has decades-old violations followed by a clean record. This language would give schools the flexibility to do background checks and the power to exclude potential risks from the school.

The model legislation provides two methods for schools to demonstrate financial viability to ensure that funds from Education Savings Accounts are secure. The first method employs a market-based means of demonstrating viability. Private companies that issue surety bonds have a financial interest in making sure that the schools can repay any funds that might be owed the parents. They will therefore conduct the checks necessary to protect their financial interest as well as the interests of the parents and the taxpayers. Surety bonds can be expensive (one to three percent of the amount covered) or invasive for some institutions, so the legislation allows schools to demonstrate by some other means that they have the financial wherewithal to pay back any amount they might owe the parents. This might include things like personal guarantees, reserve accounts, or escrow accounts.

The authors believe that empowered parents are the best way to achieve academic accountability. Clear and consistent information about the academic performance of participating students will help empower parents and will also provide the public and policymakers with the information they need to evaluate the effectiveness of the program. Therefore, all participating students should be required to annually take either the state achievement tests or nationally recognized norm-referenced tests that demonstrate learning gains in math and language arts. Most private schools already administer such norm-referenced tests so this provision should not be seen as burdensome.

Like in Endnote 2, if legislators are concerned about the hostility the program would face from the existing Department of Public Instruction, they may choose to create a new small agency or contract with a private nonprofit organization to administer the program.

The purpose of administering the tests is to create transparency in participating students’ academic progress and to demonstrate learning gains. These learning gains can only be demonstrated when the public has access to more than one school year. When this information is made public in the first year, the media and opponents often attack school choice programs, noting that participating students are not performing as well as their public school counterparts. This effect is natural because often the students who participate in choice programs are not doing well in their existing public schools and are academically far behind their participating school counterparts, and it will take them a few years to catch up to grade level.

Legislators sincerely wishing to demonstrate the program's academic success to taxpayers could require a scientific evaluation of the program using the testing data established in Section 5(C). It is crucial that the legislature give the oversight responsibility for this study to a trusted objective nonpartisan source like a
legislative service agency or a trusted research university department. We have provided model language for such an independent evaluation of the program in Section X below. The outlined research would evaluate whether students who participate in the program are better off than a similar cohort in the public schools for at least five years of their education. Unfortunately, a longitudinal study is likely to be quite expensive. Accordingly, the legislation allows the legislature (or a legislative service agency) to accept private grants to completely fund such a study. In some states, the legislature is not allowed to accept such grants, and another trusted agency would have to be selected. It will be tempting for legislators to further define the details of the study, but they should take care not to dictate the methodology or the results in order to maintain the credibility of the research.

13 The legislation allows schools to occasionally fail to meet an accountability standard so that an antagonistic regulator cannot shut down the program by banning schools with a modest occasional violation such as turning in a report late.

Section X: {Evaluation of the Parental Choice Scholarship Program}

(A) The Legislative Service Agency may contract with one or more qualified researchers who have previous experience evaluating school choice programs to conduct a study of the program with funds other than state funds.

(B) The study shall assess:

(1) the level of participating students’ satisfaction with the program;

(2) the level of parental satisfaction with the program;

(3) the fiscal impact to the state and resident school districts of the program;

(4) the impact of the program on public and private school capacity, availability and quality; and

(5) participating students’ academic performance and graduation rates in comparison to students who applied for a scholarship under this program but did not receive one because of random selection.

(C) The researchers who conduct the study shall:

(1) apply appropriate analytical and behavioral science methodologies to ensure public confidence in the study;

(2) protect the identity of participating schools and students by, among other things, keeping anonymous all disaggregated data other than that for the categories of grade level, gender and race and ethnicity; and

(3) provide the legislature with a final copy of the evaluation of the program.

(D) The relevant public schools and the parents of participating students shall cooperate with the research effort by providing student assessment results and any other data
necessary to complete this study.

(E) The Legislative Service Agency may accept grants to assist in funding this study.

(F) The study shall cover a period of at least five years. The legislature may require periodic reports from the researchers. After publishing their results, the researchers shall make their data and methodology available for public review, while complying with the requirements of the Family Educational Rights and Privacy Act (20 USC Section 1232 g).

Additional Note:

It is fairly common for legislators to consider including severability clauses in new legislation. Legislators should make sure that if such clauses are included and exercised, the remaining legislation produces a program that is workable and achieves the original intent of the bill.
Higher Education Performance Audit Act

Summary

Public higher education institutions function totally from the state appropriations (taxpayer), student tuition and fees, gifts from donors, awards for research and auxiliary funds or gifts through those operations. It is imperative that these public funds expended are accounted for in open transparency form to allow the general public and students to see both the income and expenditures for which they are paying. This Act would define the scope for outcome-based higher education audits in part by seeking answers to questions relating to institutions’ missions, structures, costs, and overall academic results. This would create an open accounting for these public funds and their efficient use in performance of the services of these public institutions for the public benefit.

Model Legislation

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American Legislative Exchange Council

Thursday, March 31, 2011

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Mission Statement

The American Legislative Exchange Council’s mission is…

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

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

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

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

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

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

ALEC Annual Meeting:

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

ALEC States & Nation Policy Summit:

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

ALEC Academies:

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

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 or any form of electronic communication on any action pertaining to policy statements, model legislation or educational activity. The deadline for the receipt of votes can be no earlier than thirty-five days after notification of the vote is mailed or faxed or notified by any form of electronic communication, unless an emergency situation is declared pursuant to Section VIII (H), in which case the deadline can be no earlier than ten days after notification is mailed or faxed or notified by any form of electronic communication. Such votes are exempt from all rules in Section VIII, except: (1) the requirement that copies of model legislation and policy statements be mailed or faxed or notified by any form of electronic communication with the notification of the vote and (2) the requirement that a majority of legislative members voting and a majority of the private sector members voting, polled separately, is required to approve any action by a Task Force.

H. For purposes of Sections VIII(A), (B) and (G), an emergency situation can be declared by:

1. Unanimous vote of all members of the Task Force Executive Committee present at an Executive Committee meeting prior to the meeting at which the Task Force votes on the model bill, resolution or policy statement; or

2. At least three-fourth majority vote of the legislative and private sector Task Force members (voting in accordance with Section VIII (F)) present at the meeting at which the members vote on the model bill, resolution or policy statement.
I. Ten Task Force members shall constitute a quorum for a Task Force meeting. One-half of the legislative and one-half of the private sector members of an Executive Committee shall constitute a quorum for an Executive Committee meeting.

IX. **REVIEW AND ADOPTION PROCEDURES**

A. All Task Force policy statements, model bills or resolutions shall become ALEC policy either: (1) upon adoption by the Task Force and affirmation by the Board of Directors or (2) thirty days after adoption by the Task Force if no member of the Board of Directors requests, within those thirty days, a formal review by the Board of Directors. General information about the adoption of a policy position may be announced upon adoption by the Task Force.

B. The Executive Director shall notify the Board of Directors of the approval by a Task Force of any policy statement, model bill or resolution within ten days of such approval. Members of the Board of Directors shall have thirty days from the date of Task Force approval to review any new policy statement, model bill or resolution prior to adoption as official ALEC policy. Within those thirty days, any member of the Board of Directors may request that the policy be 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
 o Opponents arguments

  o 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.
    o Task Force Chair(s) will be invited to attend the Board Review
    o Task Force Chair(s) will decide who will present in support and in 
      opposition for the model bill/resolution before the Board.
    o Twenty minutes that is equally divided will be given for both sides to 
      present before the Board.
    o It is suggested that the Board not take more than twenty minutes to ask 
      questions of the presenters.
    o Presenters will then be excused and the Board will have a suggested 
      twenty more minutes for discussion and vote.
    o All votes will be recorded for the official record.

  o 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.
MEMORANDUM

TO: ENERGY, ENVIRONMENT AND AGRICULTURE TASK FORCE MEMBERS
FROM: TODD WYNN, TASK FORCE DIRECTOR
DATE: April 6, 2011
RE: 35-DAY MAILING—SPRING TASK FORCE SUMMIT

The American Legislative Exchange Council will host its Spring Task Force Summit (STFS) on May 10-11 in Charlotte, NC at the Westin Charlotte. If you have not yet registered for this meeting, please click here for registration information or go to www.alec.org.

The following meetings are of interest to members of the Energy, Environment and Agriculture Task Force:

**Thursday, May 10**
- Registration (1:00pm – 5:30pm)
- Board Dinner (TBD, by invitation only)
- Opening night reception (8:00pm -11:00pm)

**Friday, May 11**
- Registration (7:30 am-3:00pm)
- ALEC Joint Board of Directors Meeting (8:00am-12:15pm, by invitation only)
- Task Force Energy and Agriculture Joint Subcommittee meeting (7:10am-9:15am)
- Energy, Environment and Agriculture Task Force Lunch Meeting (1:00pm-2:00pm)
  Presentation: Energy Cost Impacts on American Families
  Eugene M. Trisko
- Energy, Environment and Agriculture Task Force meeting (2:00pm – 5:20pm)
- Reception (5:30pm-7:00pm)

**The following materials are attached:**
- Agenda for the Energy, Environment and Agriculture Task Force Meeting (1 page)
- Agenda for the Joint Subcommittee Meeting (1 page)
- States and the Nation Policy Summit Task Force Meeting Minutes (1 page)
- Spring Task Force Summit Agenda-at-a-Glance (2 pages)
- Scholarship Policy by Meeting, ALEC Task Force Operating Procedures and ALEC Mission Statement (14 pages)
- Attendee Registration Housing Form and Spouse/Guest Registration Housing Form (2 pages)
- Model Legislation
- Energy, Environment and Agriculture Task Force Roster (not included but available upon request)

**Hotel information:** The Westin Charlotte is located at 601 South College Street, Charlotte, NC 28226. Telephone: 1 866 837 4148. Website: www.westin.com/charlotte

If you have any questions or concerns regarding the meeting, please contact me at (202) 742-8542 or by e-mail twynn@alec.org.

Sincerely,
Todd Wynn
ATTENDEE REGISTRATION / HOUSING FORM

Early registration deadline: April 5, 2012
Housing cut-off date: April 5, 2012

### ATTENDEE INFORMATION

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**Note:** Member fees are subject to verification

#### REGISTRATION INFORMATION

**Registration Fees**

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<td>ALEC Legacy Member</td>
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**Note:** Registration forms with enclosed payments must be received by April 5, 2012 to be eligible for early bird registration rates. Forms and/or payments received after April 5, 2012 will be subject to on-site registration rates.

**REGISTRATION FEE:** $5

### HOUSING RESERVATION CUTOFF FOR ALEC DISCOUNTED RATE IS APRIL 5, 2012

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**Note:** All rates DO NOT include sales tax 15.25% (subject to change)

**METHOD OF HOUSING PAYMENT**

- Please use the same method of payment as above.
- **Credit Card:** Credit Cards will be used to guarantee the reservation.
- Amer Express | Visa | MasterCard | Discover
- Exp Date (mm/yy) | Signature

**HOUSING CANCELLATION / REFUND INFORMATION**

Credit cards will be charged one night room and tax in the event of a no show or if cancellation occurs within 72 hours prior to arrival. Please obtain a cancellation number when your reservation is cancelled.

**Registrations cancelled prior to 5:00 pm Eastern April 5, 2012 are subject to a $100 cancellation fee. Registrations are non-refundable after 5:00 pm Eastern April 5, 2012. Registration fees may be transferred from one registrant to another. All refund requests must be made in writing and sent via email to meetings@alec.org or fax to 202-331-1344.

**REGISTRATION confirmation information**

Online registrants will receive immediate email confirmation. If registering by form, confirmation will be emailed within 72 hours of receipt of payment.
# SPOUSE/GUEST REGISTRATION FORM

## ATTENDEE INFORMATION IS REQUIRED TO REGISTER A SPOUSE OR GUEST

Last Name__________________________ First Name__________________________  
Organization_______________________________________________________________________________________________________________  
Daytime phone_____________________________________________________________________________________________________________

Email (Confirmation will be sent by email) ____________________________________________________________

## SPOUSE / GUEST REGISTRATION GUIDELINES

1. Spouse/guest registration is meant to accommodate legal spouse and immediate family members.
2. Attendees from the same organization must register independently. No exception will be made.
3. Spouse/guest designation will be clearly visible on name badge.

| Last Name │ First Name │ Middle Initial │ Badge Nickname |
|-----------|------------|----------------|--------------|
| Last Name │ First Name │ Middle Initial │ Badge Nickname |
| Last Name │ First Name │ Middle Initial │ Badge Nickname |

## SPOUSE / GUEST REGISTRATION FEES

- **Spouse / Guest** please note name(s) above

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<th>Number of Spouse/Guest(s)</th>
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<td>□ Spouse / Guest</td>
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</table>

**TOTAL**

## METHOD OF SPOUSE / GUEST REGISTRATION PAYMENT

- **Credit Card:** Credit cards will be charged immediately. Please fax to the above number for processing.
- □ Amer Express
- □ Visa
- □ MasterCard

<table>
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<th>Card #</th>
<th>Cardholder (please print)</th>
<th>Exp Date (mm/yy)</th>
<th>Signature</th>
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## REGISTRATION CONFIRMATION INFORMATION

Online registrants will receive immediate email confirmation. If registering by form, confirmation will be emailed within 72 hours of receipt of payment.

## REGISTRATION CANCELLATION / REFUND INFORMATION

Registrations are non-refundable after 5pm Eastern April 5, 2012.


**Thursday, May 10, 2012**
Registration
3:00 p.m. – 7:00 p.m.

NC Welcome Reception
8:30 p.m. – 11:00 p.m.

**Friday, May 11, 2012**
Registration
7:30 a.m. – 2:00 p.m.

Task Force Subcommittee Meetings
8:00 a.m. – 9:45 a.m.
*All Task Force members are welcome and encouraged to attend their Task Force’s Subcommittee meetings.*

Digital Learning Subcommittee
8:15 a.m. – 9:15 a.m.

Energy Subcommittee
8:15 a.m. – 9:15 a.m.

Fiscal Policy Reform Working Group
8:15 a.m. – 9:15 a.m.

Other Subcommittees to be Determined

Workshop
9:30 – 10:45
*All ALEC members are welcome to attend.*

Workshop
11:00 a.m. – 12:15 p.m.
*All ALEC members are welcome to attend.*

Task Force Lunch Meetings
1:00 p.m. – 2:00 p.m.
*Task Forces will each begin serving at 12:45 for luncheon.*

Task Force Meetings
2:00 p.m. – 5:15 p.m.

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

Spring Task Force Summit Reception
6:30 p.m. – 8:30 p.m.
ALEC ENERGY, ENVIRONMENT AND AGRICULTURE
TASK FORCE MEETING
2012 SPRING TASK FORCE SUMMIT
CHARLOTTE, NC
MAY 11, 2012
2:00PM – 5:20PM

TENTATIVE AGENDA

2:00 Call to Order, Welcome, and Introductions
Representative David Wolkins, Indiana
Martin Shultz, Brownstein Hyatt Farber Shreck

2:10 Oil and Gas Prices
John Felmy, American Petroleum Institute

2:30 Model Resolution: Resolution on U.S. Conference of Mayors Climate Protection Agreement Accountability

2:45 Model Legislation: Solar Streamline Permitting Act

3:00 The Importance of Electricity Grid Modernization.
Edison Electric Institute speaker TBD

3:20 Blue Ribbon Commission on America’s Nuclear Future Update
Michael McGarey, Nuclear Energy Institute

3:35 Model Resolution: Resolution Urging Quick Congressional Action on the Recommendations Of The Blue Ribbon Commission on America’s Nuclear Future

3:45 Model Legislation: Intrastate Coal and Use Act

4:00 Model Legislation: Electricity Freedom Act

4:15 The Dirty Truth Behind Reusable Bags
Dr. Charles Gerba

4:35 Model Legislation: Pipeline Replacement and Infrastructure Modernization and Enhancement Act

4:50 Model Resolution: Resolution Supporting a Reasonable Compliance Timeline and Economy-wide Impact Study of EPA’s Mercury and Air Toxics Rule

5:05 Model Resolution: Resolution Urging Passage of the Regulations from the Executive In Need of Scrutiny (REINS) Act

5:20 Adjourn
JOINT ENERGY AND AGRICULTURE SUBCOMMITTEE
2012 SPRING TASK FORCE SUMMIT
CHARLOTTE, NC
FRIDAY, MAY 11, 2012
7:10AM – 9:15AM

TENTATIVE AGENDA

7:10 a.m. Welcome and Introductions
Rep. Tom Lockhart, Wyoming
Michael McGarey, Nuclear Energy Institute

7:15 a.m. Model Legislation: Intrastate Coal and Use Act

7:30 a.m. Unfunded Federal Mandates on States Impacting Agriculture Production
Jeff Case, CropLife America

7:45 a.m. Model Legislation: Electricity Freedom Act

8:00 a.m. Model Legislation: Pipeline Replacement and Infrastructure Modernization and
Enhancement Act

8:20 a.m. Model Resolution: Resolution Supporting a Reasonable Compliance Timeline and
Economy- wide impact study of EPA’s Mercury and Air Toxics Rule

8:35 a.m. Model Legislation: Solar Streamline Permitting Act

8:55 a.m. Model Resolution: Resolution Urging Quick Congressional Action on the
Recommendations Of The Blue Ribbon Commission on America’s Nuclear Future

9:10 a.m. For the Good of the Order

9:15 a.m. Adjournment

As the subcommittee time is limited, two model resolutions will be discussed at the Task Force
meeting in detail versus being introduced at the subcommittee level first. The two resolutions are the
Resolution on U.S. Conference of Mayors Climate Protection Agreement Accountability and the Resolution Urging
Passage of the Regulations from the Executive In Need of Scrutiny (REINS) Act.
Meeting began at 2:00 pm.

The meeting was called to order by Task Force Co-Chairmen Rep. David Wolkins of Indiana and Michael McGarey of the Nuclear Energy Institute, who filled in for Martin Shultz of Brownstein Hyatt Farber Schreck.


The Task Force adopted the resolution introduced by Kyle Rodgers of the American Gas Association, *Resolution on Responsible Resource Development*.

Leonard Gianessi presented on the importance of herbicides for sustainable agriculture.

The Task Force adopted *Resolution Requesting that the Federal Government Confer and Consult with the States on Management of Public Lands and Energy Resources*.

The Task Force adopted the *Disposal and Taxation of Public Lands Act*.

Robert Ferguson of the Science and Public Policy Institute spoke on threats to the U.S. power grid and implications for public policy.


The Task Force adopted the *Resolution in Support of the Keystone XL Pipeline*.

Steve Pociask of the American Consumer Institute presented on a new report regarding economic facts and consumer opinions about expanding domestic energy production.

The Task Force adopted the *Disclosure of Hydraulic Fracturing Fluid Composition Act*.

The meeting adjourned at 5:00 pm.
Resolution Urging Quick Congressional Action on the Recommendations of The Blue Ribbon Commission on America’s Nuclear Future

Whereas, nuclear utility ratepayers throughout the United States have contributed more than $30 billion in fees and interest, as required under the Nuclear Waste Policy Act (NWPA) of 1982, for the sole purpose of removing used nuclear fuel from commercial reactor sites and defense-related high-level radioactive waste from Department of Defense facilities, and

Whereas, the federal government failed to satisfy the statutory requirements of the NWPA to begin accepting used fuel for disposal starting in 1998 and, indeed, has continued to fail to meet the terms of its contracts with U.S. nuclear plant operators, and

Whereas, the Obama Administration has terminated and Congress has ceased funding of all activities related to the license review or further development of a permanent central disposal repository at the Yucca Mountain site in Nevada, which has been the federal government’s only intended destination for used fuel and defense-related waste, and

Whereas, the States of South Carolina and Washington, various communities and other parties remain involved in lawsuits attempting to compel the federal government to meet its obligations under the NWPA, and

Whereas, the President in January, 2010, appointed a Blue Ribbon Commission on America’s Nuclear Future comprised of distinguished American scientists and nuclear policymakers to review various alternative options and make recommendations for future safe management of U.S. commercial used nuclear fuel and defense waste, and

Whereas, The Blue Ribbon Commission has recommended an integrated nuclear fuel management program incorporating: 1) Development of one or more Nuclear Regulatory Commission-licensed private or government-owned centralized interim storage facilities in communities in states that would willingly host such facilities; 2) Continued public and private sector research, development and deployment of used fuel and nuclear waste recycling technologies to close the nuclear fuel cycle in a safe, environmentally responsible, proliferation-resistant and economically viable process; and 3) Assured access by the nuclear waste program to revenues generated by consumers’ continued payments and to existing balances in the Nuclear Waste Fund: and
Whereas, These recommendations from the Blue Ribbon Commission align closely with long-standing policy adopted and endorsed by the American Legislative Exchange Council,

Resolved
Now therefore let it be Resolved that the American Legislative Exchange Council encourages State Legislatures to urge the Obama Administration and the U.S. Congress:

1. To adopt legislation enabling the construction of one or more centralized interim fuel storage facilities through directives to the U.S. Department of Energy and through incentives to interested communities funded through access to the accumulated Nuclear Waste Fund.

2. To recognize there are willing host communities and states that are ready to voluntarily accept used fuel and defense waste shipments.

3. To assure access by the Nuclear Waste Management program to the revenues generated by consumers’ continuing fee payments and to the significant balance in the Nuclear Waste Fund.

4. To enable one or more NRC-licensed private interim storage facilities to meet this long-ignored public policy need.
Resolution on U.S. Conference of Mayors Climate Protection Agreement Accountability

Whereas, in 2005, the United States Conference of Mayors Climate Protection Agreement was created to encourage cities to reduce carbon emissions.

Whereas, the announcement of the Agreement says “supporting mayors pledge to reduce carbon dioxide emissions by 7 percent below 1990 levels by 2012” the levels included in the Kyoto Protocol.

Whereas, emissions in the United States were 7 percent higher in 2009 than 1990. Whereas, only nine states achieved the carbon reductions called for in the Kyoto Protocol.

Whereas, major cities, including Seattle which initiated the Climate Protection Agreement, have failed to meet the Kyoto targets.

Whereas, more than 1,000 cities across the country signed the agreement.

Whereas, the Agreement calls upon cities to “Inventory global warming emissions in City operations and in the community.”

Whereas, the Agreement says the cities’ ability to meet the targets will indicate that the United States should commit itself to significant carbon emissions reductions.

Be it resolved that the cities within the state of ________ which are signatories to the US Conference of Mayors Climate Protection Agreement:

1. Provide evidence by the end of 2012 whether they have achieved the goals outlined in the Agreement, or if they failed to do so.
2. Report the results to the US Conference of Mayors for compilation in a final assessment of the results of the Agreement.
3. Cities that have failed to achieve the target will remove themselves as signatories to the Climate Protection Agreement.
List of Signatories
US Conference of Mayors Climate Protection Agreement

Auburn, AL  Beverly Hills, CA  Laguna Beach, CA  Portola Valley, CA
Bessemer, AL  Burbank, CA  Laguna Hills, CA  Rancho Palos Verdes, CA
Huntsville, AL  Burlingame, CA  Laguna Woods, CA  Redlands, CA
Opelika, AL  Calabasas, CA  Lakewood, CA  Redondo Beach, CA
Selma, AL  Calistoga, CA  Lemoore, CA  Redwood City, CA
Troy, AL  Campbell, CA  Long Beach, CA  Rialto, CA
Tuscaloosa, AL  Capitola, CA  Los Altos, CA  Richmond, CA
Anchorage, AK  Chico, CA  Los Altos Hills, CA  Riverside, CA
Juneau, AK  Chino, CA  Los Angeles, CA  Rohnert Park, CA
North Pole, AK  Chula Vista, CA  Los Gatos, CA  Rolling Hills Estates, CA
Shishmaref, AK  Citrus Heights, CA  Malibu, CA  Sacramento, CA
Sitka, AK  Claremont, CA  Mammoth Lakes, CA  Salinas, CA
Apache Junction, AZ  Cloverdale, CA  Manhattan Beach, CA  San Bernardino, CA
Bisbee, AZ  Colma, CA  Marina, CA  San Bruno, CA
Buckeye, AZ  Concord, CA  Menlo Park, CA  San
Bullhead City, AZ  Cotati, CA  Monterey, CA  San Diego, CA
Flagstaff, AZ  Culver City, CA  Monterey Park, CA  San Fernando, CA
Gilbert, AZ  Cupertino, CA  Moorpark, CA  San Francisco, CA
Goodyear, AZ  Del Mar, CA  Mill Valley, CA  San Gabriel, CA
Mesa, AZ  Dublin, CA  Millbrae, CA  San Jose, CA
Oro Valley, AZ  El Cajon, CA  Monterey, CA  San Leandro, CA
Peoria, AZ  El Cerrito, CA  Montclair, CA  San Luis Obispo, CA
Phoenix, AZ  Elk Grove, CA  Morgan Hill, CA  San Mateo, CA
Tucson, AZ  Fairfax, CA  Morro Bay, CA  San Rafael, CA
Winslow, AZ  Fairfield, CA  Mountain View, CA  Santa Ana, CA
Eureka Springs, AR  Fremont, CA  Napa, CA  Santa Barbara, CA
Fayetteville, AR  Galt, CA  Newark, CA  Santa Clara, CA
Fort Smith, AR  Gilroy, CA  Novato, CA  Santa Cruz, CA
Little Rock, AR  Glendora, CA  Oakland, CA  Santa Monica, CA
North Little Rock, AR  Hayward, CA  Pacific Grove, CA  Santa Rosa, CA
Alameda, CA  Healdsburg, CA  Pacifica, CA  Saratoga, CA
Albany, CA  Hemet, CA  Palm Springs, CA  Sausalito, CA
Aliso Viejo, CA  Hermosa Beach, CA  Palo Alto, CA  Sebastopol, CA
Arcata, CA  Huntington  Paradise, CA
Atascadero, CA  Beach, CA  Pasadena, CA
Atherton, CA  Imperial Beach, CA  Petaluma, CA
Avalon, CA  Irvine, CA  Pleasanton, CA
Beaverton, CA  La Mesa, CA
Benicia, CA  Lafayette, CA
Sierra Madre, CA
Signal Hill, CA
Solana Beach, CA
Sonoma, CA
South San Francisco, CA
Stockton, CA
Sunnyvale, CA
Thousand Oaks, CA
Torrance, CA
Tulare, CA
Vallejo, CA
Visalia, CA
Vista, CA
West Hollywood, CA
West Sacramento, CA
Whittier, CA
Windsor, CA
Winters, CA
Yountville, CA
Yucaipa, CA
Aspen, CO
Basalt, CO
Boulder, CO
Carbondale, CO
Denver, CO
Dillon, CO
Durango, CO
Frisco, CO
Glenwood Springs, CO
Gunnison, CO
Ignacio, CO
Nederland, CO
New Castle, CO
Pagosa Springs, CO
Telluride, CO
Town of Crested Butte, CO
Westminster, CO
Bloomfield, CT
Bridgeport, CT
Easton, CT
Fairfield, CT
Hamden, CT
Hartford, CT
Ledyard, CT
Mansfield, CT
Meriden, CT
Middletown, CT
Milford, CT
New Haven, CT
New London, CT
Newtown, CT
Norwich, CT
Ridgefield, CT
Stamford, CT
Stratford, CT
West Hartford, CT
Willimantic, CT
Dover, DE
Newark, DE
Wilmington, DE
Washington, DC
Atlantic Beach, FL
Aventura, FL
Bonita Springs, FL
Cape Coral, FL
Clearwater, FL
Coconut Creek, FL
Cooper City, FL
Coral Gables, FL
Coral Springs, FL
Cutler Bay, FL
Dania Beach, FL
Davie, FL
Deerfield Beach, FL
Delray Beach, FL
Doral, FL
Edgewater, FL
Fort Lauderdale, FL
Fort Myers, FL
Fort Pierce, FL
Gainesville, FL
Greenacres, FL
Gulfport, FL
Hallandale Beach, FL
Hialeah, FL
Holly Hill, FL
Hollywood, FL
Hypoluxo, FL
Jacksonville, FL
Key Biscayne, FL
Key West, FL
Lake Worth, FL
Lakeland, FL
Largo, FL
Lauderdale Lakes, FL
Lauderhill, FL
Layton, FL
Leesburg, FL
Margate, FL
Melbourne, FL
Miami, FL
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Naples, FL
New Smyrna Beach, FL
North Miami, FL
North Miami Beach, FL
Oakland Park, FL
Orlando, FL
Palm Bay, FL
Palm Beach, FL
Palm Beach Gardens, FL
Palm Beach Shores, FL
Palm Beach Gardens, FL
Parkland, FL
Pembroke Park, FL
Pembroke Pines, FL
Pinecrest, FL
Plantation, FL
Pompano Beach, FL
Port St. Lucie, FL
Sarasota, FL
South Bay, FL
South Miami, FL
St. Augustine Beach, FL
Sunny Isles Beach, FL
Sunrise, FL
Sweetwater, FL
Tallahassee, FL
Tamarac, FL
Tampa, FL
Tarpon Springs, FL
Treasure Island, FL
Vero Beach, FL
West Palm Beach, FL
West Park, FL
Wilton Manors, FL
Alpharetta, GA
Athens, GA
Atlanta, GA
Augusta, GA
Decatur, GA
East Point, GA
Macon, GA
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Solar Streamline Permitting Act

SECTION 1. The Legislature finds and declares all of the following:

A) Various reports show that the permitting costs and process associated with solar distributed generation installation varies widely across jurisdictions in the state.

B) High permitting fees and a lengthy and burdensome permitting process increase the cost of installations and reduce the ability for solar to be deployed across all income spectrums.

C) A streamlined, consistent process for installations of solar distributed generation technology on residential and commercial property will eliminate unnecessary waste and variability across jurisdictions, increase the deployment of solar distributed generation, provide solar customers greater installation ease and create jobs in this state.

D) The state can assist local jurisdictions in deploying this technology by developing statewide building standards and recommendations for the installation of basic solar equipment on residential and commercial property to ensure safe, reasonable and consistent enforcement.

E) The appropriate state commission shall develop a model ordinance and guidelines that can assist local agencies to develop building standards and permitting processes for solar distributed generation technology on residential and commercial property. The commission shall post the model ordinance and guidelines on its internet website.

F) The state encourages local jurisdictions to develop or amend their building standards and permitting processes to ensure there exists a low cost, streamlined process for deployment and installation of solar distributed generation technology on residential and commercial property.

SECTION 2.

A) Option 1: No city, county, or city and county, with a population of over fifty thousand residents (50,000) shall charge solar rooftop permit fees of over five hundred dollars ($500) for residential solar systems and one thousand dollars ($1000) for commercial solar systems.

Option 2: No city, county, or city and county, may charge permit fees to install a solar system that, in aggregate, exceed the lesser of the city or county’s actual costs in issuing the permit or five hundred dollars ($500) for a residential application or one thousand dollars ($1000) for a nonresidential application if the device or system produces fewer than two megawatts of direct current electricity or an equivalent-sized solar system for retail electricity generation.
B) Every city, county, or city and county must create an electronic submittal process that is open to the public for permit applications.

C) A city, county, or city and county shall submit a report to the state commission, no later than December 1, 2013, with the following information:

1) A finding that they have adopted fees in accordance with Section 2(A) related to the issuance of the solar installation permit.

2) An electronic submittal process for permit applications is available to the public.
Intrastate Coal and Use Act

Whereas the Tenth Amendment to the United States Constitution guarantees to the states and their people all powers not granted to the federal government elsewhere in the Constitution and reserves to the people and the Commonwealth/State of [insert state] certain powers as they were understood at the time that [insert state] was admitted to statehood in [insert state]. The guaranty of those powers is a matter of contract between the people and [insert state] and the United States as of the time that the compact with the United States was agreed upon and adopted by [insert state] and the United States in [insert state].

Whereas the Ninth Amendment to the United States Constitution guarantees to the people rights not granted in the Constitution and reserves to the people of [insert state] certain rights as they were understood at the time that [insert state] was admitted to statehood in [insert state]. The guaranty of those rights is a matter of contract between the people and the Commonwealth/State of [insert state] and the United States as of the time that the compact with the United States was agreed upon and adopted by [insert state] and the United States in [insert state].

Whereas the regulation of intrastate commerce, including the natural environment as affected by intrastate business, is vested in the states under the Ninth and Tenth Amendments to the United States Constitution and is specifically retained by the state of [insert state].

Section 1. Definitions.

As used in this article, the following definitions apply:


(B) The term "coal mine" means those operations removing coal from a coal seam or seams, whether aboveground or underground.

(C) "Chemically altered coal product" means any product derived principally from coal, including, but not limited to, coke or liquid fuels derived from coal by any process.

Section 2. Requirements.

(A) In light of the above findings, environmental regulation in [insert state] for all purposes of regulating business activity performed in [insert state], when the products of such business activities are held, maintained, or retained within the borders of [insert state], is the principal responsibility of the [insert state] Department of Environmental Protection Energy Development and Independence.

(B) Any [insert state] coal mine producing coal which is used commercially or privately in [insert state] and which is consumed or otherwise remains within the borders of [insert state] and any [insert state] facility producing chemically altered coal products used commercially or privately which remain within the borders of [insert state] shall be issued a permit to operate by
the {insert state} Department of Environmental Protection once the {insert state} Department of Environmental Protection has certified that the mine or facility is compliant with all applicable state and federal laws or state and federal regulation.

(C) A sample from each vein of coal in a mine and a sample of coal from each {insert state} source used at a facility producing a chemically altered coal product shall be placed on record with the {insert state} Department of Environmental Protection to verify the {insert state} origin of the coal produced and used.

(D) The {insert state} Legislature declares that the United States Environmental Protection Agency, acting under the color of authority of Congress to regulate interstate commerce, lacks the authority to deny permits of operation to such coal mines and facilities as the products of these mines and facilities have not traveled in interstate commerce.

(E) This article applies to coal and to any chemically altered coal product mined or produced in {insert state} from basic materials which can be manufactured without the inclusion of any significant components imported from another state.

(F) This article applies only to the issuance of a permit of operation to a coal mine or facility producing chemically altered coal products, the issuance of which permit is required by the Clean Water Act or by another equivalent state or federal statute or regulation. Nothing in this section shall be construed to limit the effect of any other state or federal statute or regulation.

NOTE: The purpose of this bill is to create the Intrastate Coal and Use Act. The bill establishes that the environmental regulation of coal and certain coal products mined and used within the commonwealth are exclusively regulated by the {insert state} Department of Environmental Protection. The bill states the legislative authority and defines terms.
Electricity Freedom Act

Summary: The Electricity Freedom Act repeals the State of {insert state}’s requirement that electric distribution utilities and electric services companies provide _____ percent of their electricity supplies from renewable energy sources by ____.

WHEREAS, forcing business, industry, and ratepayers to use renewable energy through a government mandate will increase the cost of doing business and push companies to do business with other states or nations, thereby decreasing American competitiveness;

WHEREAS, wind and solar power currently cost more than traditional electricity generation technologies, and are projected to do so for the foreseeable future;

WHEREAS, the costs of renewable energy will be borne by consumers regardless of income or circumstances;

WHEREAS, the costs of renewable energy that are not directly internalized are financed by taxpayers through numerous state and federal financial incentives;

WHEREAS, forcing renewable energy sources such as wind or solar will impose the additional burden of integrating intermittent and unreliable energy onto the electricity grid and threatening electricity reliability;

WHEREAS, the costs of such expensive transmission projects are also financed by ratepayers;

WHEREAS, no state or nation has enhanced economic opportunities for its citizens or increased Gross Domestic Product through renewable energy mandates;

WHEREAS, due to the renewable energy mandate a tremendous amount of economic growth is sacrificed for a reduction in greenhouse gas emissions that would have no appreciable impact on global concentrations of greenhouse gases;

WHEREAS, government is not equipped with the knowledge or incentives to make effective economic decisions regarding which energy sources utilities should use to produce electricity;

WHEREAS, government mandates to produce renewable energy necessarily involve increasing costs for ratepayers while benefiting politically favored industries;

WHEREAS, primary emissions standards that leave to the marketplace the choice of compliance technologies can address air quality standards more efficiently than “technology forcing” mandates; and

WHEREAS, technological advances continue to reduce the rate of air emissions from all fossil fuel sources where vibrant market economies are allowed to exist;
THEREFORE LET IT BE RESOLVED, that the legislature of the State of _____ understands that a renewable energy mandate is essentially a tax on consumers of electricity that forces the use of renewable energy sources beyond what would be called for by real market forces and under conditions of real competition in generation resources; and

BE IT FURTHER RESOLVED, that the State of {insert state} does not wish to discourage the marketing of “green” power and “green” pricing such that willing buyers and sellers of renewable energy sources are free to negotiate the terms and conditions of such sales, and no technology or class of technologies is given an unfair competitive advantage; and

BE IT THEREFORE ENACTED, that the State of {insert state} repeals the renewable energy mandate and as such, no electric distribution utilities and electric service companies will be forced to procure renewable energy resources as defined by the State of {insert state}’s renewable energy mandate.
Pipeline Replacement and Infrastructure Modernization and Enhancement Act

Section 1. Short Title.

This Act may be called the Pipeline Replacement and Infrastructure Modernization and Enhancement Act (PRIME).

Section 2. Purpose.

The purpose of this Act is to accelerate the replacement of any existing deteriorating natural gas pipe with upgraded pipe by allowing utilities to immediately recover eligible costs of the replacement through a plan filed with and approved by the state public utility commission. The Act is intended to remove any limits in utilities' ability to make needed natural gas pipeline replacements that will improve reliability of the system and reduce repairs, maintenance costs, and service interruptions for ratepayers.

Section 3. Definitions. As used in this Act:

(A) "Commission" means the state public service commission.

(B) "Eligible infrastructure replacement" means natural gas utility facility replacement projects that: (1) enhance safety or reliability by reducing system integrity risks associated with customer outages, corrosion, equipment failures, material failures, or natural forces; (2) do not increase revenues by directly connecting the infrastructure replacement to new customers; (3) are commenced on or after [January 1, 20XX]; and (4) are not included in the natural gas utility's rate base in its most recent rate case using the cost of service methodology, or the natural gas utility's rate base included in rate base schedules filed with a performance-based regulation plan, if the plan did not include the rate base.

(C) "Eligible infrastructure replacement costs" includes the following:

1. Return on the investment. In calculating the return on the investment, the Commission shall use the natural gas utility's regulatory capital structure as calculated utilizing the weighted average cost of capital, including the cost of debt and the cost of equity used in determining the natural gas utility's base rates in effect during the construction period of the eligible infrastructure replacement project. If the natural gas utility's cost of capital underlying the base rates in effect at the time its proposed PRIME plan is filed has not been changed by order of the Commission within the preceding five years, the Commission may require the natural gas utility to file an updated weighted average cost of capital, and the natural gas utility may propose an updated weighted average cost of capital. The natural gas utility may recover the external costs associated with establishing its updated weighted average cost of capital through the PRIME rider. Such external costs shall include legal costs and consultant costs;
2. Revenue Conversion Factor. A revenue conversion factor, including income taxes and an allowance for bad debt expense, shall be applied to the required operating income resulting from the eligible infrastructure replacement costs;

3. Depreciation. In calculating depreciation, the Commission shall use the natural gas utility's current depreciation rates;

4. Property taxes; and

5. Carrying costs on the over- or under-recovery of the eligible infrastructure replacement costs. In calculating the carrying costs, the Commission shall use the natural gas utility's regulatory capital structure as determined in Subsection 1 of the definition of eligible infrastructure replacement costs.

(D) "Investment" means costs incurred on eligible infrastructure replacement projects including planning, development, and construction costs; costs of infrastructure associated therewith; and an allowance for funds used during construction. In calculating the allowance for funds used during construction, the Commission shall use the natural gas utility's actual regulatory capital structure as determined in Subsection 1 of the definition of eligible infrastructure replacement costs.

(E) "Natural gas utility" means any investor-owned public service company engaged in the business of furnishing natural gas service to the public.

(F) "Natural gas utility facility replacement project" means the replacement of storage, peak shaving, transmission or distribution facilities used in the delivery of natural gas or supplemental or substitute forms of gas sources by a natural gas utility.

(G) "PRIME plan" means a plan filed by a natural gas utility that identifies proposed eligible infrastructure replacement projects and a PRIME rider.

(H) "PRIME rider" means a recovery mechanism that will allow for recovery of the eligible infrastructure replacement costs, through a separate mechanism from the customer rates established in a rate case using the cost of service methodology, or a performance-based regulation plan.

Section 4. Filing of petition with Commission to establish or amend a PRIME plan; recovery of certain costs; procedure.

A. Notwithstanding any provisions of law to the contrary, a natural gas utility may file a PRIME plan as provided in this Act. Such a plan shall provide for a timeline for completion of the proposed eligible infrastructure replacement projects, the estimated costs of the proposed eligible infrastructure projects, and a schedule for recovery of the related eligible infrastructure replacement costs through the PRIME rider, and demonstrate that the plan is prudent and reasonable. The Commission may approve such
a plan after such notice and opportunity for hearing as the Commission may prescribe, subject to the provisions of this Act.

B. The Commission shall approve or deny, within 180 days, a natural gas utility's initial application for a PRIME plan and shall base its approval upon the utility's fulfillment of the PRIME plan requirements specified in Subsection A of this Section. A plan filed pursuant to this Section shall not require the filing of rate case schedules. The Commission shall approve or deny, within 120 days, a natural gas utility's application to amend a previously approved plan. If the Commission denies such a plan or amendment, it shall set forth with specificity the reasons for such denial, and the utility shall have the right to re-file, without prejudice, an amended plan or amendment within 60 days, and the Commission shall thereafter have 60 days to approve or deny the amended plan or amendment. The time period for Commission review provided for in this Subsection shall not apply if the PRIME plan is filed in conjunction with a rate case using cost of service methodology, or a performance-based regulation.

C. The Commission shall not reduce a utility’s future return on common equity or other measure of utility profit as a result of the implementation of a PRIME rider.

D. Any PRIME plan and any PRIME rider that is submitted to and approved by the Commission shall be allocated and charged in accordance with appropriate cost causation principles in order to avoid any undue cross-subsidization between rate classes.

E. No other revenue requirement or ratemaking issues may be examined in consideration of the application filed pursuant to the provisions of this Act.

F. At the end of each 12-month period the PRIME rider is in effect, the natural gas utility shall reconcile the difference between the recognized eligible infrastructure replacement costs and the amounts recovered under the PRIME rider, and shall submit the reconciliation and a proposed PRIME rider adjustment to the Commission to recover or refund the difference, as appropriate, through an adjustment to the PRIME rider. The Commission shall approve or deny, within 90 days, a natural gas utility's proposed PRIME rider adjustment.

G. A natural gas utility that has implemented a PRIME rider pursuant to this Act shall file revised rate schedules to reset the PRIME rider to zero, when new base rates and charges that incorporate eligible infrastructure replacement costs previously reflected in the currently effective PRIME rider become effective for the natural gas utility, following a Commission order establishing customer rates in a rate case using cost of service methodology, or a performance-based regulation plan.

H. Costs recovered pursuant to this Act shall be in addition to all other costs that the natural gas utility is permitted to recover, shall not be considered an offset to other Commission-approved costs of service or revenue requirements, and shall not be included in any computation relative to a performance-based regulation plan revenue-sharing mechanism. Further, if the Commission approves (1) an updated weighted average cost of

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capital for use in calculating the return on investment, (2) the carrying costs on the over- or under-recovery of the eligible infrastructure replacement costs, (3) the allowance for funds used during construction, or (4) any combination thereof, such weighted average cost of capital shall be used only for the purpose of the eligible infrastructure replacement costs for the PRIME rider and shall not be used for any purpose in any other proceeding.

Section 5. Effective date.

This Act takes effect upon becoming law.
Resolution Supporting a Reasonable Compliance Timeline and Economy-wide impact study of EPA’s Mercury and Air Toxics Rule

WHEREAS, the U.S. Environmental Protection Agency (EPA) has adopted and has proposed a series of regulations establishing stringent new standards applicable to the electric power sector industry;

WHEREAS, individual states, the American Legislative Exchange Council, Regional Transmission Operators and other parties have raised significant concerns on the proposed Cross State Air Pollution and Mercury and Air Toxics regulations such as the negative impact these regulations would have on states’ ability to prepare compliance plans, electricity prices, the reliable operation of the electric power grid, the effective elimination of future electric generating plants that use clean coal technologies and on the interests of electricity consumers to maintain affordable, reliable electricity;

WHEREAS, the compliance deadlines set forth in EPA’s final Mercury and Air Toxics Standards (MATS) rule are insufficient according to state and industry experience to allow electric utilities time for pre-construction certification, engineering, permitting and other regulatory approvals that require up to three years and additional time to construct the necessary emission control technologies that requires approximately three years for a total of five to six years;

WHEREAS, the MATS rule provides for a three-year compliance period but EPA admits that many sources will need a one-year extension for non-reliability critical units (a four-year compliance schedule) to install controls, construct replacement capacity, or implement transmission reinforcement or other mitigation measures to assure the reliability of the electric grid and EPA has stated that States may authorize an additional one year for compliance through an Administrative Order under Title V permits;

WHEREAS, electricity generators may enter into a Consent Decree on a case by case basis for reliability critical units that require 5 or more years to complete construction and to assure the reliability of the electric grid;

WHEREAS, no state or electricity generators want to base their retrofit plans on uncertain regulatory processes, and there is a need for States and generators to be certain that their actions to comply with MATS will not have power shortage, price spikes, and other negative consequences on jobs, the economy, and consumers;

NOW, THEREFORE, BE IT RESOLVED that ALEC encourages federal legislative actions such as, but not limited to, the resolution to disapprove the MATS introduced by Senator Inhofe under the Congressional Review Act to subject MATS to analysis for its negative impacts on jobs, state economies and their recovery, electricity prices and consumers’ ability to afford them, domestic manufacturing, and international competitiveness and the Fair Compliance Act sponsored by Senators Manchin and Coats that would not change MATS’ stringency or reduction levels but harmonize MATS compliance deadlines with pre-construction and construction timelines to install emission
reduction technologies, construct replacement capacity, or implement transmission reinforcement or other mitigation measures to assure electricity price increases are reasonable and the reliability of the electric grid is maintained and;

**BE IT FURTHER RESOLVED** that ALEC simultaneously encourages applicable State agencies to work closely with generation owners, regional transmission operators, federal agencies such as, but not limited to the Department of Energy and the Federal Energy Regulatory Commission, transmission and electric system reliability organizations and the EPA to avoid unreasonable electricity price increases and grid reliability risks from these regulations.

This resolution is approved and copies of it are transmitted to the President, all members of Congress, the Chairman of FERC, Secretary of the U.S. Department of Energy and the Administrator of the US EPA, the leadership of NERC, SPP, ERCOT, PJM, MISO, NGA, and NARUC, and the ALEC staff is directed to advocate for policies that reflect these principles.
Resolution in Support of the Regulations from the Executive In Need Of Scrutiny (REINS) Act.

WHEREAS, the Constitution of the United States of America charges the Congress with all legislative powers; and

WHEREAS, Members of the United States House of Representatives and the United States Senate have excessively delegated that power to the executive branch with little oversight, review, or meaningful accountability; and

WHEREAS, the results of that delegation is an annual regulatory burden of $1.75 trillion upon American families and businesses according to the U.S. Small Business Administration’s Office of Advocacy; and

WHEREAS, Congressman Geoff Davis [KY-04], Senator Rand Paul [R-KY] and many of their colleagues have introduced the REINS Act as H.R. 10 and S. 299 in the U.S. House and Senate respectively; and

WHEREAS, the REINS Act would require that Congress must pass a joint resolution of approval to be signed by the President for each new major regulation proposed by the executive branch before it may be enforced against the American people; and

WHEREAS, the REINS Act also retains existing law permitting Congress to disapprove non-major regulations (5 USC 801-808) to ensure that Congressional accountability is present for every federal regulation; and

WHEREAS, the REINS Act effectively limits the scope of regulation-making permission granted to the executive branch; and

WHEREAS, the REINS Act’s required accountability will improve the quality of federal regulations by reintroducing the importance of input from elected representatives into the regulation-making process; and

WHEREAS, enactment of the REINS Act would ensure that the greatest regulatory burdens on our economy are both necessary and required by the electorate; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF {insert state}, That we hereby call upon {insert state}’s Delegation to the United States Senate and the United States House of Representatives to cosponsor and support passage of the REINS Act.

BE IT FURTHER RESOLVED, That a copy of this resolution will be provided to each member of {insert state}’s Congressional Delegation.
ALEC Spring Task Force Summit:

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

ALEC Annual Meeting:

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

ALEC States & Nation Policy Summit:

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

ALEC Academies:

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

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

II. TASK FORCE RESPONSIBILITIES

A. Task Forces have the primary responsibility for identifying critical issues and developing ALEC’s official policy statements and model legislation appropriate to the specific subject areas of the Task Force.

B. Task Forces serve as forums for an exchange of ideas and sharing of experiences between ALEC’s state legislator and private sector members.

C. Task Forces are responsible for developing and sponsoring the following educational activities appropriate to the specific subject area of the Task Force:
   - publications that express policy positions, including, but not limited to State Factors and Action Alerts;
   - educational communication and correspondence campaigns;
   - issue specific briefings, press conferences and press campaigns;
   - witness testimony and the activities of policy response teams;
   - workshops at ALEC’s conferences; and
   - specific focus events.

D. The Executive Director is to develop an annual budget, which shall include expenses associated with Task Force meetings and educational activities. A funding mechanism to finance all meetings and educational activities proposed by Task Forces must be available before they can be undertaken.
III. GENERAL PROCEDURES

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

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

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

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

Revised May 2009 & Bold added September 2011
should be utilized only in exceptional circumstances. Before the policy is adopted by the Board of Directors, it should be sent to the Public and Private Sector Task Force Co-Chairs under whose jurisdiction the matter falls for review and comment back to the Board of Directors.

D. The operating cycle of a Task Force is two years. A new operating cycle begins on January 1 of each odd numbered year and ends on December 31 of the following even numbered year. Task Force activities shall be planned and budgeted on an annual basis within each two-year operating cycle.

E. If a Task Force is unable to develop an operating budget, the Board of Directors will determine whether to continue the operations of the Task Force. This determination will be made according to: (1) the level of membership on the Task Force, and (2) the need for continued services developed by the Task Force for ALEC.

F. The Board of Directors shall have the authority to allocate limited general support funds to finance the annual operating budget of Task Forces that meet the requirements prescribed in Section III (E). The Executive Director shall determine, and report to the Board of Directors, the amount of general support funds available to underwrite such Task Forces.

IV. MEMBERSHIP AND MEMBER RESPONSIBILITIES

A. The membership of a Task Force consists of legislators who are members in good standing of ALEC and are duly appointed to the Task Force, in accordance with Section VI (A) and private sector organizations that are full members of ALEC, contribute to the assessment for the Task Force operating budget, and are duly appointed to the Task Force, in accordance with Section VI (B). Private sector organizations that were full members of ALEC and contributed the assessment for the Task Force’s operating budget in the previous year, can be appointed to the Task Force for the current year, conditional upon renewal of full ALEC membership and receipt of the current year’s assessment for the Task Force operating budget prior to March 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

Revised May 2009 & Bold added September 2011
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.

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VII. REMOVAL AND VACANCIES

A. The National Chair may remove any Public Sector Task Force Co-Chair from his position and any legislative member from a Task Force with or without cause. Such action will not be taken except upon thirty days written notice to such Chair or member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive Task Force meetings.

B. The Public Sector Task Force Co-Chair may remove any legislative member of an Executive Committee or subcommittee from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive meetings.

C. The Chairman of the Private Enterprise Board may remove any Private Sector Task Force Co-Chair from his position and any private sector member from a Task Force with cause. Such action shall not be taken except upon thirty days written notice to such Chair or member whose removal is proposed. For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues.

D. The Private Sector Task Force Co-Chair may remove any private sector member of an Executive Committee or subcommittee from his position with cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues.

E. The Public and Private Sector Task Force Co-Chairs may remove an advisor from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such advisor whose removal is proposed.

F. Any member or advisor may resign from his position as Public Sector Task Force Co-Chair, Private Sector Task Force Co-Chair, public or private sector Task Force member, Task Force advisor, Executive Committee member or subcommittee member at any time by writing a letter to that effect to the Public Sector and Private Sector Task Force Co-Chairs. The letter should specify the...
effective date of the resignation, and if none is specified, the effective date shall be the date on which the letter is received by the Public and Private Task Force Co-Chairs.

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

VIII. MEETINGS

A. Task Force meetings shall only be called by the joint action of the Public and Private Sector Task Force Co-Chairs. Task Force meetings cannot be held any earlier than thirty-five days after being called, unless an emergency situation has been declared pursuant to Section VIII (H), in which case Task Force meetings cannot be held any earlier than ten days after being called. It is recommended that, at least once a year, the Task Forces convene in a common location for a joint Task Force Summit. Executive Committee meetings shall only be called by the joint action of the Public and Private Sector Task Force Co-Chairs and cannot be held any earlier than three days after being called, unless the Executive Committee waives this requirement by unanimous consent.

B. At least forty-five days prior to a task force meeting any model bill, resolution or policy must be submitted to ALEC staff that will be voted on at the meeting. At least thirty-five days prior to a Task Force meeting, ALEC staff shall distribute copies of any model bill, resolution or policy statement that will be voted on at that meeting. This requirement does not prohibit modification or amendment of a model bill, resolution or policy statement at the meeting. This requirement may be waived if an emergency situation has been declared pursuant to Section VIII(H).

C. All Task Force meetings are open to registered attendees and invited guests of ALEC meetings and conferences. Only regular Task Force Members may introduce any resolution, policy statement or model bill. Only Task Force members will be allowed to participate in the Task Force meeting discussions.
D. ALEC private sector member organizations may only be represented at Task Force and Executive Committee meetings by the individual addressed in the appointment letter sent pursuant to Section VI (D) or a designee of the private sector member. If someone other than the individual addressed in the appointment letter is designated to represent the private sector member, the designation must be submitted in writing to the Public and Private Sector Task Force Co-Chairs before the meeting, and the individual cannot represent any other private sector member at the meeting.

E. All Task Force and Executive Committee meetings shall be conducted under the guidelines of Roberts Rules of Order, except as otherwise provided in these Operating Procedures. A copy of the Task Force Operating Procedures shall be included in the briefing packages sent to the Task Force members prior to each meeting.

F. A majority vote of legislative members present and voting and a majority vote of the private sector members present and voting, polled separately, are required to approve any motion offered at a Task Force or Executive Committee meeting. A vote on a motion to reconsider would be only with the sector that made the motion. Members have the right, in a voice vote, to abstain and to vote present by roll-call vote. In all votes a member can change their vote up until the time that the result of the vote is announced. Only duly appointed members or their designee as stated in Section VIII (D) that are present at the meeting may vote on each motion. No proxy, absentee or advance voting is allowed.

G. The Public Sector Task Force Co-Chair and the Private Sector Task Force Co-Chair, with the concurrence of a majority of the Executive Committee, polled in accordance with Section VIII (F), may schedule a Task Force vote by mail or any form of electronic communication on any action pertaining to policy statements, model legislation or educational activity. The deadline for the receipt of votes can be no earlier than thirty-five days after notification of the vote is mailed or notified by any form of electronic communication, unless an emergency situation is declared pursuant to Section VIII (H), in which case the deadline can be no earlier than ten days after notification is mailed or notified by any form of electronic communication. Such votes are exempt from all rules in Section VIII, except: (1) the requirement that copies of model legislation and
policy statements be mailed or notified by any form of electronic communication with the notification of the vote and (2) the requirement that a majority of legislative members voting and a majority of the private sector members voting, polled separately, is required to approve any action by a Task Force.

H. For purposes of Sections VIII(A), (B) and (G), an emergency situation can be declared by:

(1) Unanimous vote of all members of the Task Force Executive Committee present at an Executive Committee meeting prior to the meeting at which the Task Force votes on the model bill, resolution or policy statement; or

(2) At least three-fourth majority vote of the legislative and private sector Task Force members (voting in accordance with Section VIII (F)) present at the meeting at which the members vote on the model bill, resolution or policy statement.

I. Ten Task Force members shall constitute a quorum for a Task Force meeting. One-half of the legislative and one-half of the private sector members of an Executive Committee shall constitute a quorum for an Executive Committee meeting.

IX. REVIEW AND ADOPTION PROCEDURES

A. All Task Force policy statements, model bills or resolutions shall become ALEC policy either: (1) upon adoption by the Task Force and affirmation by the Board of Directors or (2) thirty days after adoption by the Task Force if no member of the Board of Directors requests, within those thirty days, a formal review by the Board of Directors. General information about the adoption of a policy position may be announced upon adoption by the Task Force.

B. The Executive Director shall notify the Board of Directors of the approval by a Task Force of any policy statement, model bill or resolution within ten days of such approval. Members of the Board of Directors shall have thirty days from the date of Task Force approval to review any new policy statement, model bill or resolution prior to adoption as official ALEC policy. Within those thirty days, any member of the Board of Directors may request that the policy be
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.
Mission Statement

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

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

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

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

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

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

Report to the Task Force: Pre-2008 Model Legislation with Summaries

Obtained and released by: Common Cause and The Center for Media and Democracy
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Higher Education

1. **The 140 Credit Hour Act** Retain

   April 21, 2001

   This act will impose a twenty-five percent tuition surcharge on students who take more than 140 credit hours to complete a baccalaureate degree in a four-year program at any state-supported college or university or more than 110 percent of the credit hours necessary to complete a baccalaureate degree in a five year program. This act will also prohibit colleges and universities subject to this act from counting students in its full-time equivalent count for funding purposes after the student has reached the 140 credit hour limit in a four year program or 110 percent in a five year program.

2. **Academic Bill of Rights for Public Higher Education Act** Review or Amend

   April 30, 2004

   Recognizes the rights of students and faculty to academic freedom, rights to freedom from discrimination on the basis of political or religious beliefs, and rights to information concerning grievance procedures for protection of their academic freedoms. Directs the governing boards of the state institutions of higher education to develop policies and grievance procedures to protect academic freedom and the rights of students and faculty.

3. **Academic Bill of Rights for Public Higher Education Resolution** Review or Amend

   April 30, 2004

   Recognizes the rights of students and faculty to academic freedom, rights to freedom from discrimination on the basis of political or religious beliefs, and rights to information concerning grievance procedures for protection of their academic freedoms. Directs the governing boards of the state institutions of higher education to develop policies and grievance procedures to protect academic freedom and the rights of students and faculty.

4. **Act to Ensure English Fluency among Lecturers in State Institutions of Higher Education** Sunset

   *ALEC Sourcebook 1995*

   This Act requires state institutions of higher education to evaluate their instructional faculties for oral, aural, and written fluency in the English language; provides for certifications as to that fluency; imposing penalties; and conferring powers and duties upon the State Board of Education.
5. **College Funding Accountability Act**  
*Retain with Technical Amendment*

*November 13, 1999*

This bill will require any college or university that accepts state funding to undergo an outside financial audit if a budget increase or tuition increase request is higher than the formula listed below.

6. **College Opportunity Fund Act**  
*Retain*

*July 29, 2004*

This bill will create a voucher program for students to use to attend the institution of higher education of their choice.

7. **College Savings Account Act**  
*Sunset*

*November 13, 1999*

This Act would create the college savings program for the purpose of providing the residents of the state of (name of state) additional postsecondary education opportunities.

8. **Drug-Free Post-Secondary Education Act**  
*Sunset*

*ALEC Sourcebook 1993-94*

This Act would require all public post-secondary educational institutions to suspend for one semester (or quarter) any student convicted of any drug offense. The Act further requires the suspension of state financial aid to students convicted of any drug offense.

9. **Higher Education Sunshine Act**  
*Review or Amend*

*July 26, 2007*

This act shall require each public institution under to report annually to the Legislature detailing the steps the institution is taking to ensure intellectual diversity and the free exchange of ideas.

10. **Intellectual Diversity in Higher Education Act**  
*Review or Amend*

*July 21, 2006*

Each public institution of higher education must annually report to the Legislature detailing the steps the institution is taking to ensure intellectual diversity and the free exchange of ideas.

11. **Prohibiting Aid to Draft Resisters**  
*Sunset*

*ALEC Sourcebook 1985-86*
Summarizes legislation to require students requesting state education assistance funds to comply with registration requirements of the Selective Service, and to prohibit state money from going to students who have not complied.


*July 21, 2006*

Expressing the sense of the Legislature regarding the importance and value of continuing education for college and university governing boards.

13. Resolution Supporting United States History Education Review or Amend

*August 4, 2005*

This resolution regards the importance and value of education in United States history.

14. Individuals with Disabilities Education Act Resolution Sunset

*March 29, 2003*

This resolution urges that the U.S. Congress make changes to the Individuals with Disabilities Act to make it more efficient and a greater aid to students in need of the funds set aside for their use.

15. Proposed Resolution on Straight A’s: Academic Achievement for All Sunset

*May 20, 1999*

This resolution urges the U.S. Congress to allow states to consolidate the money from federal Elementary & Secondary Education Act (ESEA).

16. Resolution for Educational Improvement Sunset

*ALEC Sourcebook 1991-92*

Resolution declaring improvement in higher education a paramount concern of the state.

17. Resolution on Title 1 of the Elementary and Secondary Education Act Technical Amendment

*May 20, 1999*

Resolution urging the U.S. Congress to allow students to take Title 1 money to the school of their choosing.
School Choice

18. Charter Schools Act

*Review or Amend*

*ALEC Sourcebook 1995*

This legislation allows groups of citizens to seek charters from the state to create and operate innovative, outcome-based schools. These schools would be exempt from state laws and regulations that apply to public schools. Schools are funded on a per-pupil rate, the same as public schools. Currently, Minnesota operates the most well-known program.

19. Education Enterprise Zone Act

*Sunset*

*ALEC Sourcebook 1995*

This legislation creates and provides for parental choice of schools within an educational enterprise zone (EEZ). All public and private schools within a designated zone. Any elementary or secondary student who is eligible for participation in a free lunch program may attend any school within the zone, provided the school has space and the student meets admission requirements.

20. Family Choice in Education Act

*Sunset*

*ALEC Sourcebook 1981-82*

Maximizes educational opportunity for all children by creating a “tuition voucher system.”

21. Family Savings for Education Act

*Sunset*

*ALEC Sourcebook 1980*

The Family Savings for Education Act encourages parents to set up a special account for their children’s education by allowing deductions of up to $2,500 of the amount deposited.

22. Next Generation Charter Schools Act

*Review or Amend*

*July 26, 2007*

The state of [insert name] recognizes establishment of charter schools as necessary to improving the opportunities of all families to choose the public school that meets the needs of their children, and believes that charter schools serve a distinct purpose in supporting innovations and best practices that can be adopted among all public schools. Further, the state of [insert name] recognizes that there must be a variety of public institutions that can authorize the establishment of charter schools as defined by law, and recognizes that independent but publicly accountable multiple authorizing authorities, such as independent state commissions or universities, contribute to the health and growth of strong public charter schools. Therefore, the purpose of this act is to establish that existing [or new] public entities...
may be created to approve and monitor charter schools in addition to public school district boards. This act also removes procedural and funding barriers to charter school success.

23. Parental Rights Amendment

*ALEC Sourcebook 1995*

The Parental Rights Amendment grants parents the right to direct the upbringing and education of their children.

24. Resolution Supporting Private Scholarship Tax Credits

*August 2, 2001*

This resolution declares the state legislative body’s support for the creation of a tax credit for individuals and businesses that make a contribution to a nonprofit scholarship or educational assistance organization.

25. School Board Freedom to Contract Act

*November 13, 1999*

This Act encourages the establishment of Public/Private partnerships between school boards and the private sector for outsourcing and delivery of ancillary services under the direction of school boards, when said services/programs can be executed more efficiently and more cost-effectively by the private sector.

26. Smart Start Scholarship Program

*April 30, 2005*

This bill creates a scholarship program that helps children from low- and middle-income families attend the public or non-public 4 year-old preschool program or 5 year-old kindergarten program of their choice.

27. Tuition Certificate Act

*ALEC Sourcebook 1991-92*

Maintains and improves the quality of elementary and secondary education in all schools in the State by providing to all parents in the State enhanced opportunity for the exercise of parental choice in the education of their school-aged children.

28. Education Tax Credit Act

*1979*
The suggested Education Tax Credit Act is designed to provide parents of elementary, secondary, vocational-technical, and proprietary students with a wider range of income tax credit for tuition, books, and other expenses in order to provide them with choice and alternatives in the education of their children.

29. Parental Notification and Choice in Bilingual Education Act  

An Act requiring that educational facilities provide notification to all parents of students designated to be placed in a bilingual education program, and that those parents are given a choice to refuse that decision.

30. Virtual Public Schools Act  

December 4, 2004

This act provides students and families the choice of using virtual schools to further the education of their children.

31. Channel One Resolution  

August 8, 2002

This resolution recognizes and commends the important public private partnership that exists between the Channel One Network and local educators throughout the nation and further states that the decision of whether to partner with Channel One and utilize this important resource is best made by local educators with input from students, parents, teachers, principals and administrators in the local community.

32. Civic Literacy Act  

ALEC Sourcebook 1995

The many states have enacted legislation to require the teaching of the Declaration of Independence, the Constitution, and the Federalist Papers during the high school years. It is important that all citizens, regardless of origin, are made aware of our nation’s political heritage. Indeed, the future of our democratic institutions may be jeopardized if civic illiteracy is permitted to continue unabated. Nevertheless, a reversal of this trend may take place only if legislators enact new laws which provide clear and detailed instructions about (1) curriculum and other related matters, and (2) sanctions and appropriate enforcement mechanisms.

33. Common Sense in Medicating Students Act  

October 19, 2001

December 13, 2001
This act prohibits any school personnel from recommending the use of psychotropic drugs for any child and protects parents or guardians who refuse to administer psychotropic drugs to their child from having said child taken into custody by the state or local department of child services unless such refusal causes the child to be neglected or abused as defined by state code.

34. Drug-Free Schools Act  
ALEC Sourcebook 1993-94

Supports increased efforts by local law enforcement agencies, working in conjunction with school districts and county drug and alcohol prevention offices to suppress trafficking and prevent drug and alcohol use among school-age children on and around school campuses through the development of innovative and model programs by local law enforcement agencies and schools and the prevention of drug and alcohol use agencies.

35. Education Accountability Act  
ALEC Sourcebook 1995

The Education Accountability Act establishes a program which confirms that the well-being of the state depends on a well-educated citizenry, and reaffirms the state's commitment to a quality education for all students. Under this Act, the state would establish criteria and standards for assessing school quality. If a local district or school fails to meet certain standards to such a degree that the quality of education is impaired, the state would refer the matter to a special committee for evaluation and recommendations. If the local district fails to act on the committee's recommendations, or if the committee concludes that the local district or school would, in any event, be unable to correct the situation, the state would declare the district or school to be "educationally bankrupt." The state would then take immediate and certain steps to address the situation in a prescribed manner.

36. English Language Education Act  
December 7, 2000

No Official Summary

*Unofficial Summary*: The English Language Education Act would require all children in the state's public schools be taught English by being taught in English. In particular, this Act would require that all children be placed in English language classrooms. Children who are English learners or otherwise have limited English proficiency shall be educated through sheltered English immersion during a temporary transition period, after which they would be transferred to English language mainstream classrooms.

37. Honor America Act  
ALEC Sourcebook 1980
The Honor America Act requires that all public elementary and secondary school students recite the Pledge of Allegiance during each school day.

**38. Longitudinal Student Growth Act**  
*Review or Amend*  
*December 10, 2005*

The legislation requires the state department of education to implement a state data management system for collecting and reporting student assessment data and identifies the duties and responsibilities of the state department of education and the school districts in implementing the data management system. The legislation instructs the state board of education to adopt a mixed-effects statistical model to diagnostically calculate students' annual academic growth over the periods between the administration of the statewide assessments, based on the students' assessment scores. The legislation describes the requirements for the statistical model and instructs the department to convene a technical advisory panel of experts on the measurement of longitudinal growth to assist in creation of the statistical model. The department is required to calculate what constitutes sufficient academic growth for each student for each school year. The legislation next requires the department to provide to each school district and each charter school an academic growth information report for each student enrolled in the school district or charter school, and requires the school district or charter school to adopt a policy for using the information in the report and communicating the information in the report to students and their parents. Finally, the legislation authorizes the state board of education to adopt rules for implementing the act.

**39. No Pass/No Play Act**  
*Sunset*  
*ALEC Sourcebook 1987-88*

Emphasizes to all pupils in this state that each pupil's primary responsibility is to meet the academic challenge of learning.

**40. One-to-One Reading Improvement Act**  
*Sunset*  
*August 8, 2002*

This Act creates mentoring programs for the improvement of student reading skills that utilizes one-to-one instruction between low-performing students and mentoring volunteers.

**41. Protection of Minors' and Students' Rights Act**  
*Sunset*  
*December 13, 2001*

This Act provides that prior to a government entity or school district administering certain academic or nonacademic surveys, assessments, analyses, evaluations or comprehensive guidance and counseling values clarification programs to its students it must receive written informed consent from a minor's or student's parent or legal guardian and must provide a copy of the document to be administered for viewing at convenient locations and time periods.
42. Resolution on Non-Verified Science Curriculum Funding  
**Sunset**

*December 7, 2000*

This resolution declares that all school students should have the right to study and learn from a curriculum based on sound scientific data and that text books should be written in language appropriate for education that is understandable and based on truth and fact. This resolution further declares that the federal and state governments stop appropriating funds for any educational programs and activities conducted by schools, universities and agencies that promote non-verified scientific findings.

43. Resolution Supporting the Principles of No Child Left Behind  
**Review or Amend**

*December 10, 2005*

Resolution supporting the principles embodied in the latest reauthorization of the Elementary and Secondary Education Act of 1965, known as the No Child Left Behind Act.

44. Resolution Urging Health, Nutrition, and Physical Education  
**Sunset**

*December 11, 2003*

Urging schools to provide health, nutrition and physical education that encourages students to develop the knowledge, attitudes, skills, and behaviors to adopt and maintain healthy eating habits and physically active lifestyles.

45. Student Citizenship Act  
**Sunset**

*ALEC Sourcebook 1987-88*

Promotes citizenship awareness by amending state school curricula requirements.

46. Student Proficiency Act  
**Sunset**

*ALEC Sourcebook 1978-79*

Requires public school students to demonstrate proficiency in basic language skills by passing an appropriate examination as a prerequisite to high school graduation.

47. Student Protection Act  
**Retain**

*ALEC Sourcebook 1987-88*

Requires all persons applying for certification or classification as school employees to submit their fingerprints to the State Department of Corrections (or its equivalent) and to the Federal Bureau of Investigation.

48. Student Right to Learn Act  
**Sunset**
November 13, 1999

This bill requires all students to be educated in a core liberal arts curriculum and bases school accreditation on the measurement of academic improvement by each individual student.

49. Textbook Content Standards Act

ALEC Sourcebook 1980

Establishes the requirement that textbooks and teaching materials adopted for use in public schools accurately portray American history, tradition and values.

50. Model Curriculum Act

ALEC Sourcebook 1989-90

The future of America and the very existence of democracy and freedom depend on the attributes of a well-educated society. This Act establishes a strong and developed core curriculum for all secondary schools as recommended by the U.S. Department of Education in James Madison High School: A Curriculum for American Students.

51. Bilingual Education Reform

ALEC Sourcebook 1985-86

The primary objective is not the teaching of all subjects in the child’s native language, but the rapid acquisition of English skills.

Teacher Certification, Quality, and Right to know

52. Alternative Certification Act

December 10, 2005

Teacher quality is crucial to the improvement of instruction and student performance. However, certification requirements that correspond to state-approved education programs in most states prevent many individuals from entering the teaching profession. To obtain an education degree, students must often complete requirements in educational methods, theory, and style rather than in-depth study in a chosen subject area. Comprehensive alternative certification programs improve teacher quality by opening up the profession to well-educated, qualified, and mature individuals. States should enact alternative teacher certification programs to prepare persons with subject area expertise and life experience to become teachers through a demonstration of competency and a comprehensive mentoring program.
53. Career Ladder Opportunities Act Retain

ALEC Sourcebook 1995

The Career Ladder Opportunity Act requires school districts to adopt extraordinary performance pay plans for elementary and secondary public school teachers who demonstrate success in the classroom. The local school district must design the plan in consultation with teachers and administrators. Since reward systems in the past have often failed because of premature abandonment, the district must keep the plan for three years and make improvements on it when necessary. Moreover, the instrument used for evaluating a teacher’s performance in the classroom must clearly define evaluation criteria and give more.

54. National Teacher Certification Fairness Act Review or Amend

December 13, 2001

This act creates a level and open playing field between nationally recognized teacher certification programs.

55. Public School Employee Union Release Time Act Review or Amend

December 8, 2007

To prevent taxpayer subsidy of political and labor-oriented activity, this legislation requires school employee unions to finance all their own release time arrangements with school district boards of education. The union must entirely pay the full per diem salary of any school employee or each day of service released from duty to attend a union-sponsored meeting or activity, or the day is deducted from the employee’s accumulated personal leave. The union must entirely pay the portion of the salary and benefits of any local, state, or national officer or representative accrued while in service to the organization. School districts also are forbidden to extend the indirect benefits of experience credit or years of service to employees released to serve in a union for one-half contract year or longer. School districts under the terms of a collective bargaining agreement which is in effect on the effective date of the legislation are exempted until the agreement’s scheduled expiration, up to three years.

56. School Collective Bargaining Agreement Sunshine Act Retain

December 8, 2007

For the purpose of transparency, this legislation requires school district boards of education to provide copies of all collective bargaining agreements entered into by such boards to the state board of education and to the largest public library in the school district. Each school board is required to post copies of all current collective bargaining agreements on its website, if the district has a website. Available for public inspection, the state board of education shall create a repository for all current collective bargaining agreements and post all current collective bargaining agreements on the state
department of education’s website. Also available for public inspection, the library board of trustees shall create a repository for all current collective bargaining agreements at the library.

57. **Teacher Choice Compensation Act**  
**Review or Amend**  
*August 8, 2002*  
This act creates a program where by teachers may be eligible for performance-based salary stipends if they opt out of their permanent contract and meet measurable student performance goals based on a value-added test instrument developed by the state department of education.

58. **Teacher Quality and Recognition Demonstration Act**  
**Review or Amend**  
*August 8, 2002*  
The need for quality teachers in improving student achievement is generally recognized as one of the most crucial elements of state reform efforts. A primary concern in the quality of the performance of teachers is the forecast for an increasing need for more teachers. This bill is directed towards creating a new structure of the current teaching system that will promote the retention and reward of good teachers and attract new talent to the profession. This bill establishes Teacher Quality Demonstration projects wherein local education agencies are exempt from education rules and regulations regarding teacher certification, tenure, recruitment, and compensation, and are granted funding for the purpose of creating new models of teacher hiring, professional growth and development, compensation and recruitment.

59. **Teachers’ Right to Know**  
**Review or Amend**  
*August 13, 1999*  
This bill will require teacher’s unions to disclose within a specified amount of time how much union staff are being paid, including salaries and fringe benefit packages.

59. **Digital Learning**

60. **Alternate Certification for Distance Learning Instructors Act**  
**Retain**  
It is the ultimate responsibility of the state to guarantee students access to the best possible education. Traditionally this has been provided through on site teachers, but increasingly the states are turning to private sector experts as the best source for up to date instruction. Often these experts can be brought into the class through distance learning facilities. In order to prepare students for the twenty first century, they must learn from specialists, the technological experts in the constantly changing high demand areas of mathematics, science and foreign languages.
While many of these experts are not certified teachers, they remain highly qualified instructors for children. Accordingly, the state has an overriding interest, in the case of educating our students, to provide an alternate or cross-border waiver from teacher certification for proficient distance learning instructors.

61. Distance Learning Commission Act  

Several forward-thinking states have identified the need for a broadband, state-of-the-art telecommunications infrastructure to address specific state problems. States need a policy that maximizes infrastructure development and full public access at affordable costs. The test of successful telecommunications policy is whether the end result equips our citizens and communities with the means to better their future. The key component of such a policy is universal access to Twenty-first Century technology. Universal access is synonymous with universal opportunity.

Today virtually every state has distance learning in some form, compared to fewer than 10 states as recently as 1987. The distance learning programs across the states differ significantly in terms of the technology used, goals, and the quality and effectiveness of the programs. While all states have some form of distance learning effort underway they need to resolve issues that are barriers to the use of distance learning, such as teacher certification and evaluation, and curriculum and textbook standardization.

62. Distance Learning: Wiring the Public Schools Act  

The potential benefits are significant, and can be achieved without major new commitments of tax funds. Legislation may be needed to establish a state distance learning policy, provide distance learning teacher certification, retrofit old classrooms, and provide technology for new classrooms.
Appendix: Full Text of Policies to be Considered

Higher Education

1. The 140 Credit Hour Act

Summary

The 140 Credit Hour Act would impose a 25 percent tuition surcharge on students who take more than 140 credit hours to complete a baccalaureate degree in a four-year program at any state-supported college or university or more than 110 percent of the credit hours necessary to complete a baccalaureate degree in a five-year program. This act will also prohibit colleges and universities subject to this act from counting students in its full-time equivalent count for funding purposes after the student has reached the 140 credit hour limit in a four-year program or 110 percent in a five-year program.

Model Legislation

Section 1. {Title} The 140 Credit Hour Act.

Section 2.

(A) A 25 percent tuition surcharge is imposed on students who take more than 140 credit hours to complete a baccalaureate degree in a four-year program at any state-supported college or university of this state or more than 110 of the credit hours necessary to complete a baccalaureate degree in any program designated by {insert name of state commission on higher education} as a five-year program at any state supported college or university of this state. The calculation of these credit hours taken at a college or university or accepted for transfer shall exclude hours earned through the college board’s advanced placement or CLEP examinations, through institutional advanced placement or course validation, or through summer term or extension programs.

(B) A surcharge may not be imposed on a student who exceeds the degree credit hour limits within the equivalent of four academic years of regular term enrollment, or within five academic years of regular term enrollment in a degree program officially designated by the {insert name of state commission on higher education} as a five-year program.

(C) The undergraduate credit hours counted for this requirement include all regular session degree creditable courses taken at any institution, including repeated courses, failed courses, and courses dropped after the official census date (normally the last day to add a course).

(D)

(1) The tuition surcharge required by subsection (A) must be imposed beginning with the next semester or quarter.

(2) This surcharge must be imposed on all counted credit hours in excess of the threshold for
each of the following three categories of undergraduates:

(a) For a student earning a first baccalaureate degree in a program that requires no more than 128 credit hours, the surcharge must be applied to all counted credit hours in excess of 140.

(b) For a student earning a first baccalaureate degree in a {insert name of state commission on higher education} approved program that requires more than 128 counted credit hours, the surcharge must be applied to all credit hours that exceed 110 percent of the credit hours required for the degree. Those programs include those that have officially been designated by {insert name of state commission on higher education} as five-year programs, as well as those involving double majors or combined bachelor’s and master’s degrees.

(c) For a student earning a baccalaureate degree other than the first, the surcharge must be applied to all counted credit hours that exceed 110 percent of the minimum additional credit hours needed to earn the additional baccalaureate degree.

(E) The surcharge must be imposed on tuition charged in the current semester and in subsequent semesters in which a student’s cumulative credit hour total, with the current semester’s course load included, exceeds the threshold. The surcharge does not apply to required fees.

(F) An institution subject to the provisions of this section may not count a student in its full-time equivalent count for funding purposes after the student has accumulated 140 credit hours in a four-year program or has exceeded by 110 percent the number of hours designated for a five-year program by {insert name of state commission on higher education}.

2. The Academic Bill of Rights for Public Higher Education Act

Summary

The Academic Bill of Rights for Public Higher Education Act recognizes the rights of students and faculty to academic freedom, rights to freedom from discrimination on the basis of political or religious beliefs, and rights to information concerning grievance procedures for protection of their academic freedoms. It directs the governing boards of the state institutions of higher education to develop policies and grievance procedures to protect academic freedom and the rights of students and faculty.

Model Legislation

Be it enacted by the General Assembly of the State of [insert state]:

Section 1. {Statutory Section Number} [State] Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

(1) Academic Bill of Rights. The general assembly hereby finds that faculty and students enrolled in public institutions of higher education shall have the following rights:

(a) Students have a right to expect a learning environment in which they will have access to a broad range of serious scholarly opinion pertaining to the subjects they study. In the humanities, the social sciences, and the arts, the fostering of a plurality of serious scholarly methodologies and perspectives should be a significant institutional purpose;

(b) Students have a right to expect that they will be graded solely on the basis of their reasoned answers and appropriate knowledge of the subjects they study and that they shall not be discriminated against on the basis of their political or religious beliefs;

(c) Students have a right to expect that their academic freedom and the quality of their education will not be infringed by instructors who persistently introduce controversial matter into the classroom or coursework that has no relation to their subject of study and that serves no legitimate pedagogical purpose;

(d) Students have a right to expect that the freedom of speech, freedom of expression, freedom of assembly, and freedom of conscience of students and student organizations shall not be infringed by university administrators, student government organizations or by institutional policies, rules or procedures;

(e) Students have a right to expect that their academic institutions shall distribute student fee funds on a viewpoint-neutral basis and shall maintain a posture of neutrality with respect to substantive political and religious disagreements, differences and opinions;

(f) Faculty and instructors have a right to academic freedom in the classroom in discussing their subjects, but they should make their students aware of serious scholarly viewpoints other than their own and should encourage intellectual honesty, civil debate and the critical analysis of ideas in the pursuit of knowledge and truth.
(g) Faculty and instructors have a right to expect that they will be hired, fired, promoted and granted tenure on the basis of their competence and appropriate knowledge in their field of expertise, and shall not be hired, fired, denied promotion or denied tenure on the basis of their political or religious beliefs;

(h) Faculty and instructors have a right to expect that they will not be excluded from tenure, search and hiring committees on the basis of their political or religious beliefs;

(i) Students and faculty have a right to be fully informed of their rights and their institution’s grievance procedures for violations of academic freedom by means of notices prominently displayed in course catalogs, student handbooks and on the institutional web site;

(2) Governing Boards – protection of academic freedom and the rights of faculty and students. The governing board of each institution of higher education shall develop institutional guidelines and policies to protect the academic freedom and the rights of students and faculty, and shall adopt a grievance procedure by which a student or faculty member may seek redress of grievance for an alleged violation of any of the rights specified in [Statutory Section Number] (1) (a) to (1) (i). Each governing board shall publicize the grievance procedure to the students and faculty on each campus of the institutions that are under the control and direction of the governing board.

Section 2. {Effective date} This act shall take effect [insert date].

3. Academic Bill of Rights for Public Higher Education Resolution

Summary

Expressing the sense of the General Assembly that colleges and universities should adopt an Academic Bill of Rights to secure the intellectual independence of faculty members and students, protect the principles of academic freedom, promote intellectual diversity, and support the pursuit of knowledge and truth as a fundamental purpose of the university; and for other purposes.

Model Resolution

WHEREAS, the central purposes of a university are the pursuit of truth, the discovery of new knowledge through scholarship and research, the study and reasoned criticism of intellectual and cultural traditions, the teaching and general development of students to help them become creative individuals and productive citizens of a constitutional republic, and the transmission of knowledge and learning to a society at large;

WHEREAS, free inquiry and free speech within the academic community are indispensable to the achievement of the central purposes of a university, the freedoms to teach and to learn depend upon the creation of appropriate conditions and opportunities on the campus as a whole as well as in the classrooms and lecture halls, and these purposes reflect the values of pluralism, diversity, opportunity, critical intelligence, openness, and fairness that are the cornerstones of American society, and academic freedom and intellectual diversity are values indispensable to an American university;

WHEREAS, from its first formulation in the General Report of the Committee on Academic Freedom and Tenure of the American Association of University Professors, the concept of academic freedom has been premised on the ideas that human knowledge is a never-ending pursuit of the truth, that there is no humanly accessible truth that is not in principle open to challenge, and that no party or intellectual faction has a monopoly on wisdom;

WHEREAS, academic freedom is most likely to thrive in an environment of intellectual diversity that protects and fosters independence of thought and speech. In the words of the general report, it is vital to protect “as the first condition of progress, [a] complete and unlimited freedom to pursue inquiry and publish its results”;

WHEREAS, because free inquiry and its fruits are crucial to the democratic enterprise, and academic freedom is a national value as well;

WHEREAS, in Keyishian v. Board of Regents of the University of the State of New York, a historic 1967 decision, the Supreme Court overturned a New York State loyalty provision for teachers with these words: “Our Nation is deeply committed to safeguarding academic freedom, [a] transcendent value to
all of us and not merely to the teachers concerned.” In Sweezy v. New Hampshire in 1957, the Supreme Court observed that the “essentiality of freedom in the community of American universities [was] almost self-evident”;

WHEREAS, academic freedom consists of protecting the intellectual independence of professors, researchers, and students in the pursuit of knowledge and the expression of ideas from interference by legislators or authorities within the institution itself, meaning that no political, ideological, or religious orthodoxy should be imposed on professors and researchers through the hiring, tenure, or termination process, nor through any other administrative means by the academic institution;

WHEREAS, it has long been recognized that intellectual independence means the protection of students and faculty members from the imposition of any orthodoxy of a political, ideological, or religious nature;

WHEREAS, the 1915 Declaration of Principles of the American Association of University Professors admonished faculty members to avoid “taking unfair advantage of the student’s immaturity by indoctrinating him with the teacher’s own opinions before the student has had an opportunity fairly to examine other opinions upon the matters in question, and before he has sufficient knowledge and ripeness of judgment to be entitled to form any definitive opinion of his own”;

WHEREAS, in 1967, the American Association of University Professors’ Joint Statement on Rights and Freedoms of Students reinforced and amplified this injunction by affirming the inseparability of “the freedom to teach and freedom to learn” and, in the words of the joint statement, “[s]tudents should be free to take reasoned exception to the data or views offered in any course of study and to reserve judgment about matters of opinion”;

NOW, THEREFORE, BE IT RESOLVED by the General Assembly, that, to secure the intellectual independence of faculty members and students, protect the principles of academic freedom, promote intellectual diversity, and support the pursuit of knowledge and truth as a fundamental purpose of the university—

(1) The General Assembly strongly recommends that the following principles and procedures be observed at all public colleges and universities within the State of [insert state]

(a) All faculty members will be hired, fired, promoted, and granted tenure on the basis of their competence and appropriate knowledge in the field of their expertise and, in the humanities, the social sciences, and the arts, with a view toward fostering a plurality of methodologies and perspectives;

(b) No faculty member will be hired, fired, promoted, or denied promotion or tenure on the basis of his or her political, ideological, or religious beliefs;
(c) No faculty member will be excluded from tenure, search, and hiring committees on the basis of his or her political, ideological, or religious beliefs;

(d) Students will be graded solely on the basis of their reasoned answers and appropriate knowledge of the subjects and disciplines they study, not on the basis of their political, ideological, or religious beliefs;

(e) Curricula and reading lists in the humanities and social sciences will respect all human knowledge in these areas and provide students with dissenting sources and viewpoints;

(f) While teachers are and should be free to pursue their own findings and perspectives in presenting their views, they should consider and make their students aware of other viewpoints;

(g) Academic disciplines should welcome a diversity of approaches and institutions should recognize that exposing students to the spectrum of significant scholarly viewpoints on the subjects examined in their courses is a major responsibility of faculty members;

(h) Faculty members will not use their courses or their positions for the purpose of political, ideological, religious, or antireligious indoctrination;

(i) The freedom of speech, freedom of expression, freedom of assembly, and freedom of conscience of students and student organizations shall not be infringed by instructors, university administrators, student government organizations, or by institutional policies, rules or procedures;

(j) Selection of speakers, allocation of funds for speakers’ programs, and other student activities will observe the principles of academic freedom and promote intellectual pluralism;

(k) Except as provided by law, the obstruction of invited campus speakers, the destruction of campus literature, and other efforts to obstruct this civil exchange of ideas shall not be permitted;

(l) Academic institutions and professional societies should maintain a posture of organizational neutrality with respect to the substantive disagreements that divide researchers on questions within, or outside, their fields of inquiry, recognizing that—

(a) Knowledge advances when individual scholars are left free to reach their own conclusions about which methods, facts, and theories have been validated by research; and

(b) Academic institutions and professional societies formed to advance knowledge within an area of research, maintain the integrity of the research process, and organize
the professional lives of related researchers serve as indispensable venues within which scholars circulate research findings and debate their interpretation; and

(1) The General Assembly recognizes that the principles and procedures described in paragraph

(2) Fully apply only to public universities.

BE IT FURTHER RESOLVED, that, the Secretary of the [House/Senate] is authorized and directed to transmit copies of this resolution to the governing boards and to the president of every college and university in this state, and to the Governor, Lieutenant Governor, and Attorney General.

4. Act to Ensure English Fluency Among Lecturers in State Institutions of Higher Education

Summary
This Act requires state institutions of higher education to evaluate their instructional faculties for oral, aural, and written fluency in the English language; provides for certifications as to that fluency; imposing penalties; and conferring powers and duties upon the State Board of Education.

Model Legislation

Section 1. {Short Title} This act may be cited as the “Act to Ensure English Fluency Among Lecturers in State Institutions of Higher Education.”

Section 2. {Legislative Declarations}

(A) The legislature hereby finds and declares that the State, through its systems of post-secondary colleges and universities, should pursue the goal of a populace educated at the high standards necessary to meet the challenges of the 21st century, and

(1) That students matriculating in our state's colleges and universities should be able to expect excellence in education and quality in their instruction, and

(2) That because of the increasing competitiveness of the world economy, students have an ever growing demand for the highest standards in instruction, and

(3) That communication is crucial for imparting knowledge, the ability of students and their instructors to engage in discussions and conversations should be a given, and

(4) The inability of the student to readily understand the spoken language of the instructor precludes the exchange of knowledge that is the essence of the higher education environment, and

(5) That the expectation of students to be able to address questions to an instructor and to receive understandable answers to those questions represents a consumer right, a civil right, and an educational imperative.

Section 3. {Definitions}
(A) The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) "Board:" The State Board of Education.

(2) "Department:" The Department of Education of the State.

(3) "Instructional faculty:" Every member of an institution of higher education, other than visiting faculty, but including graduate teaching assistants, who teaches one or more credit courses at a campus of that institution within this State except: (1) courses that are designed to be taught predominately in a foreign language; and (2) elective, special arrangement courses such as individualized instruction and independent study courses. State institution of higher education: any institution of post secondary education owned or operated by the state, any of its departments or authorities or any government unit or school district or special district established under the constitution or laws of the state.

Section 4. {Main Provisions}

(A) Evaluation of fluency. Each state institution of higher education shall evaluate its instructional faculty for oral, aural, and written fluency in the English language in the classroom. Such fluency shall be determined by the "Test of Spoken English" of the Educational Testing Service or a similar test approved by the institution.

(B) Certification. By September 1 of each year, each state institution of higher education must file with the Department a certification stating that the instructional faculty members, whose native language is other than English, hired either since the effective date of this act or hired subsequent to the last annual certification are proficient in the English language, as provided in section 1 (preceding page).

(C) Noncompliance. If an institution of higher education operating in this State does not comply with this act, the Secretary of Education shall impose a reduction in state funding of $10,000 for each course taught by an uncertified faculty member, as provided for in sections 1 and 2 (preceding page).

(D) Regulations. The Board shall promulgate regulations to implement this act.

(E) Right of Action. Any citizen shall have standing to bring an action against the State to enforce this act. The State Courts shall have jurisdiction to hear and decide any such action brought under this section.

Section 5. {Severability Clause}

Section 6. {Repealer Clause}
Section 7. {Effective Date}
5. The College Funding Accountability Act

Summary

The College Funding Accountability Act would require any college or university that accepts state funding to undergo an outside financial audit if a budget increase or tuition increase request is higher than the formula listed below.

Model Legislation

{Title, enacting clause, etc.}

Section 1. {Title} This Act may be cited as the College Funding Accountability Act.

Section 2. {Definitions}

(A) “College or University” means any school of secondary education that receives financial support from the state.

(B) “Cost of Living” means the Consumer Price Index (all items) for the United States of America, or any comparable index, as computed by the Bureau of Labor Statistics of the Department of Commerce of the United States for a 12 month period of time.

(C) “Population” means the number of people residing in the state, excluding armed forces stationed overseas, as determined by the United States Bureau of the Census.

Section 3. {The Scope of the Act}

(A) Each college or university that requests an appropriation from the state that exceeds monies received in the prior fiscal year, except for allowances for cost-of-living and population, must submit to an outside financial audit to determine if the additional increase in funding is both necessary and prudent to meet the financial needs of the college or university.

(B) Each college or university that requests authorization for a tuition increase more than monies received in the prior fiscal year, except for allowances for cost-of-living and population, must submit to an outside financial audit to determine if the additional increase in funding is both necessary and prudent to meet the financial needs of the college or university.

(C) Responsibility for the cost of the outside audit will fall to the legislature.

Section 4. {Emergency clause} The limitations imposed by Section 3 may be exceeded upon the declaration of an emergency by the governor and upon a two-thirds vote of all members elected to each House of the legislature concurring therein. The limitation may be exceeded only for the year(s) in which
the emergency is declared.

Section 5. {Severability clause}

Section 6. {Repealer clause}

Section 7. {Effective date}
6. The College Opportunity Fund Act

Summary

This bill will create a voucher program for students to use to attend the institution of higher education of their choice.

Model Legislation

{Title, enacting clause, etc.}

Section 1. {Title} The College Opportunity Fund Act

Section 2. {Definitions}

As used in this article, unless the context otherwise requires:

(1) “Board of Regents” means the [State] Board of Regents [or state agency for higher education].

(2) “College Opportunity Fund” or “Fund” means the College Opportunity Fund Program created in Section 4.

(3) “College Opportunity Fund Program” or “Program” means the College Opportunity Fund Program created in the Board of Regents pursuant to Section 3.

(4) “Commission” means the [State] Advisory Commission on Higher Education.

(5) “Eligible undergraduate student” means:

(I) A student who is enrolled at a state institution of higher education and who is classified as an in-state student for tuition purposes; or

(II) A student who is enrolled at a participating private institution of higher education and who:

(A) is classified as an in-state student for tuition purposes;

(B) is a graduate of a [State] high school or [home education provisions];

(C) demonstrates financial need through the student’s eligibility for the Federal Pell Grant, or its successor program; and

(D) meets any other eligibility requirements established by the Commission.
(b) “Eligible undergraduate student” shall not mean a student enrolled in an off-campus, extended campus, or continuing education class, that is not supported by state general fund monies, except as approved by the Commission.

(6) “Governing board” means the governing body of a state institution of higher education.

(7) “Institution of higher education” means a participating private institution of higher education or a state institution of higher education.

(8) “Participating private institution of higher education” means a private institution of higher education that enters into a performance contract with the Board of Regents pursuant to Section 9 and agrees to participate in the program.

(9) “Private institution of higher education” means a not-for-profit college or university that is not pervasively sectarian and that maintains its primary place of business in the state of [State], that offers general baccalaureate degrees in arts and sciences, and that is institutionally accredited on the basis of an on-site review in [State] by one of the six nationally recognized regional accrediting associations or by an accrediting agency determined by the Commission to be appropriate to its educational purposes and programs.

(10)

(a) “State institution of higher education” means a public postsecondary institution that is governed by:

(I) The Board of Regents of the state of [State];

(II) The board of governors of the [state university and/or system];

(III) The board of trustees of the [state university and/or system]; or

(IV) The [state board for community and/or junior and/or occupational colleges].

(b) “State institution of higher education” does not include [list exceptions].

(11) “Stipend” means the amount of money per credit hour specified pursuant to Section 4(2)(b) held in trust for and paid on behalf of an eligible undergraduate student pursuant to Section 4(5).

(12) “Student’s share of in-state tuition” means the amount of total in-state tuition, less any amount paid on behalf of the student as a stipend.

(13) “Total in-state tuition” means the total amount of tuition that is paid to a state institution of higher education by or on behalf of a student who is eligible to pay in-state tuition, including but not limited to the amount of the stipend paid on behalf of the student.
Section 3. {College Opportunity Fund Program – creation – eligibility – guidelines}

(1) There is hereby created in the Board of Regents the College Opportunity Fund Program, which shall be administered by the [state student loan program or other administering agency]. The College Opportunity Fund, created in Section 4, shall be a trust fund for the benefit of eligible undergraduate students. It shall consist of a stipend for each undergraduate student in [State] who applies for the stipend and who is admitted and registers to attend a state or participating private institution of higher learning and is determined to be eligible by the [administering agency] to receive a stipend. An eligible undergraduate student may use the stipend for undergraduate courses taken at a state or participating private institution of higher education at a fixed rate per credit hour, set annually by the state legislature.

(2) A student of a private institution of higher education shall be a beneficiary of the College Opportunity Fund and eligible to participate in the College Opportunity Fund Program only if the private institution of higher education that the student attends has agreed to participate in the program by establishing a performance contract with the Board of Regents pursuant to Section 9. The Board of Regents shall include each participating private institution of higher education and its students who participate in the College Opportunity Fund Program in the student unit reporting data system, in order to enable the students of the participating private institution of higher education to participate in the program. The participating private institution of higher education shall reimburse the Board of Regents for the actual expenses associated with including the institution in the student unit reporting data system.

(3) The [administering agency], in consultation with the governing boards, shall adopt the necessary policies for the implementation of this Section 3, which at a minimum shall include procedures for requesting funds for the program which adhere to Board of Regents budget guidelines and the annual budgeting cycle of the executive and legislative branches.

(4) The [administering agency] shall direct all state and participating private institutions of higher education to require resident undergraduate students to apply for the program. If a student is classified as an in-state student for tuition purposes at a state institution of higher education and does not apply for the program or is not eligible for the program, the student shall be responsible for paying the student’s total in-state tuition amount.

Section 4. {College Opportunity Fund – appropriations – payment of stipends – reimbursement}

(1)

(a) Beginning with the state fiscal year commencing [date], and for each state fiscal year thereafter, the state legislature shall make an annual appropriation, in trust for eligible undergraduate students, to the College Opportunity Fund, which is hereby established as a trust fund account with the [administering agency]. Monies appropriated to the College Opportunity Fund are for the sole purpose of disbursement on behalf of eligible undergraduate students in accordance with Sections 3 through 8 and are not for the general operation or any other
function of the [administering agency]. Any unexpended and unencumbered monies remaining in the College Opportunity Fund at the end of a fiscal year are the property of the trust fund and shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

(b) The [administering agency] shall administer and disburse the funds in the College Opportunity Fund on behalf of eligible undergraduate students as provided in Sections 3 through 8. Each state institution of higher education and participating private institution of higher education that does not receive loan origination and disbursement services through the [administering agency] shall pay an implementation fee and an on-going disbursement fee, the amounts of which shall be determined by the [administering agency] but shall not exceed the actual cost of the implementation and on-going disbursement.

(2)

(a) For the state fiscal year commencing [date], and for each state fiscal year thereafter, the Commission, in consultation with the governing boards and participating private institutions, shall annually estimate the number of undergraduate full-time equivalent students who are eligible for stipends under Sections 3 through 8 at each state institution of higher education and each participating private institution of higher education. The Commission shall report the numbers during the annual budget cycle to the governor and to the joint budget committee of the state legislature for inclusion in the annual general appropriations act.

(b) For the state fiscal year commencing [date] and for state fiscal years thereafter, for an eligible undergraduate student attending a state institution of higher education, the specified amount of the stipend per credit hour shall be an amount set annually by the state legislature, which in no case shall exceed the student's total in-state tuition. The value of the per credit hour stipend shall be the same for each eligible undergraduate student, regardless of the state institution of higher education that the student attends. The student shall be responsible for paying the student’s share of total in-state tuition, if any.

(c) The Commission shall forward to the state legislature and governor, by November 1 of each year, a list of institutions eligible to receive stipends on behalf of eligible undergraduate students under the program. The Commission shall annually request that the state legislature adjust the amount appropriated to the [administering agency] for the stipends to reflect at least inflation and enrollment growth in the state institutions of higher education.

(d) Beginning with the state fiscal year commencing [date], the Commission, in consultation with the governing boards and any participating private institutions of higher education, shall review annually the amount of the stipend per credit hour established pursuant to paragraph (b) of this subsection. Following the review, the Commission, in consultation with the governing boards and participating private institutions, shall annually make recommendations regarding possible
adjustments to the amount of the stipend per credit hour to the governor and the joint budget committee of the state legislature for consideration in preparing the annual general appropriations act.

(e) An eligible undergraduate student who attends a participating private institution of higher education may receive financial assistance under Sections 3-8 in the amount of fifty percent of the stipend amount; except that the amount of the stipend under this paragraph may increase in proportion to the percent of unfunded enrollment growth that is appropriated to the governing boards pursuant to Section 9(7).

(3)

(a) For the state fiscal year commencing [date], and for each state fiscal year thereafter, the state legislature shall appropriate spending authority to each governing board for the cash funds exempt estimated to be received by an institution, under the direction and control of the governing board, as stipends, consistent with the provisions of [statute providing for postsecondary education financing]. The spending authority for the stipends estimated to be received shall be calculated by multiplying the amount of the applicable per-credit-hour stipend by the number of eligible student credit hours that are estimated to be attributable to each state institution of higher education under the direction and control of the governing board.

(b) The tuition increases from which the state legislature derived the total cash spending authority for each governing board shall be noted in a footnote in the annual general appropriations act.

(4) Regardless of when an institution receives monies in the form of a stipend on behalf of a student, or if the stipend amount is reduced by the state legislature, a state institution of higher education shall not increase the student’s share of in-state tuition to make up for an actual or effective reduction during the same fiscal year in the stipend amount from which the total in-state tuition amount was calculated or for issues relating to the timing of stipend payments.

(5)

(a) After an undergraduate student has applied for the program, been approved for the program, and enrolled in a state or participating private institution of higher education, the institution shall request that the [administering agency] make a stipend payment from the College Opportunity Fund to the institution on behalf of the eligible undergraduate student. A payment by the [administering agency] to an institution of higher education from the College Opportunity Fund shall not be subject to the assessment of a transaction fee pursuant to [statute providing for state treasurer’s transactions fees]. The stipend payment shall be paid to the institution upon receipt by the institution of the eligible undergraduate student shall be applied against the student’s total in-state tuition.
(b) The stipend paid by the [administering agency] on behalf of the eligible undergraduate student shall note on the student’s receipt of payment from the state or private institution of higher education that the monies came from the College Opportunity Fund.

(c)

(I) An eligible undergraduate student shall not receive a stipend from the College Opportunity Fund for more than one hundred forty-five credit hours during the eligible undergraduate student’s lifetime; except that, if an eligible undergraduate student has received payment for a stipend for one hundred forty-five credit hours and the student has received a bachelor’s degree, the eligible undergraduate student is eligible to receive stipend payments for an additional thirty undergraduate credit hours.

(II) For an eligible undergraduate who is enrolled as a continuing student as of [date], the Commission shall determine the number of credit hours for which the student may receive a stipend from the College Opportunity Fund, based on the number of credit hours the eligible undergraduate student has earned.

(d)

(I) An institution of higher education of higher education shall not receive the payment of a stipend on behalf of an eligible undergraduate student for:

(A) Basic skills courses, as defined in [statute];

(B) High school fast-track courses taken pursuant to [statute];

(C) International baccalaureate courses; or

(D) Advanced placement courses.

(II) The institution of higher education in which an eligible undergraduate student enrolls may contract with the Board of Regents pursuant to Section 10 to provide the courses specified in sub-subparagraphs (A) and (B) of subparagraph (I) of this paragraph (d) for a fee.

(e) Notwithstanding the lifetime-credit-hour limitation established pursuant to paragraph (c) of this subsection (5), an eligible undergraduate student may apply to the Commission for a waiver of the limitation. The Commission may grant a waiver of the lifetime-credit-hour limitation if it finds:

(I) That extenuating circumstances exist related to the student’s health or physical ability to complete the degree program within the lifetime-credit-hour limit;
(II) That the degree program, as approved by the Commission, requires more than one hundred twenty hours to complete; 

(III) That, while the eligible undergraduate student was enrolled in a specific degree program, the Commission approved and the institution implemented an alteration of degree requirements or standards for the specific degree; or 

(IV) That requiring the eligible undergraduate student to pay the full amount of total in-state tuition for credit hours that exceed the limitation would cause a substantial economic hardship on the student and the student’s family.

(f) Notwithstanding the lifetime-credit-hour limitation established pursuant to paragraph (c) of this subsection (5) and in addition to the provisions of paragraph (e) of this subsection (5), a state institution of higher education may annually grant a one-year waiver of the lifetime-credit-hour limitation for up to five percent of the eligible undergraduate students enrolled in the state institution of higher education. In granting the waivers under this paragraph (f), the state institution of higher education shall give priority to students who are seeking job retraining.

(6) If an eligible undergraduate student enrolls in a class for which the state or participating private institution of higher education receives a stipend payment pursuant to subsection (5) of this section and the eligible undergraduate student subsequently withdraws from the class on or prior to the final date on which the institution permits a student to withdraw without the payment of any amount of tuition, the institution shall reimburse the College Opportunity Fund for the proportional amount of the stipend received that conforms to the governing board’s refund policy for the class from which the student withdrew. The credits for which the stipend is refunded shall not count against the eligible undergraduate student’s lifetime-credit-hour limitation established pursuant to paragraph (c) of subsection (5) of this section.

Section 5. {College Opportunity Fund – data retention}

(1) The Commission, in cooperation with the state and participating private institutions of higher education, shall maintain a record of the number of credit hours for which each eligible undergraduate student receives a stipend from the College Opportunity Fund. The Commission shall also maintain any confidential information concerning eligible undergraduate students participating in the program.

(2) The Commission, in consultation with the governing boards, shall determine by policy when to forward to each state and participating private institution of higher education a report on the number of credit hours accumulated by each eligible undergraduate student against the lifetime-credit-hour limitation established pursuant to Section 4(5)(c). Each institution shall make the information on the number of credit hours accumulated against the limitations available to the student upon request.

Section 6. {College Opportunity Fund – advertisement – disclosure} If an institution of higher education advertises, in the form of direct mail, print, radio, television, or via the Internet, a student’s ability to receive a stipend from the College Opportunity Fund, the institution of higher education shall include in
the advertisement the total cost of attending the institution, including a student’s total tuition cost plus applicable fees.

Section 7. {College Opportunity Fund – information – notification.}

(1) It is the intent of the state legislature that the Board of Regents and the Commission inform students beginning in the eighth grade of the state’s financial commitment to students to assist them in continuing their education by attending college and of the additional financial resources that may be available to the students in order to further their education.

(2)

(a) The Commission shall work with the [state department of education] to notify annually eighth-grade students of the state’s contribution to the College Opportunity Fund on behalf of resident students and the manner in which the students may receive additional information regarding financial resources for higher education including but not limited to the amount of the stipend and a student’s ability to use specific websites to explore financial and academic options for preparing to enter college.

(b) The [administering agency] shall include information regarding the College Opportunity Fund on an Internet website to assist students in planning financially and academically to attend an institution of higher education in [State] including but not limited to the current value of the stipend.

Section 8. {College Opportunity Fund – directive} The [administering program] and the state treasurer, in consultation with the governing boards, shall cooperatively establish a disbursement schedule for stipends awarded pursuant to Sections 3 through 8.

Section 9. {Governing boards – performance contract – authorization – operations}

(1) As used in this section, unless the context otherwise requires:

(a) “Private institution of higher education” shall have the same meaning as provided in Section 2(9).

(b) “State institution of higher education” shall have the same meaning as provided in Section 2(10).

(c) “Unfunded enrollment growth” means the amount of enrollment growth calculated pursuant to subsection (7) of this section that has not been funded for each governing board from state fiscal year [date] to [date].
(a) Beginning [date], each governing board of a state institution of higher education shall negotiate a performance contract with the Board of Regents that shall specify the performance goals the institution shall achieve during the period that it operates under the performance contract. A state institution of higher education’s compliance with the goals specified in the performance contract may be in lieu of the requirements of [statute(s) providing for determination of satisfaction of state higher education goals].

(b) If a private institution of higher education plans to accept stipends paid on behalf of eligible undergraduate students pursuant to Sections 3 through 8, the private institution of higher education shall negotiate a performance contract with the Board of Regents, which shall specify the performance goals the institution shall achieve during the period that it operates under the performance contract.

(c) The specified procedures and goals set forth in the performance contract shall be measurable and tailored to the role and mission of each institution that is under the direction and control of the governing board, and may include, but shall not be limited to:

(I) Improving [State] residents’ access to higher education;

(II) Improving quality and success in higher education;

(III) Improving the efficiency of operations; and

(IV) Addressing the needs of the state.

(d) To measure progress toward the goals specified in the performance contract, the following issues may be addressed within the contract:

(I) Appropriate levels of student enrollment, transfer, retention, and graduation rates and institutional programs specifically designed to assist students in achieving their academic and, in the case of community and/or junior colleges, vocational goals.

(II) Student satisfaction and student performance after graduation, measured by indicators appropriate to the institutional role and mission, such as employment or enrollment in graduate programs;

(III) Comparative cost and productivity data in relation to peer institutions;

(IV) Assessment of the quality of the institution’s academic and, where relevant, vocational programs, including assessment by external reviewers, such as accreditation boards and employers, and consideration of student performance on national examinations; and
(V) Increasing financial support to sustain and enhance essential functions that may be partially state funded, including but not limited to:

(A) The provision of need-based and other student financial aid;

(B) In the case of a state institution of higher education, capital construction;

(C) Assessment of financial indicators compared to national benchmarks commonly used to measure financial performance in higher education according to the type of institution; and

(D) increasing financial support to sustain and enhance the educational mission of the institution and, in the case of institutions with a research mission, increasing public and private research capabilities and competitiveness.

(e) Notwithstanding any other provision of this section to the contrary, increasing enrollment of underserved students, including low-income individuals, males, and minority groups, shall be addressed in each performance contract.

(f) Notwithstanding any provision of this subsection (2) to the contrary, the provisions of this subsection (2) shall not apply to any performance contract in place as of the date this act goes into effect, until the Board of Regents renegotiates such contract.

(3) All performance contracts between the Board of Regents and any state or private institution of higher education shall be reviewed and approved by the Commission before the contract may become effective.

(4)

(a) Beginning January [year], and each January thereafter, the Board of Regents shall report to the members of the education committees of the Senate and the House of Representatives and the members of the Joint Budget Committee of the state legislature the financial effect of the provisions of each performance contract with regard to funding for the affected governing board of a state institution of higher education and overall funding for the statewide system of higher education, any exemptions granted pursuant to subsection (4) of this section, and a review of each state or private institution’s performance contract. The term of a performance contract may be up to ten years. The Board of Regents may renew a performance contract at its discretion, with the agreement of the governing board.

(b) Beginning January [year], and each January thereafter, data collected and used to measure a state or private institution of higher education’s progress towards the goals set forth in the institution’s performance contract with the Board of Regents shall be made available to the members of the education committees of the House of Representatives and the Senate, members of the Joint Budget Committee, each governing board, and each institution of higher
education covered by a performance contract. The Board of Regents shall also provide copies of the data to other members of the state legislature and members of the public on request.

(5) While operating pursuant to a performance contract negotiated pursuant to this section, the governing board of a state institution of higher education:

(a) Shall continue to operate as the governing board for the institution. In addition, at the request of the governing board, the governor may appoint additional advisory members to the governing board to sustain and enhance the role and mission of the institution. Additional members of the governing board shall serve as nonvoting members of the board and shall serve without compensation. The role of the advisory members shall be to improve the governing board’s opportunities to develop and enrich the academic and research programs at the institution.

(b) Need not consult with nor obtain approval from the Commission to create, modify, or eliminate academic and vocational programs offered by the institution, so long as such creations, modification, and eliminations are consistent with the institution’s statutory role and mission. The Commission shall have the authority to override any creation or modification of an academic or vocational program if the change made by the governing board is inconsistent with the institution’s statutory role and mission.

(c) Shall report to the Commission its plans for any tuition increases for the following academic year for the Commission to forward to the state legislature during the annual budget process.

(6) While operating pursuant to a performance contract negotiated pursuant to this section, a state institution of higher education shall:

(a) Remain eligible for state-funded capital construction projects and controlled maintenance projects as provided in [statute];

(b) Continue to admit [State] resident applicants within the requirements of [statute governing resident admissions] who meet the admissions criteria of the institution.

(7) The Commission, in consultation with the governing boards, shall calculate the amount of unfunded enrollment growth. During the period that a governing board is operating pursuant to a performance contract negotiated pursuant to this section, the Commission may request, as part of the annual budget cycle, a general fund appropriation for each governing board for the amount of unfunded enrollment growth, to the extent that there remains an amount of enrollment growth that is unfunded for the governing board.

(8) While a state institution of higher education is operating pursuant to a performance contract negotiated pursuant to this section, the state legislature retains the authority to approve tuition spending authority for the governing board of the institution.
Section 10. {Governing boards – fee-for-service contracts – authorization}

(1) As used in this section, unless the context otherwise requires:

(a) “Board of Regents” shall have the same meaning as provided in Section 2(1).

(b) “Commission” shall have the same meaning as provided in Section 2(4).

(c) “State institution of higher education” shall have the same meaning as provided in Section 2(10).

(2) Beginning [date] the governing board of a state institution of higher education may annually negotiate a fee-for-service contract with the Board of Regents for the delivery of higher education services by the institution to the residents of the state of [State]. These services may include, but need not be limited to:

(a) educational services in rural areas or communities in which the cost of delivering the educational services is not sustained by the amount received in student tuition;

(b) basic skills courses, as defined in [statute];

(c) educational services associated with the high school fast-track program pursuant to [statute];

(d) educational services required of the Commission to meet its obligations under reciprocal agreements pursuant to [statute];

(e) graduate school services;

(g) educational services that may increase economic development opportunities in the state, including courses to assist students in career development and retraining; and

(g) specialized educational services and professional degrees, including but not limited to the areas of dentistry, medicine, veterinary medicine, nursing, law, forestry, and engineering.

(3) It is the intent of the state legislature that any institution under the direction and control of a governing board that enters into a fee-for-service contract for basic skills courses not charge a student more for a basic skills course than the student would otherwise pay per credit hour for any general education course.

Section 11. {Duties and powers of the Commission with regard to the provision of educational services}
(1) Beginning [date], the Commission shall be responsible for ensuring the provision of specific postsecondary educational services in the state. These educational services shall include but need not be limited to:

(a) educational services in rural areas or communities in which the cost of delivering such services is not sustained by the amount received in student tuition;

(b) basic skills courses, as defined in [statute];

(c) educational services associated with the high school fast-track program pursuant to [state statute];

(d) educational services required of the Commission to meet its obligations under reciprocal agreements pursuant to [statute];

(e) graduate school services;

(f) educational services that may increase economic development opportunities in the state, including courses to assist students in career development and retraining; and

(g) specialized educational services and professional degrees, including but not limited to the areas of dentistry, medicine, veterinary medicine, nursing, law, forestry, and engineering.

(2) The Board of Regents on behalf of the Commission shall annually enter into fee-for-service contracts with one or more governing boards of institutions of higher education to provide the higher education services specified in subsection (1) of this section. The Board of Regents may contract with a governing board of an institution of higher education only to the extent that the contract remains consistent with any contract entered into pursuant to Section 9 with the governing board.

(3) The Commission shall make annual funding recommendations to the state legislature and the governor regarding the funding necessary for the Board of Regents to contract on the Commission's behalf for the provision of higher education services in the state, including but not limited to the services specified in subsection (1) of this section. The state legislature shall annually appropriate to the Commission an amount of general fund monies to carry out the purposes of this section.

Section 12. {Severability clause}

Section 13. {Repealer clause}

Section 14. {Effective date}

7. The College Savings Account Act

Summary

This Act would create the college savings program for the purpose of providing the residents of the state of [name of state] additional postsecondary education opportunities.

Model Legislation

{Title, enacting clause, etc.}

Section 1. {Title} This Act may be cited as the College Savings Account Act.

Section 2. {Legislative Declaration} The [state body] hereby finds, determines, and declares that a choice of education opportunities will benefit the residents [name of state] and that the establishment of a college savings program, to be administered by the [name of state] student obligation bond authority using a plan designed by the department of the treasury, will enhance the availability of postsecondary educational opportunities for residents. It is the intent of the [state body] to achieve this purpose through a public-private partnership using selected financial institutions to serve as account holders and managers of individual college savings accounts.

Section 3. {Definitions} For the purposes of this Act:

(A) “Account” means an individual trust account or savings account established pursuant to this Act.

(B) “Account owner” means the person designated at the time an account is opened as having the right to withdraw moneys from the account before the account is disbursed to or for the benefit of the designated beneficiary.

(C) “Authority” means the [name of state] student obligation bond authority.

(D) “Designated beneficiary” or “beneficiary” means, with respect to an account, the person designated at the time the account is opened, or the person who replaces a designated beneficiary, as the person whose education expenses are expected to be paid from the account.

(E) “Eligible education institution” has the same meaning as that term is defined in 26 U.S.C. sec. 135 (c) (3).

(F) “Financial institution” means any state bank, state trust company, industrial bank, savings and loan association, credit union chartered by the state of [name of state], national bank, broker-dealer, mutual fund, insurance company, or other similar financial entity qualified to do business in the state of [name of state].
(G) “Internal revenue code” means the federal “Internal Revenue Code of 1986”, as amended.

(H) “Manager” means a financial institution under contract with the authority to serve as administrator of the program and recipient of contributions on behalf of the program.

(I) “Member of the family” has the same meaning as that term is defined in 26 U.S.C. sec. 529 (e) (2).

(J) “Nonqualified withdrawal” means a withdrawal from an account other than a qualified withdrawal, a withdrawal made as the result of the death or disability of the designated beneficiary of an account, a withdrawal made as a result of the beneficiary’s receipt of a scholarship, or a rollover or change of designated beneficiary.

(K) “Program” means the college savings program established pursuant to this Act.

(L) “Qualified higher education expenses” has the same meaning as is provided for that term in 26 U.S.C. sec. 529 (e) (3).

(M) “Qualified withdrawal” means a withdrawal from an account to pay the qualified higher education expenses of the designated beneficiary of the account, a withdrawal made on account of the death or disability of the designated beneficiary, or a withdrawal made on account of a scholarship, but only if the withdrawal is made in accordance with this part 3.

Section 4. (Department - purpose - powers - duties) In addition to any other powers and duties specifically granted by law, the department of the treasury shall:

(A) Design the program and the policies related thereto in a manner consistent with this Act and consistent with the requirements of section 529 of the internal revenue code; and

(B) Approve any plan for promoting the program developed by a manager, as provided in section 6.

Section 5. (Authority - purpose - powers - duties) In addition to any other powers or duties specifically granted to the authority in this Act, the authority shall:

(A) Develop and implement the program in a manner consistent with this Act and with the program design and policies as established by the department of the treasury through the adoption of rules, guidelines, and procedures;

(B) Select the financial institution or institutions, and enter into a contract with said institution or institutions to serve as managers and to invest the contributions deposited into the accounts;

(C) Establish rules regarding withdrawal of funds, which rules shall include provisions that will enable the authority or the manager to determine if a withdrawal is a nonqualified withdrawal or a qualified withdrawal;
(D) Retain the professional services of accountants, auditors, consultants, and other experts if necessary in order to implement and develop the program;

(E) Seek rulings and other guidance from the United States department of the treasury, the internal revenue service, and the securities and exchange commission relating to the program as is necessary for proper implementation and development of the program;

(F) Make changes to the program required in order for account owners and beneficiaries and the program to obtain or maintain federal income tax benefits or treatment provided by section 529 of the internal revenue code and exemptions under federal securities laws;

(G) When establishing rules, policies, guidelines, and procedures, interpret the provisions of this Act broadly in light of the purpose and objectives set forth in this Act;

(H) Charge, impose, and collect administrative fees and service charges in connection with any agreement, contract, or transaction relating to the program in amounts not exceeding the cost of establishing and maintaining the program;

(I) Approve the application and review, for purposes of compliance with applicable laws and regulations, any informational materials utilized by the manager to be furnished to persons who desire to participate in the program established in this Act;

(J) Promulgate rules relating to penalties associated with nonqualified withdrawals from accounts pursuant to section 7;

(K) Adopt rules to prevent contributions on behalf of a designated beneficiary in excess of those necessary to pay the qualified higher education expenses of the designated beneficiary;

   (I) Require that every contract, application, deposit slip, or other similar document that may be used in connection with a contribution to an account clearly indicate that the account is not insured by this state and neither the principal deposited nor the investment return is guaranteed by the state.

(2) The authority is hereby authorized to contract with one or more financial institutions pursuant to section 6 to act as managers for the investment of contributions related to this program in stocks, bonds, mutual funds, annuities, and other such investments as deemed appropriate by the authority. In so doing, the authority shall be bound by the fiduciary duty described in [cite appropriate statute], and shall assure that investments by the managers are made with judgment and care which people of prudence, discretion, and intelligence exercise in the management of the property of another, not in regard to speculation but in regard to the permanent disposition of funds, considering the probable income as well as the probable safety of capital. The funds contributed to the accounts established by account owners pursuant to this section are held in trust by the authority and the manager for the sole benefit of the account owner and beneficiary.
Section 6. (Financial institutions - managers - purpose - selection - requirements - contracts)

(A) The authority shall implement the program through the use of one or more financial institutions to act as managers. Under the program, potential account owners may establish accounts through the program at the financial institution.

(B) The authority shall solicit proposals from financial institutions to act as the recipients of contributions and managers.

(C) The authority shall select from among bidding financial institutions one or more financial institutions that demonstrate the most advantageous combination to account owners and beneficiaries, based on the following factors:

   (1) Financial stability and integrity;
   
   (2) The ability of the financial institution, directly or through a subcontract, to satisfy record-keeping and reporting requirements;
   
   (3) The financial institution’s plan for promoting the program and the investment that the financial institution is willing to make in order to promote the program;
   
   (4) The historic ability of the investment instruments utilized by the financial institution to track the estimated costs of higher education as calculated by the United States department of education;
   
   (5) The fees, if any, proposed to be charged to account owners for maintaining accounts;
   
   (6) The minimum initial cash contribution and minimum contributions that the financial institution will require, and the willingness of the financial institution to accept contributions through payroll deduction plans or systematic deposit plans; and
   
   (7) Any other benefits to the state or to its residents, included in the proposal, including an account opening fee payable to the authority by the account owner.

(D) The authority shall contract with one or more financial institutions, in accordance with subsection (E) of this section, to serve as managers and to invest the contributions to accounts.

(E) The authority may select more than one financial institution for the program if the United States internal revenue service has provided guidance that giving a contributor a choice of two or more financial institutions will not cause the program to fail to qualify for favorable tax treatment under section 529 of the internal revenue code, and the authority concludes that the choice of two or more financial institutions is in the best interest of account owners and beneficiaries and will not interfere with the promotion of the program.
(F) A manager shall:

(1) Take all actions required to keep the program in compliance with the requirements of this Act and to assure that the program is treated as a qualified state tuition plan under section 529 of the internal revenue code and to assure that the program is exempt from registration under the federal securities law;

(2) Keep adequate and separate records of each account and provide the authority with the information necessary to prepare the reports required by section 529 of the internal revenue code or file these reports on behalf of the authority;

(3) Compile and total information contained in statements required to be prepared pursuant to section 7 (P) and (Q) and provide these compilations to the authority;

(4) Provide representatives of the authority access to the books and records of the manager to the extent needed to determine compliance with the contract;

(5) Hold all accounts in trust for the sole benefit of the account owner and beneficiary on behalf of the program, acting in a fiduciary capacity and making investments with judgment, care, and prudence as described in [cite appropriate statute]; and

(6) Develop a plan to promote the program and, after approval of such plan by the department of the treasury, promote the program in accordance with the plan.

(G) Any contract executed between the authority and a financial institution pursuant to this section shall be for a term of at least [insert number] years and may be renewable.

(H) If a contract executed between the authority and a financial institution pursuant to this section is not renewed, all of the following conditions shall apply at the end of the term of the non-renewed contract, so long as applying these conditions does not disqualify the program as a qualified state tuition plan under section 529 of the internal revenue code:

(1) The authority shall continue to maintain the program at the financial institution;

(2) Accounts previously established at the financial institution shall not be terminated, except as provided in paragraph (5) of this subsection (H) or as provided in subsection (I) of this section;

(3) Additional contributions may be made to the accounts;

(4) No new accounts may be placed with that financial institution; and

(5) If the authority determines that continuing the accounts at the financial institution is not in the best interest of the account owners, the accounts may be transferred to another financial institution under contract with the authority.
(I) The authority may terminate a contract with a financial institution at any time. If a contract is terminated pursuant to this subsection (I), the authority shall take custody of accounts held at that financial institution and shall seek to promptly transfer the accounts to another financial institution that is selected as a manager and into investment instruments as similar to the original investments as possible pursuant to the guidelines established in section 7.

Section 7. (Accounts - contributions - withdrawals - penalties - statements)

(A) The program shall be operated through the use of accounts. An account may be opened by any person who desires to save for the qualified higher education expenses of a potential beneficiary by satisfying each of the following requirements:

1. Completing an application in the form prescribed by the financial institution and approved by the authority. Said application shall include the following information:
   
   (a) The name, address, and social security number or employer identification number of any person that contributes to the account;

   (b) The name, address, and social security number or employer identification number of the account owner;

   (c) The name, address, social security number or employer identification number, and date of birth of the designated beneficiary;

   (d) A certification from the contributor that states that to the best of the contributor’s knowledge, the account balance for the designated beneficiary in all qualified state tuition programs, as defined in section of the internal revenue code, does not exceed the greater of either a maximum college savings amount established by the authority or the cost in current dollars of qualified higher education expenses that the contributor reasonably anticipates the designated beneficiary will incur; and

   (e) Any other information that the authority may deem necessary.

2. Making the minimum contribution required by the financial institution to open an account.

(B) Any person may make contributions to an account, consistent with the terms established by the authority, after the account is opened.

(C) Contributions to accounts shall be made in cash or cash equivalents only.

(D) Account owners may withdraw all or part of the balance from an account upon giving sixty days' notice, or upon such shorter period as may be authorized by the authority pursuant to rules established by the authority, including any applicable fees and penalties.
(E) An account owner may change the designated beneficiary of an account to an individual who is a member of the family or former designated beneficiary in accordance with procedures established by the authority.

(F) At the direction of the account owner, all or a portion of an account may be transferred to another account, if the designated beneficiary of the transferee account is a member of the family of the designated beneficiary of the transferor account.

(G) Changes in designated beneficiaries and rollovers under this section are not permitted if the changes or rollovers would violate rules related to excess contributions or rules related to investment choice.

(H) In the case of any nonqualified withdrawal from an account, an amount that would constitute more than a de minimis penalty, as determined by the authority in accordance with section 529 of the internal revenue code, shall be withheld as a penalty from the amount withdrawn or from funds remaining in the account and paid to the authority for use in operating the program and for state student financial aid.

(I) If an account owner makes a nonqualified withdrawal and no penalty amount is withheld pursuant to subsection (H) of this section, or the amount withheld is less than the amount required to be withheld pursuant to subsection (H) of this section for nonqualified withdrawals, the account owner shall pay the unpaid portion of the penalty to the authority on or before April 15 of the following tax year.

(J) Each account shall be accounted for separately from all other accounts under the program.

(K) Separate records and accounting shall be maintained for each account for each designated beneficiary.

(L) As long as prohibited by federal law, no contributor to, account owner of, or designated beneficiary of any account may direct the investment of any contribution to an account or the earnings from the account.

(M) If the authority terminates the contract of a financial institution to hold accounts and accounts must be moved from that financial institution to another financial institution, the authority shall select the financial institution to which the balances of the accounts are moved.

(N) Neither an account owner nor a designated beneficiary may use an interest in an account as a security for a loan. Any pledge of an interest in an account is of no force and effect.

(O) If there is any distribution from an account to any person or for the benefit of any person during the calendar year, the distribution shall be reported to the internal revenue service and to the account owner or the designated beneficiary to the extent required by federal law.

(P) The financial institution shall provide statements to each account owner at least once each year, within thirty-one days after the end of the calendar year. The statement shall identify the contributions made during the preceding reporting period, the total contributions made through the end of the reporting period, the value of the account as of the end of the reporting period, withdrawals made
during the reporting period, and any other matters that the authority requires to be reported to the account owner.

(Q) Statements and information returns relating to accounts shall be prepared and filed to the extent required by federal or state tax law.

Section 8. (Limitations)

(A) Nothing in this Act shall be construed to:

1. Give any designated beneficiary any rights or legal interest with respect to an account unless the designated beneficiary is the account owner;
2. Guarantee that a designated beneficiary will be admitted to an education institution or be allowed to continue enrollment at or graduate from an education institution;
3. Establish state residency for a beneficiary merely because of the designation as a beneficiary; or
4. Guarantee that amounts saved pursuant to the program will be sufficient to cover the qualified higher education expenses of a designated beneficiary.

(B) Nothing in this Act shall establish any obligation of the state of [name of state] or any agency or instrumentality of the state of [name of state] to guarantee for the benefit of any owner, contributor to an account, or designated beneficiary any of the following:

1. The return of any amounts contributed to an account;
2. The rate of interest or other return on any account;
3. The payment of interest or other return on any account; or
4. Tuition rates or the cost of related education expenditures.

(C) Nothing in this Act shall be construed to indicate that the account is insured by the state of [name of state] or that the principal deposited or investment return is guaranteed by the state of name of state.

Section 9. (Residency) Both resident and nonresident owners and designated beneficiaries shall be eligible to participate in and benefit from the college savings program.

Section 10. (Tax exemption) Notwithstanding any other law to the contrary, the amount of any distribution to a designated beneficiary, as defined in section 529 (e) (1) of the internal revenue code, from an account established under this Act shall be exempt from state income taxation to the extent that this income is used to pay qualified higher education expenses of the designated beneficiary.

Section 11. (Severability clause)
Section 12. {Repealer clause}

Section 13. {Effective date}

8. The Drug-Free Post-Secondary Education Act

Summary

This act would require all public post-secondary educational institutions to suspend for one semester (or quarter) any student convicted of any drug offense. The Act further requires the suspension of state financial aid to students convicted of any drug offense. The Act does not prohibit public and non-public post-secondary educational institutions from enacting additional or more severe sanctions.

Suggested Legislation

Section 1. {Short Title} This act shall be known and may be cited as the Drug-Free Post-Secondary Education Act.

Section 2. {Definitions.} As used in this Act:

(A) “Authority” means the [state] student finance authority created pursuant to [cite state code].

(B) “Controlled substance” means any drug, substance, or immediate precursor included in the definition of the term “controlled substance” in [cite state controlled substance act].

(C) “Convicted” or “conviction” refers to a plea of guilty, a finding of guilty by a court of competent jurisdiction, or the acceptance of a plea of nolo contendere or affording of first offender treatment by a court of competent jurisdiction, irrespective of pendency or availability of any appeal of application for collateral relief.

(D) “Dangerous drug” means any drug or substance defined as such in [cite state controlled substance act].

(E) “Date of conviction” means the date that the trial court determines guilt and enters judgment thereon or the date on which the court accepts a plea of nolo contendere or formally allows a person to receive first offender treatment.

(F) “Marijuana” shall have the same meaning as such term as defined in [cite state controlled substance act].

(G) “Non-public educational institution” means any post-secondary educational institution not established, operated, or governed by [state].

(H) “Public educational institution” means:

1. any two-year college, college, university, or other institution of higher learning under the management and control of the Board of Regents of the University System of [insert state]; and
2. any post-secondary technical school under the management and control of the State Board of Technical and Adult Education.

(I) “Student” means any person who is enrolled as a student in courses for academic credit on a full-time, part-time, temporary, or intermittent basis in any public or non-public educational institution.

Section 3. {Suspension from a public educational institution.}

(A) Any student of a public educational institution who is convicted, under the laws of this state, the United States, or any other state, of any offense involving the manufacture, distribution, sale, possession, or use of marijuana, a controlled substance, or a dangerous drug shall as of the date of conviction be suspended from the public educational institution in which such person is enrolled.

(B) Except for cases in which the institution has previously taken disciplinary action against a student for the same offense, such suspension shall be effective as of the date of the conviction, even though the educational institution may not complete all administrative actions necessary to implement such suspension until a later date. Except for cases in which the institution has already imposed disciplinary sanctions for the same offense, such suspension shall continue through the end of the term, quarter, semester, or other similar period for which the student was enrolled as of the date of conviction. The student shall forfeit any right to any academic credit otherwise earned or earnable for such term, quarter, semester, or other similar period; and the education institution shall subsequently revoke any such academic credit which is granted prior to the completion of administrative actions necessary to implement such suspension.

Section 4. {Suspension of state financial aid used to attend a non-public educational institution.}

(A) Any student of a non-public educational institution who is convicted, under the laws of this state, the United States, or any other state, of any offense involving the manufacture, distribution, sale, possession, or use of marijuana, a controlled substance, or a dangerous drug shall as of the date of conviction be denied state funds for any loans, grants, or scholarships administered under the authority of [cite state student finance authority laws]. The authority is authorized to define such terms and prescribe such rules, regulations, and procedures as may be reasonable and necessary to carry out the purposes of this article.

(B) Such denial of state funds shall be effective as of the first day of the term, quarter, semester, or other similar period for which the student is enrolled immediately following the date of conviction or the date on which the court accepts a plea of nolo contendere or formally allows a student to receive first offender treatment and shall continue through the end of such term, quarter, semester, or other similar period for which the student was enrolled.
(C) Any non-public educational institution operating within this state that receives state funds shall agree to comply with this article in order to be eligible for its students to receive state funds through scholarships, grants, or loan programs.

Section 5. (Right of educational institution to enforce additional sanctions.) The suspension sanctions and sanctions involving denial of state funds as prescribed in this Act are intended as minimum sanctions, and nothing in this Act shall be construed to prohibit any educational institution from establishing and implementing additional or more stringent sanctions for felony offenses and other conduct involving the unlawful manufacture, distribution, sale, possession, or use of marijuana, a controlled substance, or a dangerous drug.

Section 6. (Administrative procedures.) Administrative procedures for the implementation of this Act shall be promulgated for the educational institutions under their respective management and control by the Board of Regents of the University System of [insert state] and the State Board of Technical and Adult Education or the individual non-public educational institutions. Such procedures shall provide for relief from sanctions previously imposed under this Act against a person whose conviction is subsequently overturned on appeal or through collateral relief.

Section 7. (Severability clause.)

Section 8. (Repealer clause.)

Section 9. (Effective date.)

9. **Higher Education Sunshine Act**

**Section 1. (Short Title)** This act shall be known and may be cited as the “Higher Education Sunshine Act.”

**Section 2. (Definitions)**

As used in this act, unless the context otherwise requires:

(A) “Intellectual diversity” is defined as the foundation of a learning environment that exposes students to a variety of political, ideological, religious, and other perspectives, when such perspectives relate to the subject matter being taught or issues being discussed.

**Section 3. (Annual Report)**

The [Board of Trustees, Regents, state coordinating council] shall require each public institution under its control to report annually to the Legislature detailing the steps the institution is taking to ensure intellectual diversity and the free exchange of ideas.

(A) The report required in this subsection shall address the specific measures taken by the institution to ensure and promote intellectual diversity and academic freedom. The report may include steps taken by the institution to:

1. Conduct a study to assess the current state of intellectual diversity on its campus;
2. Incorporate intellectual diversity into institution statements, grievance procedures, and activities on diversity;
3. Encourage a diverse variety of campus-wide panels and speakers and annually publish the names of panelists and speakers;
4. Establish clear campus policies that ensure that hecklers or threats of violence do not prevent speakers from speaking;
5. Include intellectual diversity concerns in the institution’s guidelines on teaching and program development;
6. Include intellectual diversity issues in student course evaluations;
7. Develop hiring, tenure, and promotion policies that protect individuals against viewpoint discrimination and track any reported grievances in that regard;
(8) Establish clear campus policies to ensure freedom of the press for students and report any incidents of student newspaper thefts or destruction;

(9) Establish clear campus policies to prohibit viewpoint discrimination in the distribution of student fee funds;

(10) Eliminate any speech codes that unduly restrict the freedom of speech; or

(11) Create an institutional ombudsman on intellectual diversity, or specifically charge an existing ombudsman with monitoring the state of intellectual diversity.

(B) The report shall be distributed to the members of the Legislature no later than December 31 of each year.

(1) The report shall be posted on each public higher education institution’s web site:

Section 4. {Repealer Clause}

Section 5. {Effective Date}
10. Intellectual Diversity in Higher Education Act

Summary

Each public institution of higher education must annually report to the Legislature detailing the steps the institution is taking to ensure intellectual diversity and the free exchange of ideas.

Model Legislation

Section 1. {Short title} This act shall be known and may be cited as the “Intellectual Diversity in Higher Education Act.”

Section 2. {Legislative declaration} Be it enacted by the legislature of the state of {insert state}:

RECOGNIZING, intellectual diversity is the foundation of a learning environment that exposes students to a variety of political, ideological, and other perspectives; and

RECOGNIZING, colleges and universities should welcome intellectual diversity and the free exchange of ideas as values indispensable to a liberal education, teaching and program development; and

RECOGNIZING, teachers should not take unfair advantage of the immaturity of students by indoctrinating them with their own opinions before the students have had an opportunity to examine other opinions; and

RECOGNIZING, academic decisions, including grades, should be based solely on considerations that are intellectually relevant to the subject matter under consideration; and

RECOGNIZING, members of the campus community who believe they have been treated unfairly on academic matters must have access to a clear institutional process by which grievances can be addressed; and

RECOGNIZING, political and ideological bias in hiring, promotion, and tenure is unacceptable; and

RECOGNIZING, intellectual diversity must be achieved in ways that protect such values as academic freedom, shared governance, and academic standards; and

RECOGNIZING, faculty, administrators, and the [Board of Regents, trustees, etc.] should take the initiative in meeting the challenge of intellectual diversity; and

RECOGNIZING, there is a high degree of consensus on the principles set forth in a statement entitled, “Academic Rights and Responsibilities,” that was issued by the American Council on Education on behalf of thirty higher education organizations; and
RECOGNIZING, surveys revealing ideological imbalance in the classroom, evidence of politicization, and public concern over this issue continue to mount; and

RECOGNIZING, it is the responsibility of governing boards to ensure that institutional policies and procedures promote, for all students and faculty, an open atmosphere in which a range of viewpoints can be freely expressed.

Section 3. {Definitions} As used in this act, unless the context otherwise requires:

(A) “intellectual diversity” is defined as the foundation of a learning environment that exposes students to a variety of political, ideological, and other perspectives.

Section 4. {Higher education intellectual diversity report} The [Board of Trustees, Regents, state coordinating council] shall require each institution under its control to annually report to the Legislature detailing the steps the institution is taking to ensure intellectual diversity and the free exchange of ideas.

(A) The report required in this Act shall address the specific measures taken by the institution to ensure and promote intellectual diversity and academic freedom. The report may, but is not required to include, any steps taken by the institution to:

(1) Conduct a study to assess the current state of intellectual diversity on its campus;

(2) Incorporate intellectual diversity into institutional statements, grievance procedures, and activities on diversity;

(3) Encourage a balanced variety of campus-wide panels and speakers and annually publish the names of panelists and speakers;

(4) Establish clear campus policies that ensure that hecklers or threats of violence do not prevent speakers from speaking;

(5) Include intellectual diversity concerns in the institution’s guidelines on teaching and program development;

(6) Include intellectual diversity issues in student course evaluations;

(7) Develop hiring, tenure, and promotion policies that protect individuals against political viewpoint discrimination and track any reported grievances in that regard;

(8) Establish clear campus policies to ensure freedom of the press for students and report any incidents of student newspaper thefts or destruction;
(9) Establish clear campus policies to prohibit political bias in the distribution of student fee funds;

(10) Eliminate any speech codes that restrict the freedom of speech; or

(11) Create an institutional ombudsman on intellectual diversity.

(B) The report shall be distributed to the members of the [insert state] Legislature no later than December 31 of each year.

(C) The report shall be posted on the higher education institution’s Web site.

Section 5. {Repealer clause.}

Section 6. {Effective date.}

11. Prohibiting Aid to Draft Resisters

Summary

Should government subsidize the educations of young men who knowingly fail to comply with the federal draft registration law? The United States Congress says the federal government should not. States must now decide if they will use state money to finance the higher education of young men who refuse to register with the Selective Service System.

The Military Selective Service Act requires that, upon reaching 18 years of age, young men must register with the Selective Service System. The comprehensive registration of draft age males is recognized as an essential prerequisite for the swift mobilization of forces should world events ever compel the reinstitution of national conscription. Failure to register is not only a violation of the law, it is a shirking of the responsibilities of citizenship.

In 1982, Congress passed the Solomon Amendment to the Selective Service Act. Named for its sponsor, Congressman Gerald Solomon (NY), the amendment states that any male over the age of 18 must register with the Selective Service before receiving any federal student assistance such as Pell Grants, Guaranteed Student Loans, or other education aid. Three states, Tennessee, Illinois, and Mississippi, have passed similar measures pertaining to state funded education assistance. Massachusetts also passed such a law only to have Governor Michael Dukakis veto it.

Bills linking student aid with selective service registration have been introduced in other states, but were blocked by opponents who felt that the Solomon amendment may have been unconstitutional. Such objections were overcome, however, when the Supreme Court held in 1984 that the amendment is constitutional.

The overwhelming majority of draft age men have registered in compliance with the law. However, as of September 1984, there were still 182,000 men born between 1960 and 1964 who had not registered and 390,000 born in 1965 and 1966 who had failed to fulfill their legal responsibility. Equity demands that everyone register. Public policy demands that laws be obeyed. And certainly, the taxpayer would demand that his money not be sued to subsidize the education of one who is willfully breaking the law.

Source: ALEC The Source Book of American State Legislation 1985-86
12. Resolution Supporting Training and Continuing Education for Higher Education Governing Boards

*Expressing the sense of the Legislature regarding the importance and value of continuing education for college and university governing boards*

RECOGNIZING that lay governance is a part of our democratic tradition and brings the perspective of informed citizens to the heart of the university;

RECOGNIZING that responsible stewardship can make a real difference in what students know and can do when they graduate, in access, selection of leaders, cost-effectiveness, quality of public higher education and in developing closer linkages between the greater society and the universities that serve them;

RECOGNIZING that trustees are stewards of public resources and accountable to the people in their state for the wise use of those resources;

RECOGNIZING that considerable challenges face higher education and that there is a growing public demand for greater accountability, increased responsibility, and improved taxpayer value in [State]'s public institutions of higher education;

RECOGNIZING that many trustees can benefit from a better understanding of how to be effective leaders in the unique context of an academic institution and that informed stewardship can help gain public confidence in higher education;

NOW, THEREFORE, BE IT RESOLVED by the Legislature that it is the sense of the Legislature of the State of [insert State] that

All governing boards of [state] public institutions of higher education should establish by rule a program of orientation and continuing education for all members; that orientation and training sessions feature experts with a national perspective on higher education; that training programs focus on best practices and central issues in higher education such as trustees and the public trust; legal and ethical responsibilities of trustees; the challenge of academic standards; intellectual diversity and academic freedom; budget development; management and auditing; selecting and evaluating new presidents; teacher education and the relation of higher education to K-12 education; managing resources effectively; and setting strategic goals.

*Adopted by the Education Task Force at the Annual Meeting, July 21, 2006. Approved by the ALEC Legislative Board of Directors August, 2006.*
13. Resolution Supporting United States History Education

Expressing the sense of the Legislature regarding the importance and value of education in United States history

WHEREAS, basic knowledge of United States history is essential to full and informed participation in civic life and to the larger vibrancy of the American experiment in self-government;

WHEREAS, basic knowledge of the past serves as a civic glue, binding together a diverse people into a single Nation with a common purpose;

WHEREAS, citizens who lack knowledge of United States history will also lack an understanding and appreciation of the democratic principles that define and sustain the Nation as a free people, such as liberty, justice, government by the consent of the governed, and equality under the law;

WHEREAS, a survey by the Center for Survey Research and Analysis at the University of Connecticut commissioned by the American Council of Trustees and Alumni reveals that the next generation of American leaders and citizens is in danger of losing America’s memory of the historic foundations;

WHEREAS, the survey found that 81 percent of seniors at elite colleges and universities could not answer basic high school level questions concerning United States history, that scarcely more than half knew general information about American democracy and the Constitution, and that only 22 percent could identify the source of the most famous line of the Gettysburg Address;

WHEREAS, many of the Nation’s colleges and universities no longer require United States history as a prerequisite to graduation, including 100 percent of the top institutions of higher education listed by U.S. News & World Report;

WHEREAS, 90 percent of the Nation’s top colleges and universities no longer require the study of any form of history at all;

WHEREAS, America’s colleges and universities are leading bellwethers of national priorities and values, setting standards for the whole of the United States’ education system and sending signals to students, teachers, parents, and public schools about what every educated citizen in a democratic republic must know;
WHEREAS, many of America’s most distinguished historians and intellectuals have expressed alarm about the growing historical illiteracy of college and university graduates and the consequences for the Nation; and

WHEREAS, distinguished historians and intellectuals fear that without a common memory and understanding of the courageous individuals, events, and ideals that have shaped the Nation, people in the United States risk losing much of what it means to be an American, as well as the ability to fulfill the fundamental responsibilities of citizens in a democratic republic;

WHEREAS, the United States House of Representatives and United States Senate have unanimously called upon state officials responsible for higher education to review public college and university curricula in their states and promote requirements in United States history;

NOW, THEREFORE, BE IT RESOLVED by the Legislature, That it is the sense of the Legislature of the State of {insert STATE} that:

1) the historical illiteracy of America’s college and university graduates is a serious problem that should be addressed by the Nation’s higher education community;

2) boards of trustees and administrators at institutions of higher education in the state of {insert STATE} should review their curricula and ensure requirements in United States history that are broad-based and provide exposure to America’s founding documents;

3) State officials responsible for higher education should review public college and university curricula in the state of {insert STATE} and promote requirements in United States history;

4) parents should encourage their children to select institutions of higher education with substantial history requirements and students should take courses in United States history whether required or not; and

5) history teachers and educators at all levels should redouble their efforts to bolster the knowledge of United States history among students of all ages and to restore the vitality of America’s historical memory.
14. **Individuals with Disabilities Education Act Resolution**

*Model Resolution*

**WHEREAS**, Congress enacted the Individuals with Disabilities Education Act, originally in 1975 to bring meaningful educational opportunities for children with disabilities, and

**WHEREAS**, Congress passed on the implementation of this law to the state and local governments and promised to fund the additional cost that IDEA burdened the local schools, and

**WHEREAS**, school districts estimate IDEA expenditures nationally at $50 billion, of which the federal government only pays approximately 18%. According to the act, the Federal Government promised to pay 40% of the bill. This promise has not been kept, and

**WHEREAS**, President George W. Bush and Congressional leaders enacted “No Child Left Behind” to bring education opportunities to all children. Especially to offer choice to those children under IDEA that need the most help, and

**WHEREAS**, under the current system IDEA is an adversarial process, pitting parent against educator, that encourages litigation, not mediation. This situation results in a system focused on compliance with burdensome regulations, rather than the academic achievement it was intended to improve, and

**WHEREAS**, many special education teachers are more focused on process than education and many spend more time filling out the “individual education plane” or IEP and paperwork than teaching, and

**WHEREAS**, the barrage of compliance driven paperwork and the rigidity of the IEP have served to remove and marginalize the parent from the process of education, and

**WHEREAS**, the current system employs an antiquated method to identify children with disabilities which waits for a child to fail, instead of focusing on prevention and intervention, and

**WHEREAS**, the parents are encouraged to seek special education identification due to the additional funding that a school district can receive for a that child, instead of solving simple educational or discipline problems, such as reading development or acting out. Additionally parents are discouraged from seeking transition out of special education when they feel their child does not benefit from IDEA because of the potential loss of revenue to the school, and
WHEREAS, currently, schools are not allowed to seek private school partnerships and therefore school choice options are not offered in a vast number of states. School choice is extremely important for those children with disabilities because it allowed multiple options for parents and enables them to seek out the best program regardless of location or operation. In the state of Florida, where school choice scholarships are offered, achievement is up and the cost of services is down, and

BE IT THEREFORE RESOLVED, that the members of the Educational Task Force of the American Legislative Exchange Council recommends that Congress appropriate the 40% funding of IDEA as originally intended, and

FURTHER RESOLVES, that Congress should direct funds specifically to implementation of parental choice for those IDEA students that might be better served by the private schools or other public schools, and

FURTHER RESOLVES, that Congress and the administration develop a process that removes the adversarial process that encourages litigation and not mediation, and

FURTHER RESOLVES, Congress and the Administration should enact legislation that reduces the burden on the teacher with respects to paperwork, process and cumbersome administrative meetings, and

FURTHER RESOLVES, that Congress and the administration should develop a process that encourages parents to transition their child out of IDEA if services are not needed, and

FURTHER RESOLVES, that each member of the task force encourages the Department of Education to implement the legislation as written and to seek the guidance from Congress when the legislative language is not clear.
15. Proposed Resolution on Straight A’s: Academic Achievement for All

Model Resolution

WHEREAS, after 34 years the federal Elementary & Secondary Education Act (ESEA) has failed to boost the academic achievement of the students the program purports to serve,

WHEREAS, the federal involvement in education ties the hands of states with mandates, paperwork, and bureaucracy,

WHEREAS, Congress does not allow states to consolidate the funds in the ESEA program to help existing state reforms and in some cases hinders state reforms,

NOW THEREFORE BE IT RESOLVED THAT: the {legislative body} urges Congress to allow {name of state} to consolidate its share of the formula based categorical programs under ESEA to help {name of state} invest in the education of the students served under ESEA. {Name of state} invites the Federal Department of Education to enter into a contractual agreement with us in which we will outline how {name of state} will boost the academic achievement of our students. If {name of state} fails to raise student achievement per the contractual agreement, then ESEA programs will revert to the terms predating the contractual agreement.

Adopted by ALEC Legislative Board of Directors on May 20, 1999.
16. Resolution for Educational Improvement

Summary

In March, 1990, the ALEC Task Forces on Education and Tax & Fiscal Policy convened a special joint meeting in Salt Lake City, Utah to discuss the critical role of state legislators in educational reform.

A topic central to the meeting was school funding and the impact of expenditures on student performance. Since 1971, supreme courts in 10 states have ruled school financing methods unequal and unconstitutional. In the past two years, school finance system has been struck down in Kentucky, Montana, Nebraska, North Dakota, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, and Virginia.

The expense of changing school finance methods is staggering, an additional $528 million in Texas alone. Nevertheless he primary question is not increased expenditures for education, but, rather, will more money alone improve the quality of education? Unfortunately, if the results of the past decade are any indication, the answer is not encouraging – more money will not save education.

Recognizing this, the Task Forces drafted A Resolution for Educational Improvement to provide ALEC members with a policy guideline for education reform.

Model Legislation

WHEREAS, Americans depend on education as a means to improve and enrich their lives; and,

WHEREAS, no other nation in history has made the same degree of effort to provide a quality education for all its citizens as the United States; and,

WHEREAS, America’s commitment to providing quality public education was reaffirmed by the President and the nation’s governors through the recent adoption of national education goals; and,

WHEREAS, in recent decades our nation’s public schools have too often failed to effectively educate our children (by virtually all accounts our students know too little and their command of basic skills is far below what is needed for the future: since 1963 average scholastic aptitude test (SAT) verbal scores have fallen 54 points and average math scores 36 points; in comparison to other industrialized nations America’s educational achievement ranks 12th out of 14); and,

WHEREAS, the 1983 report A National at Risk warned this educational deterioration already has created a horrendous waste of our most precious national resource – our youth, suffocated the personal development of an entire generation, entrapped poor and minority children in the cycle of poverty, seriously reduced the productivity of the nation in industrial, intellectual, and artistic endeavors, and each day further jeopardizes the future of our nation; and,
WHEREAS, the problems affecting America’s educational system are not primarily the level of investment in education, but the return on that investment (current per pupil expenditures have increase over 26% since 1983; the current average per pupil expenditures in public elementary and secondary schools, excluding capital outlays, in 1988 was $4,243); and,

WHEREAS, increased expenditures for education have demonstrated virtually no correlative increase in educational achievement;

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of {state}, a majority of voting members concurring herein, that to affect the quality of education and maintain a participatory and responsible democracy and a prosperous and competitive economy, increased expenditures for education shall forthwith be coupled to policies to improve the educational system. These policies shall:

- Establish programs that enable parents to have a choice in selecting which schools their children attend;
- Establish standards for high school graduation that require the completion and a thorough knowledge of core academic curriculum. Such standards and curriculum shall include at least four years of English and three years each of mathematics, science, history, and one year of civics (which shall include instruction in the Nation’s founding and related documents);
- Establish performance goals and assessments of student progress and hold schools accountable for student performance. Such information shall be made available to the public;
- Establish effective and sensible methods to evaluate teacher performance based on student achievement and use such evaluations to determine appropriate teacher salary levels;
- Establish alternate teacher and principal certification programs to enable otherwise qualified individuals with subject matter expertise to teach or administer without first necessarily completing “education and administrative course;” and,

BE IT FUTHER RESOLVED THAT upon the adoption of this Resolution, and the implementation of these principles, the Legislature shall develop an oversight process to monitor the effectiveness of such policies in achieving their goals.
17. Resolution on Title 1 of the Elementary and Secondary Education Act

Model Resolution

WHEREAS, after 34 years the Title 1 programs of the federal Elementary & Secondary Education Act (ESEA) has failed to boost the academic achievement of the students the program purports to serve,

WHEREAS, the federal involvement in education ties the hands of the states with mandates, paperwork, and bureaucracy,

WHEREAS, Congress does not allow states to consolidate the funds in the Title 1 programs of ESEA program to help existing state reforms and in some cases hinders state reform,

NOW THEREFORE BE IT RESOLVED THAT: the {legislative body} of the state of {name of state} urges Congress to empower {name of state} with the ability to tie Title 1 dollars to students and allow them to carry the money to the school or providence of their choice (depending on the extent of state constitutional law).
18. The Charter Schools Act

Summary

The Charter Schools Act allows groups of citizens to seek charters from the state to create and operate innovative, outcomes-based schools. These schools would be exempt from state laws and regulations that apply to public schools. Schools are funded on a per-pupil rate, the same as public schools. Currently, Minnesota operates the most well-known program.

Model Legislation

Section 1. {Title.} The Charter Schools Act

Section 2. {Purpose.} The purposes of this bill are to:

(A) improve pupil learning;

(B) increase learning opportunities for pupils;

(C) encourage the use of different and innovative teaching methods;

(D) require the measurement of learning outcomes and create different and innovative forms of measuring outcomes;

(E) establish new forms of accountability for schools; and

(F) create new professional opportunities for teachers and other educators, including the opportunity to be responsible for the learning program at the school site.

Section 3. {Applicability.} This Act applies only to charter schools formed and operated under this Act.

Section 4. {Formation of School.} A sponsor may authorize one or more individuals or an organization to form and operate an outcomes-based school. An individual or organization shall organize and operate as a cooperative under (insert state code). The sponsor’s authorization shall be in the form of a written contract between the sponsor and the board of directors of the charter school.

Section 5. {Contract.} The contract shall be in writing and contain at least the following:

(A) a description of a program that carries out one or more of the purposes in Section 2;

(B) specific outcomes to be achieved by the pupils;
(C) admission policies and procedures;

(D) management and administration of the school;

(E) requirements and procedures for program and financial audits;

(F) assumption of liability by the charter school;

(G) types and amounts of insurance coverage to be obtained by the charter school; and

(H) the term of the contract, which may be up to three years.

Section 6. {Advisory Committee.} The state board of education shall appoint an advisory committee comprising 10 members.

Section 7. {Exemption from Statutes and Rules.} Except as provided in this section, a charter school is exempt from all statutes and rules applicable to a school board or school district, although it may elect to comply with one or more provisions of such statutes or rules.

Section 8. {Requirements.}

(A) A charter school shall meet the same health and safety requirements required of a school district.

(B) The school location may not be prescribed or limited by a sponsor or other authority except a zoning authority.

(C) The school must be nonsectarian in its programs, admission policies, employment practices, and all other operations.

(D) The primary focus of the school shall be to provide a comprehensive program of instruction for at least one grade or age group from 5 through 18 years of age. Instruction may be provided to people younger than 5 years and older than 18 years of age.

(E) The school may not charge tuition.

Section 9. {Admission Requirements.}

(A) The school may limit admission in the following ways:

(1) pupils within an age group or grade level;

(2) pupils who have attributes designating them as at risk of failure;
(3) pupils who have a specific affinity for the school’s teaching methods, the school’s learning philosophy, or a subject such as mathematics, science, fine arts, performing arts, or a foreign language.

(B) The school shall not limit admission to students on the basis of athletic ability.

Section 10. A charter school shall design its programs to at least meet the standards adopted by [state], or in the absence of state requirements the school shall meet the outcomes contained in the contract with the sponsor. The achievement levels of the outcomes contained in the contract may exceed the achievement levels of any outcomes adopted by the state board.

Section 11. The school shall provide instruction each year for at least the number of days required of school districts.

Section 12. Transportation for students enrolled at a school shall be provided by the school district in which the school is located, pursuant to [insert state statute], for a student who resides in the same school district in which the outcomes-based school is located. Transportation may be provided by the school district in which the school is located for a student residing in a different school district.

Section 13. If a teacher employed by a school district makes a written request for an extended leave of absence to teach at a charter school, the school district shall grant the leave.

Section 14. {Severability clause.}

Section 15. {Repealer clause.}

Section 16. {Effective date.}

19. The Education Enterprise Zone Act

Summary

The Education Enterprise Zone Act creates and provides for parental choice of schools within an educational enterprise zone (EEZ). All public and private schools within a designated zone. Any elementary or secondary student who is eligible for participation in a free lunch program may attend any school within the zone, provided the school has space and the student meets admission requirements.

The legislation further provides that if the student attends a private school, the state shall issue to the parent a voucher valued in an amount equal to the average amount of per pupil funding allocated to that school system, or the full amount of the private school's tuition and fees, whichever is less.

Model Legislation

Section 1. {Educational enterprise zones.}

(A) An educational enterprise zone is created in each public school system as defined in this Act. An education enterprise zone is defined as all public schools and private schools that have been approved by the [state board of elementary and secondary education] as provided in Section 5.

(B) Within an educational enterprise zone, any regular education student in grades one through twelve who is eligible to participate in the free lunch program (pursuant to 42 USC 1758(b)), may, if a parent or guardian so chooses, attend any other public or approved private school of appropriate grade level within the [state/district system], provided space is available and the student meets any applicable admission requirements.

Section 2. {Definitions.}

(A) “Parent” means the natural or adoptive parent or legal guardian of a dependent child.

(B) “Participating school” means a public or private school located in the state that enters into an agreement with the district school board in accordance with the provisions of Section 5.

(C) “Private school” means a school that is not maintained with public funds, that charges tuition or fees for the services it provides, and that is in compliance with the laws of the state.

(D) “Public school” means a school that is administered by a state or local public agency.
(E) “School” means a school that is authorized to provide elementary and/or secondary education under state law.

(F) “Eligible private school” means:

1. a private school that has been operating for at least two years and meets certification standards pursuant to Section 5; or

2. a private school operating for less than two years that meets certification standards pursuant to Section 5 and obtains a letter of credit or bond for one-third of the total amount of funds to be received through acceptance of certificates provided for in this Act. The letter of credit or bond shall, in the event of nonperformance, be payable to the district school board.

Section 3. {Creation.}

(A) Each public school in the state shall become a participating school. The responsible officials for each eligible private school shall decide whether that school shall become a participating school.

(B) Subject to the provisions of Section 4, a participating school shall admit children with certificates who apply, up to the limit of the school's capacity, after reserving places for children admitted in accordance with the school's regular admissions practices.

Section 4. {Student transfers.}

(A) A participating school shall establish criteria for the admission of children with certificates that are consistent with the admissions criteria that it regularly applies.

(B) In the case of a participating public school, the [district school board] [state board of education] shall establish criteria for the equitable allocation of places for children with certificates if there are insufficient places to serve all such children requesting such places.

Section 5. {Qualifications.}

(A) Participating schools shall:

1. provide a curriculum which includes five core subjects: English, mathematics, science, history, and geography;

2. meet minimum health and safety standards with which private school must currently comply;
(3) disclose teacher credentials to parents.

(B) The district school board may require each public school and each certificate-redeeming school to choose to administer tests reflecting national standards for the purpose of measuring individual academic improvement. Such tests shall be scored by independent parties. Each school’s composite results for each grade level shall be released to the public. Individual results shall be released only to the school and the child’s parents.

Section 6. {Funding.}

(A) Whenever any student attends a private school within an educational enterprise zone under the provisions of this Section, upon certification by the school of the students’ enrollment, the [state/local board of education] shall send to the parent or guardian of the student a voucher valued at the [average amount of per student educational foundation funds] that is allocated to the attending school within the same zone, or the full amount of the private school regular tuition and fees, whichever is less. The voucher may be redeemed by any participating private school.

(B) The allocation of minimum foundation funds to the designated school system shall be reduced by any amount paid pursuant to Paragraph (1) of this Section for students transferring to private schools in their zone.

Section 7. {Rules.}

(A) The [state board of elementary and secondary education] shall develop, adopt, and promulgate all rules necessary to the implementation of this Section.

(B) The program provided in this Section shall be operated as a pilot within [insert district] for three years beginning in the fall of [insert year]. The [state board of elementary and secondary education] shall prescribe the size of the pilot and the maximum number of schools and students who may participate. The pilot shall be conducted in a manner to fairly test the feasibility and value of the program contained in this Section. The [board] shall report on the results of the pilot to the legislature prior to the beginning of the [year] regular session of the legislature. Statewide commencement of the program shall begin with the [year] school year.

Section 8. {Regulations.} Private schools shall be accorded maximum flexibility to educate their students and shall be free from unnecessary, burdensome, or onerous regulation. No regulation of private schools, certificate-redeeming or not, beyond that required by this legislation and which applied to private schools on [insert date] shall be issued or enacted, unless approved by three-fourths vote of the legislature or, alternatively, as to any regulation pertaining to health, safety, or land use imposed by any county, city, district, or subdivision of the state, a majority vote of qualified electors within the affected
jurisdiction. In any legal proceeding challenging such a regulation as inconsistent with this Section, the governmental body issuing or enacting it shall have the burden of establishing that the regulation:

(A) is essential to assure the health, safety, or education of students;

(B) does not unduly burden private schools or the parents of students therein; and

(C) will not harass, impede, injure, or suppress private schools.

Section 9. {Severability clause.}

Section 10. {Repealer clause.}

Section 11. {Effective date.}
20. The Family Choice in Education Act

Summary

Modern elementary and secondary education systems have not been able to generate a more informed, more intellectually satisfied student population. Annual scores of the Scholastic Aptitude Test (SAT) – a standardized test that measures the aptitude of college-bounds students – have been decreasing for fifteen years. Almost 25% of all high schools are what educators classify as “functional illiterates,” or people who are unable to read want ads, news stories and similar written material.

Against the backdrop of decreasing SAT scores and rising dropout rates is the increasing cost of education. The average cost of educating a student in secondary education reached $2070 in 1980 – a 154% increase from the comparable cost ($816) in 1970. In the past fifteen years, the amount of public monies directed to education almost doubled as a share of GNP, tripled as a share of many state budgets and increased over seven-fold as a measure of constant dollars.

Clearly, the tax-paying public is not getting the return they are entitled to expect from the increasing amount of tax dollars being invested in education. For the families that decide to send their children to private schools, the unrealized return is a double-edged irony: on one hand, the parents pay a tuition fee at private schools so that their son or daughter may receive a good education; on the other hand, the same parents subsidize the public schools (which their child does not attend) through property taxes, sales taxes or income taxes.

One alternative to the present system is a tuition voucher plan. This is a system under which families would choose which school, be it public or private, that their child would attend. A voucher plan would not require a change in hiring, testing, curriculum or even enrollment standards set by the schools. The only difference between a voucher system and the current one is that families rather than the government would decide on the choice of a school.

A December 1980 Gallup Poll showed a sizable public preference (47% to 42%) for a tuition voucher system. The ideas is not new, and there is clearly a public interest in a new approach to elementary and secondary education. There is also widespread misunderstanding about the issues raised by voucher plans, and legislators ought to take a look at new evidence concerning them.

An Alternative With Comparative Advantage

Vouchers are a practical alternative to present methods of financing and administering education. It would return a measure of choice to families and students, and in the process make educators more responsive to the needs of the student population.
John Coons, a respected U.C. Berkeley law professor, puts the basic rationale for vouchers in this way: “Ordinary people are the best managers of their own affairs. Give them good information about schools; give them professional counsel to help them choose. But do not force them into a school picked by administrators who have never met their child. Let them [the students and the parents] decide for themselves.”

The suggested Family Choice in Education Act has five objectives, which may also be construed as comparative advantages over the present system. The act equalizes educational opportunity, increases the authority of parents, gives families a choice among schools, reduces the costs of school overhead and provides better protection against discrimination.

The suggested legislation achieves these goals through a relatively simple system. It allows any person of school age to sign up at “any public or private institution, enrollment at which constitutes compliance with compulsory education laws.” The criteria for what constitutes a “school” is not further defined, since state definitions vary greatly. For purposes of the education laws, the term is defined in compulsory state education laws which, in turn, offer detailed definitions of public and non-public schools.

The Family Choice in Education Act does not make education an option of the student. It merely allows the student and parents to choose which school he or she would like to attend.

Schools which participate in the proposed tuition voucher system would be reimbursed the expenses for education. The amount of reimbursement is determined by (1) the number of students enrolled at the school multiplied by (2) the average per pupil cost for the previous school year. The formula for calculating the per pupil cost ostensibly would include such items as teacher salaries and textbook purchase prices. The decision of what to include is left to the discretion of the State Treasurer.

The participating schools have the burden of proving the number of students enrolled (which determines the amount of money to be paid by the State Treasurer). The suggested legislation allows the State Treasurer to challenge an enrollment claim, thus providing a means of checking fraud and error (e.g., a student enrolled at two schools).

For public schools, participation in the new system would be mandatory. This means that public schools would compete with one another for the enrollment of students, rather than be guaranteed a regular student population. As the plan is phased in, the public schools would, of course, have a large base of students from which to cultivate enrollment. But for all intents and purposes, the state monopoly concerning education would be broken, giving children freedom of mobility in the education marketplace.

The Family choice in Education Act does not require additional education outlays. It is funded by that portion of the state budget that currently pays for elementary and secondary education. Since schools would compete among each other for students, the public schools would have an incentive to economize. Schools which are unable to sustain a steady flow of students would either alter their curriculum and policies or cease to operate altogether.
The principal advantage of the Family choice in Education Act is that it makes public schools responsive to the needs and desires of students. Under the current system, the schools have no such incentive because students are required by law to attend particular schools. The only alternative is the private sector, which charges tuition. Such an arrangement has the effect of insulating public schools from external pressure to restructure their approach to education.

The Constitutional Issues

The question of constitutionality is central to the idea of tuition vouchers. Based on objections to tuition voucher ballot initiatives in California and Michigan, legislators can expect to confront two recurring questions. First, would the use of vouchers by private schools be a violation of the “separation of church and State” doctrine? Second, would the availability of “free” education prompt a rush from public schools to private schools, resulting in segregated schools?

The recent history of court decisions related to education suggests that a voucher plan would not violate the First Amendment. The voucher plan is not designed to aid a particular religion, nor is it designed to promote a specific philosophy. Courts have never struck down an education law that was open to participation by all students in all schools. The G.I. Bill of Rights and Basic Educational Opportunity grants are two examples of such laws. Both programs are open to finance student education at public as well as private schools.

The courts have only ruled against education laws that were passed to benefit children of particular religions. For instance, in the 1973 case of *Nyquist v. New York*, the Supreme Court struck down a tuition tax credit plan because it was designed “predominantly for parents which children in sectarian, that is, Catholic school.” In the same case, the Court listed three requirements for laws that have potential for affecting private schools. They are: (1) the law must neither inhibit nor promote religion; (2) the law must have a secular primary purpose and effect; and (3) the law must not bring about “excessive entanglement” of the State with religion.

The suggested Family Choice in Education Act meets all the Court’s criteria. The purposes of the statute (listed in Section 2 of the act) have nothing to do with the inhibition or promotion of religion. The question of curriculum is left to the discretion of the school. The only the State would play vis-à-vis participating private schools would be supervisory, i.e., challenging enrollment claims and making sure that students really attend the school.

As a protection for the educational sovereignty of private schools, the act specifically states in Section 4: “This act does not authorize, nor should it be construed as authorizing, state or local government regulation of private schools except for laws and regulations related to health and safety standards.”

As for the segregation question: the argument that students would rush to private schools under a voucher system erroneously assumes that the vast majority of well-to-do and middle-income students would flee public schools if only given an opportunity. Apart what such an assumption says about the
condition of public schools the fact is that students from middle-income and higher-income families already have this option. If such families were anxious to segregate their children from minorities, they could do so under current circumstances.

Evidence for this was supplied by the U.S. Department of Education in a study released December 1980. The study showed that 62.7% of whites in non-public schools are from families that earned $25,000 or less each year. A near-majority of such students (45.6%) are from families with annual incomes of $20,000 or less. A full 27% of white, non-public school students have family earnings of $15,000 or less. These government statistics show quite clearly that private schools are not a haven for the affluent or elite.

The suggestion that private schools would hamper desegregation efforts also presumes that private schools have no interest or commitment to the eradication of racial tensions. The fact is the private schools have made more consistent efforts at narrowing white-to-minority ratios than public schools. As Dr. Thomas Vitullo-Martin observed in congressional testimony (July 1980): “Private schools can be a resource for a city attempting to maintain an integrated population, not because the schools are racial havens – the data shows they are not – but because they can hold racially mixed communities together.”

The Supreme Court has repeatedly held that a law does not violate the Fourteenth Amendment unless it is adopted for a racially discriminatory purpose. The voucher plan proposed by the Family choice in Education Act would be available to all children, regardless of race, sex, income or religion. More importantly, the voucher system allows choice for minorities. To the extent that low-income minorities cannot now afford the luxury of choice, the Family Choice in Education Act actually reduces the discriminatory tendencies of the present system.

Summary

Race relations and separation of church and State are central to the controversy over tuition vouchers. However, supporters of the idea must not lose sight of the principal objective of vouchers, namely to provide the choice in education which students currently do not have. If public schools have such a bad curriculum that students will flee to private schools, then public schools need to make changes in their approach to education.

The Family choice in Education Act does not speculate as to what the new approach would be. It merely gives schools the encouragement to adapt to student needs by incorporating free enterprise theory in the education marketplace.

Suggested Legislation

Section 1. (Short title) This act may be cited as the Family Choice in Education Act.

Section 2. (Statement of purpose.) The Legislature of this State has passed this law to improve the quality and efficiency of public schools. It is further its objective to:
(A) Maximize educational opportunity for all children.
(B) Increase the authority of parents and teachers.
(C) Allow family choice among different schools.
(D) Provide better protection against racial, sexual, religious or income discrimination. And
(E) Eliminate the administrative cost of excessive regulation.

Section 3. {Definitions.} For the purposes of this act, the terms –

1. “School means any public or private institution, enrollment at which constitutes compliance with compulsory education laws of this State.

2. “State School Monies Fund” means that portion of the State budget that pays for elementary and secondary education expenses.

3. “Tuition Voucher System” means the system of financing and administering education as defined in this act.

4. “Participating school” means any school participating in the Tuition Voucher System created by this act.

Section 4. {Creation of Tuition Voucher System.}

(A) There is created within the State Treasury the Tuition Voucher Fund, which shall consist of those funds in the State School Monies Fund.

(B) For all school years beginning [effective date], all students of school age may fulfill the requirement so of compulsory education as defined in [cite appropriate public laws] by attending a school participating in the Tuition Voucher System created under this act.

(C) All public schools must participate in the Tuition Voucher System.

(D) Any non-public school may participate in the Tuition Voucher System, provided that the school complies with the terms and conditions of health and safety standards as provided by public law. No school shall be denied participation because it teaches moral or social values, philosophy or religion.

(E) Participating schools may not advocate unlawful behavior or expound the inferiority of either sex or any race.

(F) This act does not authorize, nor should it be construed as authorizing, state or local government regulation of private schools, except for laws and regulations related to health and safety standards.

Section 5. {Reimbursement of expenses.}
(A) The State Treasure shall reimburse schools that participate in the Tuition Voucher System at the following rate:

1. The total number of students enrolled in the participating school, multiplied by

2. Ninety percent of the average annual per pupil expenditure for public elementary and secondary students during the previous school year, as determined by the State Treasurer.

(B) Any school participating in the Tuition Voucher System shall develop and file with the State Treasurer a Statement of Enrollment. This Statement of Enrollment must be filed no later than [appropriate date] of the school year, and shall include the following information:

1. The name, address and birthdate of each student enrolled at the school, and

2. The total number of students enrolled at the school for the school year in which reimbursement is requested.

(C) The total number of students enrolled at the school, as described in Section 5, Subsections B 1. and 2. of this act, shall include any student who receives course instruction at home or any other facility in this State, provided said student receives such instruction from an employee of the participating school and under a curriculum approve by said school.

(D) The State Treasurer is authorized to challenge any information contained in the Statement of Enrollment defined Section 5 (B) of this act. The challenge must be made within thirty (30) days of receipt of the Statement of Enrollment. The State Treasurer shall make a determination within fifteen (15) days of such challenge as to whether the challenge is accurate. The Treasurer will furnish the affected school with a Statement of Finding, which shall state the reason(s) for the challenge and the reason(s) for action(s) taken pursuant to the challenge.

Section 6. {Severability clause.}

Section 7. {Repealer clause.}

Section 8. {Effective date.}

21. The Family Savings for Education Act

Summary

The suggested Family Savings for Education act encourages parents to set up a special account for their children’s education by allowing deductions up to $2,500 of the amount deposited.

Education costs are skyrocketing. From 1967 to 1977, the cost of higher education increased 77% bringing the current cost of a college education to over $30,000. This increase in expense has forced young people to rely more heavily on parents, bank loans and government grant and loan programs in order to finance their education.

While the federal government can continuously increase their grants and loans for education, the ability of parents and savings and loan institutions to invest in education is being increasingly curtailed by inflation, high tax rates and low rates of personal saving. Because of these obstacles, parental control and influence over their children’s education has plummeted.

In order to increase parental involvement and expand education choices, parents must be helped to overcome the disincentives which effectively prohibit extensive education investments.

The Family Savings for Education Act is a major step toward promoting increasing parental education investments. Under the provisions of the Act, parents are permitted to establish an Education Savings Account for the purpose of paying the education expenses of their child. Money deposited in the account would be deductible by the parents and proceeds from the fund would be tax-exempt for the child, so long as they were applied to pay for tuition, fees, books and other expenses resulting from attendance at an institution of public or private education. A separate Education Savings Account must be established for each child.

A collateral effect of this Act is that the increase in savings will benefit the overall economy by making sizably larger amounts of money available for lending by thrift institutions.

A provision similar to the Family Savings for Education Act has been introduced in Congress as part of S.1808, the Family Protection Act.

Suggested Legislation

Section 1. {Short Title} This act may be cited as the Family Savings for Education Act.

Section 2. {Definitions.} For the purpose of this act, the term –

1. “Education savings account” means a trust created or organized in this state exclusively for the purpose of paying the educational expenses of a child of the taxpayer, but only if the written governing instrument creating the trust meets the following requirements:
(A) No contribution will be accepted unless it is in cash, and contributions will not be accepted for the taxable year in excess of $2,500 for an individual.

(B) The trustee is a bank or another person who demonstrates to the satisfaction of the Secretary of State that the manner in which that person will administer the trust will be consistent with the requirements of this act.

(C) No part of the trust funds will be invested in life-insurance contracts.

(D) The interest of an individual and the balance in his account is nonforfeitable.

(E) The assets of the trust will not be comingled with other property except in a common trust fund or common investment fund.

2. “Child” means any natural or adopted son, daughter, stepson, or stepdaughter of the taxpayer who has not yet attained the age of twenty-two (22).

3. “Educational expenses” means tuition and fees required for the enrollment or attendance of a student at an eligible educational institution, and books, fees, supplies and equipment required for courses of instruction at an eligible educational institution. “Educational expenses” also refers to room and board, transportation, required clothing and other education-related expenditures.

4. “Eligible educational institution” means an institution of elementary, secondary, higher and vocational-technical education.

Section 3. (Deduction allowed.) In the case of an individual, there is allowed as a deduction from state income taxes the amount paid in cash during the taxable year by such individual to an education savings account.

Section 4. (Maximum annual deduction.) The amount allowable as a deduction under Section 3 to an individual for any taxable year may not exceed $2,500 for each education savings account. The maximum deduction allowable to any taxpayer with respect to any education savings account to which contributions are made during the same calendar year by more than one taxpayer shall be that amount which bears the same ratio to $2,500 as the amount paid by that taxpayer to the account bears to the sum of the amount paid to the account by all taxpayers during that calendar year.

Section 5. (Time when contributions deemed made.) For purposes of this act, a taxpayer shall be deemed to have made a contribution on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof).

Section 6. (Tax treatment of distributions.) Any amount paid or distributed out of an education savings account shall be included in gross income by the payee of distribute for the taxable year in which the payment or distribution is received, unless such amount is used exclusively to pay the educational
expenses incurred by the individual for whose benefit the account is established. The basis of any person in such an account is zero.

**Section 7. {Prohibited transactions.}**

(A) If, during any taxable year of the individual who establishes an education savings account, that individual engages in any prohibited transaction, as defined in Section [cite appropriate number] of the State Revenue and Tax Code, with respect to the account, the account ceases to be an education savings account as of the first day of that taxable year.

(B) In any case in which any account ceases to be an education savings account by reason of subsection A. on the first of any taxable year, Section 6. applies as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

(C) If, during any taxable year, the individual for whose benefit an education savings account is established uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed to that individual.

**Section 8. {Additional tax on certain amounts included in gross income.}**

(A) If a distribution from an education savings account is made, and not used in connection with the payment of education expenses of the individual for whose benefit the account was established, the tax liability of such individual for the taxable year in which such distribution is received shall be increased by an amount equal to 10 percent of the amount of the distribution which is includable in his gross income for such taxable year.

(B) If an amount is includable in the gross income of an individual for a taxable year under Section 7., his tax for such taxable year shall be increased by an amount equal to 10 percent of such amount required to be included in his gross income.

(C) Subsections A. and B. do not apply if the payment or distribution is attributable to the taxpayer becoming disable to such an extent as to preclude his use of the proceeds of the education savings account in a manner consistent with the provisions of this act.

**Section 9. {Community property law.}** This act shall be applied without regard to any community property laws.

**Section 10. {Custodial accounts.}** For the purposes of this act, a custodial account shall be treated as a trust if the assets of such account are held by a bank or another person who demonstrates to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this act, and if the custodial account would, except for the fact that it is not a trust, constitute an education savings account described in Section 2. For purposes of this act in the case of custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.
Section 11. {Reports.} The trustee of an education savings account shall make such reports regarding such account to the Secretary of State and to the individual for whose benefit the account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this section shall be filed such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.

Section 12. {Contribution not to be treated as a gift for gift tax purposes.} No contribution made to an education savings account in accordance with the provisions of this act shall be taxable as a gift under the provisions of the State Revenue and Tax Code.

Section 13. {Penalty.} The person required by this act to file a report regarding an education savings account at the time and in the manner required by such section shall pay a penalty of $10.00 for each failure unless it is shown that such failure is due to reasonable cause.

Section 14. {Severability clause.}

Section 15. {Repealer clause.}

Section 16. {Effective date.}

22. The Next Generation Charter Schools Act

Summary

The State of [state] recognizes establishment of charter schools as necessary to improving the opportunities of all families to choose the public school that meets the needs of their children, and believes that charter schools serve a distinct purpose in supporting innovations and best practices that can be adopted among all public schools. Further, the State of [state] recognizes that there must be a variety of public institutions that can authorize the establishment of charter schools as defined by law, and recognizes that independent but publicly accountable multiple authorizing authorities, such as independent state commissions or universities, contribute to the health and growth of strong public charter schools. Therefore, the purpose of this act is to establish that existing (or new) public entities may be created to approve and monitor charter schools in addition to public school district boards. This act also removes procedural and funding barriers to charter school success.

Model Legislation

Section 1. {Title.} The Next Generation Charter Schools Act

Section 2. {Declaration of Purpose.}

(A) The General Assembly hereby finds and declares that

(1) The Charter School Act of [year] as approved by this body has provided students in our state with high-quality public school choices while advancing overall academic excellence and helping to close the achievement gap; and

(2) The demand for quality public school choices in [state] consistently outstrips the supply; and

(3) National research and accumulated experience have documented that quality public charter schools best fulfill their potential when they have the resources, autonomy and accountability they need to succeed.

(B) The General Assembly further finds and declares that the provisions established in this article update and improve [state’s] Charter School Act to meet [state’s] 21st century educational needs.

Section 3. {Definitions.}
(A) “Charter authorizer” as used in this article means an entity or body established in Section 4 to approve charter schools.

(B) “Charter Board” means the independent, state-level entity created pursuant to Section 4 as a charter authorizer.

(C) “Charter applicant” means an eligible person(s), organization, or entity as defined by the Charter School Law that seeks approval from a charter authorizer to found a charter school.

(D) “Charter school” means:

1. Any new school or a distance-learning program which is not currently being operated as a public or private school that is approved by a charter authorizer to operate as a public school under the Charter School Law;

2. Any school converted from an existing public or private school and approved by a charter authorizer to operate as a public charter school under the Charter School Law.

(E) “School district” means each school district now or hereafter legally organized as a body corporate pursuant to [insert state statute];

(F) “State Board” means the state board of education appointed pursuant to [insert state statute].

Section 4. (Charter Authorizers)

(A) Upon the effective date of this article and thereafter, a charter applicant seeking to establish a public charter school may submit the charter petition to one of several charter authorizers:

1. The elected governing authority of a county or municipality [define limitations, if any];

2. The mayor of a city [define limitations, if any];

3. The state board of education;

4. The board of trustees of a two- or four-year institution of higher learning as defined by [insert state statute], as described in Subsection 4(B);
(5) The Public Charter School Board established in Subsection 4(C).

(B) Establishment – University Authorizer

(1) In general, there is established within the state public university authorizers.

(2) The ultimate responsibility for choosing to sponsor a charter school and responsibilities for maintaining sponsorship shall rest with the university’s board of trustees.

(3) Notwithstanding Subsection (2), the university’s board of trustees may vote to assign sponsorship authority and sponsorship responsibilities to another person or entity that functions under the direction of the university’s board. Any decisions made under this subsection shall be communicated in writing to the department of education and the charter school review panel.

(4) Before a university may sponsor a charter school, the university must conduct a public meeting with public notice in the county where the charter school will be located.

(5) The total number of charter schools that may be approved and opened in a calendar year by all university sponsors may not exceed [add restriction, if any]. This subsection expires [date].

(C) Establishment – Public Charter School Board.

(1) There is established within the state a Public Charter School Board (in this section referred to as the “Board”).

(2) Membership. – The Governor shall solicit from the Speaker of the House and the President of the Senate a list of 15 individuals they determine are qualified to serve on the Board. The Governor shall appoint 7 individuals from the list to serve on the Board. The Governor shall choose members to serve on the Board so that a knowledge of each of the following areas is represented on the Board:
(a) Research about and experience in student learning, quality teaching, and evaluation of and accountability in successful schools;

(b) The operation of a financially sound enterprise, including leadership and management techniques, as well as the budgeting and accounting skills critical to the startup of a successful enterprise;

(c) The educational, social, and economic development needs of the state; and

(d) The needs and interests of students and parents in the state, as well as methods of involving parents and other members of the community in individual schools.

(3) Vacancies. –

(a) Other than from expiration of term. – Where a vacancy occurs in the membership of the Board for reasons other than the expiration of the term of a member of the Board, the Governor, not later than 30 days after the vacancy occurs, shall request from the leaders of the Legislature a list of 3 people they determine are qualified to serve on the Board. The Governor shall appoint 1 person from the list to serve on the Board. The Legislature shall recommend, and the Governor shall appoint, such member of the Board taking into consideration the criteria described in Paragraph (2) of this Subsection. Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of the term.

(b) Expiration of term. – Not later than the date that is 60 days before the expiration of the term of a member of the Board, the Governor shall appoint 1 person from a list of 3 people that the Legislative leaders determines are qualified to serve on a the Board. The Speaker and Senate President shall recommend, and the Governor shall appoint, any member of the Board taking into consideration the criteria described in Paragraph (2) of this Subsection.

(4) Time limit for appointments. – If, at any time, the Governor does not appoint members to the Board sufficient to bring the Board’s membership to 7 within 30 days after receiving a recommendation from the legislative leadership under paragraph (2) or (3) of this subsection, the Speaker, not later than 10 days after the final date for such an appointment, shall make such appointments as are necessary to bring the membership of the Board to 7.
(5) Terms of members. –

(a) In general. – Members of the Board shall serve for terms of 4 years, except that, of the initial appointments made under paragraph (2) of this subsection, the Governor shall designate:

(i) Two members to serve terms of 3 years;

(ii) Two members to serve terms of 2 years; and

(iii) One member to serve a term of one year.

(b) Reappointment. – Members of the Board shall be eligible to be reappointed for one 4-year term beyond their initial term of appointment.

(c) Independence. – No person employed by the state’s public schools or a public charter school shall be eligible to be a member of the Board or to be employed by the Board.

(6) Operations of the Board. –

(a) Chair. – The members of the Board shall elect from among their membership 1 individual to serve as Chair. Such election shall be held each year after members of the Board have been appointed to fill any vacancies caused by the regular expiration of previous members’ terms, or when requested by a majority vote of the members of the Board.

(b) Quorum. – A majority of the members of the Board, not including any positions that may be vacant, shall constitute a quorum sufficient for conducting the business of the Board.

(c) Meetings. – The Board shall meet at the call of the Chair, subject to the hearing requirements of [cite statute here].
(7) No compensation for service. – Members of the Board shall serve without pay, but may receive reimbursement for any reasonable and necessary expenses incurred by reason of service on the Board.

(8) Personnel and resources. –

(a) In general. – Subject to such rules as may be made by the Board, the Chair shall have the power to appoint, terminate, and fix the pay of an Executive Director and such other personnel of the Board as the Chair considers necessary.

(b) Special rule. – The Board is authorized to use the services, personnel, and facilities of the state of [insert state].

(9) Expenses of Board. – Any start-up expenses of the Board shall be paid from such funds as may be available to the State Department of Education; provided, that within 45 days of [implementation date], the State Department of Education shall make available not less than $130,000 to the Board.

(10) Audit. – The Board shall provide for an audit of the financial statements of the Board by an independent certified public accountant in accordance with Government auditing standards for financial audits issued by the Comptroller General of the United States.

(11) Authorization of appropriations. – For the purpose of carrying out the provisions of this section and conducting the Board’s functions required by this Subchapter, there are authorized to be appropriated to the Board $300,000 for fiscal year [date] and such sums as may be necessary for each of the 3 succeeding fiscal years.

(12) Fees. – For the purposes of approval and oversight of charter schools, the Board may charge fees not to exceed 1.5% of per pupil enrollment revenues for each student in each school approved by the Board.

Section 5. {Application Process.}

(A) Each charter authorizer must establish a charter petition process and timeline that conform to the requirements of the Charter School Act while optimizing effective review of its proposed charter schools and oversight of its approved charter schools. A charter authorizer is not required to approve a charter and may require an applicant to modify or supplement an application as a condition of approval. An applicant shall submit an application to a charter authorizer for approval. [Insert requirements]
(B) Charters may be renewed, upon application, for a term of up to five years in accordance with the provisions of this article for the issuance of such charters; provided, however, that a renewal application shall include:

(1) A report of the progress of the charter school in achieving the educational objectives set forth in the charter.

(2) A detailed financial statement that discloses the cost of administration, instruction and other spending categories for the charter school that will allow a comparison of such costs to other schools, both public and private. Such statement shall be in a form prescribed by the state superintendent of public instruction.

(3) Copies of each of the annual reports of the charter school required by [section XX of] the Charter School Law, including the charter school report cards and the certified financial statements.

(4) Indications of parent and student satisfaction.

(C) Such renewal application shall be submitted to the charter entity no later than six months prior to the expiration of the charter; provided, however, that the charter entity may waive such deadline for good cause shown.

Section 6. {Blanket Waiver.}

A charter school is a public school and is part of the state’s system of public education. Except as provided in [add relevant citation in state code], a charter school is exempt from all statutes and rules applicable to a school, a board, or a district, although it may elect to comply with one or more provisions of statutes or rules.

Section 7. {Equitable Funding.}

A charter school is a public school and is part of the state’s system of public education. A charter school shall receive funding for each of its pupils from federal, state and local sources that is equal to the amount that a traditional public school would receive for that same pupil.

Section 8. {Caps.}
This article hereby removes the limit [of XXX] as established in the Charter School Law on the number of approved charter schools as of the effective date in Section 9.

Section 9. {Effective Date.}

The Next Generation Charter Schools Act will be in effect beginning no later than July 1, [year].

Endnotes

1. Insert supporting references of studies of charter school achievement and/or test-score/achievement comparisons. See www.edreform.com for information about current studies.

2. States may use one or several of the options provided for in Section 4. As of July 2007, seven (7) states authorize the administration of a public university to take on chartering authority, separate from any of the specific departments representing a discipline. In this case, the individual campuses of a state university, for example, may open an office that is subsidized by state start up grants and/or per pupil enrollment fees. Other states have independent charter school Boards or commissions that are established, and some have a combination of the above. In states where the political environment is hostile, university authorizers may be a preferable route over a Board which is appointed by the Governor and state legislative leaders. Having additional authorizers (both Boards and universities) might help alleviate any negative political influences as there will be other alternatives for applicants and therefore less power condenses in the hands of one authorizer.

3. In some states, there is a perceived constitutional barrier to allowing an entity other than a school district or the state board of education to authorize public schools. States with multiple charter authorizers have established case law that can be useful for policy-makers in establishing the constitutionality of multiple charter school authorizers.

Adopted by the ALEC Education Task Force at the Annual Meeting July 26, 2007.

Approved by the ALEC Legislative Board of Directors September, 2007.
23. The Parental Rights Amendment

Summary

The Parental Rights Amendment grants parents the right to direct the upbringing and education of their children.

Model Legislation

Section 1. (Short Title.) This Act shall be known as the Parental Rights Amendment.

Section 2. (Main Provision.) Be it resolved that the state constitution be amended to read as follows:

The right of parents to direct the upbringing and education of their children shall not be infringed. The legislature shall have power to enforce, by appropriate legislation, the provisions of this section.

Section 3. (Severability Clause.)

Section 4. (Repealer Clause.)

Section 5. (Effective Date.)

24. Resolution Supporting Private Scholarship Tax Credits

Summary

This resolution declares the state legislative body’s support for the creation of a tax credit for individuals and businesses that make a contribution to a nonprofit scholarship or educational assistance organization.

Model Resolution

WHEREAS, the individual development of young people is critical to their future success and that of this country, and encouraging parental involvement is an important component of a child’s success; and

WHEREAS, each child is unique and learns differently, and many children are likely to benefit from expanded educational opportunities, including tutorial assistance, transportation to another public school, after school programs, or attendance at a nonpublic school; and

WHEREAS, the private sector has historically demonstrated an ability and willingness to address many of the challenges facing society, including education; and

WHEREAS, privately-funded scholarships are an excellent and popular means by which parents and guardians can exercise expanded educational opportunities for their children, especially children from low income families and the minority community; and

WHEREAS, a credit against taxes for contributions to nonprofit scholarship or educational assistance organizations will make more privately-funded scholarships available, and thereby expand the educational opportunities available to children of families that have limited financial resources and increase the academic achievements of children across the country;

THEREFORE, BE IT RESOLVED that the [insert name of state legislative body] supports the creation of a tax credit for donations to nonprofit organizations that make more privately funded scholarships and educational assistance available to children.
25. The School Board Freedom to Contract Act

Summary

The School Board Freedom to Contract Act encourages the establishment of public/private partnerships between school boards and the private sector for outsourcing and delivery of ancillary services under the direction of school boards, when said services/programs can be executed more efficiently and more cost-effectively by the private sector.

Model Legislation

Section 1. {Short Title.} This Act shall be known as the School Board Freedom to Contract Act.

Section 2. {Legislative Declarations.} This legislation finds and declares that:

(A) Educators are spending an enormous amount of time and money on operating ancillary services in school districts. This distraction is taking valuable time and funds from the core competency of school districts which is ‘educating students.’ Educators focusing more on the core competency of school districts and less on ancillary services would improve and enhance the academic performance of students.

(B) Many of the functions currently under the direction of school districts should be considered for public/private partnerships to improve their operational efficiencies.

(C) School boards shall have the freedom and be encouraged to contract for ancillary services.

(D) Through partnering with the private sector and competitively bidding to perform ancillary functions, services may be performed more efficiently and cost effectively.

(E) Cost savings derived from these public/private partnerships shall be used to improve the instructional and technological services for the benefit of the students’ academic achievements.

(F) School Boards, barring any extenuating circumstances, shall ensure that affected school district employees be given first-option-of-employment when entering into partnerships with the private sector.

Section 3. {Definitions.}

(A) “Ancillary Service” means those support services, not directly related to educating students, (i.e.
cafeteria, custodial, facilities maintenance and management, transportation, and technology) necessary for the operation of the school with the private sector.

(B) “Public/Private Partnerships” means an agreement between the school district and the private sector to perform ancillary services.

Section 4. {Board Authorized to Contract for Certain Services.}

(A) Notwithstanding other provisions of law, a school district may enter into a contract with a private person, firm, corporation, organization or association to provide ancillary services, in whole or in part. Direct instructional and administration is excluded.

Section 5. {Severability Clause.}

Section 6. {Repealer Clause.}

Section 7. {Effective Date.}

*Adopted by the ALEC Education Task Force at the Fall Task Force Summit November 13, 1999. Approved by the ALEC Legislative Board of Directors December, 1999.*
26. The Smart Start Scholarship Program

Summary

This bill creates a scholarship program that helps children from low- and middle-income families attend the public or private 4-year-old preschool program or 5-year-old kindergarten program of their parents’ choice.

Model Legislation

Section 1. {Title} The Smart Start Scholarship Program

Section 2. {Definitions}

(A) “Program” means The Smart Start Scholarship Program created in this subchapter.

(B) “Eligible child” means a child who:

   (1) is old enough to attend kindergarten in this state or, in the case of a child who wishes to attend preschool, is one year younger than the attendance age for kindergarten in this state; and
   
   (2) resides in our state while receiving a scholarship under this subchapter.

(C) “Parent” includes a guardian, custodian or other person with the authority to act on behalf of the child.

(D) “Department” means the state Department of Public Instruction.

(E) “Resident school district” means the public school district in which the child resides.

(F) “Participating school” means either a public school outside of the resident school district or any private school that offers kindergarten or preschool programs and has notified the department of its intention to participate in the program and comply with the program’s requirements.

Section 3. {Basic Elements of the Smart Start Scholarship Program}

(A) Every eligible child will qualify for a scholarship to attend a participating school.

(B) Parents may choose whether they want their kindergartener to attend a full-day or half-day program.
(C) Parents may choose whether they want their preschooler to attend a full-day or half-day program and whether they want their preschooler to attend the program every day or less often.\(^5\)

(D) Scholarship amounts shall be calculated according to the following schedule for full-day kindergarten. The scholarship amount shall be reduced by fifty percent for half-day kindergarten programs and by a proportionate amount for part-time preschool programs.\(^6\)

(1) For children from households qualifying for the federal free or reduced-price lunch program, the scholarship amount shall be equal to the lesser of:

(a) One hundred percent of the dollar amount the resident school district would have received to serve and educate the eligible child from state and local sources had the child enrolled there; or

(b) the participating school’s annual cost per child, including both operational and capital facility costs.

(2) For children from households with an annual income greater than the amount required to qualify for the free or reduced lunch program but less than 1.5 times that amount, the scholarship amount shall be equal to the lesser of:

(a) Seventy-five percent of the dollar amount the resident school district would have received to serve and educate the eligible child from state and local sources had the child enrolled there; or

(b) the participating school’s annual cost per child, including both operational and capital facility costs.

(3) For children from households with an annual income of greater than 1.5 times the amount required to qualify for the free or reduced lunch program but less than 2.0 times that amount, the scholarship amount shall be equal to the lesser of:

(a) Fifty percent of the dollar amount the resident school district would have received to serve and educate the eligible child from state and local sources had the child enrolled there; or

(b) the participating school’s annual cost per child, including both operational and capital facility costs.

(4) For children from households with an annual income of greater than 2.0 times the amount required to qualify for the free or reduced lunch program but less than 2.5 times that amount, the scholarship amount shall be equal to the lesser of:
(a) Twenty-five percent of the dollar amount the resident school district would have received to serve and educate the eligible child from state and local sources had the child enrolled there; or

(b) the participating school’s annual cost per child, including both operational and capital facility costs.

(E) The scholarship is the entitlement of the eligible child under the supervision of the child’s parent and not that of any school.

(F) A participating school may not refund, rebate or share a child’s scholarship with a parent or the child in any manner. A child’s scholarship may only be used for the purposes of education and school readiness.

(G) Eligible children who qualify for the federal free or reduced lunch program may attend any participating school in the Smart Start Scholarship Program at no charge to the child. That is, the scholarship under this subchapter would cover the cost of all tuition and mandatory fees for such children. Participating schools may charge the difference between the scholarship amount and all tuition and mandatory fees for eligible children from households with incomes that exceed the annual income required to qualify for free or reduced lunch program. A participating school may not require a child to enroll in or charge any fee for supplemental services as a condition of admitting the child through the Smart Start Scholarship program.  

(H) Participating schools that have more eligible children applying than spaces available shall fill the available spaces by a random selection process, except that participating schools may give preference to siblings of enrolled children and previously enrolled scholarship children under this subchapter.

(I) If a child is denied admission to a participating school because it has too few available spaces, the eligible child may transfer his scholarship to another participating school that has spaces available.

(J) Eligible children shall be counted in the enrollment figures for their resident school district for the purposes of calculating state aid to the resident school district. The funds needed for a scholarship shall be subtracted from the state school aid payable to the child’s resident school district. Any aid the school district would have received for the child in excess of the funds needed for a scholarship will be kept by the state.

(K) The department shall adopt rules consistent with this act regarding:

(1) the eligibility and participation of non-public schools, including timelines that will maximize participation by eligible children, public and non-public schools;

(2) the calculation and distribution of scholarships to eligible children;
(3) the application and approval procedures for scholarships for eligible children and participating schools.

Section 4. {Accountability Standards For Participating Schools}

(A) Administrative Accountability Standards. To ensure that children are treated fairly and kept safe, all participating schools shall:

(1) comply with all health and safety laws or codes that apply to non-public schools;

(2) hold a valid occupancy permit if required by their municipality;

(3) certify that they will not discriminate in admissions on the basis of race, color, national origin, religion or disability; and

(4) comply with all state laws that apply to non-public schools regarding criminal background checks for employees and exclude from employment any people not permitted by state law to work in a non-public school.

(B) Financial Accountability Standards. To ensure that public funds are spent appropriately, all participating non-public schools shall:

(1) demonstrate their financial accountability by:

   (a) submitting a financial information report for the school that complies with uniform financial accounting standards established by the department and conducted by a certified public accountant;

   (b) having the accountant certify that the report is free of material misstatements and fairly represents the costs per child under section 3(D). The accountant’s report shall be limited in scope to those records that are necessary for the department to make payments to participating schools on behalf of parents for scholarships.

(2) demonstrate their financial viability by showing they can repay any funds that might be owed the state, if they are to receive $50,000 or more during the school year, by:

   (a) filing with the department prior to the start of the school year a surety bond payable to the state in an amount equal to the aggregate amount of the scholarships expected to be paid during the school year to children admitted at the participating school; or

   (b) filing with the department prior to the start of the school year financial information that demonstrates the school has the ability to pay an aggregate amount equal to the
amount of the scholarships expected to be paid during the school year to children admitted at the participating school.¹⁴

(C) Academic Accountability Standards. To ensure that schools provide academic accountability to parents of children in the program, all participating schools shall regularly report to the parent on the child’s progress.¹⁵

(D) Participating School Autonomy. A participating school is autonomous and not an agent of the state or federal government and therefore:

1. the department or any other state agency may not in any way regulate the educational program of a participating school that accepts a Smart Start Scholarship;

2. the creation of this program does not expand the regulatory authority of the state, its officers or any school district to impose any additional regulation of non-public schools beyond those necessary to enforce the requirements of the program; and

3. participating schools shall be given the maximum freedom to provide for the educational needs of their enrolled children without governmental control.

Section 5. (Responsibilities of the Department of Public Instruction)

(A) The department shall ensure that eligible children and their parents are informed annually of which schools will be participating in the Smart Start Scholarship Program. Special attention shall be paid to ensuring that lower income families are made aware of the program and their options.

(B) The department shall create a standard application that children interested in the Smart Start Scholarship Program can use to submit to participating schools to establish their eligibility and apply for admissions. Participating schools may require supplemental information from applicants. The department shall ensure that the application is readily available to interested families through various sources, including the Internet.

(C) The department may bar a school from participation in the Smart Start Scholarship Program if the department establishes that the participating school has:

1. intentionally and substantially misrepresented information required under Section 4; or

2. routinely failed to comply with at least three of the accountability standards established in Section 4;¹⁶ or

3. failed to comply with Section 3(E); or

4. failed to refund to the state any scholarship overpayments in a timely manner.
(D) If the department decides to bar a participating school from the program, it shall notify eligible children and their parents of this decision as quickly as possible.

(E) The department shall adopt rules and procedures as necessary for the administration of the Smart Start Scholarship Program.

(F) The department shall work with other state and local agencies administering education and school readiness programs to:

(1) minimize duplicate regulation, licensing, and monitoring;

(2) maximize the receipt of federal funds;

(3) coordinate state services and grants for younger children to ensure the efficient use of all funds for these programs; and

(4) coordinate state grants to ensure that no provider receives state funds in excess of the scholarship limits per child established by the legislature.

Section 6. {Responsibilities of Resident School Districts}

(A) The resident school district shall provide to the participating school that has admitted an eligible student under this program with a complete copy of the child’s school records while complying with the Family Educational Rights and Privacy Act of 1974 (20 USC Section 1232 g).

(B) The resident school district shall provide transportation for the eligible child attending a full day kindergarten or preschool program to and from the participating school under the same conditions as the resident school district is required to provide transportation for other resident students to non-public schools as per current law. The resident school district will qualify for state transportation aid for each student so transported.

Section 7. {Evaluation of the Smart Start Scholarship Program}

(A) The Legislative Service Agency may contract with one or more qualified researchers who have previous experience evaluating school choice programs to conduct a study of the program with funds other than state funds.

(B) The study shall assess:

(1) the level of parental satisfaction with the program;

(2) the effectiveness of the program in advancing the academic preparedness of the participant;
(3) the impact of the program on public and non-public school capacity, availability and quality;

(4) the impact of the program on child care capacity, availability and quality; and

(5) the impact of the program and the resulting competition from non-public schools on the resident school districts, and child care providers.

(C) The researchers who conduct the study shall:

(1) apply appropriate analytical and behavioral science methodologies to ensure public confidence in the study;

(2) protect the identity of participating schools and students by, among other things keeping anonymous all disaggregated data other than that for the categories age, grade level, gender and race and ethnicity;

(3) provide the legislature with a final copy of the evaluation of the program.

(D) The relevant public and non-public schools shall cooperate with the research effort by providing the data necessary to complete this study.

(E) The Legislative Service Agency may accept grants to assist in funding this study.

(F) The legislature may require periodic reports from the researchers. After publishing their results, the researchers shall make their data and methodology available for public review while complying with the requirements of FERPA (20 USC Section 1232 g).

Section 8. {Effective Date} The Smart Start Scholarship Program will be in effect beginning with the fall semester of the next school year.

Endnotes

The American Legislative Exchange Council (ALEC) provides its members with model legislation that reflects the Jeffersonian ideals of limited government and free markets. In the last few years, there has been a growing trend toward greater investments by state and local governments in early childhood education. In the next few years, most states will consider funding full-day kindergarten as well as preschool programs for children 4 years old and younger. This model legislation is designed to help legislators who favor this policy goal achieve it with the most efficiency for taxpayers and the greatest satisfaction for parents.

ALEC strongly believes this policy goal can best be achieved through the use of vouchers. However, we recognize that in some states vouchers may not be constitutionally permitted or politically viable. In those states, legislators may wish to consider employing a tax credit approach like the one adopted in
Pennsylvania in 2003. This expansion of the existing tax credit program for elementary and secondary education provides corporations with a 100% credit on the first $10,000 contributed to scholarship granting organizations and up to 90% on the remaining contribution up to $100,000. Each year, up to $5 million in corporate tax credits may be claimed for tuition scholarships for pre-kindergarten programs for 3 and 4 year olds. Families of children receiving these scholarships must make less than $50,000 plus a $10,000 allowance for each dependent. In 2004, the first year of the program, 39 scholarship organizations were created.

The following notes are intended to provide guidance to legislators on some of the key policy questions they will encounter in drafting and debating school choice legislation.

1. The various states have a wide range of existing education opportunities for children ages 4 and 5. Some states publicly fund full day kindergarten and preschool while others provide funding only for half day kindergarten but not preschool programs. Each state sets its own standards for the age when children may enter kindergarten. The states with publicly funded preschool programs usually choose to make them available to children a year younger than the state’s eligibility age for kindergarten. The authors have drafted this model legislation to accommodate the existing ages used for eligibility in each state. While the model legislation is drafted to provide greater opportunities for both 4 and 5 year olds, a state could easily choose to offer these expanded opportunities at just one of these ages by eliminating either the kindergarten or the preschool language. To the extent that a state extends its existing opportunities for publicly funded kindergarten and preschool programs to include private schools, the state may see some savings since many private programs are less expensive than the existing state aids to public programs. If the Smart Start Scholarship Program is used to provide educational opportunities to large numbers of children who were previously unaided, then the costs to the taxpayers are likely to increase, or the level of assistance presently available to support existing students will have to be decreased.

2. This bill designates the Department of Public Instruction as the agency regulating the Smart Start Scholarship Program. The intent was to name the existing agency in the state that is responsible for public school finances and private school regulation. Some states have created separate state agencies for the regulation of early childhood learning programs, and they may wish to consider designating that agency as the lead regulator. Alternatively, legislators may choose to create a new small agency to oversee the program if they are concerned about the hostility the program would face from the existing state education department.

3. This model legislation allows students to use a scholarship to attend a public school outside their district as well as a private school. The authors support giving parents the widest possible array of choices so that they can choose the school that best meets their child’s needs. Making sure parents can choose either a public or private school is not only the right policy but also the best legal strategy. The US Supreme Court and various state courts have all cited this broad array of choices as an important part of the reason they have found school choice programs constitutional. The courts have reasoned that these scholarship programs are not an inappropriate subsidy of religious institutions because the
purpose was secular (the education of children), and the parents were given many options including public schools, charter schools, private secular schools and private religious schools. If a state already has open enrollment or some other form of public school choice, then this legislation should be made consistent with the existing program. In fact, if a state already has a broad array of school choice options available to parents, then a state may be able to add an option for just private schools without encountering constitutional questions.

4. The authors believe that the decision about whether a child attends kindergarten for the full day or just half of the day should be made by the child’s parent and not the state. The scholarship amount should be adjusted to reflect the choice made by the child’s parents.

5. Preschool programs are offered in a variety of formats to meet the needs of children and their families. While some families may wish to send their four year old to a preschool for the full day every day, others will choose to send their child for just a few hours two or three days a week. The parent should make this decision not the state. The scholarship amount should be proportionately adjusted to reflect the time the child spends in the preschool program each week.

6. In general, this model legislation bases the scholarship amount on: 1) the annual total income of the student’s household; and 2) the costs for educating the student. Families whose annual income is less than the federal Free and Reduced Lunch Program (FRL) income standard would receive a scholarship that entirely covers the costs of attending the participating school as long as that amount is less than amount of state and local support the resident school district would have received had the student enrolled there. Families with incomes greater than the FRL standard would have their scholarships reduced to reflect the greater ability of the family to contribute toward their education. Legislators may adjust the percentage of eligible costs covered by a scholarship to reflect the situation in their state.

The model bill limits scholarship assistance to those children in a household whose annual income does not exceed an amount equal to 2.5 times the income standard used to qualify for the federal Free and Reduced Price Lunch Program (FRL). The authors chose this standard for several reasons; 1) the FRL Program is familiar to both schools and many parents; 2) the verification procedures are simple and familiar to school administrators; 3) the income guidelines are used for a number of existing state and federal programs; 4) the federal government annually adjusts the income guidelines; and 5) the income guidelines are adjusted for family size.

The authors chose to use a multiple of this familiar income standard to recognize that many low and middle-income families cannot afford the choice of a non-public school. Experience suggests that most parents’ ability to choose a private school is quite limited until the household income approaches $75,000 for a family of four. We have chosen a multiple of 2.5 times the FRL standard to reflect this reality. Legislators may wish to use different multiples of this standard but should keep in mind the financial burden many middle class families face in paying for private schools.
Optimally, a voucher should equal the federal, state and local dollars that would have been available for the child at his resident public school. Unfortunately, tapping federal dollars may bring some unwanted federal regulations to choice schools. Similarly, legislators should be aware that using local dollars may violate the state constitution in some places (such as Colorado) and may be politically unviable in other states. In these cases, legislators could choose to fund scholarships by drawing an amount equal to the state and local support solely from the state’s coffers. This option will significantly change the fiscal effect of the legislation and will likely result in added expenditures for the state. In some states, legislators have chosen to base the scholarship amount solely on the level of state support normally provided to a student. This will significantly lower the amount of the scholarship and thereby limit the number of schools that are willing to accept them.

7. This model legislation prohibits participating schools from charging tuition and fees for the poorest students, those from households whose incomes are below the FRL standard. The model legislation allows schools to charge students from households whose income is above the FRL standard tuition and fees in addition to the scholarship amount. This will encourage participation by the greatest number of schools while making sure that poor families’ options are not limited by their income. Legislators may wish to make it clear that schools can seek in-kind contributions for tuition and fees from student households above the FRL standard. However, legislators should also make sure that the amount of the scholarship plus the tuition and fees charged to students above the FRL standard does not exceed the school’s costs for educating a student. Furthermore, schools should not be allowed to get around these provisions by requiring students to enroll in and pay for supplemental programs as a condition of their admission.

8. The legislation requires participating schools that are oversubscribed to use a random selection process for determining admissions. This random selection process will assure that students are admitted on an equal basis regardless of their educational attainment, athletic talent or life challenges. Critics of school choice often falsely allege that schools will “cream” the best students from the list and not take the more difficult challenges. In reality, existing school choice programs require this random selection process, and experience shows the students they admit face greater challenges than the average public school student in their district.

The model legislation makes two exceptions from this random selection process in order to facilitate educational objectives: Children already attending the school on a scholarship are not required to join the lottery for admittance so as not to interrupt their educational experience. Similarly, the siblings of students already attending the school are exempted so families can send all of their children to the same school. A requirement that siblings join a random selection process could produce a logistical nightmare for parents when their children are all admitted to different schools. This would force many such families to unite their children by either choosing a much less desirable school without a waiting list or by exiting the program.

9. The bill has been drafted so that any savings in the cost of educating a student shall accrue to the state. School choice legislation drafted in this manner has the political advantage of either reducing
state expenditures or making more funds available for other education programs. Legislators should know that some local school districts will claim that because the state is capturing the savings, the program is “draining resources” away from public schools. This would not be the case if the savings were reinvested in increased state aids to public school districts.

10. It is important that the Department calculate the voucher in strict accordance with the definitions in the legislation. If the Department cannot be trusted to do this objectively, a more detailed description for determining the size of the voucher should be written into the law.

11. Private schools are already required to comply with nondiscrimination policies under federal law with respect to race, color and national origin (42 USC 1981). In addition, if private schools are recipients of federal funds they are subject to nondiscrimination requirements under 42 USC 2000d (race, color and national origin) and 29 USC Sec. 794 (disability). The value of including a state prohibition based on religion and disability in this legislation is to head off arguments from school choice opponents that the private schools will “cream off” the best students or discriminate against students who don’t share their religious faith in admissions. These provisions may or may not be acceptable to some religious schools in a given state. Legislators may also wish to include language banning discrimination in hiring on the basis of race, color, national origin or disability. In doing so, however, legislators should take care not to interfere with the ability of religious institutions to hire individuals who share their religious beliefs.

12. We believe participating schools should be required to meet the same legal requirements as other non-public schools to ensure the safety of their students. Alternatively, schools could be required to conduct criminal background checks on existing and potential employees and then be given the flexibility to determine from this information whether the employee might pose a risk to students. This is important for two reasons: 1) a small number of states prohibit discriminating against felons in hiring even for sensitive positions in schools. This legislation would give these schools clear authority to dismiss or not to hire individuals who pose a risk to student safety; and 2) many religious schools see rehabilitation as part of their mission. In this case, the schools could hire someone with a criminal background who they believe is no longer a threat to students. This might include nonviolent crimes or decades old violations followed by a clean record. This alternative language would give the schools the responsibility to do background checks, the power to exclude potential risks from the school, and the liability for their employment decisions.

13. The purpose of the financial information report is to make sure that the department can ascertain the costs of educating a student at the school and to ensure public funds are used appropriately. The legislation does not call for an independent audit because this would be unnecessarily expensive and invasive for many private schools.

14. The model legislation provides for two methods for schools to demonstrate financial viability to ensure that public funds are secure. The first method employs a market-based means of demonstrating viability. Private companies that issue surety bonds have a financial interest in making sure that the schools can repay any funds that might be owed the state. They will therefore conduct the checks
necessary to protect their financial interest as well as the taxpayers’ financial interests. Surety bonds can be expensive or invasive for some institutions so the legislation allows schools to demonstrate by some other means that they have the financial wherewithal to pay back any amount they might owe the state. This might include things like personal guarantees, reserve accounts or escrow accounts.

15. The authors believe that empowered parents are the best way to achieve academic accountability and that schools of choice are generally much more accountable for academic performance than assigned public schools. Therefore, we believe each parent should be provided by the school with some measure of their student’s progress. We also believe that taxpayers should be able to measure the achievements of the program through an objective evaluation. Therefore, we recommend states adopt the evaluation language detailed in Section 7 of the model legislation.

16. The legislation allows schools to occasionally fail to meet an accountability standard so that an antagonistic regulator cannot shut down the program by banning schools with a modest occasional violation such as turning in a report late.

17. Many states already have a number of programs that promote school readiness and early childhood learning. Legislators will want to make sure potential providers of kindergarten and preschool programs are not burdened with duplicate and contradictory regulations. States should strive to regulate programs based upon their offerings. (For example, day care regulations should only apply to programs offering day care services and not to those offering only educational programming.) States should also ensure that providers do not harvest funds from multiple programs in excess of the cost of the services provided. Legislators will also want to make sure that they maximize the receipt of federal funds for these various programs and ensure that all funds are spent efficiently. This may require legislators to review existing programs supporting early childhood learning to see whether consolidation, collaboration or elimination make sense.

18. It is crucial that the legislature give this study oversight responsibility to a trusted objective nonpartisan source like a legislative service agency. A large study like this can be quite expensive. Accordingly, the legislation allows the legislature (or a legislative service agency) to accept private grants to completely fund such a study. In some states the legislature is not allowed to accept such grants, and another trusted agency will have to be selected. It will be tempting for legislators to further define the details of the study, but they should take care not to dictate the methodology or the results in order to maintain the credibility of the research.

Additional Note:

It is fairly common for legislators to consider including severability clauses in new legislation. Legislators should make sure that if such clauses are included and exercised, the remaining legislation produces a program that is workable and achieves the original intent of the bill.
Adopted by the ALEC Education Task Force at the States and Nation Policy Summit December, 2005.
Approved by the ALEC Legislative Board of Directors January, 2006.

Obtained and released by:
Common Cause and
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27. The Tuition Certificate Act

Model Legislation

Section 1. {Purpose}

It is the purpose of this Act to maintain and improve the quality of elementary and secondary education in all schools in the State by providing to all parents in the State enhanced opportunity for the exercise of parental choice in the education of their school-age children.

Section 2. {Educational certificates.}

In order to achieve the purpose described in Section 1, the State educational agency shall initiate and carry out a program in which the parent of each school-age child receives from State (or appropriate local educational agency), on request, a certificate that may be used for educational services at a participating school selected by the child’s parent in accordance with this Act.

Section 3. {Designation of participating schools; admission of children with certificates.}

(A) Each public school in the State shall become a participating school unless the (State educational agency) determines that exceptional circumstances render the participation of such public school contrary to the public interest.

(1) The responsible officials for each private school shall decide whether that school shall become a participating school.

(B) Subject to subsection (C), a participating school shall admit children with certificates under this Act who apply, up to the limit of the school’s capacity, after reserving places for children admitted in accordance with the school’s regular admissions practices.

(C) A participating school shall establish criteria for the admission of children with certificates that are consistent with the admissions criteria that it regularly applies.

(2) In the case of a participating public school described in subsection (A)(1), the (State educational agency) shall establish criteria for the equitable allocation of places for children with certificates if there are insufficient places to serve all such children requesting such places.

Section 4. {Agreements; publication of lists.}
(A) A participating school shall enter into an agreement with the (State educational agency) containing such terms as may be established by regulation of the (State educational agency).

(B) Such agreement shall provide that the participating school shall furnish a child who is accepted in the school and who tenders a certificated under this Act (and, if applicable, a supplementary tuition payment required to satisfy any remainder of a participating school’s tuition) an education equivalent to that provided to all other children in the school.

(C) The (State educational agency) shall publish and make available to all parents in State a list of all participating schools.

Section 5. {Use of certificates}

A parent of a child with a certificate under this Act may use the certificate for educational services at a participating school only if the child is admitted to the participating school.

Section 6. {Certificate value.}

(A)

(1) The (State educational agency) shall establish the value of a certificate under this Act for an academic year by regulation.

(2) The (State educational agency’s) regulations shall establish the amount for which a certificate may be redeemed by a participating public school that does not regularly charge tuition.

(B) The maximum value of a certificate shall be set at the level of the average per pupil current expenditures of each affected local education agency, but (except as specified in subsection (A)(2) of this section) no certificate may be redeemed for more than the amount of the tuition and fees regularly charged by the participating school providing the educational services.

Section 7. {Cost allocation; redemption of certificates.}

(A) In consultation with affected (local educational agencies), the (State educational agency) shall develop and carry out a plan for the equitable distribution of the costs of the certificate program authorized under this Act between (local educational agencies) and the (State educational agency). In developing this plan, the (State educational agency) shall take into account the amount of State aid (allocated to local educational agencies in the State on a per-pupil basis) that is attributable to a child with a certificate provided under this Act.

(B) A parent of a child with a certificate under this Act shall present the certificate to the participating school that the child attends. The participating school shall present the certificate for payment or redemption to the (State educational agency) in accordance with its regulations.

Section 8. {Administrative provisions}
(A) Certificates received under this Act are not income for State income tax purposes.
(B) Each participating school that is not a public school shall provide to the (State educational agency) an assurance that it is in compliance with appropriate nondiscriminatory requirements as set forth in regulations.
(C) Each participating school shall publish or otherwise make available information regarding:
   (1) its participation in the certificate program;
   (2) its program of instruction;
   (3) achievement data regarding children attending the school (which data may be stated in the aggregate);
   (4) the incidence of drug abuse;
   (5) school discipline and safety; and
   (6) other matters to be specified by the State legislature.
(D) The (State educational agency) may delegate functions under this Act to a (local educational agency) or other political subdivision of the State and, in carrying out its functions under the Act, may contract for services with any public or private educational organization, agency, or institution.

Section 9. {Program evaluation.}

The (State educational agency) shall arrange for an independent evaluation of the certificate program authorized under this Act, including an evaluation of the effect of that program on academic achievement, and submit the evaluation to the Governor and to each house of the legislature by January 1, of each year.

Section 10. {Definitions.}

As used in this Act:

(1) the term “parent” has the meaning given to it by regulations of the (State educational agency);
(2) the term “participating school” means a public or private school located in the State that enters into an agreement with the (State educational agency) in accordance with Section 4;
(3) the term “private school” means a school that is not maintained with public funds, that charges tuition or fees for the services it provides, and that is in compliance with the laws of the State;
(4) the term “public school” means a school that is administered by a State or local public agency; and
(5) the term “school” means a school that is authorized to provide elementary and/or secondary education under State law.

Section 11. {Severability Clause.}

Section 12. {Repealer clause.}

Section 13. {Effective date.}
28. Education Tax Credit Act

Summary

The suggested Education Tax Credit Act is designed to provide parents of elementary, secondary, vocational-technical, and proprietary students with a wider range of income tax credit for tuition, books, and other expenses in order to provide them with choice and alternatives in the education of their children.

The costs of private education have become prohibitively high. Tuition and fees at private colleges rose 54 percent between 1971 and 1977. While private colleges enrolled 33 percent of college students in 1965, that portion had declined to 21 percent in 1975, and is expected to be only 17 percent in 1985. Nationwide statistics are not available on the increased costs of private elementary and secondary schools, but total enrollment at private elementary and secondary schools decreased 16 percent between 1965 and 1975 although public school enrollment increased 6 percent. The number of parents willing to pay both tuition for private school and taxes for public schools, for which they receive nothing in return, is declining. Thus, escalating costs have begun to threaten the existence of private education, and, along with it, educational variety in the United States.

In the past, several states had enacted legislation to assist private schools. Almost all of these bills were designed to provide financial assistance directly to the schools themselves. Since most of the benefited schools are church-related, the courts have consistently overturned the laws as violations of the separation of church and state.

The suggested Education Tax Credit Act, which would benefit parents not institutions, is designed to overcome that judicial precedent. The act provides a $250 income tax credit or the actual cost of school expenses, for each child enrolled in school.

U.S. Senators Daniel Moynihan (D-NY) and Robert Packwood (R-OR), along with 41 co-sponsors in the Senate, have drafted a national tax credit bill which would allow education tax credits on federal income tax returns. The bill is almost certain to pass the Senate in some form. Support for the tax credit idea, while not as strong as in the Senate, has been growing in the House.

Model Legislation

{Title, enacting clause, etc.}

Section 1. {Short title} This act may be cited as the Education Tax Credit Act
Section 2. (Tax credit allowable for certain educational expenses.)

(A) In addition to any other credits against the tax payable on net income which the law allows to an individual taxpayer, an individual taxpayer shall be entitled to the tax credit against the tax payable on net income provided for in this act. A taxpayer may claim the tax credit allowed by Subsection B of this Section for educational expenses described therein incurred after July 1, 1978, for himself, his spouse, and each of his children who is dependent on the taxpayer for more than half of the child’s educational expenses described below and who is in school and has not attained the age of twenty-one years. If such child is a taxpayer, he may claim the tax credit for educational expenses allowed by this Section, and the parent paying his educational expenses may claim the tax credit only if the child does not claim the credit.

(B) Any taxpayer who qualifies under this act shall be entitled to a tax credit against the tax payable on his net income in an amount equal to fifty percent of the sum of the educational expenses described below, or two hundred fifty dollars for each person for whom the expenses were incurred, whichever of the two sums is the lesser, on the following:

1. Tuition and all general fees paid to elementary and secondary schools, vocational-technical schools, and proprietary schools, except that portion of tuition or general fees used for religious instruction.
2. Required books, except books for religious instruction.
3. Required school supplies, including by way of example, paper, pencils, pens, binders, laboratory supplies, and art supplies.
4. Required clothing, including by way of example, school uniforms, band uniforms, gym suits, and athletic uniforms.
5. Bus fees for transportation to and from school.
6. Athletic fees.
7. School lunches, not to exceed fifty cents per school day.

(C) Any item enumerated in Subsection B of this Section shall not qualify as a basis for a tax credit if it qualifies and is claimed as a deduction on the taxpayer’s state or federal income tax return or as a deduction or tax credit on the state or federal income tax return of his child or his parent. Nor shall it qualify unless the taxpayer has and maintains in his possession for three years following the filing of any return an actual receipt for the educational expenses incurred.
(D) The tax credit shall not exceed the total state income tax liability of the taxpayer.

Section 3. {Severability Clause.}

Section 4. {Repealer clause.}

Section 5. {Effective date.}
29. Parental Notification and Choice in Bilingual Education Act

Summary

An Act requiring that educational facilities provide notification to all parents of students designated to be placed in a bilingual education program, and that those parents are given a choice to refuse that decision.

Model Legislation

Section 1. {Short Title} "This act may be cited as Legislation to Ensure Parental Notification and Choice in Bilingual Education"

Section 2. {Legislative Declarations}

(A) Parental participation in the formal education of their children is essential to the child's development, and providing parents with the choice to select that teaching method which they feel will best benefit their children is a requisite component of parental involvement, and;

(B) Re-establishing the sanctity of the American family is a priority, and;

(C) Educational excellence for all students is a public policy goal, and;

(D) Schools should utilize parents in policy formation, and;

(E) There are documented instances where children have been placed in bilingual education classrooms against the will and/or without the knowledge of their parents, thus impeding their opportunity for academic achievement.

Section 3. {Definitions}

(A) "Agency shall be broadly construed to include the state, all units of state government and all units of government and shall exclude no entity established under the constitution or laws of the State or established by any entity which was itself established under the constitution or laws of the state.

(B) "Entry regulations" shall include any law, ordinance, regulation, rule, policy, fee, condition, test, permit, administrative practice, or other provision relating in a market, or the opportunity to engage in any occupation or profession.

(C) "Public service restrictions" shall include any law, ordinance, regulation, rule, policy, fee, condition, test, permit, administrative practice or other provision the effect of which is to exclude or limit the use
of private firms from providing public services under the supervision of agencies, with or without the support of public subsidy and/or user fees.

(D) "Welfare" shall be narrowly construed to encompass protection of members of the public against fraud or harm. This term shall not encompass the protection of existing businesses or agencies, whether publicly or privately owned, against competition.

(E) "Subsidy" shall include taxes, grants, user fees or any other funds received by or on behalf of an agency.

Section 4. {Main Provisions}

(A) Each parent or guardian shall be notified semi-annually by the school system of the right to have their child receive instruction in all courses offered in the public school exclusively in the English language.

(B) No student shall be placed into a bilingual program, or any other program developed for students limited in English proficiency, which separates them from English-speaking students without the prior written consent of their parent or guardian.

(C) The State Board of Education or the equivalent shall promulgate regulations in accordance with the provisions of this act.

(D) Right of action. Any citizen shall have standing to bring an action against the State to enforce this act. The State Courts shall have jurisdiction to hear and decide any such action brought under this section.

(E) Exemption: This Act shall not be construed to interfere with the teaching of foreign languages or the development of immersion programs designed for the purpose of teaching English-speaking students a foreign language. The notification shall indicate that the teaching of foreign languages is exempted.

(F) The burden of excessive regulation is borne most heavily by individuals outside the economic mainstream, for whom opportunities for economic advancement are curtailed.

(G) It is in the public interest:

(1) To ensure the right of all individuals to pursue legitimate entrepreneurial and professional opportunities to the limits of their talent and ambition;

(2) To provide the means for the vindication of this right; and

(3) To ensure that regulations of entry into businesses and professions are demonstrably necessary and
carefully tailored to legitimate health, safety, and welfare objectives.

Section 5. {Limitation on Entry Regulations}

All entry regulations with respect to businesses and professions shall be limited to those demonstrably necessary and carefully tailored to fulfill legitimate public health, safety, or welfare objectives.

Section 6. {Elimination of Entry Regulations}

(A) Within one year following enactment, every agency shall conduct a comprehensive review of all entry regulations within their jurisdictions, and for each such entry regulation it shall:

(1) Articulate with specificity the public health, safety, or welfare objective(s) served by the regulation, and;

(2) Articulate the reason(s) why the regulation is necessary to serve the specified objective(s).

(B) To the extent the agency finds any regulation that does not satisfy the standard set forth in Section 4, it shall:

(1) Repeal the entry regulation or modify the entry regulation to conform with the standard of Section 4 if such action is not within the agency’s authority to do so; or

(2) Recommend to the legislature actions necessary to repeal or modify the entry regulation to conform to the standard of Section 4 if such action is not within the agency’s authority.

(C) Within 15 months following enactment, each agency shall report to the legislature on all actions taken to conform with this section.

Section 7. {Elimination of Public Service Restrictions}

(A) Within one year following enactment, every agency shall establish, and within 18 months following enactment implement a routine private participation process with respect to the public services under its jurisdiction. Such process shall require that:

(1) Private companies be permitted to perform public services that can be produced without subsidy. An agency may establish reasonable requirements with respect to notice of entry and exit.

(2) Private companies be permitted to periodically and fairly compete for contracts to perform public services that cannot be produced without subsidy.
(3) Private companies not be precluded from commercially producing any service under the jurisdiction of the agency which is not included in (1) or (2) above.

(B) The competitive process required by (A)(2) shall be designed to allow the maximum extent of participation by private firms of all sizes and shall:

(1) Rely upon multiple contracts wherever feasible, and;

(2) Not include any provisions or arrangements that have the effect of limiting competition or precluding participation except as necessary to achieve the standard set forth in Section 5.

(C) Every agency shall have the authority to establish reasonable standards of customer service with respect to public services under Sections (A)(1) and (A)(2) above.

(D) Every agency shall recommend to the legislature actions necessary to repeal or modify any public service restriction to conform to the standard set forth in Section 5 if such action is not within the agency's authority.

(E) Within 15 months following enactment, each agency shall report to the legislature on all actions taken to conform with this section.

Section 8. {Administrative Proceedings}

(A) Any person may petition any agency to repeal or modify any entry regulation into a business or profession within its jurisdiction.

(B) Within 90 days of a petition filed under (A) above, the agency shall either repeal the entry regulation, modify the regulation to achieve the standard set forth in Section 4, or state the basis on which it concludes the regulation conforms with the standard set forth in Section 4.

(C) Any person may petition any agency to repeal or modify a public service restriction within its jurisdiction.

(D) Within 90 days of a petition filed under (C) above, the agency shall either establish and within 9 months implement the requirements of Section 7, or state the basis on which it concludes the public service restriction conforms with the standard set forth in Section 5.

Section 9. {Prohibition of Restrictive Provisions}

(A) Notwithstanding any other provisions of law, an agency shall not award or extend any franchise that has the effect of conflicting with either Section 4 or Section 5.
(B) Notwithstanding any other provision of law, an agency shall not execute or extend any contract provision, including any labor contract provision that has the effect of conflicting with either Section 4 or Section 5.

(C) This section shall not require the cancellation of any contract clause in effect as of January 1 of the year of enactment so long as the contract expires no later than 24 months after enactment.

Section 10. {Enforcement}

(A) Any time after 90 days following a petition filed pursuant to Section 6 that has not been favorably acted upon by the agency, the person(s) filing a petition challenging an entry regulation or public service restriction may file an action in a Court of general jurisdiction.

(B) With respect to the challenge of an entry regulation, the plaintiff(s) shall prevail if the Court finds by a preponderance of evidence that the challenged entry regulation on its face or in its effect burdens the creation of a business, the entry of a business into a particular market, or entry into a profession or occupation, and either

(1) That the challenged entry regulation is not demonstrably necessary and carefully tailored to fulfill legitimate public health, safety, or welfare objectives; or

(2) Where the challenged entry regulation is necessary to fulfill legitimate public health, safety, or welfare objectives, such objectives can be effectively served by regulations less burdensome to economic opportunity.

(C) With respect to the challenge of a public service restriction, the plaintiff(s) shall prevail if the court finds by a preponderance of the evidence that on its face or in its effect the public service restriction limits participation by private companies in the provision of public services or other services under the jurisdiction of the agency, and either:

(1) That the challenged entry regulation is not demonstrably necessary and carefully tailored to fulfill legitimate public health, safety, or welfare objectives; or

(2) Where the challenged public service restriction is necessary to fulfill legitimate public health, safety or welfare objectives, such objectives can be effectively served by restrictions that allow greater private participation.

(D) Upon finding for the plaintiff(s), the Court shall enjoin further enforcement of the challenged entry regulation or public service restriction, and shall award reasonable attorney's fees and costs to the plaintiff(s).
30. The Virtual Public Schools Act

Declaration.

(A) The General Assembly hereby finds and declares that:

(1) Meeting the educational needs of children in our state’s schools is of the greatest importance to the future welfare of [state];

(2) Closing the achievement gap between high-performing students, including the gap between minority and non-minority students, including the gap between minority and non-minority students and between economically disadvantaged students and their more advantaged peers, is a significant and present challenge; and

(3) Providing a broader range of educational options to parents and utilizing existing resources, along with technology, may help students in our state improve their academic achievement;

(4) Many of our school districts currently lack the capacity to provide other public school choices for students whose schools are low-performing.

(B) The General Assembly further finds and declares that virtual schools established in this article:

(1) Provide [state] families with an alternative choice to access additional educational resources in an effort to improve academic achievement;

(2) Must be recognized as public schools and provided equitable treatment and resources as any other public school in the state.

Simple Version:

“Nothing in this bill shall preclude the use of computer- and Internet-based instruction for students in a virtual or remote setting.”

Section 1. {Definitions.}

(A) “Virtual school” shall mean an independent public school in which the school uses technology in order to deliver a significant portion of instruction to its students via the Internet in a virtual or remote setting.

(B) “Sponsor” shall mean the public school district, charter school board, or state department having a fiduciary responsibility for the operation of the virtual school.

Section 2. {Accountability Requirements.}

(A) Sponsor. A virtual school shall be evaluated annually by its sponsor based on the following criteria:
(1) The extent to which the school demonstrates increases in student achievement according to the goals of its authorizing contract and state academic standards.

(2) The accountability and viability of the virtual school, as demonstrated by its academic, fiscal, and operational performance.

(B) Student and Family.

(1) Each student will have access to a sequential curriculum that meets or exceeds the state’s academic standards and that has an interactive program with significant online components.

(2) Each student will be required to have ___ (900) hours of learning opportunities per academic year, or a student has demonstrated mastery or completion of appropriate subject areas.

(3) Each student will be assessed regularly in Language Arts, Math, Science, and Social Studies.

(4) For each family with a student enrolled, the virtual school shall:

   (a) provide instructional materials;

   (b) ensure access to necessary technology such as a computer and printer; and

   (c) ensure access to an Internet connection used for schoolwork.

(5) Virtual schools are prohibited from providing allotments to students or families to purchase instructional programs or materials. Nothing in this clause shall prohibit virtual schools from reimbursing families for costs associated with their Internet connection for use in the virtual school program.

(3) Teacher. Each teacher shall be qualified to teach in the State of [state] under existing law.

(4) Offices and Facilities. A virtual school shall maintain an administrative office within the state in which its sponsor is located, which shall be considered its principal place of business.

(5) Open Enrollment. Any student who meets state residency requirements may enroll in a virtual school.

Endnotes

1. “Virtual public schools” is a term used in many states to refer to these kinds of schools. Other terms include distance-learning schools, cyber-schools, online-learning schools, etc. The authors recommend that legislators choose the term that best serves the purposes of the legislation in their state.

Approved by the ALEC Legislative Board of Directors January, 2005.
31. Channel One Resolution

WHEREAS, the Channel One Network produces a world class news program of the highest quality which is viewed by over eight million students throughout the United States in over 12,000 schools; and

WHEREAS, in addition to the news programs, Channel One provides schools with educational content and services valued at over $425 million a year; and

WHEREAS, students in Channel One schools have the opportunity to utilize television equipment provided by the company in unique and creative ways including the production and broadcast of their own student news programs; and

WHEREAS, Channel One News has received over two hundred educational and journalism awards for programming content including the prestigious George Foster Peabody award; and

WHEREAS, teachers who use Channel One have instant access to teaching guides and classroom materials on how to “teach the news” and can download hundreds of educational films and videos; and

WHEREAS, all of this important educational material is available to participating schools throughout the nation at no cost; and

WHEREAS, educators including members of local school boards, superintendents, media specialists and teachers continue to express their strong support for the use of Channel One in classrooms by renewing their contracts with the Channel One Network at annual rate of over 99%; and

WHEREAS, Channel One supports and partners with Mothers Against Drunk Driving, the National Campaign to Prevent Teen Pregnancy, the Partnership for a Drug Free America, the National Center for Missing and Exploited Children, the National Mental Health Awareness Campaign by providing millions of dollars of free advertising; and

WHEREAS, these public service messages reach secondary school students with critical prevention information about health and safety issues that affect teens including underage drinking, school violence, substance abuse and mental health,
THEREFORE, BE IT RESOLVED that the American Legislative Exchange Council (ALEC) hereby recognizes and commends the important public-private partnership that exists between the Channel One Network and local educators throughout the nation and further states that the decision of whether to partner with Channel One and utilize this important resource is best made by local educators with input from students, parents, teachers, principals and administrators in the local community.

Adopted by ALEC’s Education Task Force at the Annual Meeting August 8, 2002.

Approved by full ALEC Legislative Board of Directors September, 2002.
32. The Civic Literacy Act

Summary

Americans take personal pride in the diversity of their ethnic and cultural backgrounds. However, as a nation, we possess a singular political heritage based on the principles of life, liberty, justice, and equality of opportunity as defined and expressed in the Declaration of Independence, codified in the Constitution, and defended in the Federalist Papers. Thomas Jefferson, recognizing the future need to protect America's political heritage, prescribed a general education for all citizens, “to instruct the mass of our citizens in these their rights, interests, and duties, as men and citizens.” However, today, and for too many years, our students have been denied the basic education required to develop a command of and commitment to the ideals essential to a democratic form of government. The extent of civic illiteracy in America is large and growing. The results of various surveys have confirmed the lack, especially among young Americans, of even a basic knowledge about our Constitution and the structure and function of our government.

In this regard, many states have enacted legislation to require the teaching of the Declaration of Independence, the Constitution, and the Federalist Papers during the high school years. It is important that all citizens, regardless of origin, are made aware of our nation’s political heritage. Indeed, the future of our democratic institutions may be jeopardized if civic illiteracy is permitted to continue unabated. Nevertheless, a reversal of this trend may take place only if legislators enact new laws, which provide clear and detailed instructions about (1) curriculum and other related matters, and (2) sanctions and appropriate enforcement mechanisms.

Model Legislation

Section 1. {Title} The Civic Literacy Act.

Section 2. {Findings} The legislature finds and declares that:

(A) The adoption of the Declaration of Independence in 1776 and the signing of the United States Constitution were principal events in the history of the United States, the Declaration of Independence providing the philosophical foundation on which this nation rests and the Constitution of the United States providing its structure of government.

(B) The Federalist Papers embody the most eloquent and forceful argument made in support of the adoption of our republican form of government.

(C) These documents stand as the foundation of our form of democracy providing at the same time the basis of our national identity and the vehicle for orderly growth and change.
(D) Many Americans lack even the most basic knowledge and understanding of the history of our nation and the principles set forth in the Declaration of Independence, codified in the Constitution and defended in the Federalist Papers.

(E) The survival of the Republic requires that our nation’s children, the future guardians of its heritage and participants in its governance, have a firm knowledge and understanding of its principles and history.

Section 3. {Purpose} The purpose and intent of this Act are:

(A) To require during the high school years the teaching of the nation’s founding and related documents, which shall include the Declaration of Independence, the United States Constitution and the Federalist Papers.

(B) To require that before receiving a certificate or diploma of graduation from high school students must have been tested on their knowledge of the Declaration of Independence, the United States Constitution, and the Federalist Papers.

Section 4. {Administration} The state department of education [insert appropriate state/local agency] shall adopt and promulgate rules and regulations for the administration of this Act; said rules and regulations to:

(A) include among the requirements for secondary school graduation a passing grade on a test of the Declaration of Independence, the United States Constitution, and the Federalist Papers;

(B) include in any standard state testing of high school students questions on the contents of the Declaration of Independence, the United States Constitution, and the Federalist Papers;

(C) specifically provide for curriculum content and teacher training to ensure that the intent of this legislation is satisfied.

Section 5. {Reporting and accountability} The state department of education [insert appropriate state/local agency] shall submit an annual report to the governor and the legislature describing the specific rules and regulations issued pursuant to this Act and reporting the effectiveness of these rules and regulations as measured by the passage of these courses involved pursuant to Section 3 of this Act.

Section 6. {Severability clause}

Section 7. {Repealer clause}

Section 8. {Effective date}
33. The Common Sense in Medicating Students Act

Summary

The Common Sense in Medicating Students Act prohibits any school personnel from recommending the use of psychotropic drugs for any child and protects parents or guardians who refuse to administer psychotropic drugs to their child from having said child taken into custody by the state or local department of child services unless such refusal causes the child to be neglected or abused as defined by state code.

Model Legislation

Section 1. {Short Title} The Common Sense in Medicating Students Act.

Section 2. {School Personnel Prohibition} Each local and regional board of education shall adopt and implement policies prohibiting any school personnel from recommending the use of psychotropic drugs for any child. The provisions of this section shall not prohibit school medical staff from recommending that a child be evaluated by an appropriate medical practitioner, or prohibit school personnel from consulting with such practitioner with the consent of the parents or guardian of such child.

Section 3. {Parental and Guardian Protection} The refusal of a parent or guardian having control of a child to administer or consent to the administration of any psychotropic drug to such child shall not, in and of itself, constitute grounds for the [enter name of department of child services or appropriate state or local agency] to take such child into custody or for any court of competent jurisdiction to order that such child be taken into custody by the department, unless such refusal causes such child to be neglected or abused, as defined in [enter appropriate state code].

Section 4. {Severability clause}

Section 5. {Repealer clause}

Section 6. {Effective date}


Approved by full ALEC Legislative Board of Directors January, 2002.
34. The Drug-Free Schools Act

Summary

This act would require drug education funds to be funneled through a state drug free schools advisory committee. Although many states expend significant amounts of their own money on drug education most such funds currently expended are federal. The 1986 federal Drug Free Schools and Communities Act established the federal grant program and mandated that 80 percent of the funds go to each state’s department of education and 20 percent go to each state’s governor’s office. This Act would require that state and federal funds be further funneled through a state drug-free schools advisory committee before reaching the schools.

The state Committee would be composed of a mix of law enforcement personnel, school officials, treatment officials, and parents. This Act would also provide for the creation of local drug-free schools committees, which would have the same composition as the state committee. The local committees would be responsible for approving specific plans drafted by a team of local law enforcement and school representatives. The state committee would be responsible for dispensing money to the local committees.

Suggested Legislation

Section 1. (Short Title) This act shall be known and may be cited as the Drug-Free Schools Act.

Section 2. (Definitions.) As used in this Act, the term “drugs” includes, but is not limited to:

(A) All controlled substances defined in [cite state Controlled Substances Act].

Section 3. (Creation of the program.) There is hereby created in the Office of [insert appropriate office], the Drug-Free Schools Program. All funds made available to the [Office] for the purposes of this Act shall be administered and disbursed by that Office in consultation with the state Drug-Free Schools Advisory Committee established hereafter.

(A) The Office of [insert name], in consultation with the Drug-Free Schools Advisory Committee, is authorized to allocate and award funds to local law enforcement agencies and public schools working jointly to develop drug and alcohol use prevention and drug and alcohol trafficking suppression programs in substantial compliance with the policies and criteria set forth herein after.

(B) The allocation and award of funds shall be made upon the joint application by the chief law enforcement agency’s legislative body and the superintendent and board of the school district co-applicant. The joint application of the law enforcement agency and the school district shall be submitted for review to the local Drug-Free Schools Advisory Committee established hereafter. After review, the application shall be submitted to the Office of [insert name]. Funds disbursed under this Act
may enhance but shall not supplant local funds that would, in the absence of the Drug-Free Schools Program, be made available to suppress and prevent drug and alcohol use among school-age children and to curtail drug and alcohol trafficking in and around schools, parks, and playgrounds.

(C) The co-applicant local law enforcement agency and the co-applicant school district shall enter into interagency agreements between themselves which will allow the management and fiscal tasks created pursuant to this Act and assigned to both the law enforcement agency and the school district to be performed by only one of them.

(D) Within 120 days of the effective date of this Act, the Office of [insert name] in consultation with the state Drug-Free Schools Advisory Committee established hereafter shall prepare and issue administrative guidelines and procedures for the Drug-Free Schools Program consistent with this Act. In addition to all other formal requirements that may apply to the enactment of such guidelines and procedures, a complete and final draft shall be submitted within 90 days of the effective date of this Act to the state chairman.

(E) After a full year of program operation, the Office of [insert name] shall prepare and submit an annual evaluation report to the Legislature describing in detail the operation of the program and the results obtained from the Drug-Free Schools Program receiving funds under this Act. The report also shall list the full costs applicable both to the Office of [insert name] for processing and reviewing applications, and to the state and local agencies for obtaining grants, from any source, to support the program. The purpose of the program evaluation shall be to identify successful methods, and to identify, implement, and refine new methods.

Section 4. (Responsibilities of local law enforcement agencies and school districts receiving funds under this Act.) Law enforcement agencies and school districts receiving funds under this Act shall concentrate enhanced apprehension, prevention, and education efforts and resources on drug and alcohol use and drug trafficking in and around schools, parks, and playgrounds.

(A) Such enhanced apprehension, prevention, and education efforts shall include, but not be limited to:

1. drug and alcohol traffic intervention programs;

2. school and classroom-oriented programs, using a tested drug and alcohol education curriculum that provides in-depth and accurate information on drugs and alcohol, which may include the participation of local law enforcement agencies and qualified drug and alcohol use prevention specialists and which is designed to increase teachers’ and students’ awareness of drugs and alcohol and their effects;

3. family-oriented programs aimed at preventing drug and alcohol use, which may include the participation of community-based organizations experienced in the successful operation of such programs;
4. the establishment of a local Drug-Free Schools Advisory Committee. The committee shall be established and appointed by the [insert appropriate authority] of each [insert jurisdiction]. The committee may be a newly created committee or an existing local drug and alcohol use committee as designated by the appointing authority. The committee shall be composed of, at a minimum the following:

   a. local law enforcement executives;
   b. school district executives;
   c. school site staff, which includes administration, teachers, and credentialed personnel;
   d. parents;
   e. students;
   f. school peace officers;
   g. state, county, and local drug and alcohol program administrators designated pursuant to [insert citation from state code]; and
   h. drug and alcohol prevention program executives;

5. development and distribution of appropriate written and audiovisual aids for training of school and law enforcement staff for handling drug-and-alcohol-related problems and offenses. Appropriate existing aids may be used in lieu of the development of new materials;

6. development of prevention and intervention programs for elementary school teachers and students, including utilization of existing prevention and intervention programs;

7. development of a coordinated intervention system that identifies students with chronic drug and alcohol abuse problems and treatment programs for such persons.

(B) Enhanced apprehension, prevention, and education efforts commenced under this Section shall be a joint effort between law enforcement agencies and local school districts in cooperation with [insert appropriate jurisdiction] drug and alcohol program offices. These efforts shall include, but are not limited to, the concentration of apprehension efforts in “problem” areas cooperatively identified by local school and law enforcement authorities.

(C) Funds appropriate pursuant to this Act may be used in part to support state-level development and statewide distribution of appropriate written and audiovisual aids for public awareness and training of school and law enforcement staff for handling drug-and-alcohol-related problems and offenses. When existing aids can be identified, these aids may be used in lieu of the development of new aids.

Section 5. {Criteria for selection; establishment of state Drug-Free Schools Advisory Committee.}
Criteria for rating the grant application of cooperating pairs or clusters of law enforcement agencies and
school districts to receive Drug-Free Schools Program funding shall be developed by the Drug-Free Schools Advisory Committee.

(A) The state Drug-Free Schools Advisory Committee shall be composed of one police chief, one sheriff, one district attorney, one attorney primarily engaged in criminal defense, one representative of parent groups, one representative of the state Department of [insert appropriate state department], one county drug and alcohol program administrator pursuant to [insert citation from state code], a school peace officer, and the representative of community-based drug and alcohol use prevention programs, all of whom are appointed by the governor. In addition, the attorney general shall designate one member representing the state Department of Justice, and the superintendent of public instruction shall designate four members, one drug and alcohol prevention specialist representing the Department of Education, and three school-site personnel. Staff services to the committee shall be provided by the Office of [insert name]. Committee members shall be reimbursed for actual expenses involved in the conduct of committee business. The committee shall review applications for grant awards and shall recommend approval for those applications that are deemed appropriate and are consistent with the guidelines and administrative procedures established pursuant to this Section and this Act.

(B) Each state Drug-Free Schools Advisory Committee member shall be personally present to cast a vote or be counted toward a quorum. An appointed member of the committee unable to attend any meeting may designate a representative to attend such meetings on his behalf. Such representative shall be accorded full privilege to address the committee on any matter under consideration but shall not have the right to vote on any motions entertained by the committee.

(C) The state Drug-Free Schools Advisory Committee shall develop specific guidelines and administrative procedures for the Drug-Free Schools Program.

(D) These guidelines and administrative procedures shall set forth the terms and conditions upon which the Office of [insert name] is prepared to offer grants of funds pursuant to statutory authority. The guidelines and administrative procedures do not constitute rules, regulations, orders, or standards of general application.

(E) Administration of the overall program and the evaluation of monitoring of all grants made under this Act shall be performed by the Office of [insert name].

(F) The Office of [insert name] shall, to the extent possible, coordinate the administration of the Drug-Free Schools Program with those of other state and federal agencies.

(G) Funds disbursed under this Act shall not be used for the acquisition of equipment.

(H) Funds disbursed under this Act shall not be used to purchase information on drugs or alcohol.

(I) In the interest of maximizing the use of funds for program support and implementation, local law enforcement agencies and school districts receiving funds under this Act are expressly discouraged from using Drug-Free Schools Program funds for personnel costs. Where it can be demonstrated that personnel costs are essential to the success of the program and that sufficient law enforcement and
school personnel are not available to carry out the program, exceptions to this Section may be request through the Office of [insert name].

(J) No more than 10 percent of the total amount of funds disbursed under this Section shall be used for administrative costs.

Section 6. {Severability clause.}

Section 7. {Repealer clause.}

Section 8. {Effective date.}

35. The Education Accountability Act

Summary

The Education Accountability Act establishes a program, which confirms that the well-being of the state depends on a well-educated citizenry, and reaffirms the state’s commitment to a quality education for all students. Under this Act, the state would establish criteria and standards for assessing school quality. If a local district or school fails to meet certain standards to such a degree that the quality of education is impaired, the state would refer the matter to a special committee for evaluation and recommendations. If the local district fails to act on the committee’s recommendations, or if the committee concludes that the local district or school would, in any event, be unable to correct the situation, the state would declare the district or school to be “educationally bankrupt.” The state would then take immediate and certain steps to address the situation in a prescribed manner.

These steps include a provision for the issuance of certificates (vouchers) to parents of school-aged children attending an “educationally bankrupt” district and/or school. The certificates could be used by parents for educational services from any participating school. The value of the certificate would be established by the state, but could be no more than the average per pupil current expenditure of the affected local district.

Model Legislation

Section 1. {Title} This Act shall be known and be cited as the Education Accountability Act.

Section 2. {Purpose} It is the purpose of this Act to maintain and improve the quality of elementary and secondary education in all schools in the state of [insert state]; to provide improved methods for measuring and assessing the quality of education in each school; and to provide for the delivery of effective educational services to children in schools where the quality of education is found to be substantially impaired.

Section 3. {Development and application of assessment criteria}

(A) The state department of education, in consultation with all local educational agencies, parents, and organizations knowledgeable regarding educational assessment, shall develop:

(1) criteria for evaluating the quality of elementary and secondary education in each local educational agency in the state; and

(2) minimum standards of educational quality related to those criteria that local school districts and/or individual schools should meet.

(B) The criteria must address, but need not be limited to:
(1) the results of standardized tests that measure both minimal competencies and higher order skills;

(2) dropout rates;

(3) deficiencies in accreditation of individual schools;

(4) failure rates on examinations given to secondary school students prior to graduation;

(5) incidence of drug abuse;

(6) school discipline and safety.

(C) The state department of education shall publish these criteria and minimum standards throughout the state in one or more newspapers of general circulation and shall provide a statement of these criteria and standards to each local school district.

(D) Prior to January 1, [insert year], and by January 1 of each following year, the state department of education shall apply the criteria and standards adopted in accordance with Subsection (A) to appropriate data. These data shall be for the most recently completed school year and collected for each local school district, in accordance with regulations of the state department of education. In applying these criteria and standards, the state department of education shall consult with parents in the area served by the local school district. The state department of education shall make public the results of the process carried out under this subsection and Section 4.

(E) If the state department of education determines, in accordance with Subsection (D), that all schools administered by the local school district meet the minimum standards established in accordance with Subsection (A), the state department of education shall so notify the local school district and make public such finding as prescribed by this Act.

(F) If the state department of education determines, in accordance with Subsection (D), that one or more schools administered by a local educational agency fail to meet the minimum standards but that the failure does not indicate a substantial impairment of the quality of education in that school(s), it shall notify the local school district and shall make public such finding as prescribed by this Act. The local school district, or the state department of education in consultation with the local school district, shall develop a plan for addressing the problems and shall monitor the implementation of this plan.

Section 4. {Substantial impairment of quality of education}
(A) If the state department of education determines, in accordance with Section 3(D), that one or more schools administered by the local school district fail to meet the standards and that the failure indicates a substantial impairment of the quality of education in that school or schools, the state department of education shall so notify the local school district and shall afford that local school district and affected persons an opportunity to comment on such determination. The state department of education shall make public its determination and the comments of the local school district as prescribed by this Act.

(B) If, after considering the comments of the local school district, the state department of education still concludes that the quality of education in that school or schools is substantially impaired, the state department of education shall, within 30 days of reaching such conclusion, appoint a review committee to study educational programs in the affected local school district(s) to identify the factors contributing to the impairment of the quality of education. The review committee shall consist of parents, local and state elected officials, private sector representatives, and persons knowledgeable about elementary and secondary education from the area served by the affected local school district. The review committee shall, after consultation with the local school district, report to the state department of education within 60 days of its appointment. The report shall be made available to the public as prescribed by this Act.

(C) Within 30 days after receiving the report of the review committee, the state department of education shall formulate recommendations for improving the quality of education in the local school district with respect to the school or schools that are the subject of the determination under Subsection (B). The state department of education shall communicate such recommendation to the local school district and shall, in consultation with the local school district, develop a detailed plan for the implementation of these recommendations.

(D) If the recommendations specified in Subsection (C) are not satisfactorily implemented by the beginning of the succeeding academic year, or if the state department of education concludes that the impairment of the quality of education identified in a school or schools in accordance with Subsection (B) will not be remedied within the succeeding year, the state department of education shall declare the local school district to be in a state of educational bankruptcy and shall take the steps specified in Section 5.

Section 5. {Steps required of the state department of education in cases of educational bankruptcy}

(A) In the case of a determination of educational bankruptcy under Section 3(D), the state department of education shall:

(1) provide technical assistance to the local school district;

(2) provide such additional educational resources to the local school district in the form of funds, personnel, or other assistance as the state department of education determines to be needed;
(3) develop and monitor the implementation of an emergency plan to meet the educational needs of the children enrolled in the school or schools; and

(4) institute, for children who attend or reside in the residential school attendance area of the school or schools, a program of educational certificates as set forth in Section 6.

(B) The state department of education shall take such other steps as may be appropriate in accordance with its regulations. Such steps may include, but shall not be limited to, the temporary or permanent suspension from employment of administrative, instructional, and other personnel from the local school district.

Section 6. (Educational Certificates)

(A) The purpose of this Section is to enable children who attend or reside in the school attendance area of a local school district that is declared educationally bankrupt under Section 4(D) to benefit from educational services in educational settings other than the schools that they would normally attend.

(B) In order to achieve the purpose described in Subsection (A), the state department of education shall initiate and carry out a program in which the parent of each school-age child attending or residing in the school attendance area of a school that is declared educationally bankrupt under Section 4(D) receives from the state department of education, on request, a certificate that can be used for educational services at a participating school selected by the child's parent in accordance with this Section.

(C) The state department of education shall require each public school within the state to become a participating school unless exceptional circumstances render the participation of a particular school to be contrary to the public interest, or unless any such school has been determined educationally bankrupt.

(D) The appropriate corporate officials of each private school within the state shall decide whether such school shall become a participating school.

(E) "Eligible private school" means:

(1) a private school that has been operating for at least two years and meets certification standards pursuant to Section 3(B); or

(2) a private school operating for less than two years that meets certification standards pursuant to Section 3(B) and obtains a letter of credit or bond for one-third of the total amount of funds to be received through acceptance of certificates provided for in this act. The letter of credit or
bond shall, in the event of nonperformance, be payable to the district school board.

(F) A participating school shall admit children with certificates under this Section who apply, up to the limit of the school’s capacity, after reserving places for children admitted in accordance with the school’s regular admission practices.

(1) A participating school shall establish criteria for the admission of children with certificates under this Section consistent with the admission criteria that it regularly applies.

(2) The state department of education shall establish criteria, consistent with Subparagraph (1), for the equitable allocation, by each participating public school, of places for children with such certificates if there are insufficient places to serve all such children who request such places.

(G) A participating school shall enter into an agreement with the state department of education containing such terms as may be established by regulators of the state department of education. Such agreement shall provide that the participating school shall furnish a child who is accepted in the school and who tenders a certificate under this Section and, if applicable, supplementary tuition payment required to satisfy any remainder of a participating school’s tuition, an education equivalent to that provided all other children in the school in exchange for the certificate.

(H) Private schools shall be accorded maximum flexibility to educate their students and shall be free from unnecessary, burdensome, or onerous regulation. No regulation of private schools, certificate-redeeming or not, beyond that required by this legislation and which applied to private schools on [insert date] shall be issued or enacted, unless approved by three-fourths vote of the legislature or, alternatively, to any regulation pertaining to health, safety, or land use imposed by any county, city, district, or subdivision of the state, a majority vote of qualified electors within the affected jurisdiction. In any legal proceeding challenging such a regulation as inconsistent with this Section, the governmental body issuing or enacting it shall have the burden of establishing that the regulation:

(1) is essential to assure the health, safety, or education of students;

(2) does not unduly burden private schools or the parents of students therein; and

(3) will not harass, impede, injure, or suppress private schools.

(I) The state department of education shall publish and make available to each parent in the state with a child in a school that is subject to determination under Section 4(D) a list of all participating schools in the state.
(J) A parent of a child with a certificate under this Section may use the certificate for educational services at a participating school only if the child is admitted to the participating school.

(K) The maximum value of a certificate shall be set at the level of the average per capita current expenditures of each affected local school district, but no certificate may be redeemed for more than the amount of the tuition and fees regularly charged by a participating school for its educational services. The state department of education’s regulations shall establish the amount for which a certificate may be redeemed by a public participating school that does not regularly charge tuition.

(1) The state department of education shall develop a plan to deduct the costs of the certificate program authorized under this Section from each local school district subject to a determination under Section 4(D). In developing this plan, the state department of education shall take into account the amount of state aid (allocated to the local school district on a per pupil basis) that is attributable to a child with a certificate provided under this Section.

(2) A parent of a child with a certificate under this Section shall present the certificate to the participating school that the child attends. The participating school shall present the certificate for payment to the state department of education.

(L) A child whose parent receives a certificate for an academic year shall, subject to the provisions of this Act, continue to be eligible for a certificate for a period of three (3) years following a determination by the state department of education that a condition of educational bankruptcy has ceased in the local school district.

Section 7. {Administrative provisions}

(A) Certificates received under Section 5 are not income for state income tax purposes.

(B) Each participating school that is not a public school shall provide to the state department of education an assurance that it is in compliance with appropriate nondiscriminatory requirements as set forth in state and federal law.

(C) Each participating school shall publish or otherwise make available information regarding:

(1) its participation in the certificate program;

(2) its program of instruction;

(3) full and complete achievement data regarding children attending the school (data may be
stated in the aggregate);

(4) the incidence of drug abuse;

(5) school discipline and safety; and

(6) other matters as specified by the legislature.

(D) The state department of education may delegate functions under this Act to an appropriate local school district or other political subdivision of the state and, in carrying out its functions under the Act, may contract for services with any public or private educational organization, agency, or institution.

Section 8. {Program Evaluation} The state department of education shall arrange for an independent evaluation of the certificate program authorized under Section 6, and submit the evaluation to the governor and to each house of the legislature by January 1, [insert year], and on January 1 of each following year.

Section 9. {Definitions} As used in this Act:

(A) “Parent” means the natural or adoptive parent or legal guardian of a dependent child.

(B) “Participating school” means a public or private school located in the state that enters into an agreement with the state department of education in accordance with Section 6.

(C) “Private school” means a school that is not primarily maintained with public funds, that charges tuition or fees for the services it provides, and that is in compliance with the laws of the state;

(D) “Public school” means a school that is administered by a state or local public agency; and

(E) “School” means a school that is authorized to provide elementary and/or secondary education under state law.

Section 10. {Severability clause}

Section 11. {Repealer clause}

Section 12. {Effective date}
36. English Language Education Act

*Suggested Legislation*

Section 1. English Language Education for Language-Minority Students

Article 1. Findings and Declarations

The state finds and declares as follows:

(a) WHEREAS the English language is the common language of the United States of America and of the state, and proficiency in English is a prerequisite for economic opportunity; and
(b) WHEREAS immigrant parents are eager to have their children acquire a good knowledge of English as quickly as possible, thereby allowing them to fully participate in the American Dream of economic and social advancement; and
(c) WHEREAS the government and the public schools of the state have an oral obligation and a constitutional duty to provide all children, regardless of their ethnicity or national origin, with the skills necessary to become productive members of our society, and English literacy is among the most important of these; and
(d) WHEREAS current programs in many public schools currently do a poor job of educating immigrant children, as demonstrated by the current high drop-out rates and low English literacy levels of many immigrant children; and
(e) WHEREAS full fluency in a new language, such as English, is best developed through high levels of exposure to that language in the classroom at an early age.
(f) THEREFORE it is resolved that: all children in the state’s public schools shall be taught English as rapidly and effectively as possible.

Article 2. English Language Education

Subject to the exceptions provided in Article 4, all children in the state’s public schools shall be taught English by being taught in English. In particular, this shall require that all children be placed in English language classrooms. Children who are English learners or otherwise have limited English proficiency shall be educated through sheltered English immersion during a temporary transition period not normally intended to exceed one year. Local schools shall be permitted to place in the same classroom English learners of different ages but whose degree of English proficiency is similar. Local schools shall be encouraged to mix together in the same classroom English learners from different native-language groups but with the same degree of English fluency. Once English learners have acquired a good working knowledge of English, they shall be transferred to English language mainstream classrooms.

Article 3. Definitions

The definitions of the terms used in Article 2 and 4 are as follows:
(a) “English learner” means a child who does not speak English or who has limited English proficiency as a result of primarily speaking a language other than English, and who is not currently able to perform ordinary classroom work in English.
(b) “English Language Classroom” means a classroom in which the language of instruction used by the teacher is the English language, and in which all teaching personnel and aides possess a good knowledge of the English language.
(c) “English language mainstream classroom” means a classroom in which the students either are native English language speakers or already have acquired reasonable fluency in English.
(d) “Sheltered English immersion” or “structured English immersion” means an English language acquisition process for students in which all classroom instruction is in English but with the curriculum and presentation designed for students who are learning the language.
(e) “Bilingual education/native language instruction” means a language acquisition process for students in which much or all instruction, textbooks, and teaching materials are in the child’s native language.

Article 4. Exceptions

Section 1.

The requirements of Article 2 may be waived with the prior written informed consent, to be provided annually, of the child’s parents or legal guardian under the circumstances specified below. Such informed consent shall require that said parents or legal guardian personally visit the school to apply for the waiver and that they there be provided a full description in a language they can understand of the educational materials to be used in the different educational program choices and all the educational opportunities available to the child. Under such parental waiver conditions, children may be transferred to classes where they are taught English and other subjects through bilingual education techniques or other generally recognized educational methodologies permitted by law. Individual schools, in which 20 students or more of a given grade level seek a waiver, shall be permitted to offer such a class; otherwise, they must allow the students to transfer to a public school in which such a class is offered. Parents shall be fully informed in a language they can understand of their right to refuse to agree to a waiver.

Section 2.

Nothing in this act shall affect any foreign language instruction program designed to teach English-speakers another language or aid native speakers of another language in further developing their native language skills. However, native speakers of other languages who do not already have a good working knowledge of English may not participate in foreign language programs for more than one class period per day.

Section 3.

Nothing in this act shall prevent any teacher or instructional aide from providing supplemental assistance in the native language to English learners for the purposes of translation and clarification.
Section 4.

Nothing in this act shall be construed as imposing or mandating any limits on the amount of time English learners may receive specialized assistance in order to learn English and/or academic subject matter.

Article 5. Legal Standing and Parental Enforcement

As detailed in Article 2 and Article 4, all schools children have the right to be provided with an English language public education. If a child has been denied the option of an English language instructional curriculum in a public school, the child’s parent or legal guardian shall have legal standing to sue for enforcement of the provisions of this statute. In successful, the parent or legal guardian shall be awarded normal and customary attorney’s fees and actual damages, but not punitive or consequential damages. Any school board member, elected official or public school teacher or administrator who willfully and repeatedly refuses to implement the terms of this state may be held personally liable for fees and actual damages by a student’s parents or legal guardian.

Article 6. Severability

IN any part of parts of this statute are found to be in conflict with federal law or the United States or the State Constitution, the statute shall be implemented to the maximum extent that federal law, and the United States Constitution and the State Constitution permit. Any provision held invalid shall be severed from the remaining portions of this statute.

Article 7. Operative Date

This initiative shall become operative for all school terms that begin more than sixty days following the date on which it become law.

Article 8. Interpretation

Under circumstances in which portions of this statute are subject to conflicting interpretations, Article 2 shall be assumed to contain the governing intent of the statute.

Source: ALEC December 2000
37. The Honor America Act

Summary

The suggested Honor America Act requires that all public elementary and secondary school students recite the Pledge of Allegiance during each school day.

The Pledge of Allegiance is a pronouncement of each American’s commitment to the foundations of our great nation – individual liberty, representative government and equality of justice for all.

Reciting the Pledge is valuable toward instilling in young Americans a sense of pride in the traditions and principles of the United States.

Pledge of Allegiance

“I pledge allegiance to the flag of the United States of America, and to the republic, for which it stands; one nation, under God, indivisible, with liberty and justice for all.”

Suggested Legislation

Section 1. (Short Title) This act may be cited as the Honor America Act.

Section 2. (Public Policy.) The Pledge of Allegiance shall be recited each school day by pupils in elementary and secondary educational institutions operated by the state.

Section 3. (Severability clause.)

Section 4. (Repealer clause.)

Section 5. (Effective date.)

38. The Longitudinal Student Growth Act

Summary

The Longitudinal Student Growth Act requires the state department of education to implement a state data management system for collecting and reporting student assessment data and identifies the duties and responsibilities of the state department of education and the school districts in implementing the data management system. The legislation instructs the state board of education to adopt a mixed-effects statistical model to diagnostically calculate students’ annual academic growth over the periods between the administration of the statewide assessments, based on the students’ assessment scores. The legislation describes the requirements for the statistical model and instructs the department to convene a technical advisory panel of experts on the measurement of longitudinal growth to assist in creation of the statistical model. The department is required to calculate what constitutes sufficient academic growth for each student for each school year. The legislation next requires the department to provide to each school district and each charter school an academic growth information report for each student enrolled in the school district or charter school, and requires the school district or charter school to adopt a policy for using the information in the report and communicating the information in the report to students and their parents. Finally, the legislation authorizes the state board of education to adopt rules for implementing the act.

Model Legislation

Section 1. (Short title) This Act shall be known and may be cited as The Longitudinal Student Growth Act.

Section 2. (Legislative declaration)

(A) The general assembly hereby finds that to, enable the department and school districts to analyze students’ academic growth longitudinally, it is necessary to establish the following components in statute and in rule:

(1) A statewide testing system that is capable of supporting longitudinal growth analysis of students’ scores;

(2) A state data management system that includes the use of unique student identifiers, that is capable of tracking students’ scores longitudinally, and that is linked to students’ academic records;
(3) A longitudinal growth methodology or model to apply in measuring individual students’ progress toward achieving proficiency on state standards;

(4) A mechanism for interpreting students’ performance on assessments and communicating and disseminating this information for use by school districts and individual schools in assisting students in improving their performance.

Section 3. {Definitions.} As used in this act, unless the context otherwise requires:

(A) “Department” means the state department of education.

(B) “State board” means the state board of education.

Section 4. {State data reporting system.}

(A) The department shall develop and implement a comprehensive data collection and reporting system for collecting and reporting student assessment data from each public school. The state data reporting system shall be designed to collect, through electronic transfer where possible, all student and public school performance data required to ascertain the degree to which students, public schools, and school districts are meeting state performance standards. The state data reporting system shall be designed to protect the privacy of students. At a minimum, the state data reporting system shall be capable of the following functions:

(a) Storing all scores from the assessments administered pursuant to the statewide student assessment program in the __________ school year and each succeeding school year;

(b) Storing data that may be used to perform a variety of longitudinal analyses of individual student assessment results, classroom assessment results, and entire school assessment results with respect to said assessments; and

(c) Longitudinally tracking the assessment results of students who transfer from one school district to another and whose annual assessments are administered by different districts.

(2) In addition to the functions described in paragraph (1) of this subsection (A), the state data reporting system shall be designed to include all the information and data elements needed for measuring student and school performance, including fiscal, student, program, personnel, facility, community, evaluation, and other relevant data and shall allow for the analysis of the relationship between school district and public school expenditures and student longitudinal growth toward state standards. Data elements collected and provided by the department, school districts, and individual public schools shall be compatible. The state data reporting system shall be managed and administered by the department. Each school district that has a
unique information management system shall assure that compatibility exists between its unique system and the data elements of the state data reporting system so that all data required to be input into the state data reporting system is made available through electronic transfer and in the appropriate input format.

(B) The department shall have the following duties and responsibilities with regard to the state data reporting system:

1. To consult with school district representatives in the design and development of the data model and implementation plans for the electronic transfer of data between school districts, individual public schools, and the state data reporting system;

2. To provide operational definitions for the state data reporting system;

3. To determine the information and specific data elements required for the performance decisions made at each school level, recognizing that the primary unit for information input is the individual public school and recognizing that the time and effort of instructional personnel expended in collection and compilation of data should be minimized;

4. To develop standardized terminology and procedures to be followed at all public schools;

5. To develop an electronic standardized transmittal format to be used for collection of data on the various levels of the system from the school districts and individual public school levels;

6. To develop appropriate technology applications to assure the integrity and integration of the various information and specific data elements dealing with students, personnel, facilities, fiscal, programmatic, assessment, community, and evaluation data;

7. To develop the necessary applications to provide statistical analysis of the comprehensive information and supporting data elements provided in paragraph

8. of this subsection (B) in such a way that required reports may be disseminated, comparisons may be made, and relationships may be determined in order to provide the necessary information for making performance decisions at all school levels;

9. To develop output and reporting formats that will provide school districts with diagnostic information for making academic and safety environment decisions at the various school levels;

10. To assist school districts in establishing their standardized electronic transmittal capabilities, including but not limited to awarding schools and school districts grants to assist them in upgrading their transmittal capabilities and establishing rules for the awarding of such grants;
(11) To establish procedures for the annual evaluation of the effectiveness and ease of use of the state data reporting system;

(12) To conduct a data reporting study to ascertain whether duplication exists in the collection of data and to determine whether forms and reports for reporting under state and federal requirements and other forms and reports are prepared in a logical and uncomplicated format and result in a reduction in the number and complexity of required reports, particularly for each individual public school; and

(13) To perform such other actions as are necessary to carry out the intent of the general assembly that the needs of the state data reporting system for performance decision-making and reporting are met.

(C) The specific responsibilities of each school district shall include:

(1) Developing, with assistance from the department, system compatibility between the state data reporting system and unique school district and individual public school data systems;

(2) Providing, with the assistance of the department, inservice training dealing with the state data reporting system’s purposes and scope, a method of electronically transmitting input data, and the use of performance reporting information;

(3) Advising the department of all school district data management needs as they relate to the state data reporting system;

(4) Electronically transmitting required data elements and an accounting as required by the department to the appropriate processing locations in accordance with guidelines established by the department;

(5) Determining required data output and reports, comparisons, and relationships to be provided to the school district by the state data reporting system, continuously reviewing these reports for usefulness and meaning, and submitting recommended additions, deletions, and changes in accordance with the guidelines established by the department; and

(6) Being responsible for maintaining the integrity and accuracy of data elements transmitted to the department.

Section 5. {Longitudinal growth calculation – model.}

(A)

(1) The general assembly hereby finds, determines, and declares that:
(a) In ____, the general assembly adopted legislation establishing state model content standards in several areas, including reading, writing, and mathematics, and directing school districts to adopt district standards in these areas;

(b) The state model content standards were designed to measure what each child should know and be able to do at various levels of development in the child's academic career;

(c) In ____, the state began implementing the statewide student assessment program to measure whether students were successfully meeting the state model content standards;

(d) A next step in implementing content standards in education is to identify how much academic growth is required to meet each level of content standard and to measure whether students are achieving this growth;

(e) The goal for most students, no matter where a student starts, is to achieve yearly academic growth sufficient to perform at least at the proficiency level of "proficient" in reading, writing, and mathematics by the time the student completes grade ten. In the case of students who have not yet completed grade ten but who are performing at the proficiency level of "proficient" or "advanced" in reading, writing, or mathematics on statewide assessments administered at their respective grades, the goal for such students is to advance from year to year in a way that maintains or improves upon their proficiency level performance.

(f) The numeric statewide assessment scores received by each student in successive school years can be used to provide a diagnostic measure that will indicate the student's degree of academic growth over time;

(g) Measuring each student's academic growth over time will provide necessary diagnostic information to assist parents, teachers, schools, and school districts in identifying students who need additional assistance and will help to close the learning gap that sometimes exists among students in the same classrooms;

(h) The measurement of student academic growth over time should be based upon all available individual scores for the student on statewide assessments administered to the student through the years; and

(i) The methodology of calculating student academic growth over time should be capable of accommodating the inclusion of all students, including students for whom sparse data is available.
(2) The general assembly further finds and declares that:

(a) Efforts to improve student academic growth should emphasize closing achievement gaps;

(b) A true longitudinal measure is required that tracks individual students from one grade level in the first year to the next higher grade level in the following year and that accommodates students retained in grade;

(c) Only students who were enrolled in a school by October 1 of the school year should have their academic growth included in the school's overall academic growth rating for that school year in the school accountability report;

(d) An academic growth measurement should account for the influence of artificially high- or low-scoring students and regression toward the mean;

(e) Credit should be given for students who maintain their performance at the advanced level of proficiency, even if their scale scores decline, to recognize the substantial amount of learning required to maintain that level of performance and to avoid penalizing schools with large numbers of advanced-level students whose scores might decline slightly due to measurement error;

(f) An academic growth measurement should measure each student's progress toward performing at the proficiency level of "advanced" or "proficient";

(g) An academic growth measurement should measure the performance over time of students assigned to specific classrooms and teachers; and

(h) Teachers should be able to identify individual students who are not making sufficient progress and to use the diagnostic properties of the statewide assessments' objectives to plan instructional strategies for improvement.

(3) Therefore, it is the intent of the general assembly to adopt legislation to implement a process for measuring student academic growth longitudinally and to include a longitudinal student growth measurement on the school accountability report that will:

(a) Create a cooperative atmosphere among students, parents, teachers, school district administrators, the department of education, and the state board of education; and

(b) Promote the highest possible academic achievement.
(1) On or before ________, the department shall choose a public or private entity to develop, no later than _______, a statistical model to calculate students’ annual academic growth and to calculate annually the amount of each student’s and each school’s academic growth, and the adequacy of the growth rate to achieve proficiency, in reading, writing, and mathematics over the periods between the administration of the statewide assessments, which calculation shall be based on students’ statewide assessment scores.

(2) No later than _______, the department shall convene a technical advisory panel that includes experts on the measurement of longitudinal growth for accountability purposes. The technical advisory panel shall review the proposed model developed pursuant to paragraph (1) of this subsection (B) for calculating the annual academic growth of students. The model, at a minimum, shall specify the standard error of measurement and shall specify the stringency of the confidence interval used to determine whether the annual change in test scores can be attributable to chance due either to measurement error or to regression to the mean. In reviewing the model, the advisory panel shall consider recent national studies of different methodologies and models for measuring longitudinal growth.

(3) No later than _______, the technical advisory panel convened shall submit its written comments or recommendations to the department, the state board, the education committees of the senate and the house of representatives, and the governor.

(4) The department shall convene the technical advisory panel within existing appropriations.

(C)

(1) On or before __________, the state board shall consider the model developed pursuant to subsection (B) of this section and reviewed by the technical advisory panel and shall adopt by rule a statistical model used to calculate students’ annual academic growth toward proficiency on state standards that shall be a scientifically rigorous statistical model available in the public domain.

(2) The state board, in adopting the statistical model described in paragraph (1) of this subsection (C), shall ensure that the model:

(a) Is scientifically rigorous, defined as having methodological efficacy for measuring individual student longitudinal growth with high precision as demonstrated in refereed journal articles;

(b) Considers improvement for students whose test scores increase even if they do not increase to a higher state performance level;
(c) Measures the annual growth and rate of growth in test scores of individual students from one year to the next, including the annual growth and rate of growth toward the performance levels for proficiency and above;

(d) Allows calculation of the percentage of students in a school that are making sufficient longitudinal growth toward the performance levels for proficiency and above;

(e) Is capable of including more than two years of data for each student to improve the precision of growth measures and to accommodate missing student data;

(f) To the greatest extent possible, uses a methodology that will serve the diagnostic purposes of school districts and schools;

(g) Provides results that are meaningful, reliable, and valid, given their intended purposes, to enable administrators and teachers to identify individual students and groups of students that are and are not making sufficient longitudinal growth; and

(h) Is described in a publicly available document that describes the mathematical equations used in the statistical model and that describes the methods used to complete records for students with incomplete data.

(D)

(1) No later than __________, the department shall calculate what constitutes sufficient academic growth for each student for each school year. The department shall formulate the calculation in such a way that sufficient academic growth means:

(a) A student is progressing sufficiently to perform in reading, writing, and mathematics at increasing levels of proficiency, projected at grade levels determined by the department, in consultation with the technical advisory panel, with the goal of performance at least at the proficiency level of “proficient” before completing grade ten; and

(b) For a student who is performing at the proficiency level of “advanced,” the student is progressing from year to year in a way that maintains or improves upon the student’s proficiency level performance.

(2) The department shall use data available for longitudinal analysis to review and revise the calculation of academic growth as necessary.

Section 6. {Longitudinal growth information – dissemination – use}

(A)
(1) On or before _____, and on or before ____ each year thereafter, the department shall provide to each school district an academic growth information report for each student enrolled in a public school of the school district, based on the statewide assessment results for the preceding school years. The academic growth information report shall include the student's statewide assessment scores for each statewide assessment taken by the student while enrolled at a public school in this state and the growth amounts that indicate the student's amount and sufficiency of growth in reading, writing, and mathematics over the period between the administration of statewide assessments.

(2) Beginning in the _______ school year, the department shall provide to each charter school in the state an academic growth information report for each student enrolled in the charter school, based on the statewide assessment results for the preceding school years. The department shall ensure that data provided to a charter school pursuant to this paragraph (2) include only the data for students enrolled in the charter school.

(3) The state board shall promulgate rules establishing the procedures by and time frames in which the department shall provide the academic growth information reports to school districts and to charter schools pursuant to this subsection (A). The department may provide the academic growth information reports in an electronic format.

(B)

(1) Each school district and each charter school shall establish a policy for using the information provided in the academic growth information reports received pursuant to subsection (A) of this section. At a minimum, the policy shall include creation of an academic growth profile for each student who participates in the statewide assessments for reading, writing, and mathematics. Each student's academic growth profile shall meet the minimum requirements specified in paragraph (2) of this subsection (B). In addition, the policy shall include procedures by which:

   (a) Each student’s academic growth profile is prepared and disseminated to the principal of the public school in which the student is enrolled and provided to the student's classroom teacher on or before October 1, if possible, but in no event later than December 1;

   (b) Each student’s academic growth profile is shared with the student’s parents and with the student in a discussion of the student’s academic strengths and weaknesses and strategies to increase the student's academic growth;

   (c) Each student’s academic growth profile is applied as a tool in increasing the student’s academic achievement.
(2) Each student’s academic growth profile shall be prepared in a format that is beneficial and useful to the student’s parents and teachers in helping the student to grow academically. Each student’s academic growth profile, at a minimum, shall include the following information:

(a) All of the information included in the student’s academic growth information report provided by the department pursuant to subsection (1) of this section;

(b) Analysis of the student’s learning needs and strengths; and

(c) Instructional strategies to assist the student in increasing his or her academic growth.

(C) The department, school districts, and charter schools shall maintain the confidentiality of each student’s statewide assessment scores consistent with the federal Family Educational Rights and Privacy Act of 1974, 20 U.S.C. sec. 1232g, and all federal regulations and applicable guidelines adopted in accordance therewith.

(D) The academic growth information reports provided by the department shall be included in each student’s individual student record maintained by the school district or charter school in which the student is enrolled.

Section 7. {State board – rules} The state board is authorized to promulgate any rules necessary to calculate annual academic growth and to otherwise implement the requirements of this act.

Section 8. {Repealer clause}

Section 9. {Effective date.}

Approved by the ALEC Legislative Board of Directors January, 2006.
39. The No Pass/No Play Act

Summary

Weakened academic standards in the public school systems have reinforced the perception by many students that extracurricular activities are more important than schoolwork. Just the opposite should be emphasized. High school is critical in a student’s career development and academics should be the main focus.

Legislation emphasizing the tightening of academic requirement in the public school system has been addressed in several states. No pass/no play language was included in the 1984 Texas education reform package. That provision prohibits a student who receives a grade lower than 70 on a scale of 100 from participating in any extracurricular activities. An Alabama law includes a clause to protect teachers who give a student a failing grade from harassment by other teacher, coaches, or school administrators. That law further requires the Alabama Board of Education to establish guidelines to ensure such protection.

This type of legislation is supported by many organizations nationwide, including the national Collegiate Athletic Association (NCAA). It is necessary to place proper emphasis on scholastic activities, and to allow students to broaden their school activities only when they have demonstrated the ability master academic studies.

Suggested Legislation

Section 1. {Short Title} This act may be cited as the No Pass/No Play Act.

Section 2. {Statement of purpose.} The purpose of this Act is to emphasize to all pupils in this state that each pupil’s primary responsibility is to meet the academic challenge of learning. Further, it is the purpose of this Act to establish that extracurricular activities are an integral, but not supplemental, part of the educational programs in grades 7 to 12, inclusive.

Section 3. {Definitions.} As used in this Act:

(A) “Extracurricular activity” means a program not generally a part of the regular school curriculum, which generally takes place outside classroom time, which does not earn credits, and which is not graded. “Extracurricular activities” include, but are not limited to the following:

1. athletic teams;
2. drama clubs or theatrical performance groups;
3. drill and flag teams;
4. musical performance groups;
5. pep squads;
6. school publications;
7. forensics or debate teams; and
8. student government.

(B) “Satisfactory educational progress” shall include, but not be limited to, maintenance of a grade point average of at least 2.0 on a scale of 4.0, or its equivalent each grading period.

Section 4. {Participation in extracurricular activities.}

(A) In order for a pupil in any of grades 7 through 12 to engage in a regular school-sponsored extracurricular activity program carried on wholly or partially after regular school hours, the pupil shall be making satisfactory education progress, as defined in Section 3(B).

(B) If at the end of a grading period a pupil has not made satisfactory educational progress, the pupil shall be ineligible to engage in any extracurricular activity during the succeeding grading period.

(C) Eligibility shall be reevaluated at the end of each grading period, thus allowing pupils the chance to reestablish eligibility for the succeeding grading period.

(D) If an extracurricular activity is connected with the regular school curriculum, including, but not limited to, band or interscholastic athletics, a pupil who is ineligible to engage in extracurricular activities may:

1. continue in the regular school curriculum segment connected with the activity; and
2. earn grades or credits for the class, even though the pupil is ineligible to participate in the out-of-classroom activity.

Section 5. {Implementation.} Each school district shall establish procedures to monitor the eligibility of pupils to engage in extracurricular activity programs and to establish a supportive services program, which may include among other things, counseling and tutorial services.

Section 6. {Severability clause.}

Section 7. {Repealer clause.}

Section 8. {Effective date.}

Source: ALEC The Source Book of American State Legislation 1987-88
40. One-to-One Reading Improvement Act

**Summary**

The One-to-One Reading Improvement Act creates mentoring programs for the improvement of student reading skills that utilizes one-to-one instruction between low-performing students and mentoring volunteers.

**Model Bill**

Section 1. {Short Title} This Act shall be known as The One-to-One Reading Improvement Act.

Section 2. {Findings} The legislature finds and declares that:

(A) The master of basic reading skills is one of the most fundamental important building blocks for a child's success in school.

(B) Proven, structured mentoring programs in reading are effective strategies for accelerating learning; measuring growth against state standards; serving students to scale (critical mass); reducing special education referrals; improving student attendance; and reducing the costs of instruction while increasing student performance.

(C) Proven, structured mentoring programs are also effective strategies for promoting safer schools by reducing student violence, drug use, and gang involvement.

Section 3. {Mentoring Program}

(A) A minimum of 60 students or 27% of the low-performing students (K-6) per school, whichever is greater, shall be tutored a minimum of two hours of one-to-one instruction per week. Priority will be given to learning systems in reading that have been recognized by the Education Commission of the States and the U.S. Department of Justice as promising education practices for accelerating student reading achievement and promoting safe schools. Special consideration will be provided to learning systems that are research-based, easily replicated, serve large numbers of students cost-effectively, and have a proven track record (in a minimum of 500 schools nationally), and provide strong staff development and evaluation components. Such programs shall utilize technology to electronically align the schools’ learning resources to state standards, generate individualized prescriptions, and monitor students’ performance on a continuous basis.

(B) Schools may implement these proven, research-based learning systems during the regular school days, before and after school, as well as on Saturdays, summers, intersession, and other vacation days. Funds cannot be used for personnel, and districts or schools receiving these funds must provide
matching funds. The local match may be satisfied through in-kind contributions, such as teachers, paraprofessionals, and mentors. The programs shall be managed by certificated staff.

Section 4. {Reporting} Beginning, interim, and end-of-program testing data and cost per unit of student gain will be required to determine the effectiveness of funded programs. The results of the evaluation will be furnished to the Governor, State Superintendent of Education, school districts and the legislature.

Section 5. {Appropriation} [Enter dollar amount] shall be allocated for school-based grants ($65,000 per school) to implement proven, research-based, structured mentoring programs in reading.

Section 6. {Severability clause}

Section 7. {Repealer clause}

Section 8. {Effective Date}

41. The Protection of Minors’ and Students’ Rights Act

Summary

The Protection of Minors’ and Students’ Rights Act provides that prior to a government entity or school district administering certain academic or nonacademic surveys, assessments, analyses, evaluations or comprehensive guidance and counseling values clarification programs to its students it must receive written informed consent from a minor’s or student’s parent or legal guardian and must provide a copy of the document to be administered for viewing at convenient locations and time periods.

Model Legislation

Section 1. {Short title} This Act shall be known as The Protection of Minors’ and Students’ Rights Act.

Section 2. {Restrictions}

(A) Unless a government entity or school district receives prior written informed consent from a minor’s or student’s parent or legal guardian and provides for a copy of the document to be administered to be available for viewing at convenient locations and time periods, the government entity or school district shall not administer to a minor or student any academic or nonacademic survey, assessment, analysis, evaluation or comprehensive guidance and counseling values clarification program, which reveals information concerning:

(1) Political affiliations;
(2) Mental and psychological problems potentially embarrassing to the student or the student’s family;
(3) Sexual behavior and attitudes;
(4) Illegal, anti-social, and self-incriminating behavior;
(5) Appraisals of other individuals with whom a respondent has a close family relationship;
(6) Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers;
(7) Income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under a program; or
(8) Social Security Number.
(B) The government entity or school district shall request prior written informed consent at least two weeks prior to the administration of the survey, assessment, analysis, evaluation or comprehensive guidance and counseling values clarification program.

(C) A minor or student shall not participate in any survey, assessment, analysis, evaluation or comprehensive guidance and counseling values clarification program that concerns the issues listed in Subsection (A) of this section unless the government entity or school district has obtained prior written informed consent from that minor’s or student’s parent or legal guardian.

(D) Any violation of this act shall be subject to civil and criminal prosecution and/or any penalties that may apply.

(E) The following notice shall be prominently displayed on the first page of any survey as defined in Section (A):

Notice: If you are [insert age of majority] or younger or a student in a public school, you should not complete this survey unless your parent or legal guardian has given their written permission for you to do so.

Section 3. {Severability clause}

Section 4. {Repealer clause}

Section 5. {Effective date}

Approved by ALEC Legislative Board of Directors January, 2002.
42. Resolution on Non-Verified Science Curriculum Funding

Summary

This resolution declares that all school students should have the right to study and learn from a curriculum based on sound scientific data and that text books should be written in language appropriate for education that is understandable and based on truth and fact. This resolution further declares that the federal and state governments stop appropriating funds for any educational programs and activities conducted by schools, universities and agencies that promote non-verified scientific findings.

Model Resolution

WHEREAS, the people of this nation and of the state of {name of state} have become increasingly aware of the use of non-verified scientific information in text books and classroom curriculum in order to promote a particular point of view; and

WHEREAS, many text books and curriculum are designed to change students behavior, attitudes and values; and

WHEREAS, many text books and curriculum are including instruction in political action skills and are encouraging political action activities; and

WHEREAS, students should have the right to study and learn from a curriculum based on sound scientific data and that text books should be written in language appropriate for education that is understandable and based on replicable data; and

THEREFORE, BE IT RESOLVED that the {name of legislative body} does hereby request/require the {State Board of Elementary and Secondary Education or existing or created curriculum review body} to comprehensively examine all educational programs and activities conducted by schools, universities and agencies, during a period of public notice and comment to determine if said programs are specifically designed to enhance the acquisition of knowledge and are based on scientific principles, concepts and facts that are presented in language appropriate for education and with clear and verifiable references and citations.

BE IT FURTHER RESOLVED that said educational programs and activities should provide instruction in critical thinking so that students will be able to objectively evaluate the information presented.

BE IT FURTHER RESOLVED that if the educational program or activity does not meet the above criteria, that the {name of state legislative body} urges the Congress of the United States and the federal
government and the state of {name of state} to stop said program until such time as it does meet the above criteria.
43. Resolution Supporting the Principles of No Child Left Behind

WHEREAS, the closing of the academic achievement gap as well as the raising of overall academic performance for each child in the United States is of paramount importance to the future economic strength and security of our country; and

WHEREAS, the nation’s economic security and stability requires a high degree of proficiency in math, science and reading in order to maintain a competitive advantage in the world marketplace; and

WHEREAS, proficiency for all students and closure of the achievement gap, focused on math, science and reading, is fundamentally linked to overall reform of our system of public education through a strong system of accountability and transparency and built on state standards; and

WHEREAS, the No Child Left Behind Act fundamentally changes the focus of federal government resources from a system-based focus to a child-based focus; and

WHEREAS, equipping parents with the information necessary to make effective decisions regarding the education of their child, including academic growth and accountability standards, is an essential step toward each child reaching his or her potential; and

WHEREAS, the responsibility for the education of each child of this nation primarily lies with parents, supported by locally elected school boards and state governments, the role of the federal government has become evident; and

WHEREAS, the 1954 Supreme Court decision of Brown vs. Bd. of Education firmly established a constitutional requirement that every child be afforded equal opportunity to a quality education regardless of race, creed or background; and

WHEREAS, in 1965 the Elementary and Secondary Education Act (ESEA) put in place a voluntary federal grant system of fundamental financial support to aid state governments in the closure of the achievement gap; and

WHEREAS, the passage of the Department of Education Organization Act of 1979 created the US Department of Education; and

WHEREAS, in 1983 in a report released by the U.S. Department of Education entitled “A Nation at Risk,” the challenges of improving our system of public education were clearly outlined; and

WHEREAS, in 1989, the nations’ Governors came together for the first time for a substantive dialogue about education reform, resulting in the adoption of National Education Goals that aimed to have U.S. students lead the world in math and science by the year 2000; and
WHEREAS, in 1994 the United States Congress restructured and reauthorized the Elementary and Secondary Education Act of 1965 to be referred to as the Improving America’s Schools Act, which put in place accountability requirements built on state standards and required student assessments; and

WHEREAS, in 2001, only eleven states were in full compliance with the Improving America’s Schools Act yet all fifty states continued to receive ESEA funding; and

WHEREAS, in 2001, with overwhelming bipartisan support, the United States Congress again restructured and reauthorized ESEA to be referred to as the No Child Left Behind Act; and

WHEREAS, the foundational principles of the No Child Left Behind Act are built upon the premise that each child can learn regardless of background or upbringing, especially when parents, as the primary educator of their children, have educational choices for their children; and

WHEREAS, since the No Child Left Behind Act was signed into law on January 8, 2002, there has been progress made across the country in closing the achievement gap.

THEREFORE, BE IT RESOLVED that the American Legislative Exchange Council, supports the principles embodied in the latest reauthorization of the Elementary and Secondary Education Act of 1965, known as the No Child Left Behind Act.

BE IT FURTHER RESOLVED that while states continue to maintain a key responsibility for educating children of our nation, the federal government is a partner in this collaborative effort to ensure that each child is given equal opportunity to become a successful, productive citizen of the United States.

Adopted by the Education Task Force at the States and Nation Policy Summit, December 2005. Approved by the ALEC Legislative Board of Directors January 2006.
44. Resolution Urging Health, Nutrition, and Physical Education

Summary

Urging schools to provide health, nutrition and physical education that encourages students to develop the knowledge, attitudes, skills, and behaviors to adopt and maintain healthy eating habits and physically active lifestyles.

Model Resolution

WHEREAS, obesity in the children of America is at an epidemic stage and can lead to chronic diseases, such as diabetes, heart disease, stroke, and cancer and poor health conditions; and

WHEREAS, Medicare and health care costs are escalating in all states and are significantly impacted by the obesity epidemic; and

WHEREAS, children make food and beverage choices in school settings, including in the school breakfast and lunch programs. The use of vending machines, the purchase of concessions, and after-school programs provide a wide-range of food and beverage choices such as water, fruits, yogurt, juices and sports drinks; and

WHEREAS, offering a wide variety of food and beverage products in schools ensures the availability of nutritional options and promotes a healthy environment; and

WHEREAS, good nutrition and adequate physical activity help children grow, develop, and do well in school; and

WHEREAS, school-based nutrition education and physical activity support healthy eating habits and an active lifestyle; and

WHEREAS, healthy bodies and minds are primary contributors to readiness to learn, to improved school attendance, and to improved performance in sports and other extracurricular activities; and

WHEREAS, America needs to identify long-term strategies to reduce the need for public assistance programs, and to lower health care costs related to chronic diseases and poor health,

BE IT RESOLVED that all schools should provide nutrition and physical activity education that helps students develop the knowledge, attitudes, skills, and behaviors to adopt, maintain, and enjoy healthy eating habits and physically active lifestyles; and

BE IT FURTHER RESOLVED that all schools should encourage all children, from pre-kindergarten through grade 12, to participate in healthy eating habits and daily physical education that helps develop the knowledge, skills, behaviors, and confidence needed to be healthy and physically active for life.
45. Student Citizenship Act

Summary

The American people are enjoying a renewed sense of patriotism and civic responsibility. The new focus on patriotism, coupled with efforts to achieve “academic excellence” in our schools, has stimulated a renewed awareness of civic responsibility among our nation’s youth. The importance of this renewed awareness is confirmed in U.S. Department of Education Secretary William Bennett’s recent publication, First Lessons: A Report on Elementary Education in America:

“The proper first focus of study by American boys and girls, regardless of ancestry or ethnicity, is on the essential facts, the central institutions, and the fundamental principles of the United States and the western civilization whose traditions and culture are our shared inheritance.”

Renewed civic instruction is an appropriate part of the modern education reform movement. The Student Citizenship Act promotes citizenship awareness by amending state school curricula requirements.

Model Legislation

{Title, enacting clause, etc.}

Section 1. (Short title) This Act may be cited as the Student Citizenship Act

Section 2. (Statement of purpose.)

This Act will require curricula and instructional materials, where appropriate, to be designed to impress upon pupils the principles, values, and foundations of our nation. This is especially important in conveying American values to students in kindergarten through grade 8.

Section 3. (Requirements for public school curricula.)

Instructional materials adopted under this Act shall, where appropriate, be designed to impress upon the minds of the pupils the principles of morality, truth, justice, personal accountability, patriotism; to convey to them a true comprehension of the rights, duties, and dignity of American citizenship and heritage, and to instruct them in manners, morals, economic foundations, and the principles of a free government. The [insert appropriate state or local agency] shall endeavor to see that this objective is accomplished in the evaluation of instructional materials for students in kindergarten through grade 8.

Section 4. (Severability Clause.)

Section 5. (Repealer clause.)

Section 6. (Effective date.)
46. Student Proficiency Act

Summary

Basic reading and writing skills have steadily declined over 15 years among students in the nation’s public schools according to two widely accepted indicators.

Scores on the College Entrance Examination Board’s Scholastic Aptitude Test (SAT) and the American College Testing Program (ACT) have fallen almost every year since 1962. Apparently, many students are not attaining, prior to high school graduation, the minimum academic proficiency needed in order to do well in later life.

Many believe this decline in academic proficiency has been caused by the failure to teach and measure basic academic skills. The suggested Student Proficiency Act requires public schools to demonstrate proficiency in basic language skills by passing an appropriate examination prepared by the State Board of Education as a prerequisite to high school graduation.

This proposal is designed as a first step toward placing proper emphasis on basic academic skills at all grade levels.

Suggested Legislation

Section 1. {Short Title} This act may be cited as the Student Proficiency Act.

Section 2. {Proficiency tests and minimum standards.} The state Board of Education shall develop basic reading and writing proficiency tests and prescribe minimum standards of achievement on such tests as a requirement for graduation from public secondary school and receipt of a high school diploma or equivalency certificate. This requirement shall apply to all person who graduate and receive a high school diploma or equivalency certificate after September 1, 1979.

Section 3. {Severability clause.}

Section 4. {Repealer Clause.}

Section 5. {Effective Date.}

Source: ALEC 1978-79 Suggested State Legislation
47. Student Protection Act

Summary

Legislation has been introduced in a number of states to require all final candidate for employment with a school district to consent to fingerprinting and/or criminal background investigations. In 1984, Congress passed a law providing states a total of $25 million to institute such enhanced protective measures against child abuse in day-care centers. Over a dozen states took this opportunity to enact background check legislation to screen school personnel and day-care workers.

A recent report by Richard P. Kusserow, Inspector General for the U.S. Department of Health and Human Services, indicated that states should consider establishing an employment screening system to prohibit any person formerly convicted of child sexual abuse from employment or volunteer work involving children.

The Student Protection Act requires all person applying for certification or classification as school employees to submit their fingerprints to the state Department of Corrections (or its equivalent) and to the Federal Bureau of Investigation. Applicants must bear the cost of fingerprinting and undergo background checks to ensure that they do not have a record or history of child abuse or any other conduct which makes them unsuitable school employees.

An option is also provided within this model bill to enable states to extend checks to existing employees.

Suggested Legislation

Section 1. {Short Title} This act may be cited as the Student Protection Act.

Section 2. { Definitions. } "Employee" means a person working for a salary or wages, or a regularly utilized volunteer, for the purposes of this Act.

Section 3. { Background checks for school employees and applicants. } Each employee of a school district or applicant for employment with the district, including teachers and applicants for teaching positions, as a condition of employment, shall authorize a criminal background investigation of himself pursuant to this Act. Such authorization shall indicate the scope of inquiry and the agencies which may be contacted. The school board shall issue to the employee or prospective employee a document certifying that such authorization has been received. An applicant who has been issued such document shall be eligible for employment if he meets all other requirement for the position, provided that the employment may be terminated if the investigation reveals that he has been convicted of a criminal offense specified in this Act, or he has been found to have knowingly provided material misinformation or failed to provide material information in connection with the investigation under this section.
Section 4. {Fees.} The school board may charge the person who is the subject of the investigation a reasonable fee not to exceed $20 to cover costs related to such authorization and investigation.

Section 5. {request for information.}

(A) Upon authorization by the employee or applicant for employment as provided under this Section, the school board shall request information from the FBI and the state or local agencies which maintain that information. To the extent feasible, state and local government agencies shall provide the requested information to the board.

(B) Upon request of the school board, the state Department of Corrections [or other appropriate agency] shall provide the school board with information showing that such person has been convicted of committing or attempting to commit any of the following offenses as defined in the state criminal code [insert citation of appropriate section in criminal code]:

1. murder;
2. a sex offense;
3. kidnapping;
4. aggravated kidnapping;
5. child abduction;
6. aggravated battery of a child;
7. criminal sexual assault;
8. aggravated criminal sexual assault;
9. criminal sexual abuse; or
10. aggravated sexual abuse.

(C) The state Department of Corrections [or other appropriate agency] may specify the manner and form in which the school board is required to request the information.

(D) The state Department of corrections [or other appropriate agency] shall determine and report its conclusions regarding any finding that the employee or prospective employee has been convicted of an offense in any other state, the elements of which are similar and bear a substantial relationship to any of the foregoing offenses. The state Department of corrections [or other appropriate agency] shall, when it deems necessary for the conduct of its investigation, request that the employee or prospective employee submit his fingerprints to that Department in accordance with procedures it may prescribe by rule.
Section 6. **{Report of findings.}** The Department [or Agency] shall inform the board of the results of the investigation of an employee or prospective employee. The information derived from the investigation conducted under this Act, including the sources of such information, shall be provided to the employee or prospective employee within a reasonable time after the information is received by the school board.

Section 7. **{Confidentiality.}**

(A) Any information concerning the criminal history or criminal convictions of an employee or prospective employee shall be confidential and exempt from public inspection and copying, and such information shall not be transmitted outside the board other than to the state Teacher Certification Board in relation to the certification of such employee or prospective employee.

(B) All information concerning criminal histories and convictions obtained by the state Teacher Certification Board under this Act shall be destroyed no later than 60 days after the Board has made a final determination regarding the status of the employee or prospective employee, and all rights of appeal have expired and pending appeals have been completed.

(C) The only physical identification materials which the employee or prospective employee may be required to provide to the school board are photographs and fingerprints. Upon request to the school board, such materials shall be returned to the employee or prospective employee after the investigation has been completed.

(D) No copy of such materials may be kept by the school board or any agency to which such identification materials were transmitted. Any employee of the school board who provides or causes to be provided any confidential information to unauthorized person concerning any criminal history or conviction of an employee or prospective employee who is the subject of investigation under this Act shall be guilty of a [designate appropriate] misdemeanor.

Section 8. **{Renewal.}** The school board may require that an employee renew the authorization for investigation required by this Act at least every five years to determine the existence of any conviction for criminal offenses not indicated or discovered in the initial investigation.

Section 9. **{Penalties.}** An employee shall be dismissed for any of the following:

(A) for refusal to authorize a criminal background investigation required by this Act;

(B) for conviction of any offense specified in Section 5; or

(C) for knowingly providing material misinformation or failing to provide material information in connection with the criminal background investigation under this Act.
Section 10. {Administration.} The School board may adopt rules and regulations for the administration of this Act.

Section 11. {Severability clause.}

Section 12. {Repealer clause.}

Section 13. {Effective date.}

Source: ALEC The Source Book of American State Legislation 1987-88
48. The Student Right to Learn Act

Summary

The Student Right to Learn Act requires all students to be educated in a core liberal arts curriculum and bases school accreditation on the measurement of academic improvement by each individual student.

Model Legislation

Section 1. {Short title} This Act may be cited as the Student Right to Learn Act.

Section 2. {Curriculum}

(A) All students shall be afforded intellectual challenge and shall be educated in a liberal arts curriculum consisting of essential, academic knowledge in order to provide each student with the foundational preparedness to reach such student’s individual potential, and enable such student to continue his education at a liberal arts university or institution, should the student so choose.

(B) The State Board of Education shall identify the components of a core academic curriculum from the various learning disciplines, including but not limited to: math, science, language arts, literature, history, social studies and the fine arts.

Section 3. {Accreditation} High academic standards of learning and assessments shall be constructed upon a foundation of academic competencies, and accreditation shall be based on the measurement of academic improvement by each individual student. That improvement shall be calculated by measuring the average of the cumulative achievement of the sum of students in a given class. Each student shall be given progressively challenging tests, administered in subsequent years so as to establish a baseline and means for measuring actual academic achievement.

Section 4. {Reporting of data} Each school year, the education agency shall prepare and distribute to each school district and the public a report card for each school. The school report cards must be based on the most current data available disaggregated by student groups and easily understandable by the public. School performance must be compared to previous school and district performance, current district performance, state established standards, and comparable school group performance.

Section 5. {Severability clause}

Section 6. {Repealer clause}
Section 7. {Effective Date}
49. Textbook Content Standards Act

Summary

The suggested Textbook Content Standards Act establishes the requirement that textbooks and teaching materials adopted for use in the public schools accurately portray American history, tradition and values.

Abraham Lincoln said, “The philosophy of the classroom today the philosophy of the government tomorrow.” Unfortunately, the content of many modern instructional materials, including textbooks, suggests a philosophy inconsistent with the proper goals of public education.

Textbooks in use in today’s classroom contain material which is inaccurate, defamatory, obscene, and speculative. For example, a widely-used fifth grade social studies course entitled, “Man: A Course of Study” or MACOS, explains the necessity of wife-swapping, described cannibalism and the murder of baby girls and requires students to role-play leaving their grandmothers to die.

In addition, many modern history books discredit the free enterprise system, depict the United States as aggressive and exploitive and downgrade or dismiss the contributions of American heroes such as Nathan Hale, Patrick Henry, and George Washington.

Despite numerous examples which document the unacceptability of these teaching materials, the lack of adequate state legislative criteria for their acceptance allows them to slip into the public schools. Since taxpayers’ money is used to purchase instructional materials it is only right that their elected state representatives establish standards which protect traditional American values and institutions in the classroom.

Suggested Legislation

Section 1. {Short Title} This act may be cited as the Textbook Content Standards Act.

Section 2. {Statement of purpose.} The purpose of this act is to provide broad minimum standards and general education guidelines for the selection of textbooks for the public schools.

Section 3. {Definitions.} For the purpose of this act, the term –

1. “Textbook Adoption Agency” means any department, board, commission, agency or other entity of the state, localities or municipalities which is authorized to adopt textbooks for use in public schools.

3. “Teaching materials” means all material designed for use by pupils and their teachers as a learning resource and which helps pupils to acquire facts, skills or opinions or to develop cognitive processes. Instructional materials may be printed or non-printed and may include textbooks, educational equipment and test.

Section 4. (Textbook content standards.)

(A) The textbook adoption agency shall not approve a textbook which contains anything of a partisan or sectarian character.

(B) Material adopted by the textbook adoption agency may not degrade, and where appropriate shall teach high moral standards including:

   (1) honesty;
   (2) acceptance of responsibility;
   (3) respect for the individuality of others;
   (4) respect for parents and those properly in authority;
   (5) the importance of the work ethic in achieving personal goals; and
   (6) the existence of absolute values of right and wrong.

(C) Materials adopted by the textbook adoption agency may not ridicule or present in a degrading manner the religious or ethical beliefs of others.

(D) Teaching materials shall:

   (1) emphasize the importance of the family as the core of American society;
   (2) present the historical, philosophical, ethical, religious and other underpinnings which influenced the political institutions of this country and which have preserved the liberties of the American people;
   (3) include the principles of the free market economy and the effectiveness of the system;
   (4) demonstrate the importance of obeying the law; and
   (5) be designed to foster the intellectual development of the child by providing instruction in reading, writing and arithmetic, and by cultivating the mind to seek the knowledge produced through centuries of academic endeavor.

(E) Teaching materials may not promote sadistic or degrading behavior. Presentations of violence shall be made in the context of the consequences of the violence.
(F) Teaching materials shall not invade the privacy of the pupil or the pupil's parents.

(G) Only textbooks which meet the requirements of this section may be adopted by the textbook adoption agency for use in the public schools.

Section 5. {Severability clause.}

Section 6. {Repealer Clause.}

Section 7. {Effective Date.}

50. Model Curriculum Act

Summary

The basic right to a quality education for all is a momentous accomplishment in American history. Public education is an example of America’s commitment to democracy, opportunity, and social mobility. Today, America’s schools enroll over 12 million students in grades 9 through 12. No other educational system in the world strives to serve as many students for as many years. When compared to the standards of most other industrialized nations, the American education system is more extensive, sustained, and free.

However, despite the comprehensive nature of the American educational system, the quality of high school curriculum and student academic achievement has declined over the past two decades. The 1983 report by the National Commission on Excellence in Education, *A Nation at Risk*, sounded a stern warning at the marked deterioration of academic study in our high schools. The National Commission’s central corrective recommendation was that course requirements in basic academic subjects be expanded and strengthened. The commission concluded that no student should graduate from high school without first completing at least four years of English, and three years each of social studies, mathematics, and science.

Educational expectations must be distinguished, attainable, and beneficial. The future of America and the very existence of democracy and freedom depend on the attributes of a well-educated society. This Act establishes a strong and developed core curriculum for all secondary schools as recommended by the U.S. Department of Education in *James Madison High School: A Curriculum for American Students*.

Model Legislation

{Title, enacting clause, etc.}

Section 1.

(A) Commencing with the school year (insert year), no pupil shall receive a diploma of graduation from high school who, while in grades 9 through 12, has not completed the following:

(1) At least the following numbers of courses in the subjects specified, each course having a duration of two semesters (one school year), unless otherwise specified:

(a) *Four courses in English*

1\(^{st}\) year, (Introduction to Literature)

2\(^{nd}\) year, (American Literature)

3\(^{rd}\) year, (British Literature)
4th year, (Introduction to World Literature); and

(b) Five courses in Social Studies

1st year, (Western Civilization)

2nd year, (American History)

3rd year, (Principles of American Democracy—1 semester) (American Democracy and the World—1 semester)

4th year, (Economics and the American Free enterprise System—1 semester); and

(c) Mathematics (three years required from the following courses)

Algebra I (one year)

Plane and Solid Geometry (one year)

Algebra II & Trigonometry (one year)

Statistics & Probability (one semester)

Pre-calculus (one semester)

Calculus AB or BC (one year); and

(d) Science (three years required from among the following courses)

Astronomy/Geology (one year)

Biology (one year)

Chemistry (one year)

Physics (one year); and

(e) Foreign Language (two years required per language from courses determined by local jurisdiction); and

(f) Physical Education/Health (2 years)

(students participate in team and individual sports, emphasis is on physical fitness; one quarter of each year shall be devoted to health education (nutrition, and first aid; instruction on the dangers of alcohol, tobacco, and drug use; and sex education); and
(g) **Fine Arts** (one year)

Art History (one semester)

Music History (one semester); and

(2) Such other coursework as the governing board of the school district may by rule specify.

**Section 2.**

In certain core subjects (English, social studies, and physical education/health), all students shall be required to take particular courses in a set sequence. In other core subjects (mathematics, science, foreign language, and fine arts), the selection of courses and their sequence shall be more flexible. This flexibility permits adjustments within or outside the core subjects for individual student interest, needs, or abilities, and shall provide for elective, supplemental or locally mandated study throughout the four-year program.

**Section 3. (Severability Clause.)**

**Section 4. (Repealer clause.)**

**Section 5. (Effective date.)**
51. Bilingual Education Reform

Summary

In 1974, the Supreme Court ruled in the case of Lau v. Nichols that schools have an obligation to provide special help to students who are not proficient in English. The ruling mentioned bilingual education and supplemental English instruction as possible remedies, among others. It marked the end of the “sink or swim” era of teaching children who do not know English.

As education has traditionally been under the control of the states and local school boards, the responsibility of helping youngsters who do not know English falls upon the states. Twenty states have, in fact, passed “Bilingual Education Acts” to address the problems of non-English speaking children in the public school.

At the federal level, the Bilingual Education Act was first passed in 1969 as a small, innovative program. It has been amended several times, and its constituency and budget have grown enormously. The Act recognizes bilingual education—that is, education provided in the student’s native tongue—as the only method eligible for federal funding. Its intent is to make grants for research and demonstration programs in bilingual education. Although the federal Bilingual Education Act sets the style for all educational endeavors in this field, it only finances the education of about 10 to 15 percent of all students enrolled in bilingual classes.

Bilingual education programs have become increasingly unpopular with the American public. They are expensive, and several important studies have concluded that they are not more effective than more traditional methods; many fear the ultimate effects upon students of years of isolation in separate classes, apart from English speaking peers. In some states, these programs have displaced qualified and experienced teachers in favor of unqualified bilingual teachers granted “emergency” certification. This has created tensions within the schools, teacher unions, and communities. The program is widely perceived as apolitical rather than an educational response to the growing number of non-English speaking school children.

When State Legislators review their own state’s bilingual education legislation in a critical light, they may wish to consider improvements recently proposed for the federal Bilingual Education Act as described in the following paragraphs.

The name of the Bilingual Education Act should be changed to reflect its primary objective, which is not the teaching of all subjects in the child’s native language, but the rapid acquisition of English skills. Therefore, the Act should be known as “The English Language Acquisition Act,” or something along those lines.
All methods of instruction, not just bilingual education, should be eligible for state funding under the Act.

In states that mandate “bilingual-bicultural” education, the requirement of “bicultural” education should be removed. The role of the public school is to teach the civic culture we all share; the teaching of ethnic cultures is best left to the family, the church, and voluntary association.

Program effectiveness and sound resource allocation should be encouraged by limiting the length of time a student can spend in bilingual education programs. A two-year limit has been proposed.

In states that require minimum proficiency examinations in basic subjects as a condition for high school graduation, this requirement should apply all students, including those who enter school with limited English proficiency.

Source: ALEC The Source Book of American State Legislation 1985-86
Teacher Certification, Quality, and Right to Know

52. Alternative Certification Act

Summary

Teacher quality is crucial to the improvement of instruction and student performance. However, certification requirements that correspond to state-approved education programs in most states prevent many individuals from entering the teaching profession. To obtain an education degree, students must often complete requirements in educational methods, theory, and style rather than in-depth study in a chosen subject area. Comprehensive alternative certification programs improve teacher quality by opening up the profession to well-educated, qualified, and mature individuals. States should enact alternative teacher certification programs to prepare persons with subject area expertise and life experience to become teachers through a demonstration of competence and a comprehensive mentoring program.

Model Legislation

Section 1. (Short Title) This act may be cited as the Alternative Certification Act.

Section 2. Be it enacted by the legislature that the Education Code, relating to the authority of the state to certify persons to teach who are not graduates of teacher education programs, is amended by adding [section] to read as follows:

(A) Certificates of license to teach in the public schools of the state shall be granted as follows:

(1) By the state board, under rules and regulations prescribed by it,

   (a) Upon the basis of college credit;

   (b) Upon the basis of examination;

(2) By the state board, under rules and regulations prescribed by the state board, to any individual who presents to the state board a valid doctoral degree from an accredited institution of higher education accredited by a regional accrediting association. Such certificate shall be limited to the major area of postgraduate study of the holder;

(3) By the state board, under rules and regulations prescribed by it, on the basis of a national level or regional certification which has been validated in the individual’s endorsement area and earned by passing a national or regional examination designed to assess the individual’s skills in the area in which the individual seeks certification.
(4) By the state board, upon an appropriate background check, to any person who possesses a valid teaching certificate from another state or certification as contemplated under subdivision three (3); provided that the certificate holder shall annually complete the state board’s requirements for such level of certification.

(B) The board shall issue a master teacher certificate in the appropriate area of endorsement to an applicant who meets the requirements for education and experience as set forth in [section] and demonstrates quality teaching. Any teacher who holds national level certification shall be deemed to have satisfied the requirements for master teachers.

(C) Upon completion of a comprehensive mentoring program and satisfactory principal recommendations during the initial year of teaching, the individual may progress to the next level of certification.

Section 3. {Severability clause}

Section 4. {Repealer clause}

Section 5. {Effective date}

Adopted by the ALEC Education Task Force at the States and Nation Policy Summit December 10, 2005.
Approved by the ALEC Legislative Board of Directors January, 2006.
53. Career Ladder Opportunity Act

Summary

Both merit pay and career ladder systems have at their roots the larger idea of a performance-based reward system, a concept of rewarding teachers in some manner for performance. The performance measured could be that of an individual teacher, a group of teachers, or the meeting of school-wide or district-wide goals. The reward is usually defined in dollars, but could include tuition assistance, sabbaticals, or other bonuses. Currently, many states and localities claim full implementation of career ladder/teacher incentive programs on a state level through teacher salary increases based on improved student performance, or by taking on additional teaching assignments or instruction-related responsibilities.

The most common complaint about performance-based reward systems is that teacher performance, a key component of such systems, is difficult to measure, and tends to rely on subjective judgment. In fact, many merit pay plans have failed because of poor evaluation processes and the mistrust they generate. The solution seems to lie in a well constructed evaluation plan for teacher performance. In this regard, there are three important components to teacher evaluation:

(1) the purpose of the evaluation, and how its results will be used;

(2) the criteria used for judging teacher performance; and

(3) who will conduct the evaluation.

Objections have been raised to decisions concerning these components more than any other inherent in teacher evaluation. Consequently, a performance-based reward system will only be effective when these issues are thoroughly addressed.

Generally speaking, the purpose of an evaluation is to judge the worth and measure the degree to which specified tasks are accomplished. In program or personnel evaluation there are two basic divisions:

(1) evaluations that examine efforts to provide assistance in the developmental process; and

(2) evaluations which examine the final product.

In regard to teaching, this means that a reward system can be based on either evaluations to help individuals improve their teaching, or evaluations that simply identify individuals with effective teaching abilities. A performance-based reward system should be aimed at recruiting and retaining good teachers; those who instruct, guide, and direct better than most. Seniority, a good attendance record,
and extracurricular activities are important, but not as crucial to student achievement as instructional effectiveness. Policymakers and educators must not be afraid to create standards and/or criteria to determine and reward the masters of the profession.

The Career Ladder Opportunity Act requires school districts to adopt extraordinary performance pay plans for elementary and secondary public school teachers who demonstrate success in the classroom. The local school district must design the plan in consultation with teachers and administrators. Since reward systems in the past have often failed because of premature abandonment, the district must keep the plan for three years and make improvements on it when necessary. Moreover, the instrument used for evaluating a teacher’s performance in the classroom must clearly define evaluation criteria and give more.

**Model Legislation**

**Section 1. (Short Title)** This Act may be cited as the Career Ladder Opportunity Act.

**Section 2. (Purpose)** The legislature recognizes the importance of rewarding educators who strive to improve the quality of education, of providing incentives for educators employed by the public to continue to pursue excellence in education, of rewarding educators who demonstrate the achievement of excellence, and of properly compensating educators who assume additional educational responsibilities.

**Section 3. (Authorization)** In order to achieve these goals and to provide educators with increased opportunities for professional growth, school districts are authorized and encouraged to develop career ladder programs.

**Section 4. (Definitions)** As used in this Act:

(A) "Career ladder" means a compensation system developed by a school district, with advice and counsel from teachers and school administrators who represent the various schools throughout the district, which is in accordance with provisions of this Act and applicable policies and guidelines adopted and approved by the state board of education.

(B) "Evaluation system" means a procedure developed by a school district, with advice and counsel from teachers and school administrators who represent the various schools throughout the district, which provides for periodic, fair, objective, and consistent evaluation of educator performance.

**Section 5. (Components of career ladders)** Career ladders may include the following components:
(A) an extended contract year for teachers, providing for additional paid non-teaching days beyond the regular school year for curriculum development, in-service training, preparation, and related activities. School boards may approve individual exceptions to the extended-year contract.

(B) at the option of the local school board, an extended contract year for teachers, providing for additional paid workdays beyond the regular school year for teaching assignments in summer school, remedial, handicapped, specialized, vocational, gifted and talented, and adult education programs

(C) a fair and consistent procedure for selecting teachers who will be given additional responsibilities. The selection procedure shall incorporate clearly stated job descriptions and qualifications for each level on the career ladder.

(D) a program of differentiated staffing that provides additional compensation and, as appropriate, additional extensions of the contract year, for those who assume additional instruction-related responsibilities. Additional instruction-related responsibilities may include:

1. assisting students and beginning teachers;
2. developing curricula and lesson plans;
3. helping established teachers improve their teaching skills;
4. training volunteers;
5. improving in planning, facilities, and productivity; and
6. accepting educational assignments directed at establishing positive relationships with the community, businesses, and parents.

7. Administrative and extracurricular activities shall not be considered additional instruction-related activities under this Subsection.

(E) a well-defined program of evaluation and guidance for beginning teachers, designed to assist those teachers during provisional years of teaching to acquire and demonstrate the skills required of capable, successful teachers. Continuation in teaching from year to year shall be contingent upon satisfactory teaching performance.

(F) a clear and concise explanation of the evaluation system components, including the respective roles of teachers, administrators, and the school board in the development of the evaluation system. The system shall provide for frequent, comprehensive evaluations of teachers with less than three years' teaching experience, and periodic evaluations of other teachers.

(G) advancement on the career ladder program that is contingent upon effective teaching performance, evidence of which shall include formal evaluation and assessment of student progress. Student progress
shall play a significant role in a teacher evaluation. Other criteria may include formal preparation and a successful teaching experience.

(H) an assessment of implementation costs.

(I) a plan for periodic review of the career ladder including the makeup of the reviewing entity, procedures to be followed during review, and the time schedule for the review.

Section 6. {Administration}

(A) The state board of education administers the state appropriation for career ladders. If the state board of education determines that a career ladder proposal submitted by a school district, as provided in this Act, meets all applicable requirements and that sufficient funding is available in the designated state appropriation, it shall grant approval and provide funding from that appropriation for implementation of the proposal.

(B) At least 50 percent of the funds appropriated for career ladders shall be directed to advancement on career ladders under Subsection (G) of Section 5, based upon effective teaching.

Section 7. {Severability clause}

Section 8. {Repealer clause}

Section 9. {Effective date}
54. National Teacher Certification Fairness Act

Summary

This act creates a level and open playing field between nationally recognized teacher certification programs.

Model Legislation

Section 1. {Short Title} This act shall be cited as the National Teacher Certification Fairness Act.

Section 2. {Open Competition} Wherever possible in appropriate state statute, the following language change shall be made:

(A) Wherever statute, regulation, or spending bill mentions National Board for Professional Teaching Standards, insert, “or National Council on Teacher Quality.”

Section 3. {Testing Fee Support} If state testing fee support is provided to teachers seeking National Board for Professional Teaching Standards certification, the following language change shall be made:

(A) Wherever National Board for Professional Teaching Standard is mentioned, insert, “or National Council on Teaching Quality’s testing fees, whichever is less.”

Section 4. {Severability clause}

Section 5. {Repealer clause}

Section 6. {Effective date}

55. Public School Employee Union Release Time Act

Summary

To prevent taxpayer subsidy of political and labor-oriented activity, this legislation requires school employee unions to finance all their own release time arrangements with school district boards of education. The union must entirely pay the full per diem salary of any school employee or each day of service released from duty to attend a union-sponsored meeting or activity, or the day is deducted from the employee’s accumulated personal leave. The union must entirely pay the portion of the salary and benefits of any local, state, or national officer or representative accrued while in service to the organization. School districts also are forbidden to extend the indirect benefits of experience credit or years of service to employees released to serve in a union for one-half contract year or longer. School districts under the terms of a collective bargaining agreement which is in effect on the effective date of the legislation are exempted until the agreement’s scheduled expiration, up to three years.

Model Legislation

Concerning Release Time of Public School Employees for Union or Association Service
Section 1.

(A) (Title) Public School Employee Union Release Time Act

(B) (Legislative Declaration) The General Assembly hereby finds and declares that all public school districts in [state] are accountable for the responsible use of tax revenues that they receive from state or local taxpayers. The General Assembly further finds and declares that the tax revenues that are distributed to public schools are intended to be used for the purpose of educating children and should not be used to support political and labor-oriented activity.

Therefore, it is the intent of this Act to clarify that school districts shall not use taxpayers’ money to provide funding for paid release time, benefits, or any part of the salary for any employee of a public school district during the employee’s participation in a union activity or during the employee’s service as a union representative or officer.

Section 2. {Prohibitions on public support of union release time}

(A) On and after the effective date of this Act, no school district shall:

(1) Allow any employee of the district paid release time from regularly contracted duties to
attend meetings or activities initiated, planned, or organized by any union or labor organization, unless the organization reimburses the school district the employee’s full per diem salary for each day of service, or each day is deducted from the employee’s cumulative personal leave.

(2) Directly or indirectly provide an employee of the district paid release time from regularly contracted duties for service as a representative of a local, state, or national union or labor organization, or for service with or on behalf of any such organization, unless the organization reimburses the school district the employees’ salary for each day of service, or each day is deducted from the employee’s cumulative personal leave.

(3) Directly or indirectly provide an employee of the district paid release time from regularly contracted duties to serve as the officer of a union or labor organization. The school district shall not be liable to pay any portion of the salary and benefits to a released employee during such service.

(4) Extend experience credit or years of service to an employee of the district released from regularly contracted duties to serve as the officer of a union or labor organization for one-half contract year or longer.

Section 3. {Exemptions for current collective bargaining agreements}

(1) Nothing in this Act shall be construed to allow a school district to violate the terms of a collective bargaining agreement or other employment contract that allows employees paid release time to attend union activities and that is in existence on the effective date of this Act. No school district that is a party to a collective bargaining agreement or other employment contract that is in existence on the effective date of this Act shall discontinue paid release time for an employee’s service as a union representative for the term of such collective bargaining agreement or employment contract, no longer than three years from the effective date of this Act.

Section 4. {Applicability}

(1) The provisions of this Act shall apply to collective bargaining agreements and other contracts for employment entered into, amended, or renewed on or after the applicable effective date of this Act.

Section 5. {Effective date}

Notes
(1) Many school districts give an allotment of general release days for union activities. The number of days tends to vary with the size of the district and the number of teachers. Local union officials, such as building representatives and others, may use these days to attend business meetings or workshops (which often include political advocacy and strategy). Or they may be specifically used to send delegates to the annual state or national union assembly, an internal organizational meeting. In some cases the union is required to cover the substitute teacher costs for some or all of the allotted days available. In some cases the union has to pay nothing. Those who negotiate and set policy for school districts should have this issue off the table. This provision requires the union to pay the full cost of teachers who use release time, or the teacher who uses the release time must deduct it from her personal leave.

(2) Many school districts have provisions in their collective bargaining agreements, giving a certain number of paid leave days to a teacher who has been elected to serve as a national or state director for the teachers’ union. The school district continues paying the teacher’s regular salary while (s)he serves as a union advocate. In most cases, the union is obligated to reimburse the district at the much lower cost of providing a substitute teacher. But the district should be paying the lower substitute cost since the district is receiving services from her, while the union should be paying the teacher’s salary for his/her days released to work as a state or national union officer. Those who negotiate agreements on behalf of the school district should have this issue off the table. This provision requires the union to pay the full cost of these release days.

(3) Often local union presidents (and sometimes other local union officers) are given extended release time from teaching duties to do full-time labor advocacy. Release time is usually given for the full year, but in some cases it is only for a half year. Some of these local presidents continue to be paid as an employee of the district. In some school districts, the union is responsible to reimburse a much smaller amount than the released employee’s actual salary—usually the cost of a less experienced replacement teacher, the standard cost of a first-year teacher, or a fraction of such a cost. This provision requires the union to pay the full cost of extended release time for union officers.

(4) Many of the school districts that grant release time to local union officers also agree to give them formally recognized teaching experience for their time in service to the union. Union officers continue advancing on the salary schedule as though they have accrued actual teaching experience. This provision forbids school districts from advancing released union officers on the salary schedule.
56. School Collective Bargaining Agreement Sunshine Act

Summary

For the purpose of transparency, this legislation requires school district boards of education to provide copies of all collective bargaining agreements entered into by such boards to the state board of education and to the largest public library in the school district. Each school board is required to post copies of all current collective bargaining agreements on its website, if the district has a website. Available for public inspection, the state board of education shall create a repository for all current collective bargaining agreements and post all current collective bargaining agreements on the state department of education’s website. Also available for public inspection, the library board of trustees shall create a repository for all current collective bargaining agreements at the library.

Model Legislation

Concerning Public Disclosure of School District Collective Bargaining Agreements

Section 1.

(A) {Title} School Collective Bargaining Agreement Sunshine Act

(B) {Definitions} “Collective Bargaining Agreement” means a master agreement, and any amendments, addendums, memorandums, or any other documents modifying the master agreement.

(C) {Additional duties of school district board of education} Each board of education shall cause within thirty days following the effective date of this section a true and correct copy of each collective bargaining agreement entered into by the board of education and in effect as of said date and all subsequent collective bargaining agreements entered into by the board of education, within ten working days following the date of ratification of each agreement, to be:

(1) posted on the website of the school district, if the school district maintains a website;

(2) filed with the state board of education;
(3) made available for public inspection during regular business hours in a convenient and identified location at the main administrative office of the school district;

(4) Filed with the board of trustees of the largest public library located within the school district.

Section 2. {Additional duties of the state board of education}

(A) The state board of education shall:

(1) Receive the true and correct copies of all school district collective bargaining agreements submitted pursuant to the “School Collective Bargaining Agreement Sunshine Act” and shall:

(a) Create a repository for all of said current collective bargaining agreements that is available to the public for inspection during regular business hours in a convenient and identified location, and

(b) Post copies of all said current collective bargaining agreements on the department of education’s website. The posting may be done through a link to an individual school district’s website.

Section 3. {Additional duties of library board of trustees}

(A) The board of trustees shall:

(1) Receive the true and correct copies of all school district collective bargaining agreements submitted pursuant to the “School Collective Bargaining Agreement Sunshine Act” and create a repository for all of said current collective bargaining agreements at the library that is available to the public for inspection during regular business hours in a convenient and identified location.

Section 4. {Effective date}

Notes: Sections (1), (2), and (3) can be placed within the section of law applicable to the duties of the stated board.

Adopted December 8, 2007 States and Nations Policy Summit.
57. Teacher Choice Compensation Act

Summary

This act creates a program where by teachers may be eligible for performance-based salary stipends if they opt out of their permanent contract and meet measurable student performance goals based on a value-added test instrument developed by the state department of education.

Model Legislation

Section 1. (Short Title) This act shall be known as the Teacher Choice Compensation Act.

Section 2. (Legislative Purpose) There is hereby created the “Teacher Choice Compensation Package” to permit performance-based salary stipends upon the decision of the teacher to opt out of their permanent contract, to reward teachers for objectively demonstrating superior performance.

Section 3. (Teacher Choice Compensation Fund) There is hereby created the “Teacher Choice Compensation Fund” in the state treasury. The fund shall be administered by {insert name of state department of education}.

Section 4. (Eligibility) To be eligible for the teacher choice compensation package, all classroom personnel reported as {insert appropriate state classification} shall opt out of his or her contract for the duration of employment with the district.

(A) A teacher may decide to end his or her eligibility for the teacher choice stipend but may not resume permanent teacher status with that district.

(B) A probationary teacher may opt out of consideration for a permanent contract in the second or subsequent years of employment by the district to participate in the teacher choice compensation package but may not return to permanent status in that district or resume the process for qualification for a permanent contract in that district.

(C) A teacher who has chosen the teacher choice compensation package and changes employment to another district may choose to resume the process for qualification for a permanent contract in that district or may choose to remain in the teacher choice compensation package or the new district.

Section 5. (Teacher Choice Stipends) Teachers shall qualify annually in October for the teacher choice compensation stipend. Stipends shall be offered in five thousand dollar increments, up to fifteen thousand dollars, but shall not exceed fifty (50) percent of a teacher’s base salary, before deduction for
retirement but including stipends for additional duties such as coaching, sponsoring, or mentoring, etc. Any stipend received shall be in addition to the base salary to which the teacher would otherwise be entitled. Teachers receiving the stipend shall receive any pay and benefits received by teachers of similar training, experience, and duties.

Section 6. {Stipend Disbursement} Subject to appropriation, the {insert name of state department of education} shall make a payment to the district in the amount of the stipend, to be delivered as a lump sum in January following the October of qualification.

Section 7. {Student Performance Measures} Beginning with the next full school year following the enactment of this act, teachers who elect to participate in the teacher choice compensation package shall be eligible for stipends based on the following criteria:

(A) Score on a value-added test instrument or instruments. Such instruments shall be defined as those which give a reliable measurement of the skills and knowledge transferred to students during the time they are in a teacher’s classroom and shall be selected by the school district from one or more of the following assessments:

(1) A list of recognized value-added instruments developed by the {insert name of state department of education}.

(2) Scores on annual test required by the federal Elementary and Secondary Education Act reauthorization of 2002 for the third through eighth grade may be used as value-added instruments if found appropriate after consideration and approval by the state board of education.

(3) A district may choose an instrument after a public hearing of the district board of education on the matter, with the reasons for the selection entered upon the minutes of the meeting; provided, however, that this option shall not be available to districts after scores are established for paragraphs (1) and (2) of this subdivision.

(B) Evaluations by principals or other administrators with expertise to evaluate classroom performance.

(C) The {enter name of state department of education} shall develop criteria for determining eligibility for stipend increments, including a range of target scores on assessments for use by the districts.

Section 8. {Severability clause}
Section 9. {Repealer clause}

Section 10. {Effective Date}

Adopted by ALEC’s Education Task Force at the Annual Meeting August 8, 2002.

Approved by full ALEC Legislative Board of Directors September, 2002.

Obtained and released by:
Common Cause and
The Center for Media and Democracy
58. Teacher Quality and Recognition Demonstration Act

Summary

The need for quality teachers in improving student achievement is generally recognized as one of the most crucial elements of state reform efforts. A primary concern in the quality of the performance of teachers is the forecast for an increasing need for more teachers. This bill is directed towards creating a new structure of the current teaching system that will promote the retention and reward of good teachers and attract new talent to the profession. This bill establishes Teacher Quality Demonstration projects wherein local education agencies are exempt from education rules and regulations regarding teacher certification, tenure, recruitment, and compensation, and are granted funding for the purpose of creating new models of teacher hiring, professional growth and development, compensation and recruitment.

Model Legislation

Section 1. (Short Title) This Act may be cited as the Teacher Quality and Recognition Demonstration Act.

Section 2. (Purpose) The purpose of this Act is to support up to [insert number - suggested at least 5, not more than 12] teacher quality demonstration programs in which staffing models are reorganized from ones built around fixed salary levels to ones built on a multi-tiered approach with increasing salary flexibility and incentives, new career paths, performance-based appraisal and new models of professional development.

Section 3. (Definitions) For the purposes of this act:

(A) Teachers – The term “teachers” means staff that have half to full time instructional responsibility in any field directed by the district.

(B) Cluster – The term “cluster” means a set of schools made up of one high school, up to four middle schools and up to seven elementary schools within a school district.

(C) Applicant – The term “applicant” means the school superintendent of the district in which the cluster is located.

(D) Commissioner – The term “commissioner” means the chief state school officer.

(E) Instructional Salary – [Insert state definition].

Section 4. (Establishment of Pilot Project)
(A) IN GENERAL – No later than 18 months prior to the school year for which the demonstration is scheduled to begin, the State shall make available to applicants information on project requirements and the involvement and oversight by an advisory body to be determined by the State.

(B) PROJECT AUTHORIZED – The State shall approve the creation of {insert appropriate number - suggested at least 5, not more than 12} pilot clusters that develop a system for attracting, retaining, rewarding and motivating teachers.

(C) PROJECT REQUIREMENTS – Each cluster shall meet the following requirements:

1. Multiple Career Paths.
   - Placement of all teachers in expanded roles, which may include school leaders, directors of programs, master teachers, mentors and other instructional positions approved by the Commissioner.
   - In expanding the roles of teachers, the Commissioner shall take into consideration the interests, ability and accomplishments of teachers.

2. Market-based Compensation – Establishment of a flexible salary and reward system for teachers in which compensation levels is based on the accomplishments and performance of teachers, student academic achievement and evaluations from peers, senior teachers and the principal.

3. Performance-based Accountability
   - Elimination of tenure and establishment of 3-year contracts.
   - Establishment of a system for teacher hiring and advancement that is based on reviews evaluations conducted by peers both within and outside the school district.

4. Professional Development – Establishment of ongoing professional development activities that meet the following requirements: A) directly related to the curriculum and content areas in which the teacher provides instruction; B) tied to challenging State or local content and student performance standards; C) related to the instruction in methods of disciplining children; D) related to proven effective instructional strategies and methods for improving student achievement;

5. MENTORING – The establishment of a formal system of mentoring, such as from master teachers to newly hired teachers or teachers identified through evaluations to be in need of assistance.

6. ALTERNATIVE CERTIFICATION –
(a) Establishment of an alternative certification program to train and hire individuals that possess academic degrees in the fields they will be teacher and who demonstrate expertise in the field in which they will be teaching.

(b) Make available State or National certification.

Section 5. {School District Application}

(A) IN GENERAL – Each school district that has a cluster that wishes to carry out the teacher quality demonstration project must submit an application to the State, at such time and such manner as the State may reasonably require.

(B) CONTENTS OF APPLICATION – Each such application shall contain:

1. A description of how the project will assist the district in achieving its goals.
2. An identification and description of schools to be included in the cluster.
3. A description of the project, including how the district will comply with the project requirements in accordance with section 4.
4. An assurance that the school district will increase the instructional salaries for teachers in the cluster, as required by the various career positions and performance-based evaluations.
5. A detailed description of the cost of the project, including how the district will reallocate or raise funds to cover the costs associated with the implementation of the program.
6. A description of the State statutory and regulatory requirements that to be waived in order to comply with the project requirements as set forth in section 4.

Section 6. {Teacher Quality Project Funding}

(A) IN GENERAL – The state will award grants for up to 10 school districts having applications approved pursuant to section 5 to enable school districts to conduct a teacher quality project in accordance with this part.

(B) AMOUNT CRITERIA – The State shall award in an amount that is not less than 50% of the costs associated with implementation of the project, of which at least 10% of the current teacher salary budget shall be designated specifically for increases in instructional salaries in the cluster.

(C) GRANT PERIOD – The State shall not award grants under this part for a period to exceed 5 years.

Section 7. {Waiver from State Regulations}
For grantees, the State Board of Education shall waive statutory and regulatory requirements related to education, including those regarding teacher recruitment, tenure and compensation.

Section 8. {Evaluation}

The State Education Agency, the district and/or the school shall periodically evaluate the outcomes of the teacher quality demonstration project and upon request, shall submit copies of the evaluations to the State Board of Education.

Section 9. {Authorization of Appropriations}

There are authorized to be appropriated such sums as may be necessary for each of the {enter number of years} succeeding years to carry out the provisions of this part.

Section 10. {Severability Clause}

Section 11. {Repealer Clause}

Section 12. {Effective Date}

59. Teachers Right to Know

Summary

This bill will require teacher's unions to disclose within a specified amount of time how much union staff are being paid, including salaries and fringe benefit packages.

Model Legislation

{Title, enacting clause, etc.}

Section 1. {Definitions}

(A) "Available" means available for inspection at no cost upon written request at the local office of the teachers' union.

(B) "Employer Paid Benefits" means any payment by a teacher's union to an employee, former employee, or dependent of an employee or former employee which would not have been made if the employee or former employee had not been employed by a teachers' union. Employer paid benefits shall not include any payment from any insurance trust or fund which is offset by previous payments by a teachers' union or employee of a teachers' union.

(C) "Represented employees" means any member of a teachers' union or those teachers or school support services employees who pay partial payment to the teachers' union for representation.

(D) "Union Employee" means someone who works for the teachers' union or spends their time primarily performing duties designed to manage, promote or provide support for the functioning of the teachers' union.

(E) "Teachers' union" means any association or organization of employees, and any agency, employee representation committee, or plan in which employees participate that exists, in whole or in part, to advocate on behalf of teachers or school support services employees about grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(F) "Wages and Salaries" means all payments made either directly or indirectly to an employee of a teachers' union.

Section 2. {Reporting}

(A) Teachers' unions shall prepare and maintain contemporaneous records recording the amount of all wages and salaries and employer paid benefits being provided to all union employees.
(B) Teachers' unions shall make such records available for inspection to all represented employees within (28) days after a request for inspection.

(C) Failure to provide access to the requested records within the allotted time will result in a penalty of ($$$) per day being assessed against the teachers' union until such time as the information is provided to the represented employee.

Section 3. {Severability Clause}

Section 4. {Repealer Clause}

Section 5. {Effective Date}
Digital Learning

60. Alternate Certification for Distance Learning Instructors Act

Summary

It is the ultimate responsibility of the state to guarantee students access to the best possible education. Traditionally this has been provided through on site teachers, but increasingly the states are turning to private sector experts as the best source for up to date instruction. Often these experts can be brought into the class through distance learning facilities. In order to prepare students for the twenty first century, they must learn from specialists, the technological experts in the constantly changing high demand areas of mathematics, science and foreign languages.

While many of these experts are not certified teachers, they remain highly qualified instructors for children. Accordingly, the state has an overriding interest, in the case of educating our students, to provide an alternate or cross-border waiver from teacher certification for proficient distance learning instructors.

Model Legislation

Section 1. {Title.} This Act may be cited as the Alternate Certification for Distance Learning Instructors Act.

Section 2. {Statement of Purpose.} Be it enacted by the legislature that the (Education Code), relating to the authority of school districts to certify persons to teach who are not graduates of teacher education programs, is amended by adding (Section) to read as follows: District Certification:

(A) The (State-local) board of trustees of a school district shall by written policy provide for the certification and employment as distance learning instructors of persons who do not hold teaching certificates issued by the state.

(B) If a distance learning instructor is already a certified teacher in another state and the distance learning class originates in said state, their certification shall be recognized and deemed sufficient.

(C) Instructors who are not certified by the state, but who have expertise in the studies of mathematics, science, and foreign languages, shall be utilized and approved by the (State-local) board of trustees of a school district as a distance learning instructor if:

(1) there are no certified teachers available who are of equal technical competence in their area of expertise and in dealing with the distance learning technology; and
(2) there shall be a certified teacher/facilitator in the classroom with the students during the distance learning class.

(D) The policy must provide for a person being certified to satisfactorily complete:

(1) an examination of general knowledge to determine if the person's basic skills in reading, writing, and mathematics are sufficient to perform satisfactorily as a teacher; and

(2) a one-semester provisional certification

(E) To qualify under this Act for provisional certification to teach primary grades, a person shall have a bachelor’s degree from an institution of higher education that is accredited by a recognized accrediting agency.

(F) To qualify under this Act for provisional certification to teach secondary grades, a person must have a bachelor’s degree from an institution of higher education that is accredited by a recognized accrediting agency.

(G) The (State-local) board shall issue final cross-border waiver based on terms stated in Section 2(B).

(H) The (State-local) board shall issue final certification based on an evaluation of:

(1) the person’s academic knowledge;

(2) the person’s ability to communicate information effectively to pupils;

(3) the person’s ability to utilize effectively the distance learning technology;

(4) the academic achievement of pupils taught by the person during professional certification.

(I) The board shall report the issuance of a certificate of cross-border waiver under this Act to the (state board of education).

(J) A person certified under this Act shall be subject to all provisions of this code relating to teachers except any provision that requires a teaching certificate required by the state.

(K) The (certifying agency) of a school district shall recognize as reciprocal, within that district, a certification or cross-border waiver that was issued under this Section by another district.

(L) After the provisional certificate the district shall present the individual to the state certification board for full certification or permanent cross-border waiver.
(M) The state shall certify any person presented by a school district for full certification or permanent waiver.

(N) Every three years the state board shall review the candidate submissions from the districts to evaluate the effectiveness and quality of the individual district programs.

Section 3. {Definitions.} “Distance learning” means the transmission of educational information and interaction of geographically dispersed individuals or groups through a single medium or a combination of audio, video, and data.

Section 4. {Severability clause.}

Section 5. {Repealer clause.}

Section 6. {Effective date.}
61. Distance Learning Commission Act

Summary

Several forward-thinking states have identified the need for a broadband, state-of-the-art telecommunications infrastructure to address specific state problems. States need a policy that maximizes infrastructure development and full public access at affordable costs. The test of successful telecommunications policy is whether the end result equips our citizens and communities with the means to better their future. The key component of such a policy is universal access to Twenty-first Century technology. Universal access is synonymous with universal opportunity.

Today virtually every state has distance learning in some form, compared to fewer than 10 states as recently as 1987. The distance learning programs across the states differ significantly in terms of the technology used, goals, and the quality and effectiveness of the programs. While all states have some form of distance learning effort underway they need to resolve issues that are barriers to the use of distance learning, such as teacher certification and evaluation, and curriculum and textbook standardization.

Model Legislation

Section 1. {Title.} This act shall be known and may be cited as the Distance Learning Commission Act.

Section 2. {Declaration of policy.} The legislature finds and declares as follows:

(A) It is state policy that all students in the state, regardless of economic or geographic status, deserve the educational benefits offered by distance learning through state-of-the-art technology.

(B) Distance learning programs, ranging from voice and data communication to state-of-the-art audiovisual delivery, have proven to be both innovative instructional tools and viable curriculum alternatives.

(C) The state should set clear goals and provide leadership in the development of a comprehensive distance learning policy.

(D) Without a distance learning policy, the development of innovative distance learning programs in this state will be seriously impeded.
A Distance Learning Commission should be formed to develop Statewide distance learning programs and applications and to assist the Department of Education in providing technical assistance to potential distance learning providers.

Section 3. (Definitions.) The following words and phrases when used in this Act shall have the meanings given to them in this Section, unless the context clearly indicates otherwise:

(A) “Commission” means the Distance Learning Commission established in Section 4.

(B) “Department” means the Department of Education of the state.

(C) “Distance learning” means the transmission of educational information and interaction of geographically dispersed individuals or groups through a single medium or a combination of audio, video, and data.

Section 4. (Commission.)

(A) A Distance Learning Commission is hereby established. The commission shall be composed of 13 members who shall be appointed as follows:

1. The Superintendent of Public Instruction shall appoint one representative from a county office of education.

2. The Governor shall appoint one practicing school administrator from an organization representing state administrators, one business representative with experience in applications of technology, one practicing school teacher representing state teachers, one library media specialist from an association representing library media specialists, one public member from the state office of telecommunications or with expertise in application of technology, and one member of the faculty or a post-secondary institution.

3. The Senate Rules Committee shall appoint one business representative with experience in applications of technology, and one practicing secondary school teacher representing technology-using educators.

4. The Speaker of the House of Representatives shall appoint one business representative with experience in applications of technology, and one practicing elementary school teacher representing state teachers.
(5) The Chairman of the Public Utilities Commission shall appoint one regulator with knowledge and experience in telecommunications regulatory history, and one recognized consumer.

(B) Members shall serve two-year terms, with the exception of the initial appointment of the three teachers and the three business representatives, who shall serve for three years to facilitate a staggered appointment schedule in order to ensure continuity. No member shall serve for more than one term.

(C) No private business entity, school district, or employee association shall have more than one of its officers or employees serving as a member of the council.

(D) Members selected shall have the authority to represent their business, school district, or association from which they were appointed.

(E) Members shall be knowledgeable about applications of technology for learning experiences and shall be selected based on documentation of that experience.

(F) The commission shall initially meet on the first Monday of the month following the effective date of this Act. At that meeting, the members shall elect a chairperson and a three-member board of directors. Further meetings of the commission shall be held at the discretion of the members, but the board shall meet at least quarterly.

(G) Members shall receive no payment for their services, but they shall be reimbursed for pre-approved expenses incurred in the course of their duties.

(H) The department shall provide the commission with the staff necessary to fulfill its mission and goals. In addition, the commission may enlist voluntary assistance as available from citizens, research organizations, and other organizations.

Section 5. {Powers and duties of commission.}

(A) The commission shall engage in the development of a comprehensive distance learning policy. The policy shall:

(1) identify the distance learning educational and professional development needs of various educational, community; and business organizations;
(2) identify various distance learning technologies that could serve to meet educational needs;

(3) identify the role of the state in implementing the policy and in including distance learning in the state and local curricula;

(4) encourage the development of local and regional distance learning applications and active participation in the full development and utilization of the infrastructure-technology partnership;

(5) encourage interactions between public and private nonprofit distance learning providers and users.

(B) The commission shall work in concert with department staff to compile a database of information and research regarding distance learning programs and applications. The database shall be made available to the public and to state agencies and local governments.

(C) The commission may communicate distance learning information to the department. The advisory communication shall serve to provide the department with information on methods of providing technical assistance and needs assessment information to entities developing distance learning programs.

Section 6. {Severability clause.}

Section 7. {Repealer clause.}

Section 8. {Effective date.}
62. Distance Learning: Wiring the Public Schools Act

Summary

The potential benefits are significant, and can be achieved without major new commitments of tax funds. Legislation may be needed to establish a state distance learning policy, provide distance learning teacher certification, retrofit old classrooms, and provide technology for new classrooms.

Model Legislation

Section 1. {Title.} This Act may be cited as Distance Learning: Wiring the Public Schools Act.

Section 2. {Public policy purpose.}

(A) It is state policy that all students in the state, regardless of economic or geographic status, deserve the educational benefits offered by distance learning through state-of-the-art technology.

(B) The state recognizes that distance learning can enhance the educational opportunities for all schools, especially those with unique needs.

(C) The state also recognizes the obligation to utilize the cost-efficient opportunity of new building and renovation of schools to install wiring in education facilities, and to avoid costly independent retrofitting at a later time.

Section 3. {Definitions.} In this Act, the following words have the meanings indicated.

(A) “Distance learning” means the transmission of educational information and interaction of geographically dispersed individuals or groups through a single medium or a combination of audio, video, and data.

(B) “Major renovation” means the reconstruction or rehabilitation of a school building during which the renovation creates a cost-efficient opportunity to install wiring and other equipment necessary for the implementation of distance learning.

(C) “Wiring” means copper, coaxial, fiber optic, or any other cabling that has the capabilities of signal conveyance.

Section 4. {Statement of purpose.}

(A) At the time that a school district is developing a plan for the construction of a new school or for a major renovation of an existing school, the school district shall seriously consider the cost efficient inclusion of wiring and other equipment necessary for distance learning.

(B) The renovation plan shall include:

(1) Consultation with the telecommunication hardware and service providers to determine options available to the schools which shall be documented in the plan;

(2) A listing of existing distance learning programs which they may join;

(3) The cost of the wiring and other equipment necessary for distance learning.
Section 5. {Severability clause.}

Section 6. {Repealer clause.}

Section 7. {Effective date.}
MEMORANDUM

TO: HEALTH AND HUMAN SERVICES TASK FORCE MEMBERS
FROM: CHRISTIE HERRERA, HHS TASK FORCE DIRECTOR
RE: 35-DAY MAILING—HHS TASK FORCE MEETING AT ALEC’S 2010 STATES AND NATION POLICY SUMMIT, WASHINGTON, D.C.
DATE: OCTOBER 27, 2010

Overview of HHS Activities at ALEC’s 2010 States and Nation Policy Summit
The American Legislative Exchange Council will hold its 2010 States and Nation Policy Summit (SNPS) from December 1-3 at the Grand Hyatt Washington in D.C. A SNPS agenda and registration page are now online, and the cutoff for early bird registration is November 10.

Please “save the date” for the following HHS activities at SNPS:

**Wednesday, December 1**
10:00-11:30 a.m. (tentative time)
Panel Discussion
“Everything You Wanted to Know About Health Reform, But Were Afraid to Ask”

Join nationally-renowned health policy experts as they discuss the latest with the federal health reform law—including lawsuits, exchanges, Hill efforts on defunding/repeal, and how state legislators can fight back. All ALEC SNPS attendees are invited to participate in this important discussion.

12:00-2:00 p.m.
Opening Luncheon on Health Reform
SPEAKERS: Brian Goff, Novartis Corporation and Former U.S. House Speaker Newt Gingrich

2:15-3:30 p.m.
Workshop #1
“Comparative Effectiveness Research: Rationing Care or Improving Quality?”

Comparative effectiveness research, a major part of federal health reform, is often hailed as the “next best thing” in health care. Supporters say that comparative effectiveness research—which studies clinical effectiveness of different health treatments—will result in lower costs and better patient care. But a growing number of researchers, physicians, and patients say that comparative effectiveness research can potentially lead rationing of health services and prescription drugs, the politicization of medicine, and the government picking “winners and losers” in the industry. Join nationally-renowned health care experts as they discuss comparative effectiveness research, its shortcomings, and its possibilities.
SPEAKERS: Scott Gottlieb, Resident Fellow, American Enterprise Institute; Bob Goldberg, President, Center for Medicine in the Public Interest; Michael Cannon, Director of Health Policy Studies, Cato Institute

Thursday, December 2
2:30-5:30 p.m.
HHS Task Force Meeting

ALEC’s Health and Human Services Task Force will meet to discuss a number of hot topics, including an update on health reform, an in-depth look at health care lawsuits, and the promise of private charity initiatives. Proposed ALEC models will be considered on federal health reform, interstate insurance compacts, and wellness programs.

Friday, December 3
8:00 a.m.-2:15 p.m.
Plenary Breakfast, Workshop #8, Workshop #10, Plenary Luncheon

Federalism/10th Amendment Issues

Save the date for an entire day of federalism/10th Amendment workshops and meal sessions, including policy discussions on health reform. More details forthcoming!

About This Mailing
In addition to this electronic-only 35-Day Mailing, all materials can be accessed online at the HHS Task Force Member Area on ALEC’s website. Once you are logged in, click the “HHS 35 Day Mailing” document at the top of the page to find the 35-Day Mailing in one complete PDF, or click on the “2010 States & Nation Policy Summit” folder to access the mailing’s individual documents.

Keep in mind that you will need your ALEC username and password to access the 35-Day Mailing online. Conversely, if you choose to receive 35-Day Mailings via “snail mail,” please contact Monica Mastracco at 202-742-8525 or at mmastracco@alec.org. We will assume that you prefer the 35-Day Mailing e-mailed to you unless you indicate otherwise.

Enclosed Materials
Please find the following HHS briefing materials enclosed for SNPS:

- Faxable registration form for SNPS
- Agenda-At-A-Glance for SNPS
- Tentative Agenda for the HHS Task Force Meeting
- Potential Model Legislation:
  - Unintended Consequences Prevention Act, sponsored by Georgia Senator Judson Hill
  - Insurance Compact Enabling Act, sponsored by Goldwater Institute’s Byron Scholmach
    - Supplements to the Insurance Compact Enabling Act: Model Notice of Confirmation and Model Interstate Insurance Compact (for information purposes only)
  - Wellness Promotion Act, sponsored by Georgia Senator Judson Hill
- HHS Task Force Roster
- Draft Minutes from the HHS Task Force Meeting at ALEC’s 37th Annual Meeting
- ALEC’s Mission Statement/Scholarship Policy by Meeting/Task Force Operating Procedures
Questions?
I look forward to seeing everyone in D.C. If you have any questions or comments regarding the meeting, please contact me at (202) 742-8505 or at christie@alec.org. Thank you for all you do to make ALEC a great organization for great health care policy!
ATTENDEE
REGISTRATION / HOUSING FORM

Early registration deadline: November 10, 2010
Housing cut-off date: November 04, 2010

December 1-3, 2010

Grand Hyatt Washington
Hotel
1000 H Street, NW
Washington, DC 20001

ATTENDEE INFORMATION
Prefix (required) [ ] Sen [ ] Rep [ ] Del [ ] Mr [ ] Mrs [ ] Ms [ ] Other
Last Name ___________________________________________ First Name ___________________________ Middle Initial
Organization (required) ___________________________________________
Title ________________________________________________________
Address ______________________________________________________
City __________________________________ State/Province __________ Country ______ Zip/Postal code ________
Daytime phone ___________________________ Fax ___________________________ Alternate phone __________________
Email ___________________________ (confirmation will be sent by email)
Spouse / Guest: If registering a spouse or guest, please complete the spouse/guest registration form.

REGISTRATION INFORMATION
**Save $50 on registration by booking your hotel room in ALEC’s headquarter hotel**

DISCOUNTED REGISTRATION FEES are extended only to registrants booking ALEC’s headquarter hotel. Your $50 savings will become valid when accommodations are confirmed.

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Promo Code ___________________________ TOTAL REGISTRATION FEES: $__________

METHOD OF REGISTRATION PAYMENT
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[ ] Amer Express [ ] Visa [ ] MasterCard
Card # ___________________________
Cardholder (please print) ___________________________
Exp Date (mm/yy) ___________________________ Security Code ___________________________
Signature ___________________________
Checks: Payment must be in U.S. currency drawn on a U.S. bank. Please make check payable to ALEC Registration and send to above address.

REGISTRATION CONFIRMATION INFORMATION
Online registrants will receive immediate email confirmation. If registering by form, confirmation will be emailed, faxed, or mailed within 72 hours of receipt of payment.

REGISTRATION CANCELLATION / REFUND INFORMATION
Registrations cancelled prior to 5pm Eastern November 10, 2010 are subject to a $100 cancellation fee. Registrations are non-refundable after 5pm Eastern November 10, 2010.

HOUSING RESERVATION CUTOFF FOR ALEC DISCOUNTED RATE IS NOVEMBER 4, 2010
**Save $50 on registration by booking your hotel room in ALEC’s headquarter hotel**

<table>
<thead>
<tr>
<th>Note: I do not require a reservation at this time.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arrival Date ___________________________ Departure Date ___________________________</td>
</tr>
<tr>
<td>Sharing room with ___________________________</td>
</tr>
<tr>
<td>Room type: [ ] Single (1 person – 1 bed) $269 [ ] Double (2 persons – 1 bed) $294</td>
</tr>
<tr>
<td>[ ] DBI/DBI (2 persons – 2 beds) $294 [ ] Triple (3 persons – 2 beds) $319</td>
</tr>
<tr>
<td>[ ] Quad (4 persons – 2 beds) $344 [ ] Government rate Not Available</td>
</tr>
</tbody>
</table>

Suites and upgraded accommodations are available upon request. Please call ALEC Housing at the number listed above for additional information.

Special requests: [ ] ADA room required: ______ Audio ______ Visual ______ Mobile
[ ] Rollaway / crib: ______ Other: ______

METHOD OF HOUSING PAYMENT
[ ] Please use the same method of payment as above.
Credit Card: Credit Cards will be used to guarantee the reservation.
[ ] Amer Express [ ] Visa [ ] MasterCard [ ] Discover
Card # ___________________________
Cardholder (please print) ___________________________
Exp Date (mm/yy) ___________________________ Security Code ___________________________
Signature ___________________________
Checks: Payment must be in U.S. currency drawn on a U.S. bank. Please make check payable to ALEC and send to above address.

Note: Cutoff for reservations at the ALEC rate is November 4, 2010. After November 4, 2010, every effort will be made to accommodate new reservations, based on availability and rate.

HOUSING CONFIRMATION INFORMATION
Online reservations will receive immediate email confirmation. Reservations received by form will be confirmed via email, fax, or mail within 72 hours of receipt.

HOUSING CANCELLATION / REFUND INFORMATION
Credit cards will be charged one night room and tax in the event of a no show or if cancellation occurs within 72 hours prior to arrival. Departures prior to the departure date confirmed by the hotel at check-in will result in a charge of one night room and tax. Please obtain a cancellation number when your reservation is cancelled.
ATTENDEE INFORMATION IS REQUIRED TO REGISTER A SPOUSE OR GUEST

Prefix (required)  □ Sen  □ Rep  □ Del  □ Mr  □ Mrs  □ Ms  □ Other  

Last Name  First Name  Middle Initial  Badge Nickname
Title
Organization (required)
Address  Suite #
City  State/Province  Country  ZIP/Postal code
Daytime phone  Fax  Alternate phone
Email  (confirmation will be sent by email)

SPOUSE / GUEST REGISTRATION GUIDELINES
1. Spouse / guest registration is meant to accommodate legal spouse and immediate family members.
2. Attendees from the same organization must register independently. No exception will be made.
3. Spouse / guest designation will be clearly visible on name badge.
4. Spouse / guest registrants are not eligible to attend ALEC Task Force meetings.

Last Name  First Name  Middle initial  Badge Nickname
Last Name  First Name  Middle initial  Badge Nickname
Last Name  First Name  Middle initial  Badge Nickname

SPOUSE / GUEST REGISTRATION FEES

<table>
<thead>
<tr>
<th>Number of Spouse/Guest(s)</th>
<th>Early Until 11/10</th>
<th>On-Site Begin 11/11</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Spouse / Guest, please note name(s) above</td>
<td>$150</td>
<td>$150</td>
<td>$</td>
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</table>

METHOD OF SPOUSE / GUEST REGISTRATION PAYMENT

Credit Card: Credit cards will be charged immediately. Please fax to the above number for processing.

☐ American Express  
Card #  

☐ Visa  
Cardholder (please print)  
Exp Date (mm/yy)  
Security Code  

☐ MasterCard  
Signature  

Checks: Payment must be in U.S. currency drawn on a U.S. bank. Please make check payable to ALEC Registration and send to above address.

Note: If registering after November 10, please bring completed form and payment to register on-site.

REGISTRATION CONFIRMATION INFORMATION
Online registrants will receive immediate email confirmation to the address provided above. If registering by form, confirmation will be emailed, faxed, or mailed within 72 hours of receipt of payment.
# 2010 States & Nation Policy Summit Agenda*

## Tuesday, November 30th
- **Joint Board of Directors Meetings**: 8:00 a.m. - 5:30 p.m. (Farragut/Lafayette)
- **Registration**: 12:00 p.m. - 5:00 p.m. (Independence Foyer)
- **ALEC Joint Board Reception and Dinner**: 6:30 p.m. - 9:30 p.m. (Off-site)

## Wednesday, December 1st
- **Registration**: 7:30 a.m. - 5:00 p.m. (Independence Foyer)
- **Task Force Subcommittee Meetings**: 8:00 a.m. - 11:45 a.m.
- **Exhibit Hall**: 9:00 a.m. - 3:00 p.m. (Independence Foyer)
- **State Chairs Meeting**: 9:00 a.m. - 11:45 a.m. (Wilson/Roosevelt)
- **New Legislator Orientation**: 10:30 a.m. - 11:30 a.m. (Franklin Square)
- **Opening Plenary Luncheon**: 12:00 p.m. - 2:00 p.m. (Independence A)
- **Task Force Chairs Meeting**: 2:15 p.m. - 3:15 p.m. (Franklin Square)
- **Workshop I: Comparative Effectiveness Research: Rationing Care or Improving Quality?**
- **Workshop II: Higher Education**
  - **by invitation only**
- **National Chairman’s Reception**
  - 5:30 p.m. - 6:30 p.m. (Independence IH)
- **Hospitality Suite**
  - 9:00 p.m. - 11:00 p.m. (Congressional Parlor)

## Thursday, December 2nd
- **Registration**: 7:30 a.m. - 5:00 p.m. (Independence Foyer)
- **Plenary Breakfast**: 8:00 a.m. - 9:15 a.m. (Independence A)
- **Exhibit Hall**: 9:00 a.m. - 3:00 p.m. (Independence Foyer)
- **Workshop III: Show Me the Money: Budget Transparency in the States**
- **Workshop IV: Delivering Justice to Rape Victims while Minimizing Taxpayer Cost**
- **Workshop V: Cutting Crime and Budgets: The National Movement**
- **Workshop VI: EPA’s Regulatory Assault: Higher Prices, Fewer Jobs, and Less Energy**
- **Plenary Luncheon**: 12:30 p.m. - 2:15 p.m. (Independence A)
- **Task Force Meetings**: 2:30 p.m. - 5:30 p.m.
  - **Energy, Environment, and Agriculture**
  - **Health and Human Services**
  - **Public Safety and Elections**
  - **Tax and Fiscal Policy**
- **Gala Holiday Reception**: 6:00 p.m. - 8:00 p.m. (Constitution AB)
- **Hospitality Suite**: 9:00 p.m. - 11:00 p.m. (Congressional Parlor)
<table>
<thead>
<tr>
<th>Friday, December 3rd</th>
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<tbody>
<tr>
<td><strong>Registration</strong></td>
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<tr>
<td><strong>Plenary Breakfast</strong></td>
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<tr>
<td><strong>Exhibit Hall</strong></td>
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<tr>
<td>Workshop VII: Federalism I</td>
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<tr>
<td>Workshop VIII: Overcriminalization</td>
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<td>Workshop X: A Tax in Sheep’s Clothing; How Extended Producer Responsibility Mandates Can Hurt Consumers and Business</td>
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<tr>
<td><strong>Workshop X: Federalism II</strong></td>
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<tr>
<td><strong>Plenary Luncheon</strong></td>
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<tr>
<td><strong>Task Force Meetings</strong></td>
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<tr>
<td>- Civil Justice</td>
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<td>- Commerce, Insurance and Economic Development</td>
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<td>- Education</td>
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<td>- Telecommunications and Information Technology</td>
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<td>- International Relations</td>
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<td>Louisiana Preview Reception for 2011</td>
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<tr>
<td>Annual Meeting</td>
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<tr>
<td>State Delegation Night</td>
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</tbody>
</table>

* Agenda subject to change.
Health and Human Services Task Force Meeting
ALEC’s 2010 States and Nation Policy Summit
Thursday, December 2, 2010
2:30 – 5:30 p.m.
Grand Hyatt Washington, Independence Ballroom CDE

TENTATIVE AGENDA

2:30 p.m.  Welcoming Remarks
Roundtable Introduction of Task Force Members and Guests
Recognition of New and Returning ALEC Private Sector Members
Approval of Minutes from ALEC’s 37th Annual Meeting
Explanation of Task Force Chair Succession
Iowa Representative Linda Upmeyer, Public Sector Chair
Julie Corcoran, Bayer Healthcare, Private Sector Chair

2:45 p.m.  SPECIAL PRESENTATIONS
Health Reform: Where It Is, Where It’s Going
Jeff Buel, Johnson & Johnson

3:00 p.m.  Association of American Physicians and Surgeons v. Sebelius
Larry Joseph, attorney for the Association of American Physicians and Surgeons

3:15 p.m.  Private Charity Initiative
James Lansberry, Alliance of Health Care Sharing Ministries

3:30 p.m.  MODEL LEGISLATION: DISCUSSION AND VOTING
Unintended Consequences Prevention Act
Sponsored by Georgia Senator Judson Hill

4:15 p.m.  Insurance Compact Enabling Act (dual-referred to ALEC’s CIED and HHS Task Forces)
Sponsored by Byron Schlomach, Goldwater Institute

5:00 p.m.  Wellness Promotion Act
Sponsored by Georgia Senator Judson Hill

5:30 p.m.  Good of the Order/Adjournment
SUMMARY
This Act provides that no state department or agency shall implement or enforce any provision of the federal Patient Protection and Affordable Care Act unless the department or agency provides a certain report to the legislature, and the legislature authorizes such implementation or enforcement by statute.

MODEL LEGISLATION
Section 1. Findings. The legislature finds that:

A. {insert state}'s health care system has been developed to address the unique circumstances in {insert state} and to provide solutions that work for {insert state}; and

B. The federal Patient Protection and Affordable Care Act:

  1. Infringes on state powers;
  2. Imposes a uniform solution to a problem that requires different responses in different states;
  3. Threatens the progress {insert state} has made towards health care system reform; and
  4. Infringes on the rights of citizens of this state to provide for their own health care by:

     a. Requiring a person to enroll in a third-party payment system;
     
     b. Imposing fines on a person who chooses to pay directly for health care rather than use a third-party payer;
     
     c. Imposing fines on an employer that does not meet federal standards for providing health care benefits for employees; and
     
     d. Threatening private health care systems with competing government supported health care systems.

Section 2. Model Legislation
A. A department or agency of this state shall not implement or enforce any part of the federal Patient Protection and Affordable Care Act unless:

   1. The department or agency reports to the legislature in accordance with Subsection B of this section; and

   2. The legislature passes legislation specifically authorizing the state’s implementation or enforcement of the federal Patient Protection and
Affordable Care Act, if such implementation or enforcement authority does not already exist.

B. The report required under Subsection A of this section shall include:

1. The specific section of the federal Patient Protection and Affordable Care Act that requires the state to implement or enforce a federal reform provision;

2. Whether the reform provision has any state waiver or options;

3. Exactly what the reform provision requires the state to do and how it would be implemented;

4. Who in the state will be impacted by adopting the federal reform provision or not adopting the federal reform provision;

5. The cost to the state or citizens of the state to implement the federal reform provision;

6. The consequences to the state if the state does not comply with the federal reform provision.

Section 3. {Severability Clause}
Section 4. {Repealer Clause}
Section 5. {Effective Date}
INSURANCE COMPACT ENABLING ACT  
(DRAFT, DECEMBER 2, 2010)

SUMMARY  
This Act allows a state, along with party states, to exercise sovereign police powers and solemnly agree to the following Interstate Insurance Compact.

MODEL LEGISLATION  
Section 1. Findings and Declaration of Policy.  
A. {Insert state} and the party states find public health, safety, and morals, as well as individual liberty and economic development, are best served by open and competitive insurance markets and the freedom to sell and purchase insurance products without unreasonable governmental interference.

B. It is the policy of {insert state} and the party states to:

1. Secure the right of any insurance company that is lawfully doing business within the jurisdiction of any compacting state to reciprocal access to any corresponding intrastate insurance market within the jurisdiction of any compacting state; and

2. Secure the right of any person that is domiciled in any compacting state to maintain freedom of choice among insurance policies, as well as the coverage and terms of existing insurance policies, in any and all compacting states.

Section 2. Definitions. As used in this Compact:

A. “State” means a state of the United States.

B. “Insurance policy” means any contract in which one person promises and undertakes, in exchange for consideration of a set or assessed amount of money, to make a payment to either another party or a third-party if a specified event occurs involving a loss, casualty, illness, bodily injury, or death.

C. “Insurance company” means any organization that offers insurance policies.

Section 3. Terms.  
A. Any insurance company doing business within the jurisdiction of any compacting state, in compliance with the laws of that state, has the vested right to do business within the jurisdiction of all compacting states under the same terms and conditions.

B. Any insurance company that is doing business within the jurisdiction of any compacting state, in compliance with the laws of that state, shall have unhindered reciprocal access to any corresponding intrastate insurance market within the jurisdiction of any other compacting state.

C. Any person who is domiciled in any compacting state and who has contracted for any insurance policy in compliance with the laws of that state has the vested right to maintain the coverage and terms of that policy in all compacting states regardless of domicile.
D. Any person who is domiciled in any compacting state shall not be prohibited by law from purchasing or selling any insurance policy that is offered in compliance with the laws of any compacting state.

E. No law or regulation shall compel, directly or indirectly, any person to purchase any insurance policy as a condition of lawful residency.

F. No person shall be required to pay penalties or fines for paying directly for goods or services that might otherwise be paid through an insurance policy.

Section 4. Enforcement.
A. Anyone knowingly interfering with the foregoing terms and conditions shall have committed both a civil rights violation and a criminal offense under the laws of the party state in which such interference occurs.

B. Redress for any civil rights violation hereunder shall be available in the courts of any party state both for the victim of such interference and for any taxpaying resident of any party state, the latter of whom shall be regarded as acting in the public interest on behalf of the party state in which they reside.

C. Remedies for any civil rights violation hereunder shall include compensatory monetary damages, court costs, litigation expenses, attorney's fees, as well as declaratory and injunctive relief.

D. Any criminal offense hereunder shall be punishable by a prison sentence of up to five years and a fine of not less than $5,000.

E. The chief law enforcement officer of each party state shall coordinate criminal offense enforcement efforts under this Section with other party states.

Section 5. Compact Administrator and Interchange of Information.
A. The governor of each party state, or the governor's designee, shall be the “compact administrator” of this compact for his or her state. The compact administrator shall have the power to formulate all necessary and proper procedures to effectuate this compact, and to delegate needed tasks to state agencies.

B. The compact administrator of each party state shall furnish to the compact administrator of each other party state any information or documents reasonably necessary to facilitate the administration of this Compact.

A. This Compact shall enter into force and become effective as to any state when it has enacted the same into law.

B. Any party state may withdraw from this Compact by enacting a statute repealing the same, but no such withdrawal shall take effect until four years after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states. No withdrawal shall affect the validity or applicability
of the Compact to states remaining party to the Compact. Party states shall have the power to rescind any notice of withdrawal within said four year period.

Section 7. Construction and Severability.
A. This Compact shall be liberally construed so as to effectuate the purposes thereof. If it receives congressional consent, it is intended to operate as the law of the nation with respect to the party states and to stop the federal government from engaging in any action inconsistent with the grant of congressional consent. The provisions of this Compact shall be severable; and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any state party thereto, the Compact shall remain in full force and effect as to remaining states and in full force and effect as to the state affected as to all severable matters.

B. The governor of each signing state shall be responsible for effectuating the Interstate Insurance Compact and delegating needed tasks to state agencies.

C. The compact administrator provided for in Section 5 of this Compact shall not be entitled to any additional compensation on account of his service as such administrator, but shall be entitled to expenses incurred in connection with his duties and responsibilities as such administrator, in the same manner as for expenses incurred in connection with any other duties or responsibilities of his office or employment.

D. The Interstate Insurance Compact shall supersede and control all contrary law.

Section 8. {Effective Date}
SUPPLEMENT TO INSURANCE COMPACT ENABLING ACT:
MODEL NOTICE OF CONFIRMATION

WHEREAS, The Interstate Insurance Compact was formed to provide means through which the signing jurisdictions may participate in a reciprocal program to effectuate the stated policies and purposes of the Compact, and

WHEREAS, Authority to enter the Compact is contained in {insert statute}; and

WHEREAS, The Compact will serve to mutually benefit the residents, businesses, and the operation of government in the party jurisdictions.

NOW THEREFORE, In consideration of the mutual and reciprocal benefits to flow therefrom, and pursuant to the authority contained in {insert statutory citation of authority}, the “Interstate Insurance Compact” is hereby confirmed.

FURTHER PROVIDED That the desired date of entry {is/was} {insert date}; and

(Drafting Note: Effective date of entry must be at least 60 days after notification is given to other compact members by the Secretary.)

FURTHER PROVIDED That this jurisdiction agrees to comply with the terms and provisions of the Compact.

Authority for administration of this Compact within this jurisdiction is vested in the office of the governor of each signing state, unless a different administrator is designated by the governor.

DATED: {Insert date}

FOR THE STATE OF: {Insert state}

TITLE: {Insert title of compact administrator}

SIGNATURE: {Display signature of compact administrator}

For Secretary Use:
Notice Received {insert date}
Notice sent to Compact members {insert date}
SUPPLEMENT TO INSURANCE COMPACT ENABLING ACT:
MODEL INTERSTATE INSURANCE COMPACT

The Party States herewith exercise their sovereign police powers and solemnly agree to the following articles of the Interstate Insurance Compact.

Article I. Findings and Declaration of Policy.
1. The Party States find public health, safety and morals, as well as individual liberty and economic development, are best served by open and competitive insurance markets and the freedom to sell and purchase insurance products without unreasonable governmental interference.

2. It is the policy of each of the Party States to:
   A. Secure the right of any insurance company that is lawfully doing business within the jurisdiction of any Compacting state to reciprocal access to any corresponding intrastate insurance market within the jurisdiction of any Compacting state; and
   B. Secure the right of any person that is domiciled in any Compacting state to maintain freedom of choice among insurance policies, as well as the coverage and terms of existing insurance policies, in any and all Compacting states.

Article II. Definitions. As used in this Compact:
1. “State” means a state of the United States.
2. “Insurance policy” means any contract in which one person promises and undertakes, in exchange for consideration of a set or assessed amount of money, to make a payment to either another party or a third-party if a specified event occurs involving a loss, casualty, illness, bodily injury or death.
3. “Insurance company” means any organization that offers insurance policies.

Article III. Terms.
1. Any insurance company doing business within the jurisdiction of any Compacting state, in compliance with the laws of that state, has the vested right to do business within the jurisdiction of all Compacting states under the same terms and conditions.
2. Any insurance company that is doing business within the jurisdiction of any Compacting state, in compliance with the laws of that state, shall have unhindered reciprocal access to any corresponding intrastate insurance market within the jurisdiction of any other Compacting state.
3. Any person who is domiciled in any Compacting state and who has contracted for any insurance policy in compliance with the laws of that state has the vested right to maintain the coverage and terms of that policy in all Compacting states regardless of domicile.
4. Any person who is domiciled in any Compacting state shall not be prohibited by law from purchasing or selling any insurance policy that is offered in compliance with the laws of any Compacting state.
5. No law or regulation shall compel, directly or indirectly, any person to purchase any insurance policy as a condition of lawful residency.

6. No person shall be required to pay penalties or fines for paying directly for goods or services that might otherwise be paid through an insurance policy.

**Article IV. Enforcement.**

1. Anyone knowingly interfering with the foregoing terms and conditions shall have committed both a civil rights violation and a criminal offense under the laws of the Party State in which such interference occurs.

2. Redress for any civil rights violation hereunder shall be available in the courts of any Party State both for the victim of such interference and for any taxpaying resident of any Party State, the latter of whom shall be regarded as acting in the public interest on behalf of the Party State in which they reside.

3. Remedies for any civil rights violation hereunder shall include compensatory monetary damages, court costs, litigation expenses, attorney’s fees, as well as declaratory and injunctive relief.

4. Any criminal offense hereunder shall be punishable by a prison sentence of up to five years and a fine of not less than $5,000.

5. The chief law enforcement officer of each Party State shall coordinate criminal offense enforcement efforts under this Article with other Party States.

**Article V. Compact Administrator and Interchange of Information.**

1. The governor of each Party State, or the governor’s designee, shall be the “Compact Administrator” of this Compact for his or her state. The Compact Administrator shall have the power to formulate all necessary and proper procedures to effectuate this Compact, and to delegate needed tasks to other state agencies.

2. The Compact Administrator of each Party State shall furnish to the Compact Administrator of each other Party State any information or documents reasonably necessary to facilitate the administration of this Compact.

**Article VI. Entry Into Force and Withdrawal.**

1. This Compact shall enter into force and become effective as to any state when it has enacted the same into law.

2. Any Party State may withdraw from this Compact by enacting a statute repealing the same, but no such withdrawal shall take effect until four years after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other Party States. No withdrawal shall affect the validity or applicability of the Compact to states remaining party to the Compact. Party States shall have the power to rescind any notice of withdrawal within said four year period.

**Article VII. Construction and Severability.** This Compact shall be liberally construed so as to effectuate the purposes thereof. If it receives congressional consent, it is intended to
operate as the Law of the Nation with respect to the Party States and to stop the federal
government from engaging in any action inconsistent with the grant of congressional consent.
The provisions of this Compact shall be severable; and if any phrase, clause, sentence, or
provision of this Compact is declared to be contrary to the constitution of any Party State or
of the United States or the applicability thereof to any government, agency, person, or
circumstance is held invalid, the validity of the remainder of this Compact and the
applicability thereof to any government, agency, person, or circumstance shall not be affected
thereby. If this Compact shall be held contrary to the constitution of any state party thereto,
the Compact shall remain in full force and effect as to remaining states and in full force and
effect as to the state affected as to all severable matters.
WELLNESS PROMOTION ACT
(DRAFT, DECEMBER 2, 2010)

SUMMARY
This Act requires insurers that issue plans of individual accident and sickness insurance to include, within at least one plan, a wellness incentive program.

MODEL LEGISLATION
Section 1. Insurers that issue plans of individual accident and sickness insurance in this state shall include within at least one such plan offered in this state a wellness incentive program under which the insurer shall provide annually a partial premium cash reimbursement for those insureds under such policy who meet the requirements of such wellness incentive program, including, but not limited to, participating in wellness and health promotion programs, disease and condition management programs, and health risk appraisal programs and providing biometric data, such as blood pressure levels, cholesterol levels, and body mass index values, conforming with nationally recognized standards based upon age or industry recognized biometrics.

Section 2. {Severability Clause}
Section 3. {Repealer Clause}
Section 4. {Effective Date}
<table>
<thead>
<tr>
<th>Name</th>
<th>State</th>
<th>Office Address</th>
<th>Contact Info</th>
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<tbody>
<tr>
<td>Rep. David Shepard</td>
<td>Tennessee</td>
<td>Legislative Plaza Ste. 34</td>
<td>TN 37243  (615) 741-3513  (615) 253-0244 <a href="mailto:david.shepard@capitol.tn.gov">david.shepard@capitol.tn.gov</a></td>
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<tr>
<td>Rep. Drew Darby</td>
<td>Texas</td>
<td>1100 Congress Avenue</td>
<td>Austin TX 78701 (512) 463-0331 <a href="mailto:drew.darby@house.state.tx.us">drew.darby@house.state.tx.us</a></td>
</tr>
<tr>
<td>Rep. Susan King</td>
<td>Texas</td>
<td>1100 Congress Avenue</td>
<td>Austin TX 78701 (512) 463-0718 <a href="mailto:s.king@house.state.tx.us">s.king@house.state.tx.us</a></td>
</tr>
<tr>
<td>Rep. Lois Kolthorst</td>
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<td>P.O. Box 2910 Rm. E2 318</td>
<td>Austin TX 78701 (512) 463-0600 <a href="mailto:l.kolthorst@house.state.tx.us">l.kolthorst@house.state.tx.us</a></td>
</tr>
<tr>
<td>Rep. Mark Hillen</td>
<td>Texas</td>
<td>PO Box 2910</td>
<td>Austin TX 78701 (512) 463-1000 <a href="mailto:mark.hillen@house.state.tx.us">mark.hillen@house.state.tx.us</a></td>
</tr>
<tr>
<td>Sen. Carlos Uresti</td>
<td>Texas</td>
<td>1100 Congress Ave. Rm. E1 810</td>
<td>Austin TX 78701 (512) 463-0119 <a href="mailto:carlos.uresti@house.state.tx.us">carlos.uresti@house.state.tx.us</a></td>
</tr>
<tr>
<td>Rep. John Corrion</td>
<td>Texas</td>
<td>1100 Congress Ave. Rm. E2 316</td>
<td>Austin TX 78701 (512) 463-0557 <a href="mailto:john.corrion@house.state.tx.us">john.corrion@house.state.tx.us</a></td>
</tr>
<tr>
<td>Rep. Bradley Daw</td>
<td>Utah</td>
<td>982 East 280 South</td>
<td>Orem UT 84097 (801) 538-1029 <a href="mailto:o.daw@utah.gov">o.daw@utah.gov</a></td>
</tr>
<tr>
<td>Rep. Francis Gilson</td>
<td>Utah</td>
<td>P.O. Box 145030 Suite 350</td>
<td>Salt Lake City UT 84114 (801) 538-1029 <a href="mailto:f.gilson@utah.gov">f.gilson@utah.gov</a></td>
</tr>
<tr>
<td>Rep. Eric Muddling</td>
<td>Utah</td>
<td>4338 West Stoney Ridge Circle</td>
<td>Orem UT 84097 (801) 538-1079 <a href="mailto:e.muddling@utah.gov">e.muddling@utah.gov</a></td>
</tr>
<tr>
<td>Rep. Mary Morrissey</td>
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Legislative Members in Attendance (15)
Rep. Jeff Barnhart, North Carolina
Sen. Tom Buford, Kentucky
Rep. Charlice Byrd, Georgia
Sen. Eugene “Buck” Clarke, Mississippi
Rep. Nora Espinoza, New Mexico
Rep. Dave Frizzell, Indiana
Sen. Judson Hill, Georgia
Rep. Bill Kennemer, Oregon
Rep. Linda Miller, Iowa
Rep. Jimmy Patronis, Florida
Rep. Pam Peterson, Oklahoma
Rep. Scott Schwab, Kansas
Sen. Renee Unterman, Georgia
Rep. Linda Upmeyer, Iowa

Legislative Alternates in Attendance (1)
Rep. Sue Allen, Missouri

Private Sector Members in Attendance (33)
1-800 Contacts: Jay Magure
Allergan: Bob Broadus
Alliance of Health Care Sharing Ministries: Joe Guarino, James Lansberry
America’s Health Insurance Plans: Dianne Bricker
American Optometric Association: Jerald Combs
AMERIGROUP: Pamela Perry
Anthem Blue Cross and Blue Shield: Ann Kuhns, John Willey
AstraZeneca/MedImmune: Libby Brunsvold, Kevin Johnson, Theresa Jolivette, Meg Propes
Association of American Physicians & Surgeons: Jane Orient
Bayer: Mike Birdsong
Bryan Cave: Frank Plescia
CVS Caremark: Mike Sargent
Daiichi Sankyo: Holli Hill, Julie Vojtech
Express Scripts: Michael Harrold
GlaxoSmithKline: Jody Fischer, Jack Graham, Thelma Harris, Gaspar Laca, Robert Luria, Gary Salamido, Kurt Stembridge
Guarantee Trust Life Insurance: Marianne Eterno
John Locke Foundation: Joe Coletti
Mackinac Center for Public Policy: Jack McHugh
Medco: Cindy Laubacher
Medtronic: Rob Clark
Merck: Marlene Sanders, Jim Vance
Pacific Research Institute: John Graham
Pfizer: Darrick LeBeouf, Amber Pearce
Pharmaceutical Care Management Association: Jessica Mazer
PhRMA: Kristin Parde
Purdue Pharma: Linda Barefoot
Reynolds American: Greg Osmon
Sanofi-Aventis: Rebecca Waldrop
Takeda: John Schlatter
Teva: Jake Hansen, Jerry Moore
Texas Public Policy Foundation: Arlene Wohlgemuth
The Doctors Company: Sal Bianco
United: Jeff Drozda
Wal-Mart: Laurie Smalling

Invited Guests in Attendance (0)

Others in Attendance (16)
Rep. Nancy Barto, Arizona
Rep. Ellen Brandom, Missouri
Keli Coleman, Eisai, Inc.
Rep. Kristin Conzet, South Dakota
Sen. Don East, North Carolina
April Grant, Forest Laboratories
Chris Oswald, Reed Elsevier
Rep. Bob Ramsey, Tennessee
Rep. Barbara Sears, Ohio
Jonathan Small, Oklahoma Insurance Department
Rep. Fred Steen, North Carolina
Rep. Amy Stephens, Colorado
Rep. Eric Turner, Indiana
Rep. Addia Wuchner, Kentucky
J.P. Wieske, Council for Affordable Health Insurance
Erik Woehrmann, Walgreens

Staff in Attendance (4)
Christie Herrera, ALEC HHS Task Force Director
Soren Kreider, ALEC HHS Intern
Monica Mastracco, ALEC HHS Legislative Assistant
Jonathan Moody, ALEC Director of Donor Relations

* * *
Meeting began at 9:30 a.m.
The meeting began with an introduction of the HHS Task Force Executive Committee; roundtable introductions of HHS Task Force meeting attendees; and approval of the minutes from ALEC’s 2010 Spring Task Force Summit.

HHS Task Force Director Christie Herrera updated task force members on ALEC’s Health Reform Initiative and recognized ALEC HHS Task Force legislators who introduced ALEC HHS models in 2010. Christie also introduced Monica Mastracco, the new HHS Legislative Assistant, welcoming her to the task force.

The HHS Task Force saw several presentations from ALEC members: Joe Guarino from the Alliance of Health Care Sharing Ministries discussed Virginia’s success with ALEC’s Freedom of Choice in Health Care Act; Sal Bianco of The Doctors Company presented “ALEC’s Taking the Best and the Federal Health Reform Debate;” and John Graham of Pacific Research Institute discussed his new book on “Medical Tort: Ranking in the 50 States.”

HHS Task Force members considered the Resolution on Point of Service Reimbursement, sponsored by Libby Brunsvold of AstraZeneca/MedImmune. After discussion, the Resolution on Point of Service Reimbursement was tabled.

HHS Task Force members considered the Patients First Medicaid Reform Act, sponsored by John Locke Foundation’s Joe Coletti. After discussion, John Graham of the Pacific Research Institute called the question, and Arlene Wohlgemuth from the Texas Public Policy Foundation seconded. The public sector vote was 11 Yes, 3 No; the private sector vote was 13 Yes, 5 No. The Patients First Medicaid Reform Act was approved.

HHS Task Force Members considered the Medication Therapy Management Services Act, sponsored by North Carolina Representative Jeff Barnhart and Gaspar Laca of GlaxoSmithKline. After discussion, North Carolina Representative Jeff Barnhart called the question, which was seconded. The public sector vote was 6 Yes, 7 No, and a private sector vote was not taken. The Medication Therapy Management Services Act failed.

Finally, HHS Task Force Members considered the Resolution on Improving Quality and Lowering Costs for State Through Medicaid Managed Care, sponsored by Georgia Senator Renee Unterman. After discussion, the question was called. The public sector vote was 8 Yes, 2 No; the private sector vote was 10 Yes, 1 No. The Resolution on Improving Quality and Lowering Costs for State Through Medicaid Managed Care was approved.

The meeting adjourned at 12:30 p.m.

* * *
Mission Statement

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

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

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

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

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

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

ALEC Spring Task Force Summit:

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

ALEC Annual Meeting:

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

ALEC States & Nation Policy Summit:

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

ALEC Academies:

**Academy Reimbursement Form:** Attendees of ALEC Academies are reimbursed by the Task Force Committee hosting the Academy. Attendees will receive a form at the Academy, and will be reimbursed up to $500.00 for travel, and room & tax fees for a two-night stay by ALEC. Receipts must be forwarded to the appropriate Task Force Director and approved by the Director of Policy.
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
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 operating cycle. 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. Nominations will be requested by the outgoing Task Force Private Sector Chair and may be placed in rank order prior to transmittal to the Chair of the Private Enterprise Board. The Chair and the immediate past Chair of the Private Enterprise Board will make the final selection, but should give strong weight to the recommendations of the outgoing Private Sector Task Force Co-Chair. In an effort to empower as many ALEC private sector members as possible, Private Enterprise State Chairs and members of the Private Enterprise Board will not be selected as Private Sector Task Force Co-Chairs. Private Sector Task Force Co-Chairs shall serve for one operating cycle term. Where special circumstances warrant, the current and immediate past Chair of the Private Enterprise Board may reappoint a Task Force Private Sector Chair to a second operating cycle term.

F. Prior to February 1 of each odd-numbered year, the Task Force Private Sector Co-Chair will select and appoint in writing the private sector members of the Task Force Executive Committee, who will serve for the current operating cycle. The Task Force Private Sector Co-Chair shall select and appoint in writing the private sector members of any subcommittees.
G. The Public and Private Sector Task Force Co-Chairs, may jointly appoint subject matter experts to serve as advisors to the Task Force. The National Chair and the Private Enterprise Board Chair may also jointly recommend to the Task Force Co-Chairs subject matter experts to serve as advisors to the Task Force.

VII. REMOVAL AND VACANCIES

A. The National Chair may remove any Public Sector Task Force Co-Chair from his position and any legislative member from a Task Force with or without cause. Such action will not be taken except upon thirty days written notice to such Chair or member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive Task Force meetings.

B. The Public Sector Task Force Co-Chair may remove any legislative member of an Executive Committee or subcommittee from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive meetings.

C. The Chairman of the Private Enterprise Board may remove any Private Sector Task Force Co-Chair from his position and any private sector member from a Task Force with cause. Such action shall not be taken except upon thirty days written notice to such Chair or member whose removal is proposed. For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues.

D. The Private Sector Task Force Co-Chair may remove any private sector member of an Executive Committee or subcommittee from his position with cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues.

E. The Public and Private Sector Task Force Co-Chairs may remove an advisor from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such advisor whose removal is proposed.

F. Any member or advisor may resign from his position as Public Sector Task Force Co-Chair, Private Sector Task Force Co-Chair, public or private sector Task Force member, Task Force advisor, Executive Committee member or subcommittee member at any time by writing a letter to that effect to the Public Sector and Private Sector Task Force Co-Chairs. The letter should specify the effective date of the resignation, and if none is specified, the effective date shall be the date on which the letter is received by the Public and Private Task Force Co-Chairs.
G. All vacancies for Public Sector Task Force Co-Chair, Private Sector Task Force Co-Chair, Executive Committee member and subcommittee member shall be filled in the same manner in which selections are made under Section VI. All vacancies to these positions must be filled within thirty days of the effective date of the vacancy.

VIII. MEETINGS

A. Task Force meetings shall only be called by the joint action of the Public and Private Sector Task Force Co-Chairs. Task Force meetings cannot be held any earlier than thirty-five days after being called, unless an emergency situation has been declared pursuant to Section VIII(H), in which case Task Force meetings cannot be held any earlier than ten days after being called. It is recommended that, at least once a year, the Task Forces convene in a common location for a joint Task Force Summit. Executive Committee meetings shall only be called by the joint action of the Public and Private Sector Task Force Co-Chairs and cannot be held any earlier than three days after being called, unless the Executive Committee waives this requirement by unanimous consent.

B. At least forty-five days prior to a task force meeting any model bill, resolution or policy must be submitted to ALEC staff that will be voted on at the meeting. At least thirty-five days prior to a Task Force meeting, ALEC staff shall distribute copies of any model bill, resolution or policy statement that will be voted on at that meeting. This requirement does not prohibit modification or amendment of a model bill, resolution or policy statement at the meeting. This requirement may be waived if an emergency situation has been declared pursuant to Section VIII(H).

C. All Task Force meetings are open to registered attendees and invited guests of ALEC meetings and conferences. Only regular Task Force Members may introduce any resolution, policy statement or model bill. Only Task Force members will be allowed to participate in the Task Force meeting discussions 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:
  o History of Task Force action
  o Previous ALEC official action/resolutions
  o Issue before the board
  o 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.
MEMORANDUM

TO: HEALTH AND HUMAN SERVICES TASK FORCE MEMBERS
FROM: CHRISTIE HERRERA, HHS TASK FORCE DIRECTOR
RE: 35-DAY MAILING—HHS TASK FORCE MEETING AT ALEC’s 2011 STATES AND NATION POLICY SUMMIT, PHOENIX, AZ
DATE: OCTOBER 27, 2011

Overview of ALEC’s 2011 States and Nation Policy Summit
The American Legislative Exchange Council will hold its 2011 States and Nation Policy Summit (SNPS) from November 30-December 2 at the Westin Kierland Resort & Spa in Scottsdale, Arizona. A SNPS agenda and hotel registration page are now online.

Click here to register for the 2011 States & Nation Policy Summit. If you need assistance with online registration, contact Briana Mulder at (202) 742-8507 or bmulder@alec.org. A registration form is also enclosed if you prefer to register by fax.

Preliminary HHS Agenda at ALEC’s 2011 States and Nation Policy Summit
Below is a tentative agenda of HHS-related activities at ALEC’s 2011 States and Nation Policy Summit:

Wednesday, November 30
11:30 a.m.-1:15 p.m.
Opening Luncheon (sponsored by Novartis)
3:00-4:15 p.m.
HHS Workshop (topic and panel TBD)

Thursday, December 1
2:30-4:00 p.m.
Special Panel Discussion: “What You Can Learn from Arizona’s Health Reforms” with U.S. Health Care Freedom Coalition Chairman Eric Novack (invited); Arizona Senator Nancy Barto; and Former Arizona Congressman John Shadegg (invited)

Friday, December 2
9:30-10:45 a.m.
HHS Workshop (topic and panel TBD)
2:00-5:00 p.m.
HHS Task Force Meeting

About ALEC’s 35-Day Mailing
If you choose to receive 35-Day Mailings via “snail mail,” please contact Sean Riley at 202-742-8541 or at sriley@alec.org. We will assume that you prefer the 35-Day Mailing e-mailed to you unless you indicate otherwise.

Enclosed Materials
Please find the following HHS briefing materials enclosed. Please note that an HHS Task Force roster
is not included in this mailing; however, HHS Task Force members can request a copy at any time by e-mailing Sean Riley (sriley@alec.org).

- Faxable registration form for ALEC’s 2011 States and Nation Policy Summit
- Agenda-At-A-Glance for ALEC’s 2011 States and Nation Policy Summit
- Tentative Agenda for the HHS Task Force Meeting at ALEC’s 2011 States and Nation Policy Summit

- Potential Model Legislation (in order of submission):
  - *Medicaid Managed Long-Term Care Services and Supports Act*, sponsored by Pam Perry, Amerigroup
  - *Resolution Urging States and Interested Parties to Partner and Identify Opportunities to Address and Reduce Prescription Drug Abuse and Misuse*, sponsored by Candie Phipps, Endo Pharmaceuticals
  - *Health Care Equitable Payment Act*, sponsored by Jane Orient, Association of American Physicians and Surgeons
  - *Resolution Ensuring Patient Protections Remain in Place in Medicaid Pharmacy Benefits*, sponsored by Iowa Representative Linda Miller
  - *Standards for Health Care Communication Act*, sponsored by Josh Brown, Pfizer

- Draft Minutes from the HHS Task Force Meeting at ALEC’s 38th Annual Meeting
- ALEC’s Mission Statement/Scholarship Policy by Meeting Task Force Operating Procedures

**Questions?**
I look forward to seeing everyone in Phoenix. If you have any questions or comments regarding the meeting, please contact me at (202) 742-8505 or at christie@alec.org. Thank you for all you do to make ALEC a great organization for great health care policy!
**2011 ALEC STATES AND NATION POLICY SUMMIT**
November 30 – December 2, 2011
The Westin Kierland Hotel
6902 E. Greenway Parkway • Scottsdale, AZ 85254

**ATTENDEE REGISTRATION / HOUSING FORM**
Early registration deadline: November 7, 2011
Housing cut-off date: November 7, 2011

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<th>Attendee Information</th>
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**REGISTRATION INFORMATION**

**Registration Fees**

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<tr>
<td>□ Legislative Staff / Government $400 $500 $245</td>
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<tr>
<td>□ ALEC Alumni $425 $525 $235</td>
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<tr>
<td>□ ALEC Legacy Member $0 $0 $0</td>
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For Daily Registration, circle which day: Wed. Thu. Fri

**REGISTRATION FEE:** $331-1344

**DISCOUNT** You are eligible for $50 discount on registration fee if you are registering and booking accommodations in ALEC’s room block at The Westin Kierland Hotel before November 7, 2011. Hotel reservations will be verified for those who receive discounted rate. If you receive a discount and later cancel your Westin room reservation, you will be charged (or you will be invoiced) an additional $50 for your registration fee after the meeting.

**METHOD OF REGISTRATION PAYMENT**

**Credit Card:** Credit cards will be charged immediately.

**Amer Express** □ Visa □ MasterCard □ Discover

**Card #**

**Cardholder (please print)**

**Exp Date (mm/yy)** / **Signature**

**REGISTRATION CANCELLATION / REFUND INFORMATION**

Registrations canceled prior to 5:00 pm Eastern November 7, 2011 are subject to a $100 cancellation fee. Registrations are non-refundable after 5:00 pm Eastern November 7, 2011. Registration fees may be transferred from one registrant to another.

All refund requests must be made in writing and sent via email to meetings@alec.org or fax to 202-331-1344.

**HOUSING RESERVATION CUTOFF FOR ALEC DISCOUNTED RATE IS NOVEMBER 7, 2011**

**Save $50 on registration by booking your hotel room in ALEC’s room block at The Westin Kierland Hotel**

**I do not require a reservation at this time.**

**Arrival Date**

**Departure Date**

**Sharing room with**

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<td>$308</td>
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* All rates DO NOT include sales tax 12.27% (subject to change)

**Note:** Cutoff for reservations at the ALEC rate is November 7, 2011. After November 7, 2011, every effort will be made to accommodate new reservations, based on availability and rate.

**METHOD OF HOUSING PAYMENT**

**Please use the same method of payment as above.**

**Credit Card:** Credit Cards will be used to guarantee the reservation.

**Amer Express** □ Visa □ MasterCard □ Discover

**Card #**

**Cardholder (please print)**

**Exp Date (mm/yy)** / **Signature**

**HOUSING CANCELLATION / REFUND INFORMATION**

Credit cards will be charged one night room and tax in the event of a no show or if cancellation occurs within 72 hours prior to arrival. Please obtain a cancellation number when your reservation is cancelled.
**SPouse/Guest Registration Form**

**Attendee Information is Required to Register a Spouse or Guest**

Last Name __________________________________________________ First Name __________________________________________________

Organization: ______________________________________________________________________________________________________

Daytime Phone: ______________________________________________________________________________________________________

Email: ______________________________________________________________________________________________________________

(Date Confirmation will be sent by email)

**Spouse/Guest Registration Guidelines**

1. Spouse/guest registration is meant to accommodate legal spouse and immediate family members.
2. Attendees from the same organization must register independently. No exception will be made.
3. Spouse/guest designation will be clearly visible on name badge.

**Spouse/Guest Registration Fees**

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<th>Total</th>
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<td>$______</td>
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**Method of Spouse/Guest Registration Payment**

Credit Card: Credit cards will be charged immediately. Please fax to the above number for processing.

- □ Amer Express
- □ Visa
- □ MasterCard

Card # ____________________________________________

Cardholder (please print) ____________________________________________

Exp Date (mm/yy) _______/______ Signature ____________________________

**Registration Confirmation Information**

Online registrants will receive immediate email confirmation. If registering by form, confirmation will be emailed within 72 hours of receipt of payment.

**Registration Cancellation/Refund Information**

Registrations cancelled prior to 5pm Eastern November 7, 2011 are subject to a $100 cancellation fee. Registrations are non-refundable after 5pm Eastern November 7, 2011.
Tuesday, November 29th
Joint Board of Directors Meetings 7:30 am – 5:00 pm
Registration 12:00 pm – 5:00 pm
ALEC Joint Board Reception and Dinner 6:00 pm – 9:30 pm

Wednesday, November 30th
Registration 7:30 am – 5:00 pm
Task Force Subcommittee Meetings 8:00 am – 11:30 am
Exhibits 9:00 am – 5:00 pm
State Chairs Meeting 9:00 am – 11:00 am
New Legislator Orientation 10:15 am – 11:15 am
Opening Plenary Luncheon 11:30 am – 1:15 pm
Task Force Chairs Meeting 1:30 pm – 2:45 pm
Workshops 1:30 pm – 4:15 pm
Welcome Reception 6:30 pm – 8:30 pm

Thursday, December 1st
Registration 7:30 am – 5:00 pm
Plenary Breakfast 8:00 am – 9:15 am
Exhibits 9:00 am – 5:00 pm
Workshops 9:30 am – 12:15 pm
Plenary Luncheon 12:30 pm – 2:15 pm
Task Force Meeting:
- Civil Justice
- Commerce, Insurance, and Economic Development
- Education
- Telecommunications and Information Technology

National Chairman’s Reception, by Invitation Only 5:30 pm – 6:30 pm
Gala Holiday Reception 6:30 pm – 8:30 pm
Hospitality Suite 9:00 pm – 11:00 pm
Friday, December 2nd
Registration 7:30 am – 2:30 pm
Plenary Breakfast 8:00 am – 9:15 am
Exhibits 9:00 am – 5:00 pm
Workshops 9:30 am – 12:15 pm
Plenary Luncheon 12:30 pm – 1:45 pm
Task Force Meetings:
- Energy, Environment and Agriculture
- Health and Human Services
- International Relations
- Public Safety and Elections
- Tax and Fiscal Policy
State Delegation Night
Beginning at 6:30 pm
Health and Human Services Task Force Meeting
ALEC’s 2011 States and Nation Policy Summit
Friday, December 2, 2011
2:00-5:00 p.m.

TENTATIVE AGENDA

2:00 p.m. Welcoming Remarks
Roundtable Introduction of Task Force Members and Guests
Recognition of New and Returning ALEC Private Sector Members
Introduction of ALEC HHS Executive Committee for 2011-12
Approval of Minutes from ALEC’s 38th Annual Meeting
Update on ALEC HHS Model Legislation in the 2011 Session
Wisconsin Senator Leah Vukmir, HHS Public Sector Chair
Marianne Eterno, Guarantee Trust Life Insurance, HHS Private Sector Chair

2:30 p.m. SPECIAL PRESENTATIONS
Utah State Employees and Health Savings Accounts: A Promising Approach
Representative Brad Daw, District 60, Utah House of Representatives

2:50 p.m. PPACA Update: Data Collection and Privacy Concerns
Joan Gardner, Blue Cross Blue Shield Association

3:00 p.m. Florida’s Healthcare Reforms: Success in the Sunshine State
Tarren Bragdon, Florida Foundation for Government Accountability

3:20 p.m. MODEL LEGISLATION: DISCUSSION AND VOTING
(NOTE: Model legislation is considered in order of submission. Any model legislation not considered at this meeting will be considered at ALEC’s 2012 Spring Task Force Summit.)

- Medicaid Managed Long-Term Care Services and Supports Act, sponsored by Pam Perry, Amerigroup

- Resolution Urging States and Interested Parties to Partner and Identify Opportunities to Address and Reduce Prescription Drug Abuse and Misuse, sponsored by Candie Phipps, Endo Pharmaceuticals

- Health Care Equitable Payment Act, sponsored by Jane Orient, Association of American Physicians and Surgeons

- Resolution Ensuring Patient Protections Remain in Place in Medicaid Pharmacy Benefits, sponsored by Iowa Representative Linda Miller

- Standards for Health Care Communication Act, sponsored by Josh Brown, Pfizer

5:00 p.m. Good of the Order/Adjournment
SUMMARY
This Act implements a coordinated and capitated long-term care program for Medicaid beneficiaries who are chronically ill or who have disabilities and need health and long-term care services and supports, such as home care or adult day care. The program will allow these people to stay in their homes and communities as long as possible, and delay the transition to institutional care. The plan arranges and pays for a large selection of health and social services, and provides choice and flexibility in obtaining needed services from one place, at a lower cost than under a Medicaid fee-for-service program.

MODEL LEGISLATION
Section 1. Short Title. This Act shall be known as the “Medicaid Managed Long-Term Services and Supports Act.”

Section 2. Definitions.
A. Eligible Medicaid beneficiaries means the following:

1. Frail elders (ages 60+) who are receiving 1915(c) Medicaid waiver services;

2. Adults with physical disabilities (ages 18-64) who are receiving Medicaid home and community based waiver services;

3. Children (ages 3-17) with physical disabilities who are receiving Medicaid home and community based waiver services;

4. Individuals who are dually eligible under the Medicaid program and the Medicare program established under Title XVIII of the Social Security Act, 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended; and

5. Medicaid consumers with a nursing facility level of care, or at risk for needing a nursing facility level of care.

B. Eligible services include acute care, including medical, pharmacy, dental, and behavioral health services, and the following long-term care services and supports:

1. Nursing facility care;

2. Services provided in assisted living facilities;

3. Hospice;

4. Adult day care;

5. Medical equipment and supplies;

6. Personal care;
7. Home accessibility adaptation;
8. Behavior management;
9. Case management;
10. Therapies, to include:
    a. Occupational therapy;
    b. Speech therapy;
    c. Respiratory therapy; and
    d. Physical therapy;
11. Intermittent and skilled nursing;
12. Medication administration;
13. Medication management;
14. Nutritional assessment and risk reduction;
15. Caregiver training;
16. Respite care;
17. Transportation; and
18. Personal emergency response system.

Section 3. The {insert state department of health and human services} shall establish a capitated Medicaid long-term services and supports coordinated care program. The department shall make payments for long-term care, including home and community-based services, using a managed care model.

The {insert state department of health and human services} shall submit, if necessary, applications to the United States Department of Health and Human Services for waivers of federal Medicaid requirements that would otherwise be violated in the implementation of the system, and shall consolidate current home and community based waivers where appropriate. The {insert state department of health and human services} shall ensure that all participants are enrolled in health insuring corporations under contract with the {insert state department of health and human services} pursuant to the appropriate section of the state code. The program shall be statewide, fully integrated, and risk based; shall integrate Medicaid-reimbursed primary, acute, and long-term care services; and shall align incentives to ensure the right care is delivered in the most appropriate place and time.
In designing the program, the {insert state department of health and human services} shall ensure that the program:

A. Reduces fragmentation and offers a seamless approach to meeting people’s needs;

B. Delivers needed supports and services in the most integrated, appropriate, and cost-effective way possible;

C. Offers a continuum of acute and long-term care services, which includes an array of home and community-based options including community-based residential alternatives;

D. Includes a comprehensive quality approach across the entire continuum of long-term care services; and

E. Consults stakeholders in the program development process.

Section 4. {Severability Clause}
Section 5. {Repealer Clause}
Section 6. {Effective Date}
RESOLUTION URGING STATES AND INTERESTED PARTIES TO PARTNER AND IDENTIFY OPPORTUNITIES TO ADDRESS AND REDUCE PRESCRIPTION DRUG ABUSE AND MISUSE (DRAFT, DECEMBER 2, 2011)

SUMMARY
This resolution calls on state officials, prescribers, pharmacists, school-based organizations, and manufacturers of branded and generic prescription medications to partner and evaluate existing efforts aimed at deterring prescription drug abuse; to determine the effectiveness of current efforts; and to make recommendations to the state on best practices for combating abuse while ensuring that access is not restricted for those individuals who are in need of prescription medications.

MODEL RESOLUTION
WHEREAS, Prescription drug abuse and misuse is an increasing public health concern in the United States; and

WHEREAS, A balanced approach to preventing prescription drug abuse must ensure sufficient access to medications for patients with a legitimate medical need; and

WHEREAS, Prescription drugs account for the second most commonly abused category of drugs, behind marijuana and ahead of cocaine, heroin, methamphetamine, and other drugs; and

WHEREAS, The misuse and abuse of prescription drugs has become increasingly prevalent among teens and young adults. For example, among 12-17 year olds, prescription drug abuse took either first or second place in abuse prevalence; and

WHEREAS, While opioids, stimulants, and central nervous system depressants are properly used by millions of people, the misuse and abuse of these products are imposing increasing costs on individuals, families, and society; and

WHEREAS, The personal and financial toll of prescription drug abuse and misuse are negatively impacting the states through law enforcement constraints, drug treatment costs, and incarceration costs; and

WHEREAS, Efforts to reduce prescription drug abuse should not negatively impact a patient’s access to necessary and prescribed drug treatments.

NOW THEREFORE BE IT RESOLVED THAT, Officials in {insert state} are encouraged to partner with prescribers, pharmacists, school-based organizations, and manufacturers of branded and generic prescription medications to evaluate existing efforts at deterring prescription drug abuse; determine the effectiveness of current efforts; and make recommendations to the state on best practices for combating abuse while ensuring that access is not restricted for those individuals who are in need of prescription medications.
HEALTH CARE EQUITABLE PAYMENT ACT  
(DRAFT, DECEMBER 2, 2011)

SUMMARY
This Act allows puts certain guidelines in place to prevent third-party payers from engaging in discriminatory payment practices with independent healthcare providers and self-paying patients.

BACKGROUND
Medical Savings Accounts (MSAs) were introduced largely due to the efforts of the late J. Patrick Rooney, whose Golden Rule Insurance Co. had experimented with high-deductible health insurance policies offering greater control and freedom of choice for patients.

There were to be no restrictions concerning which physician, which hospital, or which form of treatment was elected. This is consistent with economic principles where the buyer and seller freely compete for goods and services without third party intervention, thus providing for the best and most economical method of purchase of medical services.

Another important aspect of MSAs was the projected growth of cash balances over the years, as judicious use would likely allow excess funds to accumulate.

A restricted form of the idea, Health Savings Accounts (HSAs), enacted into federal law, permits a federal tax advantage.

The concept should have been a great success in reducing spending and prices, while expanding freedom of choice. However, success has been greatly limited, largely because of discrimination against self-paying patients, or patients using an out-of-network provider. Hospitals have a practice of charging 400% to 1,000% of their baseline rates to these non-preferred consumers.

Thus, even if a patient using an HSA plus a high-deductible health plan (HDHP) should receive a 25% discount after being subjected to a 400% increase, he would still be paying 300%, or three times the amount the hospital willingly accepts from contracted insurers. If a 1,000% charge rate were to be used, a 25% reduction would result in the individual paying 750%, or 7.5 times as much as multi-billion-dollar insurance cartels pay for the same service.

As other large insurers developed HSAs and HDHPs, they tied them to in-network “providers,” negating their most important purpose, to provide complete freedom to choose one’s physician and hospital by using one’s own money.

Third-party payers are now punishing their subscribers for seeking out-of-network physicians, even in the event of a medical emergency. If a patient has met his in-network deductible for the year, but is subsequently treated by an out-of-network physician, a whole new deductible applies—often a larger one. Additionally, the percentage copay is always higher for the out-of-network physician, even if he was the only one available in an emergency.

Worse, it is not based upon the billed charges, but rather upon the “usual and customary rates” (UCR). These rates have absolutely nothing to do with actual rates charged by physicians, but rather, are numbers that vary widely from one company to another, and can be
essentially whatever the company decides they should be. There is no way for the subscriber/patient to know in advance what the UCR is, because his insurer refuses to divulge this information.

Another major problem with third-party payment is that it is much lower for surgery performed in a physician-owned outpatient surgery center, or for imaging studies or other procedures done in independent facilities, than for exactly the same procedures performed in hospital-owned facilities. This payment scheme discriminates against truly independent practitioners and stifles competition. It promotes the formation of cartels, contrary to the purpose of the Sherman Antitrust legislation.

Discriminatory payment is threatening the viability of independent physicians and facilities. The Patient Protection and Affordable Care Act apparently realizes this, and prohibits hospitals that claim tax benefits under Section 501(c)(3) from charging certain uninsured patients “more than the amounts generally billed to individuals who have insurance covering such care.” 26 U.S.C. Section 501(r)(5).

MODEL LEGISLATION
Section 1. Short Title. This Act shall be known as “Health Care Equitable Payment Act.”

Section 2. Antitrust.
A. Any express or implied agreement with an insurance company concerning prices charged to the self-paying patient or out-of-network patient shall constitute unlawful restraint of trade and be actionable.

B. For state accreditation, hospitals must modify their nondiscrimination policy to include self-insured patients. For example: “The hospital must not discriminate on the basis of age, gender, race, ethnicity, national origin, sexual orientation, disability, or payment method.”

Section 3. Prohibition of State Discrimination Against Independent Providers.
A. No state-funded benefits programs, including but not limited to worker’s compensation, Medicaid, or state employee benefits, shall pay more to favored providers such as hospitals or hospital-owned facilities than to independent physicians or facilities for equivalent services.

Section 4. Protection of the Right of Private Contract of Individuals.
A. Any agreement, understanding, or practice, written or oral, implied or expressed, between any hospital and insurance company that shifts higher costs to the self-paying patient is hereby declared to be unlawful, null and void, and of no legal effect. (Drafting Note: This prevents insurers from interfering with the free bargaining between an individual and a hospital, and is analogous to “right-to-work” legislation.)

B. Hospitals that claim tax benefits under Section 501(c)(3) must offer self-insured or self-paying patients, including those with HSA/HDHPs, billing rates that are comparable to those that the hospital generally accepts from insurance companies.

C. No hospital or medical facility may refuse to accept payment from a patient based directly or indirectly on a contract with an insurance company. (Drafting Note: This prevents insurers from interfering in the right of hospitals to offer and be paid by patients for services that are “covered” but denied.)
Section 5. {Severability Clause}
Section 6. {Repealer Clause}
Section 7. {Effective Date}
RESOLUTION ENSURING PATIENT PROTECTIONS REMAIN IN PLACE IN MEDICAID PHARMACY BENEFITS (DRAFT, DECEMBER 2, 2011)

SUMMARY
This resolution urges state officials to implement certain safeguards and patient protections if the state’s Medicaid pharmacy benefits are transitioned from a fee-for-service setting to managed care.

MODEL RESOLUTION
WHEREAS, Medicaid provides health care and prescription drug coverage to the state’s most vulnerable patients; and

WHEREAS, Budgetary pressures and changes brought about by the Patient Protection and Affordable Care Act are causing some states to consider changing the way their state’s Medicaid pharmacy benefit is delivered; and

WHEREAS, An increasing number of states are shifting their Medicaid pharmacy benefit from a fee-for-service (FFS) model to a Medicaid managed care model (MCO); and

WHEREAS, It is critical that the preferred drug list (PDL) requirements and protections currently afforded patients in FFS remain in place as states make changes to their Medicaid pharmacy benefit; and

WHEREAS, Such PDL requirements and patient protections will help ensure continued access to and quality of care for Medicaid patients whose pharmacy benefit is shifted to Medicaid managed care; and

WHEREAS, Important patient protections currently exist in states that employ a FFS Medicaid pharmacy benefit model as required by Section 1927 of the Social Security Act; and

WHEREAS, Section 1927 of the Social Security Act generally requires, at a minimum, that there be open Pharmacy and Therapeutics (P&T) Committee meetings; that any prior authorization (PA) requests be responded to within 24 hours; and also requires coverage of branded products where a Medicaid rebate is offered and sets forth minimum PDL requirements; and

WHEREAS, Section 1927(d)(5)(B) of the Social Security Act allows for PAs only if the approval system in place can provide a response to the request, by phone or other telecommunications device, within 24 hours. In addition, pursuant to section 1927, states are required to provide for the dispensing of at least a 72-hour supply of a drug in emergency situations. These protections are no less important, or meaningful, in managed Medicaid; and

WHEREAS, Prescription drug coverage plays a critical role in a patient’s overall treatment, and ensuring that sufficient therapeutic options are available is important to the quality of patient care; and

WHEREAS, Physicians are best able to make treatment decisions for their patients based on the patient’s medical history, drug history, and physical and/or mental condition; and
WHEREAS, Physicians should ultimately determine the prescription drug therapy, or other treatment, that is best for their patient; and

WHEREAS, Medicaid patients shifted to Medicaid managed care should receive at least the same coverage of and access to prescription drugs as they received under FFS; and

WHEREAS, An independent and transparent P&T Committee that meets certain minimum requirements is essential to helping ensure robust formulary coverage and sufficient access to meet patient needs; and

WHEREAS, While formulary management tools can provide an effective means to help ensure appropriate drug utilization and manage costs, it is important that such tools not create barriers to access. P&T Committees can play an important role in monitoring and appropriately implementing formulary management tools; and

WHEREAS, In order to help prevent formulary management tools—like prior authorization, step therapy, or generic “fail first”—from limiting physician choice and decision-making, it is important that certain guidelines for their implementation be established.

NOW THEREFORE IT BE RESOLVED THAT, {Insert state} should be free to choose how the Medicaid pharmacy benefit is delivered as long as the state has strong and specific patient protections in place that, among other things, respect the prescriber’s treatment recommendation(s) and ensure coverage of and access to a broad range of generic and branded prescription drug therapies; and

BE IT FURTHER RESOLVED THAT, {Insert state legislative body} urges adoption of the following criteria, if {insert state}’s Medicaid pharmacy benefit is shifted to the MCO setting:

1. The PDL for the Medicaid MCO is no more restrictive than the state’s FFS PDL;

2. The MCO PDL is developed and reviewed by an independent P&T Committee;

3. A P&T Committee reviews the MCO’s medication therapy management tools for appropriateness;

4. MCOs adopt a fair, transparent and uniform process for handling PAs and appeals; and

5. Physicians are empowered to make the final decision regarding the best course of therapy for their patients; and

BE IT FURTHER RESOLVED THAT, {Insert state}’s Medicaid officials examine the Texas and Florida models, which have been successful in working to implement important patient protections and safeguards.
STANDARDS FOR HEALTH CARE COMMUNICATION ACT
(DRAFT, DECEMBER 2, 2011)

SUMMARY
This Act ensures that academic detailers are bound to the same standards and rules as those in the private sector. “Academic detailing” is comprised of prescriber outreach programs typically funded by the government or by universities.

Section 1. This Act may be cited as the “Standards for Health Care Communication Act.”

Section 2. Legislation.
A. Academic detailers shall observe standards of conduct in their educational materials and written and oral presentations as established by rules adopted by the appropriate state department or agency that are consistent with the following federal regulations regarding labeling and false and misleading advertising:

1. The Food and Drug Administration labeling requirements of 21 Code of Federal Regulations;

2. Part 201 (2007) and prescription drug advertising provisions of 21 Code of Federal Regulations; and


Section 3. {Severability Clause}
Section 4. {Repealer Clause}
Section 5. {Effective Date}
Legislative Members in Attendance (44)
Legislative Alternates in Attendance (2)
Private Sector Members in Attendance (48)
Invited Guests in Attendance (2)
Others in Attendance (89)
Staff in Attendance (4)

***
Meeting began at 2:30 p.m.

The meeting began with a welcoming remarks to the HHS Task Force by Public Sector Chair, Wisconsin Senator Leah Vukmir, and Private Sector Chair, Marianne Eterno of Guarantee Trust Life Insurance; roundtable introductions of HHS Task Force meeting attendees; recognition of new and returning ALEC private sector members; introduction of ALEC HHS Executive Committee for 2011-2012; and approval of the minutes from ALEC’s 2011 Spring Task Force Summit.

The HHS Task Force saw a special presentation by Terry Jennings of Reed Elsevier on Medicaid fraud.

The HHS Task Force saw a special presentation by Joan Gardner of Blue Cross Blue Shield Association on rate review and the health insurance tax in PPACA.

The HHS Task Force saw a special presentation by Nick Dranias of the Goldwater Institute on the SCOTUS decision in Bond v. United States and its implications for federalism.

HHS Task Force members considered the Health Care Equitable Reimbursement Act, sponsored by Jane Orient of the Association of American Physicians and Surgeons. After discussion, the Health Care Equitable Reimbursement Act was tabled for discussion at a later meeting.

HHS Task Force members considered the Resolution Urging States and Manufacturers of Prescription Medications to Partner and Identify Opportunities to Address and Reduce Prescription Drug Abuse and Misuse, sponsored by Candie Phipps of Endo Pharmaceuticals. HHS Task Force Members considered amendments to the resolution. After discussion, the public sector vote on the amendments was 22 Yes, 8 No; the private sector vote was 32 Yes, 3 No. The amendments to the resolution were adopted. After discussion on the amended resolution, the Resolution Urging States and Manufacturers of Prescription Medications to Partner and Identify Opportunities to Address and Reduce Prescription Drug Abuse and Misuse was adopted.
was tabled for discussion at a later meeting.

HHS Task Force members considered the Resolution Against PPACA Health Insurance Exchanges, sponsored by Arizona Senator Nancy Barto. HHS Task Force members considered amendments to the resolution. After discussion, the public sector vote on the amendments was 31 Yes, 0 No; the private sector vote was 19 Yes, 2 No. The amendments to the resolution were adopted. After discussion on the amended resolution, the public sector vote was 25 Yes, 9 No; the private sector vote was 20 Yes, 7 No. The Resolution Against PPACA Health Insurance Exchanges was approved.

HHS Task Force members considered the State Employee Health Savings Account Act, sponsored by Amanda Griffin-Johnson of the Illinois Policy Institute. After discussion, the public sector vote was 27 Yes, 0 No; the private sector vote was 27 Yes, 0 No. The State Employee Health Savings Account Act was approved.

HHS Task Force members considered the Resolution Supporting Choices for Americans with Disabilities, sponsored by Daryn Demeritt of ResCare. HHS Task Force Members considered amendments to the resolution. After discussion, the amendments were adopted by voice vote by both the public and private sector members. After discussion, the amended Resolution Supporting Choices for Americans with Disabilities was approved by voice vote by both the public and private sector members.

Finally, HHS Task Force Members considered the Health Care Compact Act, sponsored by Arlene Wohlgemuth of the Texas Public Policy Foundation. After discussion, the public sector vote was 20 Yes, 1 No; the private sector vote was 17 Yes, 6 No. The Health Care Compact Act was approved.

The meeting adjourned at 5:40 p.m.

***
Mission Statement

The American Legislative Exchange Council’s mission is…

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

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

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

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

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

ALEC Spring Task Force Summit:

1. **Spring Task Force Summit Reimbursement Form**: ALEC Task Force Members are reimbursed by ALEC up to $350.00 for travel expenses. Receipts must be forwarded to the ALEC Policy Coordinator and approved by the Director of Policy.

2. ALEC Task Force Members’ room & tax fees for up to a two-night stay at the host hotel are covered by ALEC.

3. Registration fees are not covered; however, Task Force Members may submit registration expenses for payment from their state scholarship account upon approval of the State Chair.

4. **Official Alternate Task Force Members** (chosen by the State Chair and whose names are given to ALEC more than 35 days prior to the meeting to serve in place of a Task Force Member who cannot attend) are reimbursed in the same manner as Task Force Members.

5. **State Scholarship Reimbursement Form**: Any fees above the set limit, or expenses other than travel and room expenses can be submitted by Task Force Members for payment from their state scholarship account upon the approval of the State Chair. Receipts must be submitted to the State Chair, who will submit the signed form to the Director of Membership.

6. **Non-Task Force Members** can be reimbursed out of the state scholarship fund upon State Chair approval. Receipts must be submitted to the State Chair, who will submit the appropriate signed form to the Director of Membership.

ALEC Annual Meeting:

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

ALEC States & Nation Policy Summit:

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

2. **State Scholarship Reimbursement Form**: Any other fees or payments must come out of the state scholarship account, with the approval of the State Chair. Receipts must be submitted to the State Chair, who submits the signed form to the Director of Membership.

ALEC Academies:

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

TASK FORCE OPERATING PROCEDURES

I. MISSION OF TASK FORCES

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

II. TASK FORCE RESPONSIBILITIES

A. Task Forces have the primary responsibility for identifying critical issues and developing ALEC’s official policy statements and model legislation appropriate to the specific subject areas of the Task Force.

B. Task Forces serve as forums for an exchange of ideas and sharing of experiences between ALEC’s state legislator and private sector members.

C. Task Forces are responsible for developing and sponsoring the following educational activities appropriate to the specific subject area of the Task Force:

- publications that express policy positions, including, but not limited to State Factors and Action Alerts;
- educational communication and correspondence campaigns;
- issue specific briefings, press conferences and press campaigns;
- witness testimony and the activities of policy response teams;
- workshops at ALEC’s conferences; and
- specific focus events.

D. The Executive Director is to develop an annual budget, which shall include expenses associated with Task Force meetings and educational activities. A funding mechanism to finance all meetings and educational activities proposed by Task Forces must be available before they can be undertaken.
III. GENERAL PROCEDURES

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

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

If both the Co-Chairs of a Task Force are in agreement that they should have jurisdiction on model legislation or a resolution, the legislation or resolution will be considered by the Task Force. If the other Task Force Co-Chairs believe they should have jurisdiction or if the author of the model bill or resolution does not agree on the jurisdictional assignment of the bill, they will have 10 days after the 35-day mailer deadline to submit in writing or by electronic appeal to the Director of Policy their intent to challenge the jurisdictional 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. If a Task Force is unable to develop an operating budget, the Board of Directors will determine whether to continue the operations of the Task Force. This determination will be made according to: (1) the level of membership on the Task Force, and (2) the need for continued services developed by the Task Force for ALEC.

F. The Board of Directors shall have the authority to allocate limited general support funds to finance the annual operating budget of Task Forces that meet the requirements prescribed in Section III (E). The Executive Director shall determine, and report to the Board of Directors, the amount of general support funds available to underwrite such Task Forces.

IV. MEMBERSHIP AND MEMBER RESPONSIBILITIES

A. The membership of a Task Force consists of legislators who are members in good standing of ALEC and are duly appointed to the Task Force, in accordance with Section VI (A) and private sector organizations that are full members of ALEC, contribute to the assessment for the Task Force operating budget, and are duly appointed to the Task Force, in accordance with Section VI (B). Private sector organizations that were full members of ALEC and contributed the assessment for the Task Force’s operating budget in the previous year, can be appointed to the Task Force for the current year, conditional upon renewal of full ALEC membership and receipt of the current year’s assessment for the Task Force operating budget prior to March 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

Revised May 2009 & Bold added September 2011
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.

Revised May 2009 & Bold added September 2011
VII. REMOVAL AND VACANCIES

A. The National Chair may remove any Public Sector Task Force Co-Chair from his position and any legislative member from a Task Force with or without cause. Such action will not be taken except upon thirty days written notice to such Chair or member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive Task Force meetings.

B. The Public Sector Task Force Co-Chair may remove any legislative member of an Executive Committee or subcommittee from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive meetings.

C. The Chairman of the Private Enterprise Board may remove any Private Sector Task Force Co-Chair from his position and any private sector member from a Task Force with cause. Such action shall not be taken except upon thirty days written notice to such Chair or member whose removal is proposed. For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues.

D. The Private Sector Task Force Co-Chair may remove any private sector member of an Executive Committee or subcommittee from his position with cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues.

E. The Public and Private Sector Task Force Co-Chairs may remove an advisor from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such advisor whose removal is proposed.

F. Any member or advisor may resign from his position as Public Sector Task Force Co-Chair, Private Sector Task Force Co-Chair, public or private sector Task Force member, Task Force advisor, Executive Committee member or subcommittee member at any time by writing a letter to that effect to the Public Sector and Private Sector Task Force Co-Chairs. The letter should specify the

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

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

VIII. MEETINGS

A. Task Force meetings shall only be called by the joint action of the Public and
Private Sector Task Force Co-Chairs. Task Force meetings cannot be held any
earlier than thirty-five days after being called, unless an emergency situation
has been declared pursuant to Section VIII (H), in which case Task Force
meetings cannot be held any earlier than ten days after being called. It is
recommended that, at least once a year, the Task Forces convene in a common
location for a joint Task Force Summit. Executive Committee meetings shall
only be called by the joint action of the Public and Private Sector Task Force
Co-Chairs and cannot be held any earlier than three days after being called,
unless the Executive Committee waives this requirement by unanimous
consent.

B. At least forty-five days prior to a task force meeting any model bill, resolution
or policy must be submitted to ALEC staff that will be voted on at the meeting.
At least thirty-five days prior to a Task Force meeting, ALEC staff shall
distribute copies of any model bill, resolution or policy statement that will be
voted on at that meeting. This requirement does not prohibit modification or
amendment of a model bill, resolution or policy statement at the meeting. This
requirement may be waived if an emergency situation has been declared
pursuant to Section VIII(H).

C. All Task Force meetings are open to registered attendees and invited guests of
ALEC meetings and conferences. Only regular Task Force Members may
introduce any resolution, policy statement or model bill. Only Task Force
members will be allowed to participate in the Task Force meeting discussions

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

D. ALEC private sector member organizations may only be represented at Task Force and Executive Committee meetings by the individual addressed in the appointment letter sent pursuant to Section VI (D) or a designee of the private sector member. If someone other than the individual addressed in the appointment letter is designated to represent the private sector member, the designation must be submitted in writing to the Public and Private Sector Task Force Co-Chairs before the meeting, and the individual cannot represent any other private sector member at the meeting.

E. All Task Force and Executive Committee meetings shall be conducted under the guidelines of Roberts Rules of Order, except as otherwise provided in these Operating Procedures. A copy of the Task Force Operating Procedures shall be included in the briefing packages sent to the Task Force members prior to each meeting.

F. A majority vote of legislative members present and voting and a majority vote of the private sector members present and voting, polled separately, are required to approve any motion offered at a Task Force or Executive Committee meeting. A vote on a motion to reconsider would be only with the sector that made the motion. Members have the right, in a voice vote, to abstain and to vote present by roll-call vote. In all votes a member can change their vote up until the time that the result of the vote is announced. Only duly appointed members or their designee as stated in Section VIII (D) that are present at the meeting may vote on each motion. No proxy, absentee or advance voting is allowed.

G. The Public Sector Task Force Co-Chair and the Private Sector Task Force Co-Chair, with the concurrence of a majority of the Executive Committee, polled in accordance with Section VIII (F), may schedule a Task Force vote by mail or any form of electronic communication on any action pertaining to policy statements, model legislation or educational activity. The deadline for the receipt of votes can be no earlier than thirty-five days after notification of the vote is mailed or notified by any form of electronic communication, unless an emergency situation is declared pursuant to Section VIII (H), in which case the deadline can be no earlier than ten days after notification is mailed or notified by any form of electronic communication. Such votes are exempt from all rules in Section VIII, except: (1) the requirement that copies of model legislation and
policy statements be mailed or notified by any form of electronic communication with the notification of the vote and (2) the requirement that a majority of legislative members voting and a majority of the private sector members voting, polled separately, is required to approve any action by a Task Force.

H. For purposes of Sections VIII(A), (B) and (G), an emergency situation can be declared by:

   (1) Unanimous vote of all members of the Task Force Executive Committee present at an Executive Committee meeting prior to the meeting at which the Task Force votes on the model bill, resolution or policy statement; or
   (2) At least three-fourth majority vote of the legislative and private sector Task Force members (voting in accordance with Section VIII (F)) present at the meeting at which the members vote on the model bill, resolution or policy statement.

I. Ten Task Force members shall constitute a quorum for a Task Force meeting. One-half of the legislative and one-half of the private sector members of an Executive Committee shall constitute a quorum for an Executive Committee meeting.

IX. REVIEW AND ADOPTION PROCEDURES

A. All Task Force policy statements, model bills or resolutions shall become ALEC policy either: (1) upon adoption by the Task Force and affirmation by the Board of Directors or (2) thirty days after adoption by the Task Force if no member of the Board of Directors requests, within those thirty days, a formal review by the Board of Directors. General information about the adoption of a policy position may be announced upon adoption by the Task Force.

B. The Executive Director shall notify the Board of Directors of the approval by a Task Force of any policy statement, model bill or resolution within ten days of such approval. Members of the Board of Directors shall have thirty days from the date of Task Force approval to review any new policy statement, model bill or resolution prior to adoption as official ALEC policy. Within those thirty days, any member of the Board of Directors may request that the policy be

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

C. A member of the Board of Directors may request a formal review by the Board of Directors. The request must be in writing and must state the cause for such action and a copy of the letter requesting the review shall be sent by the National Chairman to the appropriate Task Force Chair. The National Chairman shall schedule a formal review by the Board of Directors no later than the next scheduled Board of Directors meeting.

D. The review process will consist of key members of the Task Force, appointed by the Task Force Chair, providing the support for and opposition to the Task Force position. Position papers may be faxed or otherwise quickly transmitted to the members of the Board of Directors. The following is the review and adoption procedures:

- **Notification of Committee**: Staff will notify Task Force Chairs and the entire task force when the Board requests to review one of the Task Forces’ model bills or resolutions.

- **Staff Analysis**: Will be prepared in a neutral fashion. The analyses will include:
  - History of Task Force action
  - Previous ALEC official action/resolutions
  - Issue before the board
  - Proponents arguments
  - Opponents arguments

- **Standardized Review Format**: To ensure fairness, a set procedure will be used as the format to ensure the model bill/resolution has a fair hearing before the Board.
  - Task Force Chair(s) will be invited to attend the Board Review
  - Task Force Chair(s) will decide who will present in support and in opposition for the model bill/resolution before the Board.
  - Twenty minutes that is equally divided will be given for both sides to present before the Board.
  - It is suggested that the Board not take more than twenty minutes to ask questions of the presenters.
  - Presenters will then be excused and the Board will have a suggested twenty more minutes for discussion and vote.
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.
The American Legislative Exchange Council will host its 2011 States and Nation Policy Summit November 30-December 2 at the Westin Kierland Hotel in Phoenix, Arizona. The early registration deadline is November 7th, register for the meeting here.

The Public Safety and Elections Task Force will meet on Friday, December 2nd from 2:00 – 5:00 pm. The Task Force has an exciting agenda including four motions to repeal existing ALEC policy as well as the consideration of policy on the issues of automated enforcement devices, the National Popular Vote Interstate Compact, evidence-based medical treatment for substance use disorders, overcriminalization, juvenile justice, civil asset forfeiture, and prescription requirements for pseudoephedrine. We will also consider amendments to the current “ALEC Consistency in Firearms Regulation Act.”

The Task Force is also hosting an Overcriminalization Subcommittee conference call prior to SNPS on November 4th at 11:00 AM ET. To call in, please dial (712) 432-0075; Passcode: 448313. The Subcommittee will consider policies and hold an advisory vote on civil asset forfeiture and transparency in criminal law.

In addition, the Task Force will host a Public Safety Working Group conference call prior to SNPS on November 9th at 12:00 PM ET. To call in, please dial (712) 432-0075; Passcode: 676344. The Working Group will consider policies and hold an advisory vote on evidence-based medical treatment, juvenile justice and automated enforcement devices.

All Task Force members are encouraged to call in to both conference calls. If you plan on joining us, please RSVP to csullivan@alec.org. We look forward to having you on the calls.

Please find the following materials enclosed:

- Annual Meeting Agenda-at-a-Glance
- Overcriminalization Subcommittee Conference Call Agenda
- Public Safety Working Group Conference Call Agenda
- Task Force Meeting Tentative Agenda
- 2011 Annual Meeting Minutes
- Draft Model Legislation
- Supplementary Materials
- ALEC Mission Statement
- Scholarship Policies by Meeting
- SNPS Registration Forms
- ALEC Task Force Operating Procedures

I look forward to seeing all of you in Phoenix, Arizona! If you have any questions or comments regarding the meeting, please do not hesitate to contact me at 202-742-8504 or by e-mail at cobrien@alec.org.

Sincerely,

Courtney O’Brien
Public Safety and Elections Task Force Director
Tuesday, November 29th

**Joint Board of Directors Meetings**
7:30 am – 5:00 pm

**Registration**
12:00 pm – 5:00 pm

**ALEC Joint Board Reception and Dinner**
6:00 pm – 9:30 pm

Wednesday, November 30th

**Registration**
7:30 am – 5:00 pm

**Task Force Subcommittee Meetings**
8:00 am – 11:30 am

**Exhibits**
9:00 am – 5:00 pm

**State Chairs Meeting**
9:00 am – 11:00 am

**New Legislator Orientation**
10:15 am – 11:15 am

**Opening Plenary Luncheon**
11:30 am – 1:15 pm

**Task Force Chairs Meeting**
1:30 pm – 2:45 pm

**Workshops**
1:30 pm – 4:15 pm

**Welcome Reception**
6:30 pm – 8:30 pm

Thursday, December 1st

**Registration**
7:30 am – 5:00 pm

**Plenary Breakfast**
8:00 am – 9:15 am

**Exhibits**
9:00 am – 5:00 pm

**Workshops**
9:30 am – 12:15 pm

**Plenary Luncheon**
12:30 pm – 2:15 pm

**Task Force Meeting:**
- Civil Justice
- Commerce, Insurance, and Economic Development
- Education
- Telecommunications and Information Technology

**National Chairman's Reception, by Invitation Only**
5:30 pm – 6:30 pm

**Gala Holiday Reception**
6:30 pm – 8:30 pm

**Hospitality Suite**
9:00 pm – 11:00 pm
Friday, December 2nd
Registration

Plenary Breakfast
Exhibits
Workshops
Plenary Luncheon
Task Force Meetings:
- Energy, Environment and Agriculture
- Health and Human Services
- International Relations
- Public Safety and Elections
- Tax and Fiscal Policy

State Delegation Night

Beginning at 6:30 pm
Overcriminalization Subcommittee
Conference Call

Friday, November 4, 2011
11:00 AM ET – 12 PM ET

Conference Line: (712) 432-0075
Host Code: 448313
Please RSVP to csullivan@alec.org

Tentative Agenda

11:00 a.m. Welcome and Introductions
Representative B.J. Nikkel, CO, Public Sector Chair
Mr. Marc Levin, Texas Public Policy Foundation, Private Sector Chair

11:05 a.m. Proposed Model Legislation: Discussion and Advisory Vote

REPEAL: “ALEC Comprehensive Asset Forfeiture Act” (2000)
“Asset Forfeiture Process and Private Property Protection Act”
Mr. Lee McGrath, Institute for Justice

“Resolution on Transparency and Accountability in Criminal Law”
Mr. Marc Levin, Texas Public Policy Foundation

11:40 a.m. DISCUSSION: “Criminal Offense Justification Act”
Representative BJ Nikkel, CO

11:55 a.m. For the Good of the Order

12:00 p.m. Adjournment
Public Safety Working Group Conference Call

November 9th, 2011
12:00 p.m. – 1:00 p.m. ET

Conference Line: (712) 432-0075
Passcode: 676344

Please RSVP to csullivan@alec.org

Tentative Agenda

12:00 p.m. Welcome and Introductions
Representative Jerry Madden, TX, Public Sector Chair
Ms. Stacie Rumenap, Stop Child Predators, Private Sector Chair

12:05 p.m. Proposed Model Legislation: Discussion and Advisory Vote

“Resolution in Support of the Use of Automated Enforcement Devices to Reduce Injuries and Fatalities on our Nation’s Road”
Mr. Andrew Schauder and Mr. George Hittner, American Traffic Solutions

“Resolution in Support of Evidence-based Medical Treatment for Substance Use Disorders”
Mr. Jeff Harris, Alkermes

“Juvenile Offender Performance Incentive Funding Act”
Mr. Marc Levin, Texas Public Policy Foundation

12:55 p.m. For the Good of the Order

1:00 p.m. Adjournment
Public Safety & Elections Task Force  
2011 States and National Policy Summit  
Friday, December 2  
2:00 – 5:00 PM  
Location: TBD

1. Call to Order  
   Attendance  
   Introduction of New Members  
   Approval of Minutes  
   Subcommittee Announcements  
   a) Overcriminalization Subcommittee  
   b) Public Safety Working Group

2. Model Legislation  
   2:00 PM
   REPEAL: “ALEC Resolution in Opposition to the National Popular Vote Interstate Compact” (2007)  
   CONSIDER: “Resolution in Support of the National Popular Vote Interstate Compact”  
   Mr. Ray Haynes, National Popular Vote

   B. REPEAL: “ALEC Anti-Automated Enforcement Act” (2001)  
   CONSIDER: “Resolution in Support of the Use of Automated Enforcement Devices to Reduce Injuries and Fatalities on our Nation’s Road”  
   Mr. Andrew Schauder and Mr. George Hittner, American Traffic Solutions

   C. CONSIDER: “Resolution in Support of Evidence-based Medical Treatment for Substance Use Disorders”  
   Mr. Jeff Harris, Alkermes

   CONSIDER: “Asset Forfeiture Process and Private Property Protection Act”  
   Mr. Lee McGrath, Institute for Justice

   E. CONSIDER: “Resolution on Transparency and Accountability in Criminal Law”  
   CONSIDER: “Juvenile Offender Performance Incentive Funding Act”  
   Mr. Marc Levin, Texas Public Policy Foundation

   F. AMEND: “ALEC Consistency in Firearms Regulation Act”  
   Ms. Tara Mica, National Rifle Association

   G. CONSIDER: “Prescription for Pseudoephedrine Products”  
   Rep. Sue Tibbs, Oklahoma

3. For the Good of the Order  
4. Adjournment
Minutes For Annual Meeting 2011

American Legislative Exchange Council

Public Safety & Elections Task Force
August 4th, 2011

I. Preliminaries

The Task Force approved the minutes of the Spring Task Force Summit meeting by a unanimous voice vote.

II. Presentations


2. Case Study for Leveraging Technology to Reduce the Costs of Monitoring the Perimeter Fence at State Correctional Institutions – Mr. Billy Ridge, MMR Group

3. Improving Voting for Military and Overseas Citizens – Ms. Cameron Quinn, Federal Voting Assistance Program (FVAP), US Department of Defense

III. Consideration of Model Legislation

1. “Gun Owners’ Privacy and Access to Health Care Act” – by Ms. Tara Mica, National Rifle Association

   Bill withdrawn by sponsor.

2. “Honesty in Purchasing Firearms Act” – by Ms. Tara Mica, National Rifle Association

   This Act makes it a felony to knowingly deceive a licensed dealer of firearms in order to purchase or transfer firearms.

   Motion to approve the model legislation; passed the public sector unanimously; passed the private sector; Bill Passed.
3. “Disposition of Firearms in State or Local Custody Act” –by Ms. Tara Mica, National Rifle Association

This Act requires firearms held in state or local custody to be auctioned off to licensed firearm dealers or manufacturers. In addition, they may destroy or dispose of firearms deemed unsafe for use.

Motion to approve the model legislation; passed the public sector unanimously; passed the private sector unanimously; Bill Passed.

4. “Asset Forfeiture Process and Private Property Protection Act” –by Mr. Lee McGrath, Institute for Justice

This model improves and expands upon ALEC’s “Comprehensive Asset Forfeiture Act” (2000). The “Asset Forfeiture Process and Private Property Protection Act” protects individual liberty and property rights by standardizing forfeitures across all crimes, simplifying procedures, and addressing counterproductive incentives in the law that distort policing priorities. Importantly, this model does not change the authority of law enforcement to seize property suspected of being associated with crime or limit in any way prosecutors’ ability to charge and prosecute suspected criminals. Moreover, it ensures that those individuals proven guilty of a crime do not keep the fruits of their crime. In doing so, it strikes the right balance between the individual property rights and public safety.

Motion to repeal existing “Comprehensive Asset Forfeiture Act”; failed the public sector; Motion Failed. Motion to table the “Asset Forfeiture and Private Property Protection Act”; passed the public sector; passed the private sector; Bill Tabled.

5. “Criminal Offense Justification Act” –by Representative B.J. Nikkel, CO

This Act requires justification for enacting new criminal offenses or making changes to existing criminal offenses. The Act would require new criminal laws to take into account the crime’s prevalence, relation to current laws, and similarity to existing offenses.

Motion to approve the model legislation as amended by inserting on line 48: “This analysis will include written documentation of all assumptions made.” after: “criminal offense, intends to address” and by inserting on line 53: “This analysis will include written documentation of all assumptions made.” after: “an analysis of how any costs associated with the legislative measure will be paid.” Motion to approve as amended; failed the public sector; Motion to approve as amended failed.
6. “Resolution in Support of Appropriate Disclosure Requirements” – by Mr. Sean Parnell, *Center for Competitive Politics*

   This Resolution recognizes that disclosure requirements regarding contributions to candidates, political parties, and political action committees (PACs) should only apply to large, and not small, contributions. This Resolution also recognizes that disclosure requirements should not apply to trade and professional associations and nonprofit organizations that do not primarily attempt to influence elections.

   Motion to approve the model resolution; failed the public sector; **Resolution Failed.**


   ALEC affirms that transparency and public disclosure in the legislative process is vital to a representative democracy. With one of the fundamental goals of public hearings being to respectfully hear from the public so that citizens are provided the opportunity to comment on proposed changes to state law, lawmakers should strive to provide adequate notice before public hearings or votes occur so that citizens are able to participate in the legislative process in a meaningful way.

   Motion to approve the model principles; passed the public sector unanimously; passed the private sector unanimously; **Principles Passed.**

IV. For the Good of the Order

V. Adjournment
Mr. Ray Haynes, National Popular Vote, motions to repeal the ALEC Resolution in Opposition to the National Popular Vote Interstate Compact (2007) by striking the following:

Resolution in Opposition to the National Popular Vote Interstate Compact

Summary

This resolution calls on the State of (insert state) to oppose the plan popularly known as National Popular Vote. The National Popular Vote scheme threatens freedom, representation, and the identity of the United States as a confederation of distinct governing bodies who act according to the wishes of the majority of their citizens. The National Popular Vote scheme would undermine state authority and give some states power over the voice of others. It would render minority groups voiceless and empower densely populated and ideologically homogenous regions as well as radical fringe groups.

Model Resolution

{Title, enacting clause, etc.}

WHEREAS, the plan known as National Popular Vote claims to create a national system for conducting presidential elections, yet fails to create national standards for ballot access; and

WHEREAS, the plan known as National Popular Vote claims to create a national system for conducting presidential elections, yet fails to create national standards for voter qualifications; and

WHEREAS, the plan known as National Popular Vote claims to create a national system for conducting presidential elections, yet fails to create national standards for requiring a recount of ballots within a state; and

WHEREAS, the plan known as National Popular Vote claims to create a national system for conducting presidential elections, yet fails to establish any rule to require a national recount where the national result is within a small margin even if the result in no individual state is within a margin that requires a recount in the state; and

WHEREAS, the plan known as National Popular Vote claims to create a national system for conducting presidential elections, yet fails to create national standards for recounting ballots; and
WHEREAS, the plan known as National Popular Vote claims to use an interstate compact rather than a constitutional amendment to enact a change that most Americans believe requires such an amendment and should at least be the subject of national discussion and deliberation; and

WHEREAS, the plan known as National Popular Vote has no majority requirement, but would allow a candidate with a plurality—however small—to become President.

THEREFORE, BE IT RESOLVED, that the State of (insert state) opposes the plan known as National Popular Vote or any other proposal to manipulate the Electoral College for the purpose of creating a national presidential vote through an interstate compact.

Adopted by the Criminal Justice Task Force at the Annual Meeting, August 2007. Approved by the ALEC Board of Directors September 2007.
MOTION

Mr. Ray Haynes, National Popular Vote, motions to repeal the ALEC Resolution in Support of the Electoral College (2007) by striking the following:

Resolution in Support of the Electoral College

Summary

This resolution calls on the State of (insert state) to recognize the current Electoral College system as the best way to elect the President of the United States. The current Electoral College system respects small states, rural areas, and the principle of federalism. Furthermore, this resolution calls on the State of (insert state) to defeat any multi-state compact legislation that would cause (insert state)’s electoral votes to be awarded based on the results of the national popular vote.

Model Resolution

{Title, enacting clause, etc.}

WHEREAS, the Founding Fathers rejected having the President of the United States elected by a national popular vote and instead chose the Electoral College system; and

WHEREAS, the current Electoral College system encourages presidential candidates to campaign in large metropolitan areas and also in rural areas and small states; and

WHEREAS, the current Electoral College system ensures that the winning Presidential candidate has support from multiple regions of the country; and

WHEREAS, the current Electoral College system respects the Founders’ strong belief that individual states should have a vital role in electing the President of the United States; and

WHEREAS, the National Popular Vote Interstate Compact diminishes the importance of individual states in presidential elections; and

WHEREAS, the current Electoral College system respects the separation of and balance of power and authority between the States and the Federal government; and

WHEREAS, the current Electoral College system ensures that (insert state)’s electoral votes are awarded based on how the majority of the State’s citizens vote;
WHEREAS, under the National Popular Vote Interstate Compact, (insert states)’s electoral votes could be awarded to a candidate that the majority of the State’s citizens did not vote for; and

WHEREAS, the current Electoral College system is better suited to handle recounts because they happen at the state level, which is more manageable than if they were to happen at the national level as they might if the National Popular Vote Interstate Compact were adopted; and

WHEREAS, the current Electoral College system creates a needed balance between agrarian and industrial interests; and

WHEREAS, the current Electoral College system best preserves our two-party system and prevents the fracture of America’s political structure; and

WHEREAS, the United States Congress has rejected over 1000 amendments to the Constitution to change the Electoral College, including amendments to change to a popular vote system; and

WHEREAS, the constitutionality of the National Popular Vote Interstate Compact is questionable because Article I, Section 10 of the Constitution states that no state, without the consent of Congress, may “enter into any Agreement or Compact with another State.”

THEREFORE, BE IT RESOLVED that the State of (insert state) endorses its current Electoral College system as the best way to elect the President of the United States.

BE IT FURTHER RESOLVED that the State of (insert state) shall defeat any legislation that creates a multi-state compact for the purpose of dismantling its current Electoral College System.

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Adopted by the Criminal Justice Task Force at the Annual Meeting, August 2007. Approved by the ALEC Board of Directors September 2007.
DRAFT Resolution In Support of the National Popular Vote Interstate Compact

Summary

This resolution calls on the State of [insert state] to support the interstate compact known as National Popular Vote Compact (the Compact). The Compact utilizes the authority granted to state legislatures under Article II, Section 1 of the Constitution to appoint Presidential electors "in such manner as the [State] Legislature...may direct..." and the power of states granted by the Supreme Court to enter into interstate compacts to direct state granted authority in concert with other states, to award Presidential electors to the winner of the popular vote in all 50 states and the District of Columbia. The Compact reaffirms the Electoral College, and the values of the Electoral College, by keeping control of elections in the purview of State Legislatures, and confirms the policy recognized by the majority of this country throughout most of its modern history, that every vote, in every state, should count equally in the election of the President of the United States.

Model Resolution

WHEREAS, the interstate compact known as the National Popular Vote Compact recognizes the importance of the Electoral College, and state control of elections, without Congressional interference; and

WHEREAS, the National Popular Vote Compact contains 880 words, and simply provides that a state will award the number of electors granted to that state by the Constitution of the United States to the winner of the popular vote in all 50 states, rather than winner of the vote in the member state, as the Presidential electors in the member state, preserving the state's control over its own elections in all respects, including voting powers, conditions of voting, recounts, registration, and verification; and

WHEREAS, the National Popular Vote Compact insures that Presidential candidates will compete for the votes in every state throughout the United States, and not just the votes of the so-called "battleground" or "swing" states, so that the issues that affect the 35 "spectator states" are addressed as comprehensively by the Presidential candidates as the issues that affect the "swing states," and additionally insures that a Presidential candidates time, attention, and resources are devoted to capturing the votes in all 50 states, and not just the "swing states"; and

WHEREAS, the National Popular Vote Compact brings the expectation of the voters that the Presidential candidate the obtains the most votes in a Presidential election (as is the case in every other election held in the United State), and does so by a means and a method allowed by the Constitution, without eliminating the Electoral College; and

WHEREAS, the National Popular Vote Compact is an interstate compact rather than a constitutional amendment, it preserves the values of the Electoral College, and the plenary and exclusive power of the state legislatures to determine how the President of the United States should be elected, as clearly contemplated by James Madison in the Federalist number 45, and Alexander Hamilton in the Federalist number 68; and

WHEREAS, the current system of awarding electors was not mandated by the Constitution, and in fact, not used by many states until years after the Constitution was adopted, and that a Constitutional Amendment to eliminate the Electoral College would necessarily undermine a key power delegated to the State Legislatures by the Constitution; and

WHEREAS, the National Popular Vote Compact allows a state to withdraw from the Compact
any time up to 6 months before a presidential election if that state should ever decide that
awarding its electors on the basis of the winner of the popular vote in all 50 states is not in that
member state's best interest; and

WHEREAS, the National Popular Vote Compact combines the values of preserving the public's
expectation that the winner of the most votes in any election should be the winner of that election
with a strong commitment to the rights and powers of the various states, as contemplated by the
Constitution;

THEREFORE BE IT RESOLVED, that the State of [insert state] supports the National
Popular Vote Compact, and calls upon the various states to join with it by adopting the Compact.
MOTION

Mr. Andrew Schauder and Mr. George Hittner, American Traffic Solutions, motions to repeal the ALEC Anti-Automated Enforcement Act (2001) by striking the following:

Anti-Automated Enforcement Act

Summary

This Act prohibits the use of automated enforcement devices to detect violations of traffic regulations except in specified areas.

Model Bill

Section 1. [Short Title] This act may be cited as the “Anti-Automated Enforcement Act.”

Section 2. To add to {enter appropriate section} of the {enter appropriate state code} to prohibit the use of “automated enforcement” by state or local law enforcement authorities.

A. Automated enforcement devices may not be used by state and local law enforcement authorities to determine compliance with any traffic regulations including, but not limited to, official traffic control signals and speed limit restrictions, imposed by {enter appropriate sections} of this code or a local ordinance in conformity therewith except:

1. a) in school zones;
2. b) at railroad crossings; or
2. When a law enforcement officer is present with the automated enforcement equipment unit and citations are issued at the general time and place of the infraction.

B. For the purpose of this Act, “automated enforcement,” means a system operated by a state or local authority that uses a machine to automatically detect a violation of a traffic regulation and simultaneously record a photograph of the vehicle used in committing the violation, the operator of the vehicle or the license plate of the vehicle.

Section 3. [Severability Clause]

Section 4. [Repealer Clause]

Section 5. [Effective Date]

Resolution in Support of the Use of Automated Enforcement Devices to Reduce Injuries and Fatalities on our Nation’s Road
To replace “ALEC Anti-Automated Enforcement Act” (2001)

Summary
Allows automated enforcement programs to be established by state legislatures as a means to provide enforcement in high risk locations or in situations when law enforcement manpower is unavailable.

Model Resolution

WHEREAS, according to the National Highway Traffic Safety Administration (NHTSA) in 2009, more than 11,000 people were killed and hundreds of thousands injured in speed and red light running related crashes; and

WHEREAS, the National Highway Traffic Safety Administration estimates that the economic cost of speed-related crashes is $40.4 billion each year, $76,865 per minute or $1,281 per second; and

WHEREAS, according to the Insurance Institute for Highway Safety (IIHS), red-light running is the leading cause of urban crashes and speed is a factor in about one-third of all fatal crashes; and

WHEREAS, a February 2011 study, IIHS estimated that red-light safety cameras saved 159 lives from 2004-2008 in 14 of the largest U.S. cities where cameras were used. Up to 815 deaths could have been prevented had cameras been used in all large U.S. cities. Additionally, red light running fatalities were reduced by 24 percent in cities where cameras were deployed; and

WHEREAS, more people are injured in crashes involving red-light running than in any other type of crash. Red-light running crashes are estimated to cost the public upwards of $14 billion annually; and

WHEREAS, nationally, more than 650 communities in more than 25 states and the District of Columbia employ the use of automated enforcement programs at intersections, in construction work zones to improve safety for transportation workers, and on school buses and in school zones to protect children; and

WHEREAS, public opinion surveys have shown that the vast majority of Americans support automated enforcement programs as reasonable means to enforce local traffic laws so as to allow police officers to patrol neighborhoods and fight violent criminals; and

WHEREAS, the National Research Council has recommended that states should enact enabling legislation allowing for automated enforcement to help ensure public safety where such legislation contains proper safeguards; and
WHEREAS, the states of Florida and Texas recently enacted enabling legislation providing local law enforcement and communities the option of establishing automated enforcement programs, defining for its use and citizen protections; and

WHEREAS, the Sixth and Seventh Circuit Courts of Appeals have validated the use of automated enforcement programs, affirming their use as constitutional and holding that substantive due process depends on the existence of a fundamental liberty interest—“no one has a fundamental right to run a red light or avoid being seen by a camera on a public street;” and

NOW, THEREFORE, BE IT RESOLVED, that the American Legislative Exchange Council (ALEC), in promotion of public safety, supports the use of automated enforcement devices with appropriate safeguards to help reduce red light running and speed related injuries and fatalities in our cities and neighborhoods; and

BE IT FURTHER RESOLVED, that ALEC supports safe, efficient and innovative solutions to public safety, including local governments’ ability to work in public-private partnership to enforce traffic laws; and

BE IT FURTHER RESOLVED, that ALEC supports the establishment of automated enforcement programs not as revenue generators, but as a means to provide enforcement in high risk locations or in situations when law enforcement manpower is unavailable, difficult to utilize safely, or needed for other priorities; ensures personal responsibility by holding violators accountable for their actions; and preserves law-abiding citizens’ personal liberties from otherwise intrusive government; and

BE IT FURTHER RESOLVED, that ALEC supports legislation that contains safeguards such as a required engineering and safety studies; standardization of signal timing, including appropriate yellow times as outlined by the Manual on Uniform Traffic Control Devices; public awareness and education, including appropriate signage when approaching intersections where camera systems are installed; law enforcement officer review and approval of each violation prior to issuance; and appropriate vendor flat rate and fee collection systems to ensure the primary use of the technology as a law enforcement force multiplier instead of as a revenue generating system.
DRAFT Resolution in Support of Evidence-based Medical Treatment for Substance Use Disorders

Summary

State spending on corrections has grown faster than almost any other budget item in the past 20 years, reaching nearly $50 billion dollars. Prison populations have risen dramatically and corrections costs have quadrupled. In addition, the burden of care for addiction and mental illness has shifted to jails and prisons. Scientific advances in understanding substance use disorders and in developing effective treatments have progressed dramatically in the past several years. Current policy has generated for drug and alcohol offenders a revolving door of arrest, incarceration, release to the streets untreated or undertreated, and then rearrest and return to incarceration, resulting in a costly, futile cycle. Evidence-based medical treatment should be made available as an option to reduce incarceration and recidivism.

Model Resolution

WHEREAS, the American Legislative Exchange Council (ALEC) is committed to developing effective criminal justice policies that create safe communities for citizens as well financially sustainable budgets; and

WHEREAS, state spending on corrections has grown faster than almost any other budget item over the past 20 years, reaching nearly $50 billion dollars; and the number of people in the criminal justice system has increased by more than 600% in the past 40 years; and

WHEREAS, more than 50% of inmates meet medical criteria for drug dependence or abuse; and

WHEREAS, adults on parole or supervised release (23%) from jail are nearly 3 times more likely to be dependent on or to abuse a substance than are their peers (8%); and

WHEREAS, up to one-third of all heroin users pass through the criminal justice system annually; and

WHEREAS, the criminal justice system is the largest source of referral to addiction treatment; and

WHEREAS, the use of addictive substances is problematic for the criminal justice system; and

WHEREAS, the overall criminal justice costs of opioid dependence is $5.2 billion annually; and

WHEREAS, locking up millions of people for drug-related crimes has failed as a public safety strategy and has harmed public health.

THEREFORE BE IT RESOLVED, that ALEC supports policies and programs that partner correctional facilities and community health care providers; and

THEREFORE BE IT FURTHER RESOLVED, that ALEC supports non-addictive treatment plans, including non-narcotic medications, to decrease the costs associated with reincarceration
due to untreated addiction and mental illness, to improve public safety, and to medically treat offenders suffering from addiction or mental illness.

THEREFORE BE IT FURTHER RESOLVED, that ALEC supports non-addictive evidence-based medical treatment as an alternative to incarceration.


Mr. Lee McGrath, Institute for Justice, motions to repeal the ALEC Comprehensive Asset Forfeiture Act (2000) by striking the following:

Comprehensive Asset Forfeiture Act

Summary

Over the past two decades, federal, state, and local law enforcement agents have relied increasingly on asset forfeiture law “to take the profits out of crime.” Forfeiture has been an effective tool in the war on crime, but it has also led to corruption and abuse and to many innocent owners losing their property in the name of fighting crime. Those abuses have resulted in substantial media attention and have led many to take a closer look at this body of law, especially since its principles and practices are so foreign to the rule of law and the American system of justice.

Reforming ALEC’s existing model bill on asset forfeiture to include common sense protections that are vital to provide American citizens the protection that is guaranteed under our Constitution will help prevent future abuses of a system that law enforcement needs in its efforts to fight this country’s war on drugs.

Model Legislation

{Title, enacting clause, etc.}

Section 1. {Title.} This Act may be cited as the Comprehensive Asset Forfeiture Act.

Section 2. {Creation of General Rules Relating to Civil Forfeiture Proceedings.}

(a)(1) In any nonjudicial civil forfeiture proceeding under a civil forfeiture statute, with respect to which the agency conducting a seizure of property must give written notice to interested parties, such notice shall be given as soon as practicable and in no case more than 60 days after the later of the date of the seizure or the date the identity of the interested party is first known or discovered by the agency, except that the court may extend the period for filing a notice for good cause shown.

(2) A person entitled to written notice in such proceeding to whom written notice is not given may on motion void the forfeiture with respect to that person’s interest in the property, unless the agency shows—

(i) good cause for the failure to give notice to that person; or

(ii) that the person otherwise had actual notice of the seizure.
(3) If the Government does not provide notice of a seizure of property in accordance with subparagraph (a)(1), it shall return the property and may not take any further action to effect the forfeiture of such property.

(b)(1) Any person claiming property seized in a nonjudicial forfeiture proceeding may file a claim with the appropriate official after the seizure:

(2) A claim under subparagraph (a)(1) may not be filed later than 30 days after—

(i) the date of final publication of notice of seizure; or

(ii) in the case of a person entitled to written notice, the date that notice is received.

(3) The claim shall state the claimant's interest in the property.

(4) Not later than 90 days after a claim has been filed, the Attorney General shall file a complaint for forfeiture in the appropriate court or return the property, except that a court in the district in which the complaint will be filed may extend the period for filing a complaint for good cause shown or upon agreement of the parties.

(5) If the Government does not file a complaint for forfeiture of property in accordance with subparagraph (b)(4), it shall return the property and may not take any further action to effect the forfeiture of such property.

(6) Any person may bring a claim under subparagraph (a)(1) without posting bond with respect to the property that is the subject of the claim.

(c)(1) In any case where the Government files in the appropriate State district court a complaint for forfeiture of property, any person claiming an interest in the seized property may file a claim asserting such person's interest in the property within 30 days of service of the Government's complaint or, where applicable, within 30 days of alternative publication notice.

(2) A person asserting an interest in seized property in accordance with subparagraph (a)(1) shall file an answer to the Government's complaint for forfeiture within 20 days of the filing of the claim.

(d)(1) If the person filing a claim is financially unable to obtain representation by counsel, the court may appoint counsel to represent that person with respect to the claim.

(2) In determining whether to appoint counsel to represent the person filing the claim, the court shall take into account such factors as—
(i) the claimant's standing to contest the forfeiture; and

(ii) whether the claim appears to be made in good faith or to be frivolous.

(3) The court shall set the compensation for that representation, which shall be equivalent to that provided for other court-appointed representation under state law.

(e) In all suits or actions brought under any civil forfeiture statute for the civil forfeiture of any property, the burden of proof is on the State Government to establish, by clear and convincing evidence, that the property is subject to forfeiture.

(f)(1) An innocent owner's interest in property shall not be forfeited under any civil forfeiture statute:

(2) With respect to a property interest in existence at the time the illegal conduct giving rise to forfeiture took place, the term "innocent owner" means an owner who—

(i) did not know of the conduct giving rise to forfeiture; or

(ii) upon learning of the conduct giving rise to the forfeiture, did all that reasonably could be expected under the circumstances to terminate such use of the property.

(3) With respect to a property interest acquired after the conduct giving rise to the forfeiture has taken place, the term "innocent owner" means a person who, at the time that person acquired the interest in the property, was—

(i)(I) a bona fide purchaser or seller for value (including a purchaser or seller of goods or services for value); or

(II) a person who acquired an interest in property through probate or inheritance; and

(ii) at the time of the purchase or acquisition reasonably without cause to believe that the property was subject to forfeiture.

(4) Where the property subject to forfeiture is real property, and the claimant uses the property as the claimant's primary residence and is the spouse or minor child of the person who committed the offense giving rise to the forfeiture, an otherwise valid innocent owner claim shall not be denied on the ground that the claimant acquired the interest in the property--
(i) in the case of a spouse, through dissolution of marriage or by operation of law; or

(ii) in the case of a minor child, as an inheritance upon the death of a parent, and not through a purchase. However, the claimant must establish, in accordance with subparagraph (e)(3), that at the time of the acquisition of the property interest, the claimant was reasonably without cause to believe that the property was subject to forfeiture.

(g) For the purposes of paragraph (f)—

(1) ways in which a person may show that such person did all that reasonably can be expected may include demonstrating that such person, to the extent permitted by law—

(i) gave timely notice to an appropriate law enforcement agency of information that led the person to know the conduct giving rise to a forfeiture would occur or has occurred; and

(ii) in a timely fashion revoked or attempted to revoke permission for those engaging in such conduct to use the property or took reasonable actions in consultation with a law enforcement agency to discourage or prevent the illegal use of the property; and

(2) in order to do all that can reasonably be expected, a person is not required to take steps that the person reasonably believes would be likely to subject any person (other than the person whose conduct gave rise to the forfeiture) to physical danger.

(h) As used in this subsection:

(1) The term `civil forfeiture statute' means any provision of State law providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense.

(2) The term `owner' means a person with an ownership interest in the specific property sought to be forfeited, including a leasehold, lien, mortgage, recorded security device, or valid assignment of an ownership interest. Such term does not include—

(i) a person with only a general unsecured interest in, or claim against, the property or estate of another;

(ii) a bailee unless the bailor is identified and the bailee shows a colorable legitimate interest in the property seized; or
(iii) a nominee who exercises no dominion or control over the property.

(i)(1) A claimant under subsection (h) is entitled to immediate release of seized property if—

(i) the claimant has a possessory interest in the property;

(ii) the continued possession by the State Government pending the final disposition of forfeiture proceedings will cause substantial hardship to the claimant, such as preventing the functioning of a business, preventing an individual from working, or leaving an individual homeless; and

(iii) the claimant’s likely hardship from the continued possession by the State Government of the seized property outweighs the risk that the property will be destroyed, damaged, lost, concealed, or transferred if it is returned to the claimant during the pendency of the proceeding.

(2) A claimant seeking release of property under this subsection must request possession of the property from the appropriate official, and the request must set forth the basis on which the requirements of paragraph (i)(1) are met.

(3) If within 10 days after the date of the request the property has not been released, the claimant may file a motion or complaint in any district court that would have jurisdiction of forfeiture proceedings relating to the property setting forth—

(i) the basis on which the requirements of paragraph (i)(1) are met; and

(ii) the steps the claimant has taken to secure release of the property from the appropriate official.

(4) If a motion or complaint is filed under paragraph (i)(3), the district court shall order that the property be returned to the claimant, pending completion of proceedings by the State Government to obtain forfeiture of the property, if the claimant shows that the requirements of paragraph (i)(1) have been met. The court may place such conditions on release of the property as it finds are appropriate to preserve the availability of the property or its equivalent for forfeiture.

(5) The district court shall render a decision on a motion or complaint filed under paragraph (i)(3) no later than 30 days after the date of the filing, unless such 30-day limitation is extended by consent of the parties or by the court for good cause shown.

Section 3. {Compensation for Damage to Seized Property.}
(a) The State shall be liable for real costs of any claim based on the destruction, injury, or loss of goods, merchandise, or other property, while in the possession of any officer of customs or excise or any other law enforcement officer, if the property was seized for the purpose of forfeiture under any provision of State law providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense but the interest of the claimant is not forfeited.

(b) The Attorney General may settle, for not more than $50,000 in any case, a claim for damage to, or loss of, privately owned property caused by an investigative or law enforcement officer who is employed by the State and acting within the scope of his or her employment.

(2) LIMITATIONS—The Attorney General may not pay a claim under paragraph (1) that-

(A) is presented to the Attorney General more than 1 year after it occurs; or

(B) is presented by an officer or employee of the United States Government and arose within the scope of employment.

Section 4. {Pre-Judgment and Post-Judgment Interest.}

(a) INTEREST-

(1) POST JUDGMENT—Upon entry of judgment for the claimant in any proceeding to condemn or forfeit property seized or arrested under any provision of State law providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense, the State shall be liable for post-judgment interest as would have been earned in accordance with current interest rates.

(2) PRE JUDGMENT—The State shall not be liable for pre-judgment interest in a proceeding under any provision of State law providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense, except that in cases involving currency, other negotiable instruments, or the proceeds of an interlocutory sale, the State shall disgorge to the claimant any funds representing—

(i) interest actually paid to the State from the date of seizure or arrest of the property that resulted from the investment of the property in an interest-bearing account or instrument; and
(ii) for any period during which no interest is actually paid, an imputed amount of interest that such currency, instruments, or proceeds would have earned in accordance with the current interest rate.

(3) LIMITATION ON OTHER PAYMENTS. The State shall not be required to disgorge the value of any intangible benefits in a proceeding under any provision of State law providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense nor make any other payments to the claimant not specifically authorized by this subsection.

Section 5. [Forfeiture of Property for Commission of Criminal Offense—Procedure Disposition.]

(a) Money, real property, vehicles and other conveyances, or tangible and intangible personal property of any kind that is used in connection with the commission of a criminal offense provided for in the [name of state] statutes is not subject to forfeiture unless it is owned by a person convicted of a criminal offense and a section of [name of state] law specifically provides for forfeiture as part of the sentence imposed upon conviction. A civil forfeiture proceeding may not be used to proceed against property suspected of being used in connection with the commission of a criminal offense.

(b) Unless another section of [name of state] statute specifically provides a procedure for disposition of property forfeited as part of the sentence imposed upon conviction of a criminal offense specified in that section, the forfeited property must be disposed of as provided in this section.

(c) The sheriff shall seize the forfeited property within ten (10) days after the conviction.

(d) Forfeiture of property encumbered by a security interest is subject to the secured person's interest if the secured person did not know and could not have reasonably known of the unlawful possession, use, or other act in connection with the commission of the crime.

(e) If proper proof of a security interest is presented to the sheriff, the sheriff shall release the property to the secured person if the amount due to the person is equal to or greater than the value of the property.

(f) Property not released to a secured person under subsection (e) must, except as provided in subsection (g), be sold by the sheriff at a public auction in the same manner as provided by law for the sale of property under execution. The proceeds of the sale must be distributed first to a secured person who has presented proper proof of the security interest.
interest to the sheriff, and any remaining proceeds must be used to [insert appropriate action].

(g) Property that is unlawful to produce or possess must be destroyed by the sheriff if it cannot be sold to a person or entity that can lawfully possess it.

Section 6. {Applicability.}

(a) IN GENERAL—Unless otherwise specified in this Act, this Act will apply with respect to claims, suits, and actions filed on or after the date of the enactment of this Act.

(b) EXCEPTIONS—

(1) The standard for the required burden of proof set forth in section 2, shall apply in cases pending on the date of the enactment of this Act.

(2) The amendment made by section 4 shall apply to any judgment entered after the date of the enactment of this Act.

Section 7. {Severability Clause}

Section 8. {Repealer Clause}

-Adopted by ALEC’s Criminal Justice Task Force at the States and Nation Policy Summit December 9, 1999. Approved by full ALEC Board of Directors January, 2000.-
Asset Forfeiture Process and Private Property Protection Act

To replace “ALEC Comprehensive Asset Forfeiture Act” (2000)

Summary

Civil forfeiture laws represent one of the most serious assaults on private property rights in the nation today. Under civil forfeiture, police and prosecutors can seize your car or other property, sell it and use the proceeds to fund agency budgets—often without so much as charging you with a crime. This model improves and expands upon ALEC’s “Comprehensive Asset Forfeiture Act” (2000). The “Asset Forfeiture Process and Private Property Protection Act” protects individual liberty and property rights by standardizing forfeitures across all crimes, simplifying procedures, and addressing counterproductive incentives in the law that distort policing priorities. Importantly, this model does not change the authority of law enforcement to seize property suspected of being associated with crime or limit in any way prosecutors’ ability to charge and prosecute suspected criminals. Moreover, it ensures that those individuals proven guilty of a crime do not keep the fruits of their crime. In doing so, it strikes the right balance between the individual property rights and public safety.

Model Legislation

Section 1. {Title}

This act may be cited as the “Asset Forfeiture Process and Private Property Protection Act”

Section 2. {Definitions} As used in this Act:

(A) “Contraband” means goods that are unlawful to import, export or possess.

(B) “Conveyance” means a device used for transportation and includes a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term does not include property that is stolen or taken in violation of the law.

(C) “Instrumentality” means property otherwise lawful to possess that is used in an offense. An “instrumentality” includes a tool, a firearm, a conveyance, a computer, computer software, a telecommunications device, money, and other means of exchange.

(D) A “law subject to forfeiture” is a State law that carries a felony penalty and that explicitly includes forfeiture as a punishment or sanction for the offense.

Section 3. {Legislative Intent}.

(A) This Act intends to:

(1) deter criminal activity by reducing its economic incentives;
(2) increase the pecuniary loss from criminal activity; and

(3) protect against the wrongful forfeiture of property.

Section 4. {Exclusivity}

(A) This Act sets out the exclusive process governing forfeitures in the state of {insert state} and supersedes any conflicting provisions in law.

Section 5. {Criminal Asset Forfeiture}

(A) When a person is convicted of violating a law subject to forfeiture, the court, consistent with this Act, shall order the person to forfeit:

(1) proceeds and property the person derived directly from the commission of the crime;

(2) proceeds and property directly traceable to proceeds and property derived directly from the commission of the crime; and

(3) instrumentalities the person used in the commission of the crime.

Section 6. {Conviction Required; Standard of Proof}

(A) Property used in or derived from the violation of a law is subject to forfeiture only if

(1) the violation is of a law subject to forfeiture and

(2) the violation is established by proof of a criminal conviction.

(b) The State shall establish that seized property is forfeitable under section (5) by clear and convincing evidence.

Section 7. {No Civil Asset Forfeiture}

(A) There is no civil asset forfeiture.

Section 8. {Rule of lenity}

(A) The court shall resolve any ambiguity in this chapter relating to the State taking property through asset forfeiture in favor of the property owner.

Section 9. {Court-appointed Counsel}

(A) If a court determines that a person opposing forfeiture is financially unable to obtain representation by counsel, the court, at the request of the person, shall insure that the
Section 10. {Authorization to Use Forfeiture}

(A) Except for federal forfeitures consistent with section 39, forfeiture may occur only pursuant to an explicit grant of authority in State law. An ordinance enacted by a county, municipality, or other unit of government authorizing forfeiture is not valid.

(B) A prosecutor having jurisdiction over a law subject to forfeiture has authority to pursue forfeiture.

Section 11. {Property Subject to Forfeiture; Contraband}

(A) Property subject to forfeiture is limited to:

1. land, buildings, containers, conveyances, equipment, materials, products, money, securities, and negotiable instruments; and
2. ammunition, firearms, and ammunition-and-firearm accessories found on or in proximity to a person who violated a law subject to forfeiture or in a conveyance used to violate a law subject to forfeiture.

(B) No property right exists in contraband, including scheduled drugs without a valid prescription. Contraband is subject to seizure and must be disposed of according to State law. Contraband is not subject to forfeiture under this chapter.

Section 12. {Substitution of Assets for Unreachable Property}

(A) Upon the State’s motion following conviction, the court may order the forfeiture of substitute property owned fully by the defendant up to the value of unreachable property only if the State proves by a preponderance of the evidence that the defendant intentionally transferred, sold, or deposited property with a third party to avoid the court’s jurisdiction.

Section 13. {No Additional Remedies}

(A) Except as otherwise provided in this chapter, the State may not seek additional remedies including but not limited to personal money judgments.

Section 14. {No Joint-and-Several Liability; Pro Rata Forfeitures}

(A) A defendant is not jointly and severally liable for forfeiture awards owed by other defendants.

(B) When ownership is unclear, a court may order each defendant to forfeit property on a pro rata basis proportional to the proceeds that each defendant personally received.
PROCCESS

Section 15. {Designating Property Subject to Forfeiture}

(A) Property subject to forfeiture must be identified by the State in an indictment of a grand jury or by information in the court in any related criminal proceeding in which a person with an interest in the property has been simultaneously charged with a violation of a law subject to forfeiture.

(B) The indictment or information must specify the time and place of the violation, identify the property, and particularly describe its use in the commission of the crime or derivation from the commission of the crime.

(C) At any time prior to trial, the State, with the consent of the court and any defendant with an interest in the property, may file an ancillary charge alleging that property is subject to forfeiture.

Section 16. {Seizure with Process}

(A) At the request of the State, a court may issue an ex parte preliminary order to seize or secure property for which forfeiture is sought and to provide for its custody. Application, issuance, execution, and return are subject to State law.

Section 17. {Seizure without Process}

(A) Property subject to forfeiture may be seized without a court order if:

1. the seizure is incident to a lawful arrest or a lawful search;

2. the property subject to seizure has been the subject of a prior judgment in favor of the State; or

3. the State has probable cause to believe that the delay occasioned by the necessity to obtain process would result in the removal or destruction of the property and that the property is forfeitable under section 5.

Section 18. {Receipt for Seized Property}

(A) When property is seized, the law enforcement officer shall give an itemized receipt to the person in possession of the property; or in the absence of any person, leave a receipt in the place where the property was found, if reasonably possible.

Section 19. {Bill of Particulars}
(A) A motion for a bill of particulars may be made before arraignment, within 90 days after arraignment, or at any later time that the court permits. A bill of particulars may be amended at any time subject to conditions that justice requires.

Section 20. {Title}

(A) At the time of seizure or entry of a restraining order, the State acquires provisional title to the seized property. Provisional title authorizes the State to hold and protect the property.

(B) Title to the property vests with the State when the trier of fact renders a final forfeiture verdict and relates back to the time when the State acquired provisional title. However, this title is subject to claims by third parties adjudicated under this chapter.

Section 21. {Storage}

(A) When property is seized, the State shall use reasonable diligence to secure the property and prevent waste.

Section 22. {Records}

(A) A State entity having custody of seized property that is subject to forfeiture shall maintain the following records:

1. the exact kinds, quantities, and forms of the property;
2. the date and from whom it received the property;
3. the violation of law that subjected the property to seizure;
4. the liens against the seized property;
5. the make, model, and serial number of each seized firearm;
6. to whom and when the notice of forfeiture was given;
7. to whom it delivered the property; and
8. the date and manner of destruction or disposition of the property.

(B) The records required under paragraph (A) are subject to the State’s freedom of information act.

Section 23. {Bond by Owner for Possession}

(A) If the owner of property that has been seized seeks its possession before the criminal trial, the owner may post bond or give substitute property in an amount equal to the fair
market value of the seized property at the time the bond amount is determined.

(B) On the posting of bond or the giving of substitute property, the State shall return the seized property to the owner within a reasonable period of time not to exceed 3 business days. The forfeiture action may then proceed against the bond or substitute property as if it were the seized property.

(C) This section does not apply to property reasonably held for investigatory purposes.

Section 24. {Petition for Remission or Mitigation}

(A) Prior to the entry of a court’s order disposing of the forfeiture action, any person who has an interest in seized property may file with the state’s attorney general a petition for remission or mitigation of the forfeiture. The attorney general shall remit or mitigate the forfeiture upon terms and conditions the attorney general deems reasonable if the attorney general finds that:

1. the petitioner did not intend to violate the law or
2. extenuating circumstances justify the remission or mitigation of the forfeiture.

Section 25. {Pretrial Replevin Hearing}

(A) Following the seizure of property under this chapter, a defendant or third-party has a right to a pretrial hearing to determine the validity of the seizure.

(B) The claimant may claim at any time prior to 60 days before trial of the related criminal violation the right to possession of property by motion to the court to issue a writ of replevin.

(C) The claimant shall file a motion establishing the validity of the alleged right, title, or interest in the property.

(D) The court shall hear the motion no more than 30 days after the motion is filed.

(E) The State shall file an answer showing probable cause for the seizure, or cross-motions at least 10 days before the hearing.

(F) The court shall grant the motion if it finds that (1) it is likely the final judgment will be that the State must return the property to the claimant or (2) the property is the only reasonable means for a defendant to pay for legal representation in the forfeiture or criminal proceeding.

(G) In lieu of ordering the issuance of the writ, the court may order the State to give security for satisfaction of any judgment, including damages, that may be rendered in the action, or order other relief as may be just.
Section 26. {Discovery}

(A) Discovery is subject to the rules of criminal procedure.

Section 27. {Right to Trial by Jury}

(A) Any party to a forfeiture action has a right to trial by jury.

Section 28. {Trial Proceedings}

(A) A trial related to the forfeiture of property must be held in a single proceeding together with the trial of the related alleged crime unless the defendant moves to bifurcate the trial.

(B) The court, upon motion of a defendant, shall separate the trial of the criminal matter against the defendant from the matter related to the forfeiture of property.

(C) The court, upon motion of a defendant, shall allow a defendant to waive the right to trial by jury related to the forfeiture of property while preserving the right to trial by jury of any crime alleged.

(D) If the court bifurcates the jury trial, the court shall first instruct and submit to the jury the issue of the guilt or innocence of the defendant to be determined by proof beyond a reasonable doubt and shall restrict argument of counsel to those issues.

(E) If the court bifurcates the jury trial, each party may introduce evidence in the forfeiture phase that was not introduced in the criminal phase.

(F) If the court bifurcates the jury trial, the court shall instruct and submit to the jury the issue of the forfeiture. The court may use interrogatories to address the forfeiture issue.

Section 29. {Proportionality}

(A) Following determination by the trier of fact, the owner may petition the court to determine whether the forfeiture is unconstitutionally excessive under the State or U.S. constitution.

(B) The owner has the burden of establishing that the forfeiture is grossly disproportional to the seriousness of the offense by a preponderance of the evidence at a hearing conducted by the court without a jury.

(C) In determining whether the forfeiture of an instrumentality is constitutionally excessive, the court shall consider all relevant factors, including, but not limited to:
(1) the seriousness of the offense and its impact on the community, including the duration of the activity and the harm caused by the person whose property is subject to forfeiture;

(2) the extent to which the person whose property is subject to forfeiture participated in the offense;

(3) the extent to which the property was used in committing the offense;

(4) the sentence imposed for committing the crime subject to forfeiture; and

(5) whether the offense was completed or attempted.

(D) In determining the value of the instrumentality subject to forfeiture, the court shall consider relevant factors, including, but not limited to:

(1) the fair market value of the property;

(2) the value of the property to the person whose property is subject to forfeiture including hardship to the owner if the forfeiture is realized; and

(3) the hardship from the loss of a motor vehicle or other property to family members or others if the property is forfeited assets.

(e) The court may not consider the value of the instrumentality to the State in determining whether the forfeiture of an instrumentality is constitutionally excessive.

THIRD-PARTY INTERESTS

Section 30. {Secured Interest}

(A) A bona fide security interest is not subject to forfeiture unless the person claiming a security interest had actual knowledge that the property was subject to forfeiture at the time of the property was seized or restrained under this chapter.

(B) A person claiming a security interest bears the burden of establishing that the validity of the interest by a preponderance of the evidence.

Section 31. {Ancillary Hearing of Third-Party Interests}

(A) A person not charged in the indictment or information but who has an interest in property subject to forfeiture may not intervene after the criminal trial has begun.

(B) Following the entry of a verdict of forfeiture of property pursuant to this chapter or the entry of a guilty plea in court on the record, the State shall exercise reasonable diligence to identify persons with a potential interest in the property and make reasonable efforts to give notice to potential claimants. The State shall provide written notice of its
intent to dispose of the property to any person known or alleged to have an interest in the property exempted from forfeiture under this chapter, including any person potentially making claims for

(1) court-ordered child support,

(2) employment-related compensation or

(3) payment of unsecured debts. The notice must also be made by publication in a reasonable geographic area.

(C) A person other than the defendant asserting a legal interest in the property, within 60 days of the date of the notice, may petition the court for a hearing to adjudicate the validity of the alleged interest in the property. The request for the hearing must be signed by the petitioner under penalty of perjury and state the nature and extent of the petitioner’s right, title, or interest in the property; the time and circumstances of the petitioner’s acquisition of the right, title, or interest; and any additional facts supporting the petitioner’s claim and the relief sought.

(D) Upon the filing of a petition, the court shall schedule the hearing as soon as practicable but in no event later than 6 months after the sentencing of any defendant convicted upon the same indictment. The court shall issue or amend a final order of forfeiture in accordance with its determination if, after the hearing, the court determines that:

(1) the petitioner has a legal right, title, or interest in the property, and such right, title or interest renders the order of forfeiture invalid in whole or in part because the right, title or interest was vested in the petitioner rather the defendant or was superior to any right, title or interest of the defendant at the time of the property was seized or restrained under this chapter; or

(2) the petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of purchase without cause to believe that the property was subject to forfeiture under this chapter. The State has the burden of proof with respect to the issue of whether the petitioner was without cause to believe that the property was subject to forfeiture at the time of purchase or other acquisition of value.

(E) A qualified indigent who wishes to contest the forfeiture of property and appears to have an exempt interest has a right to court-appointed counsel as provided in section 9. In addition, the court shall waive the person’s court fees.

Section 32. {Innocent Partial or Joint Owner}

(A) The property of an innocent partial or joint owner may not be forfeited under any forfeiture statute. The process for determining whether a person is an innocent partial or joint owner is set out in this section.
(B) A person who has any form of partial or joint interest, including joint tenancy, tenancy in common, or tenancy by the entirety, in property subject to forfeiture existing at the time the illegal conduct giving rise to forfeiture occurred and who claims to be an innocent partial or joint owner shall make a prima facie case that the person has a legal right, title, or interest in the property seized or restrained under this chapter.

(C) If paragraph (B) is satisfied and the State seeks to proceed with the forfeiture against the person’s ownership interest, the State shall prove by a preponderance of the evidence that the person had actual knowledge of the underlying crime giving rise to the forfeiture or was willfully blind to its commission.

(D) If paragraph (C) is satisfied and the person seeks to establish the person’s innocent owner status, the person shall show by a preponderance of the evidence that the person did all that reasonably could be expected under the circumstances to prohibit, abate, or terminate the illegal use of the property. The person may show that the person did all that reasonably could be expected by demonstrating, among other things, that the person, to the extent permitted by law:

   (1) gave timely notice to an appropriate law enforcement agency of information that led the person to know the conduct giving rise to a forfeiture would occur or had occurred; or

   (2) in a timely fashion revoked or made a good-faith attempt to revoke permission for those engaging in the illegal conduct to use the property or took reasonable actions in consultation with a law enforcement agency to discourage or prevent the illegal use of the property.

   (3) A person is not required under this paragraph to take steps that the person reasonably believes would be likely to subject the person to physical danger.

(E) If paragraph (D) is satisfied, the court shall find that the claimant was not a party to the crime and is an innocent partial or joint owner.

(F) A person who acquired an ownership interest in property after the commission of a crime giving rise to the forfeiture has occurred and who claims to be an innocent partial or joint owner, shall make a prima facie case that the person legal right, title, or interest in the property seized or restrained under this chapter.

(G) If paragraph (F) is satisfied and the State seeks to proceed with the forfeiture against the person’s ownership interest, the State shall prove by a preponderance of the evidence that at the time the person acquired the property interest the person had actual knowledge that the property was subject to forfeiture or was willfully blind to the commission of the crime that subjected the property to forfeiture.

(H) If the State fails to meet its burden in paragraph (G), the court shall find that the person was not a party to the crime and is an innocent partial or joint owner.
(I) An otherwise valid claim under paragraph (F) may not be denied on the grounds that the person gave nothing of value in exchange for the property if:

(1) the property is the person’s primary residence;

(2) depriving the person of the property would deprive the person of the means to maintain reasonable shelter in the community for the person and all dependents residing with the person;

(3) the property is not, and is not traceable to, the proceeds of any criminal offense; and

(4) the person acquired interest in the property through marriage, divorce, or legal separation, or the person was the spouse or legal dependent of someone whose death resulted in the transfer of the property to the person through inheritance or probate, except that the court shall limit the value of any real property interest for which innocent ownership is recognized under this paragraph to the value necessary to maintain reasonable shelter in the community for the person and all dependents residing with the person.

(J) If the innocent joint or partial owner’s claim is established under this section, the State shall relinquish all claims of title to the property that may have vested with it.

(K) If the court determines that an innocent joint or partial owner has any form of partial or joint interest in a conveyance subject to forfeiture related to operating a conveyance while impaired, the court may order that the innocent joint or partial owner participate in the ignition interlock device program under State law as a condition of ordering the device be returned to the innocent owner.

(L) If the court determines that an innocent joint or partial owner has any form of partial or joint interest in property, other than property described in paragraph (K), the court shall enter an appropriate order reflecting the innocent owner’s preference for:

(1) severing the property;

(2) transferring the property to the State with a provision that the State compensate the innocent owner to the extent of the owner’s ownership interest once a final order of forfeiture has been entered and the property has been reduced to liquid assets; or

(3) permitting the innocent owner to retain the property subject to a lien in favor of the State to the extent of the forfeitable interest in the property.

POSTFORFEITURE

Section 33. [Sale of Property]
(A) If a trier of fact finds that property is to be forfeited, the court shall order the State to:

(1) return stolen property to its owner;

(2) sell all other firearms, ammunition and firearm accessories to licensed firearms dealers in a commercially reasonable manner; and

(3) sell other property in a commercially reasonable manner.

Section 34. {Prohibition on Retaining Property; Sale Restrictions}

(A) The law enforcement agency that seized property forfeited under this chapter may not retain it for its own use or sell it directly or indirectly to any employee of the agency, to a person related to an employee by blood or marriage, or to another law enforcement agency.

Section 35. {Disposition of Proceeds}

(A) Proceeds seized and proceeds from the sale of forfeited assets may be distributed only following a court order. The court shall order the funds be used to pay, in order of priority, for the following purposes:

(1) storage and sale expenses;

(2) satisfaction of valid liens against the property;

(3) restitution ordered to the victim of the criminal offense;

(4) reimbursement of investigation costs excluding salaries that the law enforcement agency incurred in the seizure of the assets subject to the forfeiture action;

(5) court-ordered child support obligations;

(6) claims for compensation by the defendant’s employees; and

(7) claims for compensation by defendant’s unsecured creditors.

(B) All remaining funds must be deposited into the State’s treasury and credited to the general fund.

Section 36. {Reporting}

(A) For each forfeiture action occurring in the State regardless of the authority for it, the participating law enforcement agency and prosecutor shall provide a written record of the forfeiture incident to the State reporting agency.
(B) The record must include the amount forfeited, the underlying crime or conduct, its date, and whether the property had a lien against it. The record must also list the number of firearms forfeited and the make, model, and serial number of each firearm forfeited. The record must indicate how the property was disposed.

(C) The law enforcement agency and the prosecutor shall report to the State reporting agency all instances in which property seized for forfeiture is returned to its owner either because forfeiture is not pursued or for any other reason.

(D) For forfeitures resulting from the activities of multi-jurisdictional law enforcement entities, each entity on its own behalf shall report the information required in this section.

(E) The State reporting agency may require information not specified in this section to be reported as well.

(F) Reports must be made on a monthly basis in a manner prescribed by the State reporting agency.

(G) The State reporting agency shall report annually to the legislature and the public on the nature and extent of forfeitures.

(H) The State reporting agency shall include in its report required under paragraph (G) recommended changes to forfeiture law to better ensure that forfeiture proceedings are handled in a manner that is fair to innocent property owners, secured interest holders, citizens, and taxpayers.

(I) The State reporting agency shall include in its report required under paragraph (G) information on law enforcement agencies and prosecutorial offices not in compliance with this section and shall order the State to withhold payment of any funds to those agencies and offices until compliance is achieved.

MISCELLANEOUS PROVISIONS

Section 37. {Disposing of Property of a Person Deported}

(A) This section covers procedures for disposing of property when the owner is deported from the United States to a foreign country.

(B) If the owner of property is deported after

(1) being convicted of a violation of a state law that is subject to forfeiture and

(2) the property is found to be an instrumentality or proceeds of the violation of that state law, the court shall enter an order disposing of the property in accordance with sections 33, 34, and 35.

(C) If the owner of property is deported but
(1) the owner is not convicted of violating a state law that is subject to forfeiture or

(2) the property is not found to be an instrumentality or proceeds from the violation of a state law subject to forfeiture for which the owner of the property is convicted, the property shall be returned to the next of kin of the person deported.

(D) If the next of kin is not known or refuses the property, the State shall exercise reasonable diligence to identify persons with a potential interest in the property and make reasonable efforts to give notice to potential claimants. The State shall provide written notice to persons known or alleged to have an interest in the property including other family members and any person potentially making claims for court-ordered child support, employment-related compensation, or payment of debts. The notice must also be made by publication in a reasonable geographic area.

(E) If no claim is made within 60 days of the notice’s publication date, the court shall enter an order disposing of the property in accordance with section 33, 34, and 35.

(F) A person wanting to assert a legal claim to the property shall, within 60 days of the date of the applicable notice in (D), petition the court for a hearing to adjudicate the validity of the alleged interest in the property. The petition for the hearing must be signed by the claimant under penalty of perjury. It must state the nature and extent of the claimant’s right, title, or interest in the property; the time and circumstances of the claimant’s acquisition of the right, title, or interest; and any additional facts supporting the claim and the relief sought.

(G) The court shall schedule a hearing as soon as practicable to determine if the claimant has a legal right, title or interest in the property or is a bona fide purchaser for value of the legal right, title or interest in the property.

Section 38. {Return of Property, Damages, and Costs}

(A) The State shall return property to the owner within a reasonable period of time not to exceed 3 business days after a court finds that:

(1) the owner had a bona fide security interest;

(2) the owner was an innocent owner;

(3) charges against the owner were dismissed; or

(4) the owner was found not guilty of the criminal charge that is the basis for the forfeiture action.

(B) If property returned under paragraph (A) has been damaged, the owner may make a claim in small claims court or court for the damages to the seized property against the agency that seized the property.
(C) The State is responsible for any storage fees and related costs applicable to property returned under paragraph (A).

Section 39. {Penalty for Violations}

(A) Any person acting under color of law, official title, or position who takes any action intending to conceal, transfer, withhold, retain, divert, or otherwise prevent any proceeds, conveyances, real property, or any things of value forfeited under the law of the State or the United States from being applied, deposited, used, or returned to the owner in accordance with this chapter is subject to a civil penalty in an amount of three times the value of the forfeited property concealed, transferred, withheld, retained, or diverted.

(B) Any taxpayer to the State has standing to challenge in court any action contrary to this Act.

Section 40. {Interaction with Federal Government}

(A) No unit of State government may transfer a criminal investigation or proceeding to the federal government to circumvent State forfeiture law.

(B) For a State government unit to transfer a criminal investigation or proceeding that includes forfeiture to the federal government, a State court shall affirmatively find that:

(1) the suspected criminal activity giving rise to the forfeiture is interstate in nature and sufficiently complex to justify the transfer; or

(2) the seized property is forfeitable only as a violation of federal law.

(C) All funds paid by the federal government must be deposited into the State’s treasury. The State shall credit:

(1) the State government unit involved with the federal government sufficiently to reimburse it for investigation costs, excluding salaries, that the State government unit incurred related to the seizure of the assets subject to the forfeiture action and

(2) the remainder to the general fund.

(D) No unit of State government may accept from the federal government any instrumentality or payment of proceeds not permitted by paragraph (C).

(E) The State government unit shall report all transfers to the federal government of an investigation or criminal proceeding that involves forfeiture per the reporting requirements in section 36.
(F) Any taxpayer has standing to challenge in court the receipt of any proceeds or
instrumentality by a State government unit from the federal government contrary to
paragraphs (C) and (D).

Section 41. {Attorneys’ Fees}

(A) In any forfeiture proceeding under this chapter in which the claimant prevails, the
State is liable for:

(1) reasonable attorney fees and other litigation costs reasonably incurred by
the claimant;

(2) postjudgment interest; and

(3) in cases involving currency, other negotiable instruments, or the proceeds
of an interlocutory sale:

(a) interest actually paid to the State from the date of seizure of the
property that resulted from the investment of the property in an
interest-bearing account or instrument; and

(b) an imputed amount of interest that the currency, instruments, or
proceeds would have earned at the rate applicable to the 30-day
U.S. Treasury Bill, for any period during which no interest was
paid (not including any period when the property reasonably
was in use as evidence in an official proceeding or in
conducting scientific tests for the purpose of collecting
evidence), commencing 15 days after the property was seized
by a law enforcement agency.

Section 42. {Severability clause}

Section 43. {Repealer clause}

Section 44. {Effective date}
Comparison of Existing “ALEC Comprehensive Asset Forfeiture Act” (2000) and Proposed Policy

Model Policy: Asset Forfeiture Process and Private Property Protection Act

Like eminent domain abuse, civil forfeiture represents one of the most serious threats to property rights in our nation today.

Civil forfeiture is very different from criminal forfeiture, where property can be taken only if someone is convicted of or pleads guilty to a crime. Under civil forfeiture, police and prosecutors can take property—your car, your cash, your business, or even your home—without so much as arresting or even charging you for any crime.

Civil forfeiture turns a fundamental American principle—that you are innocent until proven guilty—on its head. With civil forfeiture, your property is guilty until you prove it innocent.

Making matters worse, many law enforcement agencies often get to keep the property that they seize for their own use, thereby giving them a direct and perverse financial incentive to take as much property as possible.

The Institute for Justice, a libertarian public interest law firm best known for representing the property owners in the Kelo eminent domain case, released Policing for Profit: the Abuse of Civil Asset Forfeiture in 2010 that identified only three states, Maine, North Dakota and Vermont, with asset forfeiture laws and practices rated as “B” or higher.

To help states improve their forfeiture laws, the Institute commissioned a team to draft a model asset forfeiture law that is based on three simple but important ideas:

(1) criminals should never benefit from the fruit of illegal activities;

(2) the accused should be convicted before the state takes final title to property; and

(3) law enforcement should not have incentives to prioritize forfeiture over other crimes by allowing agencies to share disproportionally in forfeited proceeds.

The proposed model asset forfeiture legislation builds on ALEC’s 2000 model. It includes detailed procedures that clarify processes for law enforcement, prosecutors, defense attorneys, courts, the accused, and innocent third parties.
## Asset Forfeiture Model Policy

### Main Differences:

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<td>Civil and criminal: In certain situations, the State can file civil forfeiture case, independent of criminal charges or prosecution. (Sections 2,3,4)</td>
<td>Allows for only criminal forfeiture. A conviction is required in all forfeiture cases before final title transfers to state. (Sections 4,5,6,7)</td>
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| Distribution of Assets | No requirement. | Adopts hierarchy similar to bankruptcy including reimbursing law enforcement for investigation costs. Remaining funds go to State’s general treasury. (Sections 33, 34, 35) |

| Reporting to Legislators and Public | No requirement. | Law enforcement must report monthly to state reporting agency detailing the kind, amounts and dates of property forfeited and underlying crime. State reporting agency must annually publish forfeitures to legislators and public. (Sections 22, 36) |

| Innocent Partial and Joint Owner Property Protection | Claimant has burden to prove that they did not have knowledge—courts can interpret as “constructive knowledge.” (Section 2, Articles f, g) | State has burden to prove that innocent claimants had “actual knowledge” of crime. (Section 32) |

| Return of Property and Penalty for Violations | State must pay interest to owner on seized assets that are returned to the owner. (Section 4) | ○ Similarly, state must pay interest. ○ Establishes limit of 3 days to return wrongly seized property. (Section 37) ○ Penalizes misconduct by officials who wrongly prevent property from being returned to the owner including a civil penalty of three times the value of the seized property. (Section 39) |

| Other Differences | No similar requirements. | ○ Prosecutors may seize substitute assets, (Section 12) ○ Property owner may post bond. (Section 23) ○ Quick mitigation process, (Section 24) ○ Quick replevin hearing, (Section 25) ○ Proportionality, (Section 29) ○ Regulates interaction with fed. gov’t, (Section 39) ○ Limits law enforcement buying assets. (Section 34) |
DRAFT Resolution on Transparency and Accountability in Criminal Law

Summary

This resolution upholds the principles of transparency and accountability in government when it comes to the creation and enhancement of criminal laws. The state of [insert state here] appreciates the vital role that criminal law plays in protecting public safety and ensuring justice for victims. At the same time, given that criminal law entails the most coercive form of regulation a government can impose, it is critical that, before the body of criminal law in a state is modified, the proposal be fully vetted by lawmakers and the public and that only duly elected legislative bodies be empowered with the authority to criminalize conduct. By requiring that legislation introduced which would create or enhance a criminal penalty so state in its caption, include a fiscal note that encompasses both state and local costs, and that all offenses be created and enhanced by democratically elected bodies rather than unelected bureaucrats, this resolution promotes a level of transparency and accountability that is proportionate to the serious consequences associated with criminal laws.

Model Resolution

WHEREAS, the number and breadth of criminal laws has grown dramatically in recent years at the federal level and in many states; and

WHEREAS, there are now more than 4,500 federal statutory crimes and thousands more regulatory crimes created by agency rulemaking; and

WHEREAS, as an example, in the last decade in Texas, an average of more than 40 new criminal laws and sentencing enhancements have been passed in each legislative session in the last decade, contributing to a body of law that now has more than 1,700 offenses, including felonies relating to harvesting oysters, and that certain Texas statutes allow agencies to impose criminal penalties for any violation of their rules; and

WHEREAS, there have been recent examples of members of Congress acknowledging they were unaware of what they were voting on, had not read the legislation before voting, and stating that Congress needed to pass the legislation so that it could later be determined what was in it; and

WHEREAS, many federal and state proposals that create and enhance criminal penalties do not include a comprehensive fiscal note that reflects the estimated costs to both the public and private sectors, including corrections, courts, prosecutorial expenses, public defenders and appointed counsel for indigent defendants, law enforcement, compliance costs for businesses, and other costs; and

WHEREAS, the creation of new criminal penalties is often obscured because these penalties are buried in legislation that is thousands of pages such as the convoluted Dodd-Frank bill enacted by Congress; and

...
WHEREAS, federal and state agencies have created thousands of regulatory crimes based on
purported implicit authority provided by catch-all statutory provisions allowing agencies to
impose criminal penalties for violations of their rules which apply to conduct that has never been
expressly criminalized by a statute duly enacted by the appropriate legislative body; and

WHEREAS, when conduct not expressly criminalized by statute can be criminalized on a daily
basis by federal and state agencies, it is difficult if not impossible for individuals and businesses
to keep track of the ever-growing body of criminal law; and

WHEREAS, the gravity of criminal law demands that those democratically elected
criminologists who are directly accountable to the public determine what constitutes criminal
conduct and that this power not be delegated to unaccountable bureaucrats; and

NOW, THEREFORE BE IT RESOLVED, that the state of [insert state here] shall require
that all legislation creating or enhancing a criminal penalty so indicate in its caption; and

BE IT FURTHER RESOLVED, that that all legislation creating or enhancing a criminal
penalty be accompanied by a comprehensive fiscal note that sets forth the estimated costs to both
the public and private sectors, including corrections, courts, prosecutorial expenses, public
defenders and appointed counsel for indigent defendants, law enforcement, compliance costs for
businesses, and other costs; and

BE IT FURTHER RESOLVED, that the state of [insert state here] shall not enact statutes that
provide agencies with the power to criminalize violations of their rules unless the conduct
involved is expressly prohibited by a legislatively enacted statute and that any existing catch-all
statutes that purport to delegate criminal law making to agencies be repealed or revised
accordingly.
DRAFT Resolution on Sex Offender Registration and Notification Act
(SORNA)

Summary

ALEC strongly supports the application of strong state laws and strict supervision of sex
offenders. However, a federal mandate that conditions unrelated federal funding on states
adopting a sex offender registry that meets restrictive federal requirements is inconsistent with
principles of federalism and the Tenth Amendment and places an economic burden on the states.
This resolution supports state flexibility to determine the parameters of their own registries to
best achieve the goals of justice, public safety, and recidivism reduction.

Model Resolution

WHEREAS, in 2006, the federal government passed the Adam Walsh Child Protection and
Safety Act (Walsh Act), which included the Sex Offender Registration and Notification Act
(SORNA), in order to centralize standards and control of sex offender registries with the federal
government, after mandating that states create sex offender registries in 1994; and

WHEREAS, SORNA requires states to include juvenile offenders in their registries if the
juvenile was at least 14 years old and the offense was comparable to or more severe than
aggravated sexual abuse, as defined in federal law; and,

WHEREAS, the federal government provided states three years to comply with SORNA’s
requirements or face cuts to federal grants, and the first state to be found compliant was Ohio in
September of 2009, after which the federal government then extended the compliance deadline
until 2010; and,

WHEREAS, as of July, 2011, only 14 states, one territory, and nine tribes had substantially
implemented SORNA; and,

WHEREAS, the federal mandate requires certain classes of juvenile offenders to be in the state
registry for their entire lifetime;

WHEREAS, the federal mandate requires that states classify individuals based on offense level
without consideration of risk as many states currently do in conformity with research in the field;

WHEREAS, ALEC supports the intent behind the Walsh Act to protect the public from sex
offenders; and,

WHEREAS, state efforts to protect the public and supervise sex offenders are preempted by the
requirements in SORNA, which also creates an unfunded mandate upon the states as the Walsh
Act does not include appropriations for implementation; and,

WHEREAS, in 2011, the Texas Legislative Budget Board determined that it would cost Texas
more than $30 million to bring its registry in compliance with the federal mandate;
WHEREAS, if states do not comply with the provisions of SORNA, they face losing a share of the federal Byrne criminal justice grants that they would otherwise receive;

WHEREAS, it is essential that the states maintain authority over juveniles adjudicated in state courts, including circumstances and length of punishment, and defining the criteria for those juveniles who must register;

WHEREAS, consistent with the constitutional principles of federalism and the Tenth Amendment, state and local governments, not the federal government, should play the primary role in developing and implementing effective responses to criminal activity that does not involve international or homeland security issues, as states provide laboratories of innovation in which different approaches can be tested, adjusted, and replicated based on results; and,

WHEREAS, states should have the power to make and enforce their criminal laws, punishments, penalties, and supervisions in order to best protect their citizens; and,

NOW, THEREFORE BE IT RESOLVED, that ALEC supports proper deference to state authorities in SORNA and flexibility in the implementation of SORNA while achieving the goals of the Walsh Act.
DRAFT Juvenile Offender Performance Incentive Funding Act

Summary

The provisions of this act are intended to incentivize the reduction of juvenile re-offending, reduce costs to taxpayers, and increase victim restitution, by giving probation departments a share of the savings to the state in reduced incarceration costs when they lower recidivism and commitments of youths to the state.

Model Legislation

Section 1. {Intent}

(A) The provisions of this act are intended to reduce recidivism rates in juvenile offenders, while decreasing juvenile correctional costs, by giving local probation departments a share of the savings to the state when they reduce the number of juveniles committed to state custody for incarceration. By linking funding to performance, this legislation creates a positive incentive for local juvenile probation departments to improve their treatment practices for juveniles to both enhance public safety and reduce costs to taxpayers.

Section 2. {Definitions}

(A) “Evidence-based practices” means supervision policies, procedures, programs and practices that scientific research demonstrates reduce recidivism among juveniles on probation, parole, or post-release supervision.

(B) “Supervised juvenile” means a juvenile placed on probation by a court or serving a period of parole or post-release supervision from incarceration.

(C) “Conditions of supervision” means conditions of probation, parole or other form of post-prison supervision.

Section 3. {Calculation of State Juvenile Incarceration Savings}

(A) The [state oversight agency] shall annually calculate:

(1) For each local juvenile probation department, the percentage change in the number of juveniles committed to state custody for incarceration as a ratio of overall referrals to the juvenile probation department for that year. This calculation shall be compared to the fiscal year prior to the fiscal year in which the report is required pursuant to Section 6 of this title.
(2) Any state expenditures that have been avoided by reductions in rates of juveniles committed to state custody for incarceration by each county, as calculated in paragraph (1) of this section.

Section 4. {Performance Incentive Funding}

(A) Beginning in fiscal year 201[x], the legislature shall annually appropriate up to 45 percent of any state expenditures that are avoided as calculated in Section 3 of this title. Such averted expenditures shall be appropriated to the [state or local agency or agencies] responsible for those savings.

(B) The appropriations in paragraph (A) of this section are subject to the following provisions:

(1) None of the calculated savings shall be appropriated annually to the [state or local agency or agencies] if there is an increase in the percentage of juveniles committed to state incarceration by [that agency or agencies] as calculated in Section 3 paragraph (A)(1) of this title.

(2) Of the state expenditures that have been avoided by a reduction in the proportion of juveniles committed state custody for incarceration as calculated in Section 3 paragraph (A)(1) of this section:

(a) Thirty percent of the total savings shall be appropriated to the state or local agency or agencies;

(b) An additional five percent of the total savings shall be appropriated to the [state or local agency or agencies] if there is an increase in the percentage of juveniles who are supervised by [that agency or agencies], and who are employed in a full-time job, employed part time for at least 25 hours per week, or attending school full-time, provided that the agency has submitted data to the [state oversight agency] showing such increases, and the [state oversight agency] includes this information in the report required pursuant to Section 6 of this title;

(c) An additional five percent of the total savings shall be appropriated to the [state or local agency or agencies] if there is an increase in the percentage of juveniles who are supervised by that [agency or agencies] who are current in their payments of victim restitution, provided that the [agency] has submitted data to the [state oversight agency] showing such increases and the [state oversight agency] includes this information in the report required pursuant to Section 6 of this title;

(d) An additional five percent of the total savings shall be appropriated to the [state or local agency or agencies] if there is a decrease in the percentage of juveniles who are supervised by [that agency or agencies] and who test positive for controlled substances.
(3) The monies appropriated pursuant to this title shall be used to supplement, not supplant, any other state or county appropriations for probation, parole or other post-prison supervision services.

**Section 5. {Use of Funds}**

(A) Monies received through appropriations pursuant to this title shall be used for the following purposes:

(1) Implementation of evidence-based practices;

(2) Increasing the availability of risk reduction programs and interventions, including problem-solving courts, substance abuse treatment programs, family-based treatment programs, and mental health treatment programs, for supervised juveniles;

(3) Grants to nonprofit victim services organizations to partner with the community corrections agencies and courts to assist victims and increase the amount of restitution collected from juvenile probationers.

**Section 6. {Reports}**

(A) On or before [October 1] of each year, beginning in 201[x], the judicial branch, [units of local government] and the state [Department of Juvenile Justice] shall jointly report to the [state oversight agency] the data necessary for the [state oversight agency] to perform the calculations required by Section 3 of this title. The report shall provide separate figures for probation and parole or other form of post-prison supervision and include for the prior fiscal year:

(1) The number of supervised juveniles, by agency; and

(2) The number and percentage of supervised juveniles, by agency, who were committed to state custody for incarceration by the [Department of Juvenile Justice].

(B) On or before [December 1] of each year, beginning in 201[x], the [state oversight agency] shall report each year on the implementation of this title to the president of the senate, the speaker of the house of representatives, the chief justice of the supreme court, and the governor. The report shall include the calculations made pursuant to this Section 3 of this title and the resulting performance incentive funding, if any, to be appropriated.

(C) The [state oversight agency] shall make its full report and an executive summary available to the general public on its website.
MOTION

DRAFT Amendments to the “ALEC Consistency in Firearms Regulation Act”

Ms. Tara Mica, National Rifle Association, motions to amend the “ALEC Consistency in Firearms Regulation Act” (1999) by striking and introducing the following:

Summary

This Act would prohibit local jurisdictions from independently enacting restrictions on the possession of firearms. This Act would also preempt the right of local jurisdictions to bring certain civil actions against firearms or ammunition manufacturers, trade associations, and dealers.

Model Legislation

{Title, enacting clause, etc.}

Section 1. {Title.} This Act may be cited as the Consistency in Firearms Regulation Act.

Section 2. {Intent; Declaration}

The purpose of this section is to establish complete state control over regulation and policy pertaining to firearms, firearm accessories, and ammunition in order to ensure that such regulation and policy is applied uniformly throughout this state to each person subject to the state’s jurisdiction and to ensure protection of the right to keep and bear arms recognized by the Constitution of the United States [and of this State, if applicable]. This section is to be liberally construed to effectuate its purpose. The (insert state body) declares that the lawful design, marketing, manufacture, or sale of firearms or ammunition to the public is not unreasonably dangerous activity and does not constitute a nuisance per se, and further finds that the unlawful use of firearms and ammunition, rather than their lawful design, marketing, manufacture, or sale, is the proximate cause of injuries arising from their unlawful use.

Section 3. {Definitions}

(A) As used in this Act:

(1) “Ammunition” means fixed cartridge ammunition, shotgun shells, the individual components of fixed cartridge ammunition and shotgun shells, projectiles for muzzleloading firearms, and any propellant used in firearms or ammunition.
(2) “Firearm accessory” means a device specifically adapted to enable the wearing or carrying about one’s person, or the storage or mounting in or on a conveyance, of a firearm, or an attachment or device specifically adapted to be inserted into or affixed onto a firearm to enable, alter, or improve the functioning or capabilities of the firearm.

(3) “Firearm” means a pistol, revolver, rifle, shotgun, machine gun, submachine gun, or black powder weapon which is designed to, capable of, or may be readily converted to expel a projectile by the action of an explosive.

(4) “Person adversely affected” means, in addition to any person who otherwise has standing pursuant to the laws of the State to bring an action under this section, any person who:

(a) Can legally possess a firearm under the laws of the State and the United States;

(b) Owns, possesses, stores, transports, carries or transfers firearms, ammunition or ammunition components within the political subdivision in question or would do so but for the ordinance, resolution, rule or practice at issue; and

(c) Is, or if present in the political subdivision in question would be, subject to the ordinance, resolution, rule or practice at issue, whether or not specific enforcement action has been initiated or threatened against such person; or

(d) A membership organization the members of which include a person described in subparagraphs (a) through (c) of this Section and that is dedicated in whole or in part to protecting the legal, civil or constitution rights of its membership.

(5) “Political subdivision” means a county, city, township, school district, or any other subunit of this state.

(6) “Post-judgment liquidated damages.” A sum equal to three times the actual damages, reasonable attorney fees and costs incurred by a party who successfully brings or maintains an action described under Subsections (4)(D) and (E) of this Act.

(7) “Prejudgment liquidated damages.” A sum equal to two times the actual damages, reasonable attorney fees and costs incurred by a party who brings or maintains an action described under Subsections (4)(D) and (E) of this Act.

Section 4. [State preemption of local firearms laws; Exceptions; Remedies for unlawful regulation.] Any political subdivision shall not impose special taxation on
enact any law, ordinance or regulation pertaining to, or regulate in any other manner the
ownership, registration, purchase, sale, transfer, transportation, carrying, or possession of
handguns or other firearms, ammunition for handguns or other firearms, or components
of handguns or other firearms, except as otherwise provided in state or federal law.
(A) Except as otherwise provided in this section or as expressly authorized by a statute of
this state, the regulation of all of the following is hereby declared to be the exclusive
domain of the state:

(1) Firearms, firearm accessories, and ammunition.

(2) The ownership, possession, carrying, transportation, registration, transfer, and
storage of firearms, firearm accessories, and ammunition.

(3) Commerce in and taxation of firearms, firearm accessories, and ammunition.

(4) Any other matter pertaining to firearms, firearm accessories, and ammunition.

(B) An ordinance, rule, resolution, or policy adopted by a political subdivision of this
state, or an official action -- including in any legislative, police power, or proprietary
capacity -- taken by an employee or agent of such political subdivision in violation of this
section is void.

(C) This section shall not be construed to prevent any of the following:

(1) A duly organized law enforcement agency of a political subdivision from
promulgating and enforcing rules pertaining to firearms, firearm accessories, or
ammunition issued to or used by peace officers in the course of their official
duties.

(2) An employer from regulating or prohibiting an employee’s carrying or
possession of firearms, firearm accessories, or ammunition during and in the
course of the employee’s official duties [except as provided in the jurisdiction’s
worker protection/parking lot law, if any].

(3) A court or administrative law judge from hearing and resolving a case or
controversy or issuing an opinion or order on a matter within its jurisdiction.

(4) The enactment or enforcement of a generally applicable zoning or business
ordinance that includes firearms businesses along with other businesses, provided
that an ordinance designed or enforced to effectively restrict or prohibit the sale,
purchase, transfer, manufacture, or display of firearms, firearm accessories, or
ammunition that is otherwise lawful under the laws of this state is in conflict with
this section and is void.

(5) A political subdivision from enacting or enforcing rules of operation and use
for any firearm range owned and operated by the political subdivision.
(6) A political subdivision from enacting or enforcing ordinances pertaining to
the reckless or negligent discharge of a firearm.

(7) A political subdivision from sponsoring or conducting any firearm-related
competition or educational or cultural program and from enacting and enforcing
rules for participation in or attendance at such program.

(D) A person adversely affected by any ordinance, resolution, rule, or practice
promulgated or enforced in violation of Subsection (B) of this Section may file suit in an
appropriate court for declarative and injunctive relief and for all actual and consequential
damages attributable to the violation.

(E) Notwithstanding any other provision of law, a party who brings or maintains an
action at law or in equity against a political subdivision that has regulated the ownership,
possession, storage, carrying, transfer or transportation of firearms, firearm accessories,
ammunition or ammunition components in violation of Subsection (B) of this Section
shall be entitled to:

(1) Reimbursement of actual damages and reasonable attorney’s fees and costs
incurred if, within 30 days of commencement of the action but prior to a final
determination by a court in favor of either party, the political subdivision rescinds
or repeals the ordinance, resolution, rule or practice at issue in the action.

(2) Prejudgment liquidated damages if, after the expiration of the 30-day period in
subparagraph (1) but prior to a final determination by a court in favor of either
party, the political subdivision rescinds or repeals the ordinance, resolution, rule
or practice at issue in the action.

(3) Post-judgment liquidated damages upon a final determination by a court in
favor of the party who brings or maintains the action.

Section 5. {State preemption of local suits pertaining to firearms or ammunition}
The authority to bring suit and right to recover against any firearms or ammunition
manufacturer, trade association, or dealer by or on behalf of any governmental unit
created by or pursuant to an Act of the (insert name of state legislature) or the
constitution, or any department, agency, or authority thereof, for damages, abatement, or
injunctive relief resulting from or relating to the lawful design, manufacture, marketing,
or sale of firearms or ammunition to the public shall be reserved exclusively to the state.
Furthermore, no action against any firearms or ammunition manufacturer, trade
association, or dealer shall be brought without the authorization of the (insert name of
legislature) by adoption of a concurrent resolution or by enactment of a law. This
paragraph shall not prohibit a political subdivision or local government authority from
bringing an action against a firearms or ammunition manufacturer or dealer for breach of
contract or warranty as to firearms or ammunition purchased by the political subdivision
or local government authority. This paragraph shall not prohibit actions for injuries
resulting from a firearm malfunction due to defects in design or manufacture.

Section 6. {Applicability} Section 4 of this Act applies to an ordinance, rule, resolution or policy adopted by a political subdivision of this state or to official actions taken by an employee or agent of such political subdivision, prior to or on after the effective date of this Act. The remedies prescribed under Section 4 of this Act shall take effect 90 days after the enactment date of this Act to provide political subdivisions an opportunity to come into compliance with the Act’s provisions. Section 5 of this Act shall apply to any action pending on or brought on or after the date this Act becomes effective.

Section 7. {Severability clause.}

Section 8. {Repealer clause.}

Section 9. {Effective date.}
DRAFT Prescription for Pseudoephedrine Products

Summary

This bill classifies any compound, mixture, or preparation, including any preparation in liquid, liquid capsule, or gel capsule form, that contains pseudoephedrine as a Schedule III drug, requiring a prescription.

Model Legislation

{Title, enacting clause, etc.}

Section 1. {Definitions}

(A) For the purposes of this section, “Schedule III drug” means:

(1) A substance that has a potential for abuse less than substances in schedules I or II; and

(2) Abuse of substance may lead to moderate or low physical dependence or high psychological dependence; and

(3) A substance that requires a prescription.

Section 2. {Classification of Pseudoephedrine}

Any compound, mixture, or preparation, including any preparation that is in liquid, liquid capsule, or gel capsule form, containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers is a Schedule III drug.

Section 3. {Severability Clause}

Section 4. {Repealer Clause}

Section 5. {Effective Date}
SUPPLEMENTARY MATERIALS
For Overcriminalization Subcommittee Discussion

DRAFT Criminal Offense Justification Act

Summary

This Act requires justification for enacting new criminal offenses or making changes to existing criminal offenses. The Act would require new criminal laws to take into account the crime’s prevalence, relation to current laws, and similarity to existing offenses to prevent the proliferation of unnecessary criminal laws or changes to existing criminal laws.

Model Legislation

{Title, enacting clause, etc.}

Section 1. {Title}

This Act may be cited as the “Criminal Offense Justification Act.”

Section 2. {Legislative Intent}

(A) To prevent the proliferation of unnecessary criminal laws or changes to existing criminal laws.

Section 3. {Definitions}

(A) “Criminal Offense” means an act punishable by law.

(B) “Mens Rea” means the criminal intent of the offender. It is the mental element of a criminal offense.

(C) “Analysis” means a description and evaluation of the expected effects of the new criminal offense or proposed changes to existing criminal offenses. An analysis must include a written documentation of all assumptions made when performing the analysis.

(D) “Legislative Counsel” means a nonpartisan legislative agency that provides bill drafting, computing, and legal, scientific, and other research services for the Legislature. This includes appropriate think tanks or state organizations as determined by legislature.

Section 4. {Requirements of New or Altered Criminal Laws}

(A) Any legislative measure which creates a new criminal offense, increases or decreases the crime classification of an existing criminal offense, or changes an element of an existing offense that creates a new factual basis for the offense is to include a written analysis performed by {insert appropriate state legislative counsel or think tank}. The
analysis is to include one or more of the following to prevent the proliferation of
unnecessary criminal laws:

(1) A description of the wrongful conduct and harms that the legislative measure
is intended to address, including a description of the inadequacies of existing
law to address the wrongful conduct and harms;

(2) A description of the elements of the new criminal offense, or a description of
the new, amended, or additional elements of an existing crime, and a
description of how each of the criminal offense’s mens rea or criminal-intent
requirement in the crime should be interpreted and applied to each element of
the crime;

(3) A written assessment of whether the wrongful conduct covered by the new
criminal offense, or by changes to an existing criminal offense, may be
charged as a crime under current [insert state] law or addressed by civil law
or non-criminal administrative rules and regulations;

(4) A comparison of the proposed crime classification to the crime classification
of similar types of offenses;

(5) A written evaluation of the current and anticipated future prevalence of the
wrongful conduct that the proposed new criminal offense, or changes to an
existing criminal offense, intends to address; and

(6) A written evaluation of the legislative measure’s expected fiscal impact on
state and local law enforcement, prosecutorial and defender services, courts,
probation services, and prison supervision personnel and populations, and an
analysis of how any costs associated with the legislative measure will be paid.

Section 4. {Severability Clause}

Section 5. {Repealer Clause}

Section 6. {Effective Date}
Mission Statement

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

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

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

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

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

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

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

ALEC Annual Meeting:

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

ALEC States & Nation Policy Summit:

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

ALEC Academies:

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

Prefix (required) □ Sen □ Rep □ Del □ Mr □ Mrs □ Ms □ Other
Last Name ___________________________ First Name ___________________________
Middle Initial ___________________________ Badge Nickname ___________________________
Title ___________________________
Organization (required) ___________________________
Mailing Address □ Business □ Home ___________________________
City ___________________________ State/Province ___________________________
Country ___________________________ ZIP/Postal code ___________________________
Daytime phone ___________________________ Fax ___________________________
Alternate phone ___________________________
Email ___________________________ (confirmation will be sent by email)
Emergency Contact Name ___________________________ Daytime Phone ___________________________
Evening Phone ___________________________
Dietary Restrictions ___________________________
Spouse / Guest: If registering a spouse or guest, please complete the spouse/guest registration form.

REGISTRATION INFORMATION

Registration Fees

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<th>Membership Type</th>
<th>Early</th>
<th>Onsite</th>
<th>Daily</th>
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<td>ALEC Private Sector Member</td>
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<td>ALEC Non-Profit Member (501c3)</td>
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<tr>
<td>ALEC Legacy Member</td>
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<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>

For Daily Registration, circle which day: Wed □ Thu □ Fri

DISCOUNT: You are eligible for a $50 discount on registration fee if you are registering and booking accommodations in ALEC’s room block at The Westin Kierland Hotel before November 7, 2011. Hotel reservations will be verified for those who receive discounted rate. You will be charged for an additional $50 if you will be invoiced for the discount after November 7, 2011.

METHOD OF REGISTRATION PAYMENT

Credit Card: Credit cards will be charged immediately.

Cardholder (please print) ___________________________ Exp Date (mm/yy) __________ Signature __________

REGISTRATION CANCELLATION / REFUND INFORMATION

Registrations canceled prior to 5:00 pm Eastern November 7, 2011 are subject to a $100 cancellation fee. Registrations are non-refundable after 5:00 pm Eastern November 7, 2011. Registration fees may be transferred from one registrant to another.

All refund requests must be made in writing and sent via email to meetings@alec.org or fax to 202-331-1344.

HOUSING RESERVATION CUTOFF FOR ALEC DISCOUNTED RATE IS NOVEMBER 7, 2011

**Save $50 on registration by booking your hotel room in ALEC’s room block at The Westin Kierland Hotel**

I do not require a reservation at this time.

Arrival Date ___________________________ Departure Date ___________________________
Sharing room with ___________________________

Room type

□ Single (1 Adult) $208
□ Double (2 Adults) $208
□ Triple (3 Adults) $258
□ Quad (4 Adults) $308

*All rates DO NOT include sales tax 12.27% (subject to change)

Note: Cutoff for reservations at the ALEC rate is November 7, 2011. After November 7, 2011, every effort will be made to accommodate new reservations, based on availability and rate.

METHOD OF HOUSING PAYMENT

Please use the same method of payment as above.

Credit Card: Credit Cards will be used to guarantee the reservation.

Cardholder (please print) ___________________________ Exp Date (mm/yy) __________ Signature __________

REGISTRATION CONFIRMATION INFORMATION

Online registrants will receive immediate email confirmation. If registering by form, confirmation will be emailed within 72 hours of receipt of payment.

Note: Registration forms with enclosed payments must be received by November 7, 2011 to be eligible for early bird registration rates. Forms and/or payments received after November 7, 2011 will be subject to on-site registration rates.

HOUSING CONFIRMATION INFORMATION

Online reservations will receive immediate email confirmation. Reservations received by form will be confirmed via email within 72 hours of receipt.

HOUSING CANCELLATION / REFUND INFORMATION

Credit cards will be charged one night room and tax in the event of a no show or if cancellation occurs within 72 hours prior to arrival. Please obtain a cancellation number when your reservation is cancelled.

Note: Cutoff for reservations at the ALEC rate is November 7, 2011. After November 7, 2011, every effort will be made to accommodate new reservations, based on availability and rate.
2011 ALEC STATES AND NATION POLICY SUMMIT
November 30 – December 2, 2011
The Westin Kierland Hotel
6902 E. Greenway Parkway • Scottsdale, AZ 85254

SPOUSE/GUEST REGISTRATION FORM

ATTENDEE INFORMATION IS REQUIRED TO REGISTER A SPOUSE OR GUEST

Last Name ____________________________________________ First Name __________________
Organization __________________________________________________________________________
Daytime phone _________________________________________________________________________
Email (Confirmation will be sent by email) _________________________________________________

SPOUSE / GUEST REGISTRATION GUIDELINES

1. Spouse / guest registration is meant to accommodate legal spouse and immediate family members.
2. Attendees from the same organization must register independently. No exception will be made.
3. Spouse / guest designation will be clearly visible on name badge.

Last Name __________________________ First Name ________________________ Middle initial _____ Badge Nickname _____________________
Last Name __________________________ First Name ________________________ Middle initial _____ Badge Nickname _____________________
Last Name __________________________ First Name ________________________ Middle initial _____ Badge Nickname _____________________

SPOUSE / GUEST REGISTRATION FEES

□ Spouse / Guest  please note name(s) above __________________________ Fee $150 TOTAL $__________

METHOD OF SPOUSE / GUEST REGISTRATION PAYMENT

Credit Card:  Credit cards will be charged immediately. Please fax to the above number for processing.

□ Amer Express Card # __________________________________________________________________________
□ Visa Cardholder (please print) ________________________________________________________________
□ MasterCard Exp Date (mm/yy) / Signature __________________________________________________________________________

REGISTRATION CONFIRMATION INFORMATION

Online registrants will receive immediate email confirmation. If registering by form, confirmation will be emailed within 72 hours of receipt of payment.

REGISTRATION CANCELLATION / REFUND INFORMATION

Registrations cancelled prior to 5pm Eastern November 7, 2011 are subject to a $100 cancellation fee. Registrations are non-refundable after 5pm Eastern November 7, 2011.
I. MISSION OF TASK FORCES

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

II. TASK FORCE RESPONSIBILITIES

A. Task Forces have the primary responsibility for identifying critical issues and developing ALEC’s official policy statements and model legislation appropriate to the specific subject areas of the Task Force.

B. Task Forces serve as forums for an exchange of ideas and sharing of experiences between ALEC’s state legislator and private sector members.

C. Task Forces are responsible for developing and sponsoring the following educational activities appropriate to the specific subject area of the Task Force:

- publications that express policy positions, including, but not limited to State Factors and Action Alerts;
- educational communication and correspondence campaigns;
- issue specific briefings, press conferences and press campaigns;
- witness testimony and the activities of policy response teams;
- workshops at ALEC’s conferences; and
- specific focus events.

D. The Executive Director is to develop an annual budget, which shall include expenses associated with Task Force meetings and educational activities. A funding mechanism to finance all meetings and educational activities proposed by Task Forces must be available before they can be undertaken.
III. GENERAL PROCEDURES

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

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

If both the Co-Chairs of a Task Force are in agreement that they should have jurisdiction on model legislation or a resolution, the legislation or resolution will be considered by the Task Force. If the other Task Force Co-Chairs believe they should have jurisdiction or if the author of the model bill or resolution does not agree on the jurisdictional assignment of the bill, they will have 10 days after the 35-day mailer deadline to submit in writing or by electronic appeal to the Director of Policy their intent to challenge the jurisdictional 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-
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. If a Task Force is unable to develop an operating budget, the Board of Directors will determine whether to continue the operations of the Task Force. This determination will be made according to: (1) the level of membership on the Task Force, and (2) the need for continued services developed by the Task Force for ALEC.

F. The Board of Directors shall have the authority to allocate limited general support funds to finance the annual operating budget of Task Forces that meet the requirements prescribed in Section III (E). The Executive Director shall determine, and report to the Board of Directors, the amount of general support funds available to underwrite such Task Forces.

IV. MEMBERSHIP AND MEMBER RESPONSIBILITIES

A. The membership of a Task Force consists of legislators who are members in good standing of ALEC and are duly appointed to the Task Force, in accordance with Section VI (A) and private sector organizations that are full members of ALEC, contribute to the assessment for the Task Force operating budget, and are duly appointed to the Task Force, in accordance with Section VI (B). Private sector organizations that were full members of ALEC and contributed the assessment for the Task Force’s operating budget in the previous year, can be appointed to the Task Force for the current year, conditional upon renewal of full ALEC membership and receipt of the current year’s assessment for the Task Force operating budget prior to March 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

Revised May 2009 & Bold added September 2011
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

Revised May 2009 & Bold added September 2011
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.
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.

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.

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.

The Public and Private Sector Task Force Co-Chairs, may jointly appoint subject matter experts to serve as advisors to the Task Force. The National Chair and the Private Enterprise Board Chair may also jointly recommend to the Task Force Co-Chairs subject matter experts to serve as advisors to the Task Force.
VII. REMOVAL AND VACANCIES

A. The National Chair may remove any Public Sector Task Force Co-Chair from his position and any legislative member from a Task Force with or without cause. Such action will not be taken except upon thirty days written notice to such Chair or member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive Task Force meetings.

B. The Public Sector Task Force Co-Chair may remove any legislative member of an Executive Committee or subcommittee from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive meetings.

C. The Chairman of the Private Enterprise Board may remove any Private Sector Task Force Co-Chair from his position and any private sector member from a Task Force with cause. Such action shall not be taken except upon thirty days written notice to such Chair or member whose removal is proposed. For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues.

D. The Private Sector Task Force Co-Chair may remove any private sector member of an Executive Committee or subcommittee from his position with cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues.

E. The Public and Private Sector Task Force Co-Chairs may remove an advisor from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such advisor whose removal is proposed.

F. Any member or advisor may resign from his position as Public Sector Task Force Co-Chair, Private Sector Task Force Co-Chair, public or private sector Task Force member, Task Force advisor, Executive Committee member or subcommittee member at any time by writing a letter to that effect to the Public Sector and Private Sector Task Force Co-Chairs. The letter should specify the
effective date of the resignation, and if none is specified, the effective date shall be the date on which the letter is received by the Public and Private Task Force Co-Chairs.

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

VIII. MEETINGS

A. Task Force meetings shall only be called by the joint action of the Public and Private Sector Task Force Co-Chairs. Task Force meetings cannot be held any earlier than thirty-five days after being called, unless an emergency situation has been declared pursuant to Section VIII (H), in which case Task Force meetings cannot be held any earlier than ten days after being called. It is recommended that, at least once a year, the Task Forces convene in a common location for a joint Task Force Summit. Executive Committee meetings shall only be called by the joint action of the Public and Private Sector Task Force Co-Chairs and cannot be held any earlier than three days after being called, unless the Executive Committee waives this requirement by unanimous consent.

B. At least forty-five days prior to a task force meeting any model bill, resolution or policy must be submitted to ALEC staff that will be voted on at the meeting. At least thirty-five days prior to a Task Force meeting, ALEC staff shall distribute copies of any model bill, resolution or policy statement that will be voted on at that meeting. This requirement does not prohibit modification or amendment of a model bill, resolution or policy statement at the meeting. This requirement may be waived if an emergency situation has been declared pursuant to Section VIII(H).

C. All Task Force meetings are open to registered attendees and invited guests of ALEC meetings and conferences. Only regular Task Force Members may introduce any resolution, policy statement or model bill. Only Task Force members will be allowed to participate in the Task Force meeting discussions.
and be seated at the table during Task Force meetings, unless otherwise permitted by the Public and Private Sector Task Force Co-Chairs.

D. ALEC private sector member organizations may only be represented at Task Force and Executive Committee meetings by the individual addressed in the appointment letter sent pursuant to Section VI (D) or a designee of the private sector member. If someone other than the individual addressed in the appointment letter is designated to represent the private sector member, the designation must be submitted in writing to the Public and Private Sector Task Force Co-Chairs before the meeting, and the individual cannot represent any other private sector member at the meeting.

E. All Task Force and Executive Committee meetings shall be conducted under the guidelines of Roberts Rules of Order, except as otherwise provided in these Operating Procedures. A copy of the Task Force Operating Procedures shall be included in the briefing packages sent to the Task Force members prior to each meeting.

F. A majority vote of legislative members present and voting and a majority vote of the private sector members present and voting, polled separately, are required to approve any motion offered at a Task Force or Executive Committee meeting. A vote on a motion to reconsider would be only with the sector that made the motion. Members have the right, in a voice vote, to abstain and to vote present by roll-call vote. In all votes a member can change their vote up until the time that the result of the vote is announced. Only duly appointed members or their designee as stated in Section VIII (D) that are present at the meeting may vote on each motion. No proxy, absentee or advance voting is allowed.

G. The Public Sector Task Force Co-Chair and the Private Sector Task Force Co-Chair, with the concurrence of a majority of the Executive Committee, polled in accordance with Section VIII (F), may schedule a Task Force vote by mail or any form of electronic communication on any action pertaining to policy statements, model legislation or educational activity. The deadline for the receipt of votes can be no earlier than thirty-five days after notification of the vote is mailed or notified by any form of electronic communication, unless an emergency situation is declared pursuant to Section VIII (H), in which case the deadline can be no earlier than ten days after notification is mailed or notified by any form of electronic communication. Such votes are exempt from all rules in Section VIII, except: (1) the requirement that copies of model legislation and
policy statements be mailed or notified by any form of electronic communication with the notification of the vote and (2) the requirement that a majority of legislative members voting and a majority of the private sector members voting, polled separately, is required to approve any action by a Task Force.

H. For purposes of Sections VIII(A), (B) and (G), an emergency situation can be declared by:

(1) Unanimous vote of all members of the Task Force Executive Committee present at an Executive Committee meeting prior to the meeting at which the Task Force votes on the model bill, resolution or policy statement; or

(2) At least three-fourth majority vote of the legislative and private sector Task Force members (voting in accordance with Section VIII (F)) present at the meeting at which the members vote on the model bill, resolution or policy statement.

I. Ten Task Force members shall constitute a quorum for a Task Force meeting. One-half of the legislative and one-half of the private sector members of an Executive Committee shall constitute a quorum for an Executive Committee meeting.

IX. REVIEW AND ADOPTION PROCEDURES

A. All Task Force policy statements, model bills or resolutions shall become ALEC policy either: (1) upon adoption by the Task Force and affirmation by the Board of Directors or (2) thirty days after adoption by the Task Force if no member of the Board of Directors requests, within those thirty days, a formal review by the Board of Directors. General information about the adoption of a policy position may be announced upon adoption by the Task Force.

B. The Executive Director shall notify the Board of Directors of the approval by a Task Force of any policy statement, model bill or resolution within ten days of such approval. Members of the Board of Directors shall have thirty days from the date of Task Force approval to review any new policy statement, model bill or resolution prior to adoption as official ALEC policy. Within those thirty days, any member of the Board of Directors may request that the policy be
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.
MEMORANDUM
TO: PUBLIC SAFETY AND ELECTIONS TASK FORCE MEMBERS
FROM: COURTNEY O’BRIEN, TASK FORCE DIRECTOR
DATE: APRIL 6, 2012
RE: 35 DAY MAILING—2012 SPRING TASK FORCE SUMMIT

The American Legislative Exchange Council will host its 2012 Spring Task Force Summit May 11, 2012 at The Westin Charlotte Hotel in Charlotte, North Carolina. You may register for the meeting here. The full agenda for the Spring Task Force Summit is available here.

The Public Safety and Elections Task Force will meet on Friday, May 11, 2012 from 12:45 – 5:15 PM. From 12:45 – 2 PM, we will meet for a Task Force luncheon, followed by the full Task Force meeting from 2:00 – 5:15 PM. The luncheon will release the findings from a new bipartisan public opinion poll on voters’ attitudes towards criminal justice policy.

The Task Force has an exciting agenda including model policy on the Sex Offender Registration and Notification Act, occupational licensing for ex-offenders, enhanced techniques for excise tax collection, plain ballot language, and the use of biometric information for identification purposes.

The Task Force will also consider a proposal for the establishment of a Special Advisory Committee for the Review of Model Policies. This Committee will review older model policies to provide recommendations to the Task Force on amendments, updates and/or repeals. Please find attached the draft proposal to be considered during the Task Force meeting. If any member of the Task Force would like to participate on the subcommittee, please email Cara Sullivan at csullivan@alec.org.

Please find the following materials enclosed:
• Public Safety & Elections Task Force 2012 Overview
• Spring Task Force Summit Agenda-at-a-Glance
• Public Safety & Elections Task Force Luncheon Invite
• Task Force Meeting Tentative Agenda
• 2011 States and Nation Policy Summit Minutes
• Draft Proposal for the Establishment of a Special Advisory Committee for the Review of Model Policies
• Draft Model Legislation
• STFS Registration Forms
• ALEC Mission Statement
• Scholarship Policies by Meeting
• ALEC Task Force Operating Procedures

I look forward to seeing all of you in Charlotte, North Carolina! If you have any questions or comments regarding the meeting, please do not hesitate to contact me at 202-742-8504 or by e-mail at cobrien@alec.org.

Sincerely,

Courtney O’Brien
Public Safety and Elections Task Force Director

1101 Vermont Avenue, NW, 11th Floor, Washington, D.C. 20005 ■ 202-466-3800 ■ Fax: 202-466-3801 ■ www.alec.org
Public Safety and Elections Task Force
2012 Overview
www.alec.org/publicsafety

Task Force Mission Statement:
The Public Safety and Elections Task Force is dedicated to developing model policies that reduce crime and violence in our cities and neighborhoods; while also focusing on developing policies to ensure integrity and efficiency in our elections, and within our systems of government.

Public Sector Chair: Rep. Jerry Madden, Texas
Private Sector Chair: Ms. Stacie Rumenap, Stop Child Predators

Task Force Active Subcommittees:
- Overcriminalization
- Mental Health Diversion

Issue Areas:
- Bail
- Commercial Theft
- Courts and Sentencing
- Corrections and Reentry
- Child Safety
- Elections & Ethics
- Felons
- Firearms
- Overcriminalization
- Protecting Personal Information
- Prevention of Underage Drinking
- Vehicular Misconduct/Enforcement
- Victims’ Rights

Recent Model Legislation:
Resolution in Support of Victim-Offender Mediation - Victim Offender Mediation is a face-to-face meeting, in the presence of a trained mediator, between the victim of a crime and the person who committed that crime. This Resolution encourages states to establish victim-offender mediation policies or to promote the availability and utilization of such an option if it already exists.

Swift and Certain Sanctions Act - For states to deliver swift, certain and proportionate responses to violations of probation and parole, they need an array of institutional and community-based sanctions as well as the authority to assign—and reassign—offenders to those sanctions. This Act requires community corrections agencies to adopt a set of graduated sanctions and rewards to respond to violations and compliance with the conditions of supervision. This Act also establishes authority for agencies to impose graduated sanctions and rewards through an administrative process.
Resolution in Support of Justice Reinvestment – Justice reinvestment has helped states around the nation cut costs dramatically through intervention, education, treatment, and intense supervision to identify those at the highest risk to commit crime. This resolution supports any policies which would use these proven methods to reduce spending on corrections and reduce recidivism.

Resolution in Support of the Citizens United Decision - This Resolution emphasizes the importance of first amendment protections of corporations’, non-profit advocacy groups’, and labor organizations’ speech. The resolution warns that mandatory disclosure and disclaimer requirements, particularly relating to an organization’s source of funding, can be intimidating to such organizations and inhibit free speech.

Future Direction for Task Force:
The future of the Task Force will be driven by our membership, the political climate, and the top policy issues of the day. Our subcommittees and working groups present an exciting opportunity within the Task Force to specialize in top issues for 2012: Commercial Bail, Corrections Costs, Offender Reentry, Victim Restitution, Overcriminalization, Forensic DNA Testing, Redistricting, the National Popular Vote, Ethics Laws, etc.

Task Force Publications:
Criminals on the Street: A Citizen’s Right to Know (State Factor, 2009)
A Plan to Reduce Prison Overcrowding and Violent Crime (State Factor, 2007)

Staff Contact Info:
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Task Force Director
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Cara Sullivan
Legislative Analyst
202-742-8513
csullivan@alec.org
Thursday, May 10, 2012
Registration
3:00 p.m. – 7:00 p.m.

NC Welcome Reception
8:30 p.m. – 11:00 p.m.

Friday, May 11, 2012
Registration
7:30 a.m. – 2:00 p.m.

Task Force Subcommittee Meetings
8:00 a.m. – 9:45 a.m.
All Task Force members are welcome and encouraged to attend their Task Force’s Subcommittee meetings.

Digital Learning Subcommittee
8:15 a.m. – 9:15 a.m.

Energy Subcommittee
8:15 a.m. – 9:15 a.m.

Fiscal Policy Reform Working Group
8:15 a.m. – 9:15 a.m.

Other Subcommittees to be Determined

Workshop
9:30 – 10:45
All ALEC members are welcome to attend.

Workshop:
11:00 a.m. – 12:15 p.m.
All ALEC members are welcome to attend.

Task Force Lunch Meetings
1:00 p.m. – 2:00 p.m.
Task Forces will each begin serving at 12:45 for luncheon.

Task Force Meetings
2:00 p.m. – 5:15 p.m.
- Civil Justice
- Commerce, Insurance, and Economic Development
- Communications and Technology
- Education
- Energy, Environment and Agriculture
- Health and Human Services
- Public Safety and Elections
- Tax and Fiscal Policy

Spring Task Force Summit Reception
6:30 p.m. – 8:30 p.m.
The Public Safety and Elections Task Force cordially invites you to a Luncheon and Presentation

Friday, May 11, 2012
12:45 – 2:00 p.m.
Just prior to the Task Force Meeting
Tryon Room
The Westin Charlotte Hotel

The Public’s Opinion:
Criminal Justice Policy

Guest Speaker:
Adam Gelb, Director
Public Safety Performance Project, Pew Center on the States

*How does the public really feel about “Justice Reinvestment”?*

Mr. Gelb will present the findings of a recent national poll conducted by a bipartisan partnership of two political polling firms—Public Opinion Strategies and The Mellman Group—regarding public views on criminal justice policy.
Public Safety and Elections Task Force
2012 Spring Task Force Summit
Friday, May 11, 2012
2:00 PM – 5:15 PM
Tryon Room

Tentative Agenda

1. **Call to Order**
   2:00 PM
   - Attendance
   - Approval of Minutes
   - Introduction of New Members
   - State Policy Network Updates

2. **Presentations and Model Legislation**
   2:30 PM
   - **Establishment of a Special Advisory Subcommittee for the Review of Model Policies**
     Mr. Eli Lehrer, *The Heartland Institute*, Task Force Advisor

   - **“Resolution on the Sex Offender Registration and Notification Act”**
     Mr. Marc Levin, *Texas Public Policy Foundation*

   - **“The Provisional Licenses for Ex-Offenders Act”**
     Mr. Marc Levin, *Texas Public Policy Foundation*

   - **“The Regulation and Use of Biometric Data Act” – DUAL REFER**
     Representative Lora Hubbel, *South Dakota*

   - **“The State Sovereignty and Drivers License Protection Act”**
     Representative Lora Hubbel, *South Dakota*

   - **“Resolution Supporting Enhanced Tobacco Tax Collection”**
     Ms. Mariam Ozaltin, *SICPA*

   - **“The Plain Language in Ballot Titles Act”**
     Representative Libby Szabo, *Colorado*

3. **For the Good of the Order**
   5:00 PM

4. **Adjournment**
   5:15 PM
American Legislative Exchange Council  
Public Safety and Elections Task Force  
2011 States and Nation Policy Summit  
December 2, 2011

I. Preliminaries

The Task Force approved the minutes from Annual Meeting 2011 by a unanimous vote.

II. Subcommittee Reports

1. Overcriminalization Subcommittee – Mr. Marc Levin, Texas Public Policy Foundation
   The Overcriminalization Subcommittee held a conference call on Friday, November 4th, 2011. Mr. Lee McGrath, Institute for Justice, presented on “Asset Forfeiture Process and Private Property Protection Act.” Both the motion to repeal the existing “ALEC Comprehensive Asset Forfeiture Act” and the motion to adopt “Asset Forfeiture Process and Private Property Protection Act” passed the subcommittee by unanimous voice vote and were recommended to the Public Safety and Elections Task Force. Mr. Marc Levin, Texas Public Policy Foundation, discussed the “Resolution on Transparency and Accountability in Criminal Law.” The Subcommittee held an advisory vote and the model resolution was unanimously recommended to the Public Safety and Elections Task Force.

   The Public Safety Working Group held a conference call on Wednesday, November 9th, 2011. Mr. George Hittner, American Traffic Solutions, presented on the “Resolution in Support of the Use of Automated Enforcement Devices to Reduce Injuries and Fatalities on our Nation’s Roads” as well as a repeal of the existing “ALEC Anti-Automated Enforcement Act.” The motion to repeal was tabled unanimously by the private and public sector. “The Resolution in Support of Evidence-based Medical Treatment for Substance Use Disorders,” presented by Dr. Robert Forman, Alkermes, passed both sectors unanimously and was recommended to the Public Safety & Elections Task Force. Mr. Marc Levin, Texas Public Policy Foundation, then presented the “Juvenile Offender Performance Incentive Funding Act.” The model policy unanimously passed the subcommittee and was recommended to the Public Safety & Elections Task Force.

III. Consideration of Model Legislation

This Act requires that an individual representing the state or working for the state, in a position of authority over minors, who witnesses the physical or sexual abuse of a minor [as defined by the state] submits an oral or written report about the incident to local child protective services agency or the appropriate law enforcement agency, providing exceptions.

Motion to consider the model legislation as emergency model legislation; passed the public sector unanimously; passed the private sector unanimously; Emergency Bill Considered.

Motion to table the model legislation; passed the public sector unanimously; passed the private sector unanimously; Bill Tabled.

Amendments in order of introduction:
(1) Lines 20-23, strike: “each health practitioner, police officer, educator, employees of a county office of education or the State Department of Education, human service worker, probation and parole officer, coroner, medical examiner, correctional officer, court appointed special advocate or guardians ad litem acting in a professional capacity in this State:” and insert: “in the course of operations of entities which receive state funding, each individual in a position of authority over minors:”
(2) Lines 31-34, strike: “If acting as a staff member of a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution”
(3) Line 36, strike: “listed in this Section”
(4) Line 42, insert: “or written” after “An oral” and insert: “realistically” after “as soon as”
(5) Lines 51-58, strike: “A written report: (a) To the local department not later than 24 hours after the contact, examination, attention, or treatment that caused the individual to believe that the child had been subjected to abuse or neglect; and (b) With a copy to the local State's Attorney if the individual has reason to believe that the child has been subjected to abuse.”
(6) Line 67-86, strike: “the following information: (1) The name, age, and home address of the child; (2) The name, address, and phone number of the reporter; (3) The name and home address of the child's parent or other person who is responsible for the child's care; (4) The whereabouts of the child; (5) The nature and extent of the abuse or neglect of the child, including any evidence or information available to the reporter concerning possible previous instances of abuse or neglect; and (6) Any other information that would help to determine: (a) The cause of the suspected abuse or neglect; and (b) The identity of
any individual responsible for the abuse or neglect” and insert: “information that would aid law enforcement in the investigation. (E) A person is not required to provide notice under Subsection (A) of this Section: (1) In violation of attorney-client privilege the privilege; or (2) If the notice would disclose matter communicated in confidence by a client to the client's attorney or other information relating to the representation of the client; or (3) In violation of any constitutional right to assistance of counsel. (F) A minister of the gospel, clergymen, or priest of an established church of any denomination is not required to provide notice under Subsection (A) of this Section if the notice would disclose matter in relation to any communication under the protection of privilege and: (1) The communication was made to the minister, clergymen, or priest in a professional character in the course of discipline enjoined by the church to which the minister, clergymen, or priest belongs; and (2) The minister, clergymen, or priest is bound to maintain the confidentiality of that communication under canon law, church doctrine, or practice. (G) Notification of other agency and cooperative agreements: (1) An agency to which a report of suspected abuse is made under Subsection (A) of this section shall immediately notify the other agency. (2) This subsection does not prohibit a local department and an appropriate law enforcement agency from agreeing to cooperative arrangements.”

(7) Lines 88-154, strike: Section 3
(8) Line 156, insert: “, Immunities and Reporting” after “Penalties”
(9) Lines 156-157, strike: “An individual who fails to comply with the criteria for reporting abuse or neglect as outlined in Sections 2 or 3 shall be charged with a misdemeanor” and insert: “(A) Except as otherwise specified, all reporting requirements, penalties, and immunities shall be identical to those imposed on other individuals mandated to report. (B) A person who reports abuse or neglect as required by this Act is immune from civil liability unless the report made is knowingly false.

Motion to approve amendments (1-9); passed the public sector unanimously; Amendments Passed.

Motion to adopt the model legislation; passed the public sector unanimously; Bill Passed.

2. “ALEC Resolution in Support of the Electoral College” – by Mr. Ray Haynes, National Popular Vote

Amendments in order of introduction:
(1) Line 2, strike: “national popular vote” and insert: “direct vote of the people”
(2) Lines 15-17, strike: “(insert state)’s electoral votes are awarded based on how the majority of the State’s citizens vote” and insert: “each state’s legislature determines the rules under which its electors will be appointed”

(3) Lines 18-24, strike: “under the National Popular Vote Interstate Compact, (insert state)’s electoral votes could be awarded to a candidate that a majority of the State’s citizens did not vote for” and insert: “over the years, the state legislatures of the various states have maintained control of the process by which its electors have been appointed, and have changed that process many times based on the considered decisions of the various state legislature, including today, where the means by which electors are appointed are not uniform in the fifty states;”

(4) Line 35, strike: “popular vote” and insert: “direct vote of the people”

(5) Lines 36-38, strike: “WHEREAS, the constitutionality of the National Popular Vote Interstate Compact is questionable because Article I, Section 10 of the Constitution states that no state, without the consent of Congress, may “enter into any Agreement or Compact with another State.””

(6) Lines 40 and 41, insert: “, which preserves control over the system of appointing electors by the state legislature”

(7) Lines 43-45, strike: “creates a multi-state compact for the purpose of dismantling its current Electoral College System” and insert: “attempts to take that power away from the state legislature, or remove control of elections from the states”

(8) Strike: “WHEREAS, the current Electoral College system ensures that (insert state)’s electoral votes are awarded based on how the majority of the State’s citizens vote;”

Motion to pass Amendments (1-7): No second; Amendments Failed.

Motion to pass Amendment (8); Passed the public sector; Passed the private sector; Amendment Passed.

Motion to adopt the model legislation as amended; passed the public sector; passed the private sector; Bill Passed as Amended.

3. Repeal: “ALEC Resolution in Opposition to the National Popular Vote” – by Mr. Ray Haynes, National Popular Vote

Withdrawn by sponsor.

4. “Resolution in Support of the National Popular Vote Interstate Compact” – by Mr. Ray Haynes, National Popular Vote
Withdrawn by sponsor.

5. “Prescription for Pseudoephedrine Products” – by Representative Sue Tibbs, Oklahoma.

This bill classifies any compound, mixture, or preparation, including any preparation in liquid, liquid capsule, or gel capsule form that contains pseudoephedrine as a Schedule III drug, requiring a prescription.

Motion to adopt the model legislation; failed the public sector; Bill Failed.

6. “Resolution in Support of Evidence-based Medical Treatment for Substance Use Disorders” – by Dr. Suzanne Gelber, Alkermes Inc.

Substance use disorders often lead to a revolving door of arrest, incarceration, release to the streets untreated or undertreated, followed by rearrest and return to incarceration. Evidence-based medical treatment should be made available in the treatment of offenders with substance use disorders.

Motion to adopt the model resolution; passed the public sector unanimously; passed the private sector unanimously; Resolution Passed.

7. Amendments to “ALEC Consistency in Firearms Regulation Act” – by Mrs. Tara Mica, National Rifle Association

Motion to amend lines 82 and 83 by striking “Subsections” and inserting “Sections”; passed public sector unanimously; passed private sector unanimously; Amendment Passed.

Motion to adopt as amended; passed public sector unanimously; passed private sector unanimously; Amendments Passed.

8. “Juvenile Offender Performance Incentive Funding Act” – by Mr. Marc Levin, Texas Public Policy Foundation

The provisions of this act are intended to incentivize the reduction of juvenile re-offending, reduce costs to taxpayers, and increase victim restitution, by giving probation departments a share of the savings to the state in reduced incarceration costs when they lower recidivism and commitments of youths to the state.
Motion to amend on lines 57 – 59 by striking “committed to state incarceration by [that agency or agencies] as calculated in Section 3 paragraph (A) (1) of this title” and inserting “adjudicated for a new felony”; passed the public sector unanimously; passed the private sector unanimously; Amendment Passed.

9. “Resolution on Transparency and Accountability in Criminal Law” – by Mr. Marc Levin, Texas Public Policy Foundation

This resolution upholds the principles of transparency and accountability in government when it comes to the creation and enhancement of criminal laws. By requiring that legislation introduced which would create or enhance a criminal penalty so state in its caption, include a fiscal note that encompasses both state and local costs, and that all offenses be created and enhanced by democratically elected bodies rather than unelected bureaucrats, this resolution promotes a level of transparency and accountability that is proportionate to the serious consequences associated with criminal laws.

Motion to adopt both the “Juvenile Offender Performance Incentive Funding Act” as amended and the “Resolution on Transparency and Accountability in Criminal Law”; passed the public sector; passed the private sector; Bills Passed.

10. Amendments to “ALEC Anti-Automated Enforcement Act” – by Mr. George Hittner, American Traffic Solutions

Motion to amend on line 29 by striking “e) when law enforcement manpower is insufficient or difficult to deploy safely”; passed the public sector; passed the private sector; Amendment Passed.

Motion to adopt as amended; Failed public sector; Resolution Failed.

11. Repeal “ALEC Comprehensive Asset Forfeiture Act” – by Mr. Lee McGrath, Institute for Justice

Motion to repeal; passed public sector unanimously; passed private sector unanimously; Bill Repealed.

12. “Asset Forfeiture Process and Private Property Protection Act” – by Mr. Lee McGrath, Institute for Justice

This model improves and expands upon ALEC’s “Comprehensive Asset Forfeiture Act” (2000). The “Asset Forfeiture Process and Private Property Protection Act” protects individual liberty and property rights by standardizing
forfeitures across all crimes, simplifying procedures, and addressing counterproductive incentives in the law that distort policing priorities. Importantly, this model does not change the authority of law enforcement to seize property suspected of being associated with crime or limit in any way prosecutors’ ability to charge and prosecute suspected criminals. Moreover, it ensures that those individuals proven guilty of a crime do not keep the fruits of their crime. In doing so, it strikes the right balance between the individual property rights and public safety.

Motion to adopt the model legislation; passed the public sector; passed the private sector; Bill Passed.

IV. For the Good of the Order

V. Adjournment
WHEREAS, The American Legislative Exchange Council (ALEC)’s Task Force on Public Safety and Elections has considered several hundred model proposals and;

WHEREAS, it is to the benefit of the Task Force to assure that these bills reflect the current policy, values, and interests of ALEC;

THEREFORE, the Public Safety and Elections Task Force adopts the following procedures for purposes of its internal operations:

SECTION 1. {Establishment, Charge, and Composition of Special Advisory Subcommittee}


(B) The Special Advisory Subcommittee for the Review of Model Policies (hereafter “the Subcommittee”) shall be an advisory body charged with reviewing Task Force model policy and making recommendations to the Task Force.

(C) The Subcommittee shall review and make recommendations to the Task Force on model policy approved by the Public Safety and Elections Task Force.

(D) The Subcommittee shall consist of:

   (1) The Public Sector Task Force Chair

   (2) The Private Sector Task Force Chair

   (3) One member of the Task Force designated by the Public Sector Task Force Chair

   (4) One member of the Task Force designated by the Private Sector Task Force Chair

(E) The Task Force Advisor and Task Force Director shall serve as ex officio members of the subcommittee but shall not vote.

SECTION 2. {Reports and Content of Reports}

(A) Immediately following the Task Force’s approval of this proposal, the Task Force Advisor will present to the Task Force a list of bills to be considered in the first report of the Subcommittee.
(1) Within one week of the approval of this proposal the Task Force Director will send out a list of the models to be considered in the first report to the entire Task Force and initiate an “open commentary” period.

(2) During this period, Task Force members may send comments regarding the models directly to the Task Force Director for submission to the Subcommittee.

(B) The Subcommittee shall submit to the Task Force Director, at least forty five days prior to its next Task Force meeting following the meeting at which this proposal is approved, a report. The Task Force Director will then transmit to the Task Force, at least thirty five days prior to its next in-person meetings following the meeting at which this proposal is approved, that report.

(C) Each report shall contain a summary of each model bill considered, a subcommittee recommendation regarding that bill, and a brief description of the reasoning behind that recommendation.

(D) The Subcommittee shall make one of four recommendations regarding each bill. The recommendations shall be as follows:

(1) Retain: This represents the Subcommittee’s recommendation that the model bill should be retained without modification.

(2) Repeal: This represents the Subcommittee’s recommendation that the model bill should be repealed subject to the approval of the ALEC Legislative Board.

(3) Make Technical Amendments: The represents the subcommittees’ recommendation that the fundamental principles, gist, and impact of the model legislation are and ought to be consistent with ALEC policy going forward but that certain minor modifications are necessary to bring the bill into conformity with current realities. When technical amendments are proposed, a specific list of such amendments shall be included in the report. Topics for technical amendments include but are not limited to updates to the titles of government agencies, changes to dates, and changes in terminology to reflect changes in technology, custom, and common usage as well as corrections to grammar and spelling.

(4) Further Review by a Subcommittee or the Task Force as a Whole: This represents the Subcommittee’s recommendation that a particular subcommittee or the task force as a whole consider specific amendments and modifications to the model bill that have the impact of changing its fundamental principles, gist, or impact.

(E) Each report shall be approved by a majority of members of the subcommittee before it is submitted to the Task Force as a whole. Any member of the committee voting against the report or any portion of the report will be allowed to provide an advisory
“minority report” outlining reasons for dissent.

(F) Subsequent reports will be provided at the discretion of the Subcommittee’s members.

(1) Subsequent to any additional report, the task force advisor shall present to the task force a list of bills to be reviewed.

(2) All subsequent report shall follow the procedures in sections (A), (B), (C), (D) and (E) above.

Section 3. {Procedures Relating to Reports and Models}

(A) Each report shall be voted on by the Task Force as a whole under special rules of procedure:

(1) Initial debate on the report shall be limited to 30 minutes.

(2) Approval of the report will require majority support by both the public and private sectors.

(3) If a report is rejected by either the public sector or the private sector of the Task Force, any member of the Task Force may immediately make a privileged, non-debatable motion to consider any single model proposal mentioned in the report separately from the report as a whole.

(4) Such a motion, if successful, will require in an immediate vote by both public and private sectors on the recommendation in question.

(5) Subsequent to votes on motions described in (2) and (3) the task force shall vote on the report again, deleting all provisions that have been subject to such motions.

(B) Following the approval of a report, the Task Force Director shall prepare the following:

(1) A list of model proposals to be repealed that shall be forwarded to the ALEC Legislative Board for its approval.

(2) A list of model proposals to receive technical amendments to be forwarded to the ALEC Legislative Board for its approval.

(C) All model bills suggested for further review from subcommittees or the Task Force as a whole shall be scheduled for discussion in the appropriate forum.
(1) Any individual or group of individuals who are members of the Task Force may serve as sponsors of any piece of legislation being considered for further review.

(2) In the event that multiple groups or individuals wish to serve as a sponsor, the group with more members of the Task Force will be designated as the “lead” sponsor and others will be assured the ability to offer their proposals as amendments.

(3) In the event that no individual steps forward to serve as the sponsor of the model legislation being recommended for review, the Task Force Advisor will serve as the bill sponsor for purposes of debate and discussion and shall have an affirmative responsibility to work for the passage of the committee’s recommendations but will not have a vote on the matters concerning it.
DRAFT Resolution on Sex Offender Registration and Notification Act (SORNA)

Summary

The American Legislative Exchange Council (ALEC) strongly supports the application of strong state laws and strict supervision of sex offenders. However, a federal mandate that conditions unrelated federal funding on states adopting a sex offender registry that meets restrictive federal requirements is inconsistent with principles of federalism and the Tenth Amendment and places an economic burden on the states. This resolution supports state flexibility to determine the parameters of their own registries to best achieve the goals of justice, public safety, and recidivism reduction.

Model Resolution

WHEREAS, in 2006, the federal government passed the Adam Walsh Child Protection and Safety Act (Walsh Act), which included the Sex Offender Registration and Notification Act (SORNA), in order to centralize standards and control of sex offender registries with the federal government, after mandating that states create sex offender registries in 1994; and

WHEREAS, SORNA requires states to include juvenile offenders in their registries if the juvenile was at least 14 years old and the offense was comparable to or more severe than aggravated sexual abuse, as defined in federal law; and,

WHEREAS, the federal government provided states three years to comply with SORNA’s requirements or face cuts to federal grants, and the first state to be found compliant was Ohio in September of 2009, after which the federal government then extended the compliance deadline until 2010; and,

WHEREAS, as of July, 2011, only 14 states, one territory, and nine tribes had substantially implemented SORNA; and,

WHEREAS, the federal mandate requires certain classes of juvenile offenders to be in the state registry for their entire lifetime;

WHEREAS, the federal mandate requires that states classify individuals based on offense level without consideration of risk as many states currently do in conformity with research in the field;

WHEREAS, ALEC supports the intent behind the Walsh Act to protect the public from sex offenders; and,

WHEREAS, state efforts to protect the public and supervise sex offenders are preempted by the requirements in SORNA, which also creates an unfunded mandate upon the states as the Walsh Act does not include appropriations for implementation; and,
WHEREAS, in 2011, the Texas Legislative Budget Board determined that it would cost Texas more than $30 million to bring its registry in compliance with the federal mandate;

WHEREAS, if states do not comply with the provisions of SORNA, they face losing a share of the federal Byrne criminal justice grants that they would otherwise receive;

WHEREAS, it is essential that the states maintain authority over juveniles adjudicated in state courts, including circumstances and length of punishment, and defining the criteria for those juveniles who must register;

WHEREAS, consistent with the constitutional principles of federalism and the Tenth Amendment, state and local governments, not the federal government, should play the primary role in developing and implementing effective responses to criminal activity that does not involve international or homeland security issues, as states provide laboratories of innovation in which different approaches can be tested, adjusted, and replicated based on results; and,

WHEREAS, states should have the power to make and enforce their criminal laws, punishments, penalties, and supervisions in order to best protect their citizens; and,

NOW, THEREFORE BE IT RESOLVED, that ALEC supports proper deference to state authorities in SORNA and flexibility in the implementation of SORNA while achieving the goals of the Walsh Act.
DRAFT The Provisional Licenses for Ex-Offenders Act

Summary

This bill allows certain ex-offenders to obtain a provisional, or probationary, occupational license if they are otherwise qualified. Research indicates that a person who has been law abiding for at least five years is at a low risk of re-offending. Also, according to the Federal Bureau of Prisons, ex-offenders who are employed are three to five times less likely to re-offend.

Model Legislation

Section 1. {Provisional License}

(A) Notwithstanding any other law and unless the applicant has been convicted of an offense described by Section 2, a licensing authority shall issue to an otherwise qualified applicant who has been convicted of a nonviolent offense not less than two years ago or a violent offense not less than four years ago:

(1) The license for which the applicant applied; or

(2) A provisional license.

(B) The provisional license shall be valid for a term of between 90 and 360 days, as specified by agency rule.

(C) The licensing authority may revoke a provisional license if the provisional license holder:

(1) Commits a new offense;

(2) Commits an act or omission that causes the person’s community supervision, mandatory supervision, or parole to be revoked, if applicable; or

(3) Violates the law or rules governing the practice of the occupation for which the provisional license is issued.

(D) The licensing authority shall issue the license for which the applicant originally applied to a provisional license holder on the expiration of the provisional license term if the provisional license holder does not engage in conduct described by Subsection (C) of this Section.

(E) If the licensing authority revokes a provisional license under Subsection (C) of this Section, the provisional license holder is not entitled to receive another provisional license or a regular license for which the applicant originally applied, even if otherwise
qualified. The ability of such a person to subsequently obtain another such license in the future is within the discretion of the issuing agency.

(F) An applicant who is on community supervision and who is issued a provisional license under this section shall provide to the licensing authority the name and contact information of the probation or parole department to which the person reports. The licensing authority shall notify the probation or parole department that a provisional license has been issued. The probation or parole department shall notify the licensing authority if the person's community supervision is revoked during the term of the provisional license. The court shall also notify the agency if the person is charged with a new offense.

(H) If the person was convicted of an offense that involved robbery, residential burglary, or a home invasion of any kind within the last ten years and if the occupation is one in which a licensee regularly enters private residences, the provisional license must include a condition that the person only work under the accompanying supervision of another licensed individual who has no criminal record in all home visits and the supervising individual must sign a verifying affidavit. If the offense occurred more than ten years ago, the condition is discretionary with the agency. The regular license may include this condition as long as the agency determines it is warranted. The agency may conduct reasonable enforcement activities to ensure this supervision condition is complied with over the course of the license term.

(I) Nothing herein shall be implicitly interpreted to preclude an agency from exercising its existing discretion to issue a license to individuals not covered under this statute, except where precluded by another law.

Section 2. {Exemptions}

(A) This Act does not apply to a person convicted of homicide, an aggravated violent felony offense, a felony sex offense, or kidnapping.

(B) This Act does not apply to a person convicted of an offense involving fraud if the licensed occupation is one in which the licensee owes a fiduciary duty to a client.

(C) This Act does not apply to any occupation where the licensee would be supervising children or individuals who lack mental capacity without another licensee in the same room at all times.

(D) This Act does not apply to any initial or renewal license application where the applicant was convicted of committing an offense in the course of performing the duties of the occupation or a substantially similar occupation.

(E) If the licensing agency believes another exemption not provided herein is necessary in a specific case to protect the public from a clear and imminent danger, the agency may
seek declaratory relief in district court through a judicial order finding that the applicant
should not be issued a regular or provisional license because it would pose such a danger.

Section 3. {Severability clause}

Section 4. {Repealer clause}

Section 5. {Effective date}
Summary

This Act protects an individual's privacy and personal identification information by providing specific guidance and regulations on how biometric identification data may be collected, used, and stored. Though the use of biometric data can be necessary to ensure proper identification in specific settings, it is imperative that this data neither be mishandled nor misused.

Model Legislation

Section 1. {Definitions} The following definitions apply in this Act:

(A) "Biometric data" means fingerprints, handprints, voices, facial mapping, iris images, retinal images, vein scans, hand geometry, or finger geometry.

(B) "Biometric information" means biometric data that is used in a biometric system for fingerprint recognition, hand geometry recognition, finger geometry recognition, voice recognition, facial recognition, iris scans, retinal scans, or vein recognition.

(C) "Biometric system" means an automated system capable of:

(1) Capturing biometric data from an individual's biometric information;

(2) Extracting and processing the biometric data captured under of this Subsection;

(3) Storing the biometric data extracted under Subsection (2) of this Subsection;

(4) Comparing the biometric data extracted under Subsection (2) of this Subsection with biometric data stored for the individual for use in future recognition of the individual; and

(5) Determining how well the extracted and stored biometric data match when compared under Subsection (4) of this Subsection, and indicating whether an identification or verification of identity has been achieved;

(D) "Collector" means a person who collects the biometric information of another individual.

(E) "Contractor" means a person who contracts with a collector to store the biometric information collected by the collector, and includes a person to whom the contractor sells the contractor's business and transfers the biometric information.
(F) "Facial mapping" means the use of digital technology to measure the features of an individual's face.

(G) "Facial recognition" means the use of facial mapping for recognition purposes.

(H) "Finger geometry recognition" means the use of the shape and dimensions of one or more fingers for recognition purposes.

(I) "Fingerprint recognition" means the use of the physical structure of an individual's fingerprint for recognition purposes.

(J) "Governmental entity" means a state agency, a municipality, and an agency of a municipality; in this Subsection, "state agency" means an agency of the executive, judicial, or legislative branch of state government.

(K) "Hand geometry recognition" means the use of the physical structure of an individual's hand for recognition purposes.

(L) "Iris scan" means the use of an image of the physical structure of an individual's iris for recognition purposes.

(M) "Retinal scan" means the use of the pattern of blood vessels in an individual's eye for recognition purposes.

(N) "Vein recognition" means the use of the veins in an individual's skin for recognition purposes.

Section 2. {Biometric information collection}

(A) A person may not collect the biometric information of another individual unless the person first:

(1) Notifies the individual in a clear manner that the biometric information is being collected, the specific purpose for which the biometric information will be used, and how long the biometric information will be kept; and

(2) Receives, in a written, electronic, or other form by which the consent can be documented, the individual's full consent to the collection of the biometric information, the specific purpose for which the biometric information will be used, and how long the biometric information will be kept.

(B) Unless the individual's biometric information was needed for a specific authorized law enforcement, security, or fraud prevention purpose, an individual may, at any time, revoke or amend the individual's consent provided under Subsection (A) of this Section.
Any collection of a digital photo image with a pixel count exceeding the following perimeters is considered a biometric sample and accordingly is to be considered biometric information. Where the width of the head is forty-nine (49) pixels or more of resolution, which corresponds to a maximum full image width of eighty-five (85) pixels or more of resolution, and an image height of one hundred six (106) pixels or more of resolution.

Section 3. {Disclosure of biometric information}

(A) A collector and a collector's contractor may not disclose, transfer, or distribute the biometric information of another individual, except to a contractor or to a person to authenticate the identity of the individual providing the biometric information.

(B) A disclosure, transfer, or distribution under Subsection (A) of this section may only be made for the original purpose for which the information was collected.

Section 4. {Sale of biometric information}

(A) A person may not sell biometric information, except that a contractor may sell the contractor's business to another person and transfer the biometric information to the buyer.

Section 5. {Alternate identification}

(A) If a person who administers an occupational examination requires an individual taking the examination to provide biometric information to the person for the purpose of identifying the individual taking the examination, the person may not require that the individual provide the biometric information if the individual provides the person with a valid state issued identification card including but not limited to a state driver’s license or a valid federal identification card including but not limited to a U.S. passport to the person administering the occupational examination.

(B) In this section, "occupational examination" includes an examination required for admission to an institution of higher learning.

Section 6. {Disposal}

(A) When a collector no longer needs an individual's biometric information for the collector's original purpose, or if an individual requests in writing that the individual's biometric information be removed from all databases or other storage systems and be permanently destroyed, the collector and the collector's contractor, if any, shall, within 120 days and unless prohibited by other law, a regulation, or a court order, remove the individual's biometric information from all databases and storage systems and destroy the biometric information.
Within 30 days after determining that the collector no longer needs an individual's biometric information for the collector's original purpose or that the individual has requested the removal and destruction, the collector shall notify the collector's contractor, if any, that the collector is to remove the individual's biometric information from all databases and storage systems and destroy the biometric information.

Section 7. {Use of biometric information}

A collector may not use biometric information for marketing purposes or for general surveillance purposes, but a collector may use the biometric information for a specific authorized security or fraud prevention purpose in addition to the specific purpose for which the biometric information was collected.

Section 8. {Storage of biometric information}

A collector and a contractor shall store an individual's biometric information in a secure manner, which may include encryption or another appropriate method, to ensure that the identity of the individual who provided the biometric information is protected.

Section 9. {Right of action}

Except as provided in Subsection (B) of this Section, an individual may bring a civil action against a person who knowingly violates this Act. A person who violates this Act is liable to the individual for actual damages and a penalty of $5,000, except that, if the violation resulted in profit or monetary gain to the person, the penalty is $100,000.

An action for damages, a penalty, or both may not be brought against the state, the agencies of the state, or the officers or employees of the state or the agencies of the state for violations of this Act or for other claims arising under this Act.

Section 10. {Exemptions}

This Act does not apply to the collection, retention, analysis, disclosure, or distribution of:

(1) Biometric information for a law enforcement purpose provided a search warrant is issued for the purposes of the identification of perpetrators, or the investigation of crimes, the identification of a reported missing person, the identification of unidentified persons provided the unidentified person has committed an offense or violation of law for which would a physical custody arrest is required, or the identification of human remains; or

(2) Biometric information when authorized by a mandatory state or federal law.

This Act does not apply to the retention of voices recorded for quality assurance purposes.
Section 11. {Severability clause}

Section 12. {Repealer clause}

Section 13. {Effective date}
DRAFT The State Sovereignty and Drivers License Protection Act

Summary

This Act protects an individual’s personal information and privacy by ending the use of biometrics for all noncommercial driver licenses and identification cards, ending the retention of Social Security numbers by the agency responsible for driver license issuance, and preventing the use of RFID devices for such ID documents.

Model Legislation

Section 1. (Definitions) The following definitions apply in this Act:

(A) "Biometric data," "biometric sample" or "biometric template" means, but is not limited to:

(1) Facial feature pattern characteristics;

(2) A computerized facial image, or a hard copy of a facial image that, when scanned by electronic means, may be used to create a computerized facial image, which exceeds an uncompressed photographic resolution where the width of the head is forty-nine (49) pixels or more of resolution, which corresponds to a maximum full image width of eighty-five (85) pixels or more of resolution, and an image height of one hundred six (106) pixels or more of resolution;

(3) Voice data used for comparing live speech with a previously created speech model of the voice of a person;

(4) Iris recognition data containing color or texture patterns or codes;

(5) Retinal scans, reading through the pupil to measure blood vessels lining the retina;

(6) Behavior characteristics of a handwritten signature, such as shape, speed, pressure, pen angle, or sequence;

(7) Fingerprints, palm prints, and other methods for measuring or recording ridge pattern or fingertip characteristics;

(8) Keystroke dynamics, measuring pressure applied to key pads;

(9) Hand geometry, measuring hand characteristics, including the shape and length of fingers, in three dimensions; and

(10) Deoxyribonucleic acid (DNA) or ribonucleic acid (RNA).
(B) “Non-Commercial Drivers License” (or “drivers license”) means an original, renewal, or replacement drivers license, a learner permit, or an intermediate drivers license issued by the Department of Motor Vehicles (“DMV”).

(C) "Identification card" means an original, renewal, or replacement identification card issued by the DMV.

Section 2. (Cessation of Biometric Data Comparison and Use)

(A) Upon the effective date of this Act, the DMV shall:

(1) Cease making biometric comparisons and shall be prohibited from making such comparisons thereafter, regarding the issuance of a drivers license or an identification card; and

(2) Cease collecting fingerprint images and shall be prohibited from collecting such images thereafter, regarding the issuance of a drivers license or an identification card.

(B) The DMV shall, on or before the date of implementation of this Act:

(1) Permanently delete from all active databases, archival, or backup storage databases of the DMV any fingerprint images or biometric data, biometric sample or biometric template relating to fingerprint images previously collected, obtained or retained from an applicant for a drivers license or identification card.

(2) Permanently delete from all active databases, archival, or backup storage databases of the DMV, any Social Security number that was previously collected, obtained or retained from an applicant for a drivers license or identification card applicant and thereafter, the DMV shall be prohibited from retaining the Social Security number of an applicant in any active database longer than seventy-two (72) hours or until such time the Social Security number is disclosed to the Department of Human Services; and

(3) Render inoperable all software capable of making biometric comparisons, regarding the issuance of a drivers license or identification card, and at such time when the DMV enters into any new, renewed or altered contract relating to equipment or computer software used in conjunction with the issuance of a drivers license or identification card, the DMV shall permanently remove all existing software capable of making biometric comparisons, even if such software was previously made inoperable. The DMV is further prohibited from installing software capable of making such biometric comparisons thereafter. Fingerprint imaging software and related equipment, used exclusively for the collection of fingerprints for hazardous material commercial driver license issuance, shall be excluded from the provisions of this subsection.
Any facial image, collected by the DMV, for the issuance of a drivers license or an identification card, shall be collected and stored in compliance with this Section, and:

1. Shall be collected in the format where the facial image collected does not exceed an uncompressed photographic resolution where the width of the head is forty-nine (49) pixels or more of resolution, which corresponds to a maximum full image width of eighty-five (85) pixels or more and a maximum image height of one hundred and six (106) pixels or more; and

2. In a separate database that is not accessible by any other governmental or nongovernmental entity; and

3. Shall be collected using a white background; and

4. Shall not be collected using a blue background so that the image may be more readily distinguished from facial images collected at a higher resolution; and

5. The DMV shall not retain at any time more than one facial image that was collected after the date of implementation of this act, and thereafter, the collection of any facial image for renewal or replacement of a drivers license or identification card shall cause any previous facial image, collected after the date of implementation of this act, to be permanently and immediately deleted. The Department of Public Safety shall allow an applicant to renew or replace a drivers license at any time for the purpose of submitting to the collection of a facial image that complies with the provisions of this section and all appropriate fees and issuance requirements shall be applicable at that time.

(D) The DMV shall be prohibited from issuing a drivers license or identification card which utilizes the technology known as "Radio Frequency Identification", "RFID", "Radio Frequency Technology", or "RFT", or similar technologies or devices that are capable of storing and transmitting personally identifiable information or unique numbers, codes, or algorithms which directly correlate to personal information held in another location, database, or device.

Section 3. {Exemptions}

(A) The provisions of this Section shall not be construed to prevent the following:

1. The collection or retention of photographs or fingerprints, including for biometric comparisons, for the purpose of enforcing laws relating to serious traffic offenses including, but not limited to, driving while intoxicated, reckless driving, negligent homicide with the use of a motor vehicle, operating a motor vehicle after being declared a habitual motor vehicle offender, or any other offense for which a physical custody arrest is required;
(2) The collection of fingerprints for the Transportation Security Administration for the purpose of performing criminal record checks required under federal regulations governing the issuance of hazardous materials endorsements on commercial driver licenses and the taking, and retention, of fingerprints for that express purpose;

(3) The use, collection, storage or disclosure of a Social Security number relating to a commercial driver license;

(4) Requesting and receiving motor vehicle and driver license records or from having legal access to information in the possession of the DMV by law enforcement agencies, provided that such access and requests for facial images are specific to individual records and individual persons;

(5) The administration of the Sex Offenders Registration Act as it applies to the issuance of a drivers license or identification card;

(6) The collection of a facial image, complying to the provisions of this section, by a Driver Examiner, and the transmission of such a facial image to an agent of the DMV, to ensure that a person who has appeared before a Driver Examiner is the same person who appears before a motor license agency to obtain a driver license or identification card; or

(7) The performance of the duties of a motor license agent as required by a mandatory law.

Section 4. {Severability clause}

Section 5. {Repealer clause}

Section 6. {Effective date}
DRAFT Resolution Supporting Enhanced Tobacco Tax Collections

Summary

This Resolution calls for state tax departments to improve tobacco supply chain security and state excise tax collection by implementing advanced technologies that decrease tax evasion, reduce smuggling between states, decrease the ability to counterfeit excise tax stamps and increase use of data or information technology.

Model Resolution

WHEREAS, cigarette and tobacco product tax increases have historically been subject to tax evasion increases and consumption declines; and

WHEREAS, a recent U.S. Government Accountability Office (GAO) study depicts how illegal trafficking operations can take advantage of weaknesses in the supply chain at multiple points to evade customs duties, federal and state/local excise taxes, and even tobacco settlement payments¹; and

WHEREAS, counterfeiting is estimated to constitute 7% to 21% of total cigarette volume, and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) reports that an estimated $5 billion in tobacco tax revenue is lost on the black market²; and

WHEREAS, tobacco smuggling is a growing problem in U.S. that has turned into a lucrative business for criminals who trade cigarettes and other tobacco products on the black market; and

WHEREAS, taxes from tobacco products support smoking cessation programs, hospital services, health education, breast cancer research and prevention, and childhood development programs; and

WHEREAS, new anti-counterfeiting capabilities now exist to make it easier to see and distinguish and harder to counterfeit than cigarette tax stamps that do not utilize advanced technologies; and

WHEREAS, supply chain data and information tools provide greater visibility in cigarette and tobacco distribution, support required cigarette and tobacco tax reporting and tax payment, and support audit outcomes desired by state tax departments; and

WHEREAS, high-tech tax stamps, in particular, include encrypted codes and information that enforcement officials and others can read with portable scanners, making stamps nearly impossible to counterfeit; and

WHEREAS, high-tech tax stamps have helped state and federal governments reduce tobacco tax evasion, for example, the State of California recovers over $150 million in annual state tobacco taxes since 2005.
THEREFORE BE IT RESOLVED, that the American Legislative Exchange Council (ALEC) supports policies that improve tobacco supply chain security and state excise tax collection by:

(A) Implementing a secure tax collection system that utilizes advanced technologies, such as stamps that utilize multiple layers of security and information technology;

(B) Collecting supply chain information about excise tax eligible products;

(C) Providing data on product flow to states’ then-current tax management system enabling correlation of this data with other tax types to promote increased efficiency of audit and inspection triggers; and

(D) Increasing tax compliance enforcement and auditing capabilities.

THEREFORE, BE IT FURTHER RESOLVED, that ALEC supports a distribution of funds to be made available to the state tax departments for enforcement and administration of this Act.


DRAFT The Plain Language in Ballot Titles Act

Summary

This Act ensures that voters fully understand ballot language by requiring that the titles of ballot measures are written, to the extent possible, in plain, nontechnical language and in a clear and coherent manner using words with common and everyday meaning.

Model Legislation

{Title, enacting clause, etc.}

Section 1. {Definitions}

(A) “Advisory board” refers to any state governmental body, commission, or board which oversees the ballot title process.

(B) “Title” refers to the language used to describe any proposed law or constitutional amendment to be included on a ballot for public vote.

Section 2. {Plain Language Requirement for the Title of a Proposed Law or Amendment}

(A) In setting a title for a proposed law or constitutional amendment, the advisory board shall:

   (1) Consider the public confusion that might be caused by misleading titles; and

   (2) Whenever practicable, avoid titles for which the general understanding of the effect of a "yes" or "no" vote will be unclear.

(B) The title for the proposed law or constitutional amendment shall, to the extent possible:

   (1) Be written in plain, nontechnical language and in a clear and coherent manner; and

   (2) Use words with common and everyday meaning that are understandable to the average reader, and correctly and fairly expresses the true intent and meaning thereof.

(C) The title for the proposed law or amendment, together with the ballot title and submission clause, shall be completed within two weeks after the first meeting of the advisory board.
(D) Immediately upon completion, the Secretary of State shall deliver the title for the proposed law or amendment with the original to the designated representatives of the proponents, keeping the copy with a record of the action taken thereon.

(E) Ballot titles shall:

(1) Be brief;

(2) Shall not conflict with those selected for any petition previously filed for the same election; and

(3) Shall be in the form of a question which may be answered “yes” (to vote in favor of the proposed law or constitutional amendment) or “no” (to vote against the proposed law or constitutional amendment) and which shall unambiguously state the principle of the provision sought to be added, amended, or repealed.

Section 3. {Plain Language Requirement for Ballot Titles of Referred Measures}

(A) Any person, including members of the state legislature and the office of legislative legal services, who prepares or proposes a ballot title of a statewide referred measure, or an amendment to the ballot title, shall ensure that, to the extent possible, the ballot title is written in plain, nontechnical language and in a clear and coherent manner using words with common and everyday meaning that are understandable to the average reader.

(C) Adoption by the state legislature of the statewide referred measure creates a presumption that the ballot title included therein conforms to this section.

Section 4. {Severability clause}

Section 5. {Repealer clause}

Section 6. {Effective date}
2012 ALEC SPRING TASK FORCE SUMMIT
May 11, 2012
The Westin Charlotte Hotel
601 South College Street ● Charlotte, NC 28202

ATTENDEE REGISTRATION / HOUSING FORM

Early registration deadline: April 5, 2012
Housing cut-off date: April 5, 2012

Online
www.alec.org
Fax (credit cards only)
202.331.1344
Phone / Questions
Registration 202.742.8538 (Mon-Fri, 9am-5pm Eastern)
Housing 1.866.837.4148

ATTENDEE INFORMATION

Prefix (required) □ Sen □ Rep □ Del □ Mr □ Mrs □ Ms □ Other
Last Name ________________________________________ First Name ______________________________ Middle Initial _____ Badge Nickname __________________________
Organization (required) ____________________________________________________________
Primary Address □ Business □ Home ______________________________ ______________________________
City __________________________________ State/Province ______ Country __________ ZIP/Postal code
Daytime phone ___________________________ Fax ___________________________ Alternate phone ___________________________
Emergency Contact □ This is my first time attending an ALEC event. Name _____________________________________________________
(daytime or cell)
Dietary Restrictions
□ None □ Gluten Free □ Nut Free □ dairy Free □ other ______________________________ □ This is my first time attending an ALEC event. *Spouse / Guest: If registering a spouse or guest, please complete the spouse/guest registration form

REGISTRATION INFORMATION

Registration Fees
Early Before Beginning Onsite April 6
□ ALEC Legislative Task Force Member $ 150 $ 150
□ ALEC Private Sector Task Force Voting Member $ 250 $ 250
□ ALEC Non-Profit Task Force Voting Member $ 250 $ 250
□ ALEC Legislative Member/ Non-Task Force Member $ 300 $ 400
□ Private Sector Member/ Non-Task Force Member $ 550 $ 650
□ ALEC Non-Profit Member (501(c)(3) status required)/ Non-Task Force Member $ 475 $ 575
□ Legislative/ Non-Member $ 475 $ 575
□ Private Sector/ Non-Member $ 675 $ 825
□ Non-Profit-Non-Member (501(c)(3) status required) $ 825 $ 725
□ Legislative Staff/ Government $ 400 $ 500
□ ALEC Alumni $ 350 $ 450
□ ALEC Legacy Member $ 350 $ 450

REGISTRATION FEE : $ 350

METHODOFREGISTRATIONPAYMENT
Credit Card: Credit cards will be charged immediately.
□ Amer Express □ Visa □ MasterCard □ Discover
Card # ________________________________________________________
Exp Date (mm/yy) __________ Signature _________________________

REGISTRATION CANCELLATION / REFUND INFORMATION
Registrations cancelled prior to 5:00 pm Eastern April 5, 2012 are subject to a $100 cancellation fee. Registrations are non-refundable after 5:00 pm Eastern April 6, 2012. Registration fees may be transferred from one registrant to another. All refund requests must be made in writing and sent via email to meetings@alec.org or fax to 202-331-1344.

REGISTRATION CONFIRMATION INFORMATION
Online registrants will receive immediate email confirmation. If registering by form, confirmation will be emailed within 72 hours of receipt of payment.

HOUSING RESERVATION CUTOFF FOR ALEC DISCOUNTED RATE IS April 5, 2012

□ I do not require a reservation at this time.
Arrival Date _____________ Departure Date ________________
Sharing room with ________________________________
Room type
□ Single (1 Adult) $ 139
□ Double (2 Adults) $ 139
□ Triple (3 Adults) $ 139
□ Quad (4 Adults) $ 139

Suites and upgraded accommodations are available upon request. Please call 1.866.837.4148 for additional information.

Special requests
□ ADA room required:
□ Rollaway / crib:
□ Other:
□ ADA room required:
□ Rollaway / crib:
□ Other:

METHOD OF HOUSING PAYMENT
□ Please use the same method of payment as above.
Credit Card: Credit Cards will be used to guarantee the reservation.
□ Amer Express □ Visa □ MasterCard □ Discover
Card # ________________________________________________________
Exp Date (mm/yy) __________ Signature _________________________

Note: Cutoff for reservations at the ALEC rate is April 5, 2012. After April 5, 2012, every effort will be made to accommodate new reservations, based on availability and rate.

HOUSING CONFIRMATION INFORMATION
Online reservations will receive immediate email confirmation. Reservations received by form will be confirmed via email within 72 hours of receipt.

HOUSING CANCELLATION / REFUND INFORMATION
Credit cards will be charged one night room and tax in the event of a no show or if cancellation occurs within 72 hours prior to arrival. Please obtain a cancellation number when your reservation is cancelled.
# SPOUSE/GUEST REGISTRATION FORM

**2012 ALEC SPRING TASK FORCE SUMMIT**  
May 11, 2012  
The Westin Charlotte Hotel  
601 South College Street • Charlotte, NC 28202

## SPOUSE/GUEST REGISTRATION FORM

### Online/Guest Registration Information

- **www.alec.org**
- **Fax (credit cards only)** 202.331.1344
- **Phone / Questions** Mon-Fri, 9am-5:30 pm Eastern  
  Registration: 202.742.8538

### ATTENDEE INFORMATION IS REQUIRED TO REGISTER A SPOUSE OR GUEST

- Last Name __________________________________________  
  First Name __________________________________________
- Organization ________________________________________________________________________________________________
- Daytime phone ________________________________________________________________________________________________
- Email (Confirmation will be sent by email) __________________________________________________________________________

### SPOUSE / GUEST REGISTRATION GUIDELINES

1. Spouse / guest registration is meant to accommodate legal spouse and immediate family members.
2. Attendees from the same organization must register independently. No exception will be made.
3. Spouse / guest designation will be clearly visible on name badge.

### SPOUSE / GUEST REGISTRATION

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<tr>
<th>Last Name</th>
<th>First Name</th>
<th>Middle Initial</th>
<th>Badge Nickname</th>
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### SPOUSE / GUEST REGISTRATION FEES

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<th>Number of Spouse/Guest(s)</th>
<th>Fee</th>
<th>TOTAL</th>
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<td>□ Spouse / Guest please note name(s) above</td>
<td>$ 50</td>
<td>$ ________</td>
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### METHOD OF SPOUSE / GUEST REGISTRATION PAYMENT

- **Credit Card**: Credit cards will be charged immediately. Please fax to the above number for processing.
  - □ Amer Express  
  - □ Visa  
  - □ MasterCard

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### REGISTRATION CONFIRMATION INFORMATION

Online registrants will receive immediate email confirmation. If registering by form, confirmation will be emailed within 72 hours of receipt of payment.

### REGISTRATION CANCELLATION / REFUND INFORMATION

Registrations are non-refundable after 5pm Eastern April 5, 2012.
Mission Statement

The American Legislative Exchange Council’s mission is to:

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

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

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

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

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

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

**ALEC Annual Meeting**:

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

**ALEC States & Nation Policy Summit**:

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

**ALEC Academies**:

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

TASK FORCE OPERATING PROCEDURES

I. MISSION OF TASK FORCES

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

II. TASK FORCE RESPONSIBILITIES

A. Task Forces have the primary responsibility for identifying critical issues and developing ALEC’s official policy statements and model legislation appropriate to the specific subject areas of the Task Force.

B. Task Forces serve as forums for an exchange of ideas and sharing of experiences between ALEC’s state legislator and private sector members.

C. Task Forces are responsible for developing and sponsoring the following educational activities appropriate to the specific subject area of the Task Force:

- publications that express policy positions, including, but not limited to State Factors and Action Alerts;
- educational communication and correspondence campaigns;
- issue specific briefings, press conferences and press campaigns;
- witness testimony and the activities of policy response teams;
- workshops at ALEC’s conferences; and
- specific focus events.

D. The Executive Director is to develop an annual budget, which shall include expenses associated with Task Force meetings and educational activities. A funding mechanism to finance all meetings and educational activities proposed by Task Forces must be available before they can be undertaken.
III. GENERAL PROCEDURES

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

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

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

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

Revised May 2009 & Bold added September 2011
should be utilized only in exceptional circumstances. Before the policy is adopted by the Board of Directors, it should be sent to the Public and Private Sector Task Force Co-Chairs under whose jurisdiction the matter falls for review and comment back to the Board of Directors.

D. The operating cycle of a Task Force is two years. A new operating cycle begins on January 1 of each odd numbered year and ends on December 31 of the following even numbered year. Task Force activities shall be planned and budgeted on an annual basis within each two-year operating cycle.

E. If a Task Force is unable to develop an operating budget, the Board of Directors will determine whether to continue the operations of the Task Force. This determination will be made according to: (1) the level of membership on the Task Force, and (2) the need for continued services developed by the Task Force for ALEC.

F. The Board of Directors shall have the authority to allocate limited general support funds to finance the annual operating budget of Task Forces that meet the requirements prescribed in Section III (E). The Executive Director shall determine, and report to the Board of Directors, the amount of general support funds available to underwrite such Task Forces.

IV. MEMBERSHIP AND MEMBER RESPONSIBILITIES

A. The membership of a Task Force consists of legislators who are members in good standing of ALEC and are duly appointed to the Task Force, in accordance with Section VI (A) and private sector organizations that are full members of ALEC, contribute to the assessment for the Task Force operating budget, and are duly appointed to the Task Force, in accordance with Section VI (B). Private sector organizations that were full members of ALEC and contributed the assessment for the Task Force’s operating budget in the previous year, can be appointed to the Task Force for the current year, conditional upon renewal of full ALEC membership and receipt of the current year’s assessment for the Task Force operating budget prior to March 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

Revised May 2009 & Bold added September 2011
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.

Revised May 2009 & Bold added September 2011
VII. REMOVAL AND VACANCIES

A. The National Chair may remove any Public Sector Task Force Co-Chair from his position and any legislative member from a Task Force with or without cause. Such action will not be taken except upon thirty days written notice to such Chair or member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive Task Force meetings.

B. The Public Sector Task Force Co-Chair may remove any legislative member of an Executive Committee or subcommittee from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive meetings.

C. The Chairman of the Private Enterprise Board may remove any Private Sector Task Force Co-Chair from his position and any private sector member from a Task Force with cause. Such action shall not be taken except upon thirty days written notice to such Chair or member whose removal is proposed. For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues.

D. The Private Sector Task Force Co-Chair may remove any private sector member of an Executive Committee or subcommittee from his position with cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues.

E. The Public and Private Sector Task Force Co-Chairs may remove an advisor from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such advisor whose removal is proposed.

F. Any member or advisor may resign from his position as Public Sector Task Force Co-Chair, Private Sector Task Force Co-Chair, public or private sector Task Force member, Task Force advisor, Executive Committee member or subcommittee member at any time by writing a letter to that effect to the Public Sector and Private Sector Task Force Co-Chairs. The letter should specify the
effective date of the resignation, and if none is specified, the effective date shall be the date on which the letter is received by the Public and Private Task Force Co-Chairs.

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

VIII. MEETINGS

A. Task Force meetings shall only be called by the joint action of the Public and Private Sector Task Force Co-Chairs. Task Force meetings cannot be held any earlier than thirty-five days after being called, unless an emergency situation has been declared pursuant to Section VIII (H), in which case Task Force meetings cannot be held any earlier than ten days after being called. It is recommended that, at least once a year, the Task Forces convene in a common location for a joint Task Force Summit. Executive Committee meetings shall only be called by the joint action of the Public and Private Sector Task Force Co-Chairs and cannot be held any earlier than three days after being called, unless the Executive Committee waives this requirement by unanimous consent.

B. At least forty-five days prior to a task force meeting any model bill, resolution or policy must be submitted to ALEC staff that will be voted on at the meeting. At least thirty-five days prior to a Task Force meeting, ALEC staff shall distribute copies of any model bill, resolution or policy statement that will be voted on at that meeting. This requirement does not prohibit modification or amendment of a model bill, resolution or policy statement at the meeting. This requirement may be waived if an emergency situation has been declared pursuant to Section VIII(H).

C. All Task Force meetings are open to registered attendees and invited guests of ALEC meetings and conferences. Only regular Task Force Members may introduce any resolution, policy statement or model bill. Only Task Force members will be allowed to participate in the Task Force meeting discussions.
and be seated at the table during Task Force meetings, unless otherwise permitted by the Public and Private Sector Task Force Co-Chairs.

D. ALEC private sector member organizations may only be represented at Task Force and Executive Committee meetings by the individual addressed in the appointment letter sent pursuant to Section VI (D) or a designee of the private sector member. If someone other than the individual addressed in the appointment letter is designated to represent the private sector member, the designation must be submitted in writing to the Public and Private Sector Task Force Co-Chairs before the meeting, and the individual cannot represent any other private sector member at the meeting.

E. All Task Force and Executive Committee meetings shall be conducted under the guidelines of Roberts Rules of Order, except as otherwise provided in these Operating Procedures. A copy of the Task Force Operating Procedures shall be included in the briefing packages sent to the Task Force members prior to each meeting.

F. A majority vote of legislative members present and voting and a majority vote of the private sector members present and voting, polled separately, are required to approve any motion offered at a Task Force or Executive Committee meeting. A vote on a motion to reconsider would be only with the sector that made the motion. Members have the right, in a voice vote, to abstain and to vote present by roll-call vote. In all votes a member can change their vote up until the time that the result of the vote is announced. Only duly appointed members or their designee as stated in Section VIII (D) that are present at the meeting may vote on each motion. No proxy, absentee or advance voting is allowed.

G. The Public Sector Task Force Co-Chair and the Private Sector Task Force Co-Chair, with the concurrence of a majority of the Executive Committee, polled in accordance with Section VIII (F), may schedule a Task Force vote by mail or any form of electronic communication on any action pertaining to policy statements, model legislation or educational activity. The deadline for the receipt of votes can be no earlier than thirty-five days after notification of the vote is mailed or notified by any form of electronic communication, unless an emergency situation is declared pursuant to Section VIII (H), in which case the deadline can be no earlier than ten days after notification is mailed or notified by any form of electronic communication. Such votes are exempt from all rules in Section VIII, except: (1) the requirement that copies of model legislation and
policy statements be mailed or notified by any form of electronic communication with the notification of the vote and (2) the requirement that a majority of legislative members voting and a majority of the private sector members voting, polled separately, is required to approve any action by a Task Force.

H. For purposes of Sections VIII(A), (B) and (G), an emergency situation can be declared by:

(1) Unanimous vote of all members of the Task Force Executive Committee present at an Executive Committee meeting prior to the meeting at which the Task Force votes on the model bill, resolution or policy statement; or

(2) At least three-fourth majority vote of the legislative and private sector Task Force members (voting in accordance with Section VIII (F)) present at the meeting at which the members vote on the model bill, resolution or policy statement.

I. Ten Task Force members shall constitute a quorum for a Task Force meeting. One-half of the legislative and one-half of the private sector members of an Executive Committee shall constitute a quorum for an Executive Committee meeting.

IX. REVIEW AND ADOPTION PROCEDURES

A. All Task Force policy statements, model bills or resolutions shall become ALEC policy either: (1) upon adoption by the Task Force and affirmation by the Board of Directors or (2) thirty days after adoption by the Task Force if no member of the Board of Directors requests, within those thirty days, a formal review by the Board of Directors. General information about the adoption of a policy position may be announced upon adoption by the Task Force.

B. The Executive Director shall notify the Board of Directors of the approval by a Task Force of any policy statement, model bill or resolution within ten days of such approval. Members of the Board of Directors shall have thirty days from the date of Task Force approval to review any new policy statement, model bill or resolution prior to adoption as official ALEC policy. Within those thirty days, any member of the Board of Directors may request that the policy be
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.
o 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.
The American Legislative Exchange Council will host its 2010 Annual Meeting in San Diego next month. The Telecommunications & Information Technology Task Force will meet at 2:30 on Friday, August 6. Registration is online at www.alec.org.

**Telecom & IT Task Force 35-Day Electronic Mailing**

The 35-Day Mailing for the August 6 Telecom & IT Task Force meeting includes the following items in the attached PDF:

- Preliminary Agenda for the ALEC Annual Meeting
- Tentative Agenda for the Telecom & IT Task Force Meeting
- DRAFT Minutes from the Telecom & IT Task Force Meeting at ALEC’s 2010 Spring Task Force Meeting
- Proposed ALEC model legislation that will be considered at the Task Force Meeting (2 items)
- ALEC Mission Statement
- ALEC Scholarship Policy
- ALEC Task Force Operating Procedures
- Telecom & IT Task Force Roster

Mailed physical copies of the 35-Day Mailing will be provided to Telecom & IT Task Force Members on request. We will also mail physical copies to any additional member upon request. Please submit all such requests to me at (202) 742-8524 or at sethcooper@alec.org.
Task Force members should expect to receive a follow-up e-mail containing an updated Task Force meeting agenda draft in the next couple weeks.

Please feel free to contact me if there are any questions or if I can be of any assistance.

Sincerely,

_Seth_
# Agenda

## Tuesday, August 3, 2010

<table>
<thead>
<tr>
<th>Event</th>
<th>Time</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Board of Directors Reception, <em>by invitation only</em></td>
<td>6:30 p.m. - 7:30 p.m.</td>
<td>Off-site</td>
</tr>
<tr>
<td>Board of Directors Dinner, <em>by invitation only</em></td>
<td>7:30 p.m. - 9:30 p.m.</td>
<td>Off-site</td>
</tr>
</tbody>
</table>

## Wednesday, August 4, 2010

<table>
<thead>
<tr>
<th>Event</th>
<th>Time</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Registration Open</td>
<td>12:00 p.m. - 5:00 p.m.</td>
<td>Litrenta Foyer</td>
</tr>
<tr>
<td>Joint Board of Directors Meeting</td>
<td>9:00 a.m. - 5:30 p.m.</td>
<td>Elizabeth FG</td>
</tr>
<tr>
<td>State Chairs Training Session</td>
<td>2:00 p.m. - 5:00 p.m.</td>
<td>Del Mar AB</td>
</tr>
<tr>
<td>NCHL Working Group</td>
<td>3:00 p.m. - 5:00 p.m.</td>
<td>Madeline ABC</td>
</tr>
<tr>
<td>Leadership Reception, <em>by invitation only</em></td>
<td>6:00 p.m. - 7:00 p.m.</td>
<td>Elizabeth Foyer</td>
</tr>
<tr>
<td><strong>Leadership Dinner, <em>by invitation only</em></strong>&lt;br&gt;Sponsored by Reynolds American&lt;br&gt;Speaker: Ms. Susan Ivey, Chairman, President and CEO, Reynolds American</td>
<td>7:00 p.m. - 9:00 p.m.</td>
<td>Elizabeth GH</td>
</tr>
<tr>
<td>Hospitality Suite</td>
<td>9:00 p.m. - 11:00 p.m.</td>
<td>Madeline ABC</td>
</tr>
</tbody>
</table>

## Thursday, August 5, 2010

<table>
<thead>
<tr>
<th>Event</th>
<th>Time</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Registration Open</td>
<td>7:30 a.m. - 5:00 p.m.</td>
<td>Litrenta Foyer</td>
</tr>
<tr>
<td>State Chairs Meeting</td>
<td>9:00 a.m. - 11:15 a.m.</td>
<td>Elizabeth F</td>
</tr>
<tr>
<td><strong>Task Force: International Relations</strong></td>
<td>9:00 a.m. - 11:15 a.m.</td>
<td>Manchester H, I</td>
</tr>
<tr>
<td>ALEC Exhibition Hall Open</td>
<td>8:00 a.m. - 5:00 p.m.</td>
<td>Elizabeth ABCDE</td>
</tr>
<tr>
<td>Attendee Grab-N-Go Breakfast</td>
<td>8:00 a.m. - 11:15 a.m.</td>
<td>Elizabeth ABCDE</td>
</tr>
<tr>
<td><strong>Task Force Working Groups and Subcommittees</strong></td>
<td>8:00 a.m. - 11:15 a.m.</td>
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</tr>
<tr>
<td>Fiscal Federalism Working Group</td>
<td>8:00 a.m. - 9:00 a.m.</td>
<td>Elizabeth G</td>
</tr>
<tr>
<td>Environmental Health Working Group</td>
<td>8:00 a.m. - 9:30 a.m.</td>
<td>Manchester G</td>
</tr>
<tr>
<td>Transportation Subcommittee</td>
<td>9:00 a.m. - 10:00 a.m.</td>
<td>Elizabeth H</td>
</tr>
<tr>
<td>Leadership Institute: New Media Workshop</td>
<td>9:00 a.m. - 11:15 a.m.</td>
<td>George Bush</td>
</tr>
<tr>
<td>Public Pension Reform Working Group</td>
<td>9:15 a.m. - 10:15 a.m.</td>
<td>Elizabeth G</td>
</tr>
<tr>
<td>Health Care Reform: Repeal vs. Implementation</td>
<td>9:15 a.m. - 11:15 a.m.</td>
<td>Mohsen AB</td>
</tr>
<tr>
<td>Energy Subcommittee</td>
<td>10:00 a.m. - 11:15 a.m.</td>
<td>Manchester G</td>
</tr>
<tr>
<td>Event</td>
<td>Time</td>
<td>Location</td>
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<tr>
<td><strong>Opening Luncheon, sponsored by AT&amp;T</strong></td>
<td>11:30 a.m. - 1:30 p.m.</td>
<td>Douglas ABC</td>
</tr>
<tr>
<td><strong>Speaker:</strong> Randall Stephenson, Chairman, CEO, and President, AT&amp;T</td>
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<tr>
<td><strong>Keynote:</strong> Gov. Rick Perry (TX)</td>
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<tr>
<td><strong>Workshop: Transferring Credits: Easing the Burden of Students and Taxpayers</strong></td>
<td>1:45 p.m. - 3:00 p.m.</td>
<td>Elizabeth F</td>
</tr>
<tr>
<td><strong>Workshop: Regional Climate Initiatives</strong></td>
<td>1:45 p.m. - 3:00 p.m.</td>
<td>Elizabeth G</td>
</tr>
<tr>
<td><strong>Workshop: Panel on Prescription Drug Abuse: Good Medicines, Bad Behavior</strong></td>
<td>1:45 p.m. - 3:00 p.m.</td>
<td>Elizabeth H</td>
</tr>
<tr>
<td><strong>Workshop: Visa</strong></td>
<td>3:15 p.m. - 4:30 p.m.</td>
<td>Elizabeth F</td>
</tr>
<tr>
<td><strong>Workshop: Show Me the Money: Improving Budget Transparency in the States</strong></td>
<td>3:15 p.m. - 4:30 p.m.</td>
<td>Elizabeth G</td>
</tr>
<tr>
<td><strong>Workshop: Restoring Good Faith to Insurance “Bad Faith” Legislation</strong></td>
<td>3:15 p.m. - 4:30 p.m.</td>
<td>Elizabeth H</td>
</tr>
<tr>
<td><strong>Diageo Wine and Cheese Reception</strong></td>
<td>5:00 p.m. - 6:00 p.m.</td>
<td>Elizabeth ABCDE</td>
</tr>
<tr>
<td><strong>Chairman’s Reception, by invitation only Sponsored by AT&amp;T</strong></td>
<td>5:30 p.m. - 6:30 p.m.</td>
<td>Ford ABC</td>
</tr>
<tr>
<td><strong>International Relations Reception Sponsored by Reynolds American</strong></td>
<td>6:00 p.m. - 7:00 p.m.</td>
<td>Elizabeth Terrace</td>
</tr>
<tr>
<td><strong>California Welcome Reception aboard the U.S.S. Midway, sponsored by California Host Committee</strong></td>
<td>6:30 p.m. - 8:30 p.m.</td>
<td>U.S.S. Midway</td>
</tr>
<tr>
<td><strong>Hospitality Suite</strong></td>
<td>9:00 p.m. - 11:00 p.m.</td>
<td>Ford ABC</td>
</tr>
</tbody>
</table>

**Friday, August 6, 2010**

<table>
<thead>
<tr>
<th>Event</th>
<th>Time</th>
<th>Location</th>
</tr>
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<tbody>
<tr>
<td>Registration Open</td>
<td>7:30 a.m. - 5:00 p.m.</td>
<td>Litrenta Foyer</td>
</tr>
<tr>
<td>Event</td>
<td>Time</td>
<td>Location</td>
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<tr>
<td>----------------------------------------------------------------------</td>
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</tr>
<tr>
<td><strong>Plenary Breakfast, sponsored by Bayer Corporation</strong></td>
<td>8:00 a.m. - 9:15 a.m.</td>
<td>Douglas ABC</td>
</tr>
<tr>
<td>Speaker: Greg Babe, President and CEO, Bayer Corporation</td>
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<tr>
<td>Keynote: Gov. Joe Manchin (WV), invited</td>
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</tr>
<tr>
<td><strong>ALEC Exhibition Hall Open</strong></td>
<td>9:30 a.m. - 5:00 p.m.</td>
<td>Elizabeth ABCDE</td>
</tr>
<tr>
<td><strong>Workshop: Cutting Crime and Budgets: Proven Solutions for Your State</strong></td>
<td>9:30 a.m. - 10:45 a.m.</td>
<td>Elizabeth F</td>
</tr>
<tr>
<td><strong>Workshop: The Changing Face of Journalism in the States</strong></td>
<td>9:30 a.m. - 10:45 a.m.</td>
<td>Elizabeth G</td>
</tr>
<tr>
<td><strong>Workshop: Creating True and Lasting Budget Reform in Your State</strong></td>
<td>9:30 a.m. - 10:45 a.m.</td>
<td>Elizabeth H</td>
</tr>
<tr>
<td><strong>Task Force Chairs Meeting</strong></td>
<td>11:00 a.m. - 12:15 p.m.</td>
<td>Mohsen AB</td>
</tr>
<tr>
<td><strong>Workshop: The 10th Amendment: Federalism and Restoring State Sovereignty</strong></td>
<td>11:00 a.m. - 12:15 p.m.</td>
<td>Elizabeth F</td>
</tr>
<tr>
<td><strong>Workshop: Building a Free-Market Movement in Your State</strong></td>
<td>11:00 a.m. - 12:15 p.m.</td>
<td>Elizabeth G</td>
</tr>
<tr>
<td><strong>Workshop: Protecting Philanthropic Freedom</strong></td>
<td>11:00 a.m. - 12:15 p.m.</td>
<td>Elizabeth H</td>
</tr>
<tr>
<td><strong>Plenary Luncheon, sponsored by Allergan</strong></td>
<td>12:30 p.m. - 2:15 p.m.</td>
<td>Douglas ABC</td>
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<tr>
<td>Speaker: Lynn Salo, Vice President, Allergan Medical US Breast Aesthetics Division</td>
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<tr>
<td>Keynote:</td>
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<tr>
<td><strong>Task Force: Commerce, Insurance, and Economic Development</strong></td>
<td>2:30 p.m. - 5:30 p.m.</td>
<td>Elizabeth G</td>
</tr>
<tr>
<td><strong>Task Force: Civil Justice</strong></td>
<td>2:30 p.m. - 5:30 p.m.</td>
<td>Manchester DE</td>
</tr>
<tr>
<td><strong>Task Force: Education</strong></td>
<td>2:30 p.m. - 5:30 p.m.</td>
<td>Manchester GH</td>
</tr>
<tr>
<td><strong>Task Force: Telecom and IT</strong></td>
<td>2:30 p.m. - 5:30 p.m.</td>
<td>Manchester AB</td>
</tr>
<tr>
<td><strong>Education Task Force Reception, by invitation only</strong></td>
<td>5:30 p.m. - 6:30 p.m.</td>
<td>Manchester Foyer</td>
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<tr>
<td>Sponsored by Bridgepoint Education</td>
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<tr>
<td><strong>Incoming Chairman’s Reception, by invitation only</strong></td>
<td>5:30 p.m. - 6:30 p.m.</td>
<td>Ford ABC</td>
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<tr>
<td>Sponsored by Reynolds American</td>
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<tr>
<td><strong>State Delegation Night</strong></td>
<td>6:00 p.m.</td>
<td>Ford ABC</td>
</tr>
<tr>
<td><strong>Hospitality Suite</strong></td>
<td>9:00 p.m. - 11:00 p.m.</td>
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</tbody>
</table>
Saturday, August 7, 2010

Registration Open 7:30 a.m. - 12:00 p.m. Litrenta Foyer
ALEC Exhibition Hall Open 9:30 a.m. - 12:00 p.m. Elizabeth ABCD

**Plenary Breakfast, Sponsored by Pfizer**
8:00 a.m. - 9:15 a.m. Douglas ABC

Task Force: Public Safety and Elections
9:30 a.m. - 12:30 p.m. Elizabeth H

Task Force: Health and Human Services
9:30 a.m. - 12:30 p.m. Manchester AB

Task Force: Energy, Environment, and Agriculture
9:30 a.m. - 12:30 p.m. Manchester GH

Task Force: Tax and Fiscal Policy
9:30 a.m. - 12:30 p.m. Elizabeth G

**Plenary Luncheon, sponsored by Visa**
Speaker: Frm. Maj. Leader Dick Armey
12:30 p.m. - 2:15 p.m. Douglas ABC

Closing Ceremonies 4:00 p.m. - 5:00 p.m.

Sunday, August 8, 2010

**Prayer Service**
Speaker: Cal Thomas, Syndicated Columnist
9:00 a.m. - 10:30 a.m. Ford ABC

2010 States & Nation Policy Summit
December 1-3
Grand Hyatt Washington
Washington, D.C.
TELECOMMUNICATIONS & INFORMATION TECHNOLOGY
TASK FORCE MEETING – FRIDAY, AUGUST 6TH 2010, 2:30-5:30
ALEC Annual Meeting – San Diego, CA (Manchester Grand Hyatt)

Tentative Agenda
(As of 07/01/10)

2:30
Call to Order, Welcome and Introductions
Representative Bill Hamzy (CT), Public Sector Co-Chair
Holly Reed, AT&T, Private Sector Co-Chair

Old Business
Adoption of Minutes for the Task Force Meeting at the April, 2010 ALEC States & Nation Policy Summit (St. Louis, MO).

Proposed Resolution & Model Legislation (*Times and order to be announced*)

   I. ALEC Broadband Regulation Resolution

   II. Travel Agent Tax Fairness Act

   Presentations (*Topics, times and order to be announced*)

New Business

BY 5:30 Adjourn
I. WELCOME AND INTRODUCTIONS

The meeting began at 2:00 pm at the Hilton at the Ballpark. Acting Task Force Public Sector Chair Rep. Ed Emery (MO) and Private Sector Chair Holly Reed of AT&T, opened the meeting by welcoming attendees. Task Force members and guests present introduced themselves.

II. OLD BUISNNESS

The Task Force unanimously adopted minutes for its meeting at the December, 2009 ALEC States & Nation Policy Summit in Washington, D.C.
III. PRESENTATION & MODEL LEGISLATION

The Task Force first heard a presentation by NCTA member Eagle Communications on the implementation of the federal broadband stimulus and concerns over federal grants being used to fund businesses to compete head-to-head with broadband service providers in areas that are already being served.

Task Force hosted a panel on the Federal Communications Commission’s National Broadband Plan. Reason Foundation’s Steve Titch, NCTA’s Rick Cimerman, and AT&T’s Hank Hultquist offered their insights into the strengths and weaknesses of the National Broadband Plan.

Intuit’s Jim Ruda presented on and introduced a proposed Resolution on Government Tax Preparation & Electronic Filing. The resolution was unanimously passed by both the private and public sectors.

NetChoice’s Braden Cox presented on early discussion and movement toward amending and updating the Electronic Communications Privacy Act.

Rep. John Evans (PA) introduced and led a discussion on the issue of sensible legal penalties and approaches to the problem of “sexting.”

Task Force Director Seth Cooper presented a short overview of the U.S. Court of Appeals for the District of Columbia Circuit’s ruling in Comcast v. FCC and what the ruling means for the future of proposed network neutrality regulation of broadband Internet.

NetChoice’s Braden Cox presented on and introduced a proposed Resolution Opposing the Expansion of the Federal Trade Commission’s Rulemaking Authority. The resolution was unanimously passed by both the private and public sectors.

IV. NEW BUSINESS

No new business was raised.

V. ADJOURN

The Task Force meeting adjourned at approximately 4:40.
ALEC Broadband Regulation Resolution

A Resolution Regarding the Regulation of Broadband Information Services in Innovative and Expanding Competitive Markets

Whereas, it is the mission of the American Legislative Exchange Council to advance the Jeffersonian principles of free markets, limited government, federalism and individual liberty, and

Whereas, broadband information services sector is critical to growing the nation’s economy, enhancing quality of life through new and innovative applications, and enabling greater job creation, and

Whereas, the rise of private investment in broadband technologies has dramatically transformed the way consumers work, live, learn, and conduct their daily lives, and

Whereas, ALEC believes that innovation, private investment, and market competition, not additional regulations, should drive the continued deployment and adoption of broadband information services, and

Whereas, the FCC has moved forward with a plan that would impose its authority on the Internet and regulate the provision of broadband information services, and

Therefore, be it resolved that ALEC voices its support of lawmakers and regulators avoiding the unnecessary, burdensome and economically harmful regulation of broadband internet service companies, including the providers of the infrastructure that supports and enables internet services, and further

Be it resolved that ALEC urges that the FCC, Congress and state regulatory and legislative bodies refocus their efforts on specific and limited initiatives targeted at ensuring that broadband service is made universally available and affordable to consumers, rejecting overly prescriptive regulations that would harm innovation, investment, and job growth, and further

Be it resolved that ALEC’s opposition to the sweeping redefinition of broadband services be communicated to all ALEC members, and further

Be it resolved that ALEC shall convey its support to the members of the United States Congress and Executive Branch.

Approved this _____ day of _________ 2010.

Adopted by ALEC’s Telecommunications & Information Technology Task Force at the Annual Meeting ____________, 2010. Approved by full ALEC Board of Directors ____________, 2010.
Travel Agent Tax Fairness Act

Summary: This legislation establishes a sensible framework to eliminate confusion and controversy in the imposition of hotel occupancy taxes on services provided by travel agents and other travel intermediaries. The legislation clarifies that a service which helps travelers to research, compare, and book hotel reservations is not subject to those taxes that are imposed on hotel operators for the provision of a room. By clarifying that taxes imposed as a hotel tax or occupancy tax shall apply only to the amounts received by hotel operators, this legislation will promote continued growth in travel and tourism.

Section 1. [Title] This Act may be cited as the “Travel Agent Tax Fairness Act.”

Section 2. [Legislative Findings] The Legislature finds that:

A. Travel agents and online travel companies provide valuable services to travelers, showing comparisons of rates and amenities offered by multiple, competing hotel operators.

B. These facilitation services are distinct from the provision of a room by the hotel where the traveler eventually stays.

C. Travelers rely on travel agents and online travel companies to research, compare, and book reservations.

D. Hotel occupancy taxes should not be imposed on services provided by travel agents and online travel companies.

Section 3. [General Rule]

A. Notwithstanding any other provision of law to the contrary, any tax imposed on or collected in relation to any transient accommodations, whether imposed as a hotel tax, occupancy tax, or otherwise, shall apply solely to amounts received by the operator of a hotel, motel, tavern, inn, tourist cabin, tourist camp, or other place in which rooms are furnished to the public.

B. Under no circumstances shall a travel agent or intermediary be deemed an operator of a hotel, motel, tavern, inn, tourist cabin, tourist camp, or other place in which rooms are furnished to the public unless such travel agent or intermediary actually operates such a facility.

C. This section is intended to clarify that taxes imposed as a hotel tax, occupancy tax, or otherwise, shall apply solely to amounts received by operators, as enacted in statutes authorizing such taxes.

Section 4. [Effective Date] This Act will become effective immediately upon signature by the Governor.
<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Contact Information</th>
</tr>
</thead>
<tbody>
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<td>Name</td>
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<td>Russell Olson</td>
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<td>Amy Stasia Perkins</td>
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Mission Statement

The American Legislative Exchange Council’s mission is…

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

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

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

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

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

ALEC Spring Task Force Summit:

1. **Spring Task Force Summit Reimbursement Form:** ALEC Task Force **Members** are reimbursed by ALEC up to $350.00 for travel expenses. Receipts must be forwarded to the ALEC Policy Coordinator and approved by the Director of Policy.

2. ALEC Task Force **Members**’ room & tax fees for a two-night stay are covered by ALEC.

3. **Official Alternate Task Force Members** (chosen by the State Chair and whose names are given to ALEC more than 35 days prior to the meeting to serve in place of a Task Force Member who cannot attend) are reimbursed in the same manner as Task Force Members.

4. **State Scholarship Reimbursement Form:** Any fees above $350, or expenses other than travel and room expenses can be submitted by Task Force Members for payment from their state scholarship account upon the approval of the State Chair. Receipts must be submitted to the State Chair, who will submit the signed form to the Director of Membership.

5. **Non-Task Force Members** can be reimbursed out of the state scholarship fund upon State Chair approval. Receipts must be submitted to the State Chair, who will submit the appropriate signed form to the Director of Membership.

ALEC Annual Meeting:

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

ALEC States & Nation Policy Summit:

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

2. **State Scholarship Reimbursement Form:** Any other fees or payments must come out of the state scholarship account, with the approval of the State Chair. Receipts must be submitted to the State Chair, who submits the signed form to the Director of Membership.

ALEC Academies:

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

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.
MEMORANDUM

TO: TAX AND FISCAL POLICY TASK FORCE MEMBERS

FROM: JONATHAN WILLIAMS, TASK FORCE DIRECTOR

DATE: JULY 1, 2010

RE: 35 DAY MAILING—ALEC’S 37th ANNUAL MEETING: TAX AND FISCAL POLICY TASK FORCE

The American Legislative Exchange Council will host its 37th Annual Meeting on August 5-8 at the Manchester Grand Hyatt in San Diego, California. The Tax and Fiscal Policy Task Force will meet from 9:30 a.m. until 12:30 p.m., on Saturday, August 7th.

On Thursday, August 5th the Fiscal Federalism Working Group will convene from 7:45 a.m. until 8:45 a.m. Also, the Public Pension Reform Working Group will meet from 9:00 a.m. until 10:00 a.m., and the Fiscal Policy Reform Working Group will convene from 10:15 a.m. until 11:15 a.m.

Please find the following materials enclosed:
- Annual Meeting Tentative Schedule
- Task Force Meeting Tentative Agenda
- Draft Model Legislation
- Spring Task Force Summit Minutes
- ALEC Mission Statement
- ALEC Task Force Operating Procedures
- ALEC Meeting Reimbursement Policies

Travel and Accommodations: ALEC’s 37th Annual Meeting and all task force meetings will be held at the Manchester Grand Hyatt San Diego. Please register for the conference online at www.alec.org. If you have any questions about registration, please call (866) 210-5134.

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

Cordially,

Jonathan P. Williams
Tax & Fiscal Policy Task Force Director

1101 Vermont Avenue, N.W., 11th Floor, Washington, D.C. 20005 ■ 202-466-3800 ■ Fax: 202-466-3801 ■ www.alec.org
### Agenda

**Tuesday, August 3, 2010**
- **Board of Directors Reception, by invitation only**
  - 6:30 p.m. - 7:30 p.m.
  - Off-site
- **Board of Directors Dinner, by invitation only**
  - 7:30 p.m. - 9:30 p.m.
  - Off-site

**Wednesday, August 4, 2010**
- **Registration Open**
  - 12:00 p.m. - 5:00 p.m.
  - Litrenta Foyer
- **Joint Board of Directors Meeting**
  - 9:00 a.m. - 5:30 p.m.
  - Elizabeth FG
- **State Chairs Training Session**
  - 2:00 p.m. - 5:00 p.m.
  - Del Mar AB
- **NCHL Working Group**
  - 3:00 p.m. - 5:00 p.m.
  - Madeline ABC
- **Leadership Reception, by invitation only**
  - 6:00 p.m. - 7:00 p.m.
  - Elizabeth Foyer
- **Leadership Dinner, by invitation only**
  - Sponsored by Reynolds American
  - Speaker: Ms. Susan Ivey, Chairman, President and CEO, Reynolds American
  - 7:00 p.m. - 9:00 p.m.
  - Elizabeth GH
- **Hospitality Suite**
  - 9:00 p.m. - 11:00 p.m.
  - Madeline ABC

**Thursday, August 5, 2010**
- **Registration Open**
  - 7:30 a.m. - 5:00 p.m.
  - Litrenta Foyer
- **State Chairs Meeting**
  - 9:00 a.m. - 11:15 a.m.
  - Elizabeth F
- **Task Force: International Relations**
  - 9:00 a.m. - 11:15 a.m.
  - Manchester H, I
- **ALEC Exhibition Hall Open**
  - 8:00 a.m. - 5:00 p.m.
  - Elizabeth ABCDE
- **Attendee Grab-N-Go Breakfast**
  - 8:00 a.m. - 11:15 a.m.
  - Elizabeth ABCDE
- **Task Force Working Groups and Subcommittees**
  - 8:00 a.m. - 11:15 a.m.
  - 
  - **Fiscal Federalism Working Group**
    - 8:00 a.m. - 9:00 a.m.
    - Elizabeth G
  - **Environmental Health Working Group**
    - 8:00 a.m. - 9:30 a.m.
    - Manchester G
  - **Transportation Subcommittee**
    - 9:00 a.m. - 10:00 a.m.
    - Elizabeth H
  - **Leadership Institute: New Media Workshop**
    - 9:00 a.m. - 11:15 a.m.
    - George Bush
  - **Public Pension Reform Working Group**
    - 9:15 a.m. - 10:15 a.m.
    - Elizabeth G
  - **Health Care Reform: Repeal vs. Implementation**
    - 9:15 a.m. - 11:15 a.m.
    - Mohsen AB
  - **Energy Subcommittee**
    - 10:00 a.m. - 11:15 a.m.
    - Manchester G
### Agenda

**Friday, August 6, 2010**

<table>
<thead>
<tr>
<th>Event</th>
<th>Time</th>
<th>Location</th>
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<tbody>
<tr>
<td>Working Group on Education Reform</td>
<td>10:00 a.m. - 11:15 a.m.</td>
<td>Madeline AB</td>
</tr>
<tr>
<td>Corrections and Reentry Working Group</td>
<td>10:15 a.m. - 11:15 a.m.</td>
<td>Elizabeth H</td>
</tr>
<tr>
<td>Cy Pres Working Group</td>
<td>10:15 a.m. - 11:15 a.m.</td>
<td>Madeline CD</td>
</tr>
<tr>
<td>Fiscal Policy Reform Working Group</td>
<td>10:15 a.m. - 11:15 a.m.</td>
<td>Elizabeth G</td>
</tr>
<tr>
<td><strong>Opening Luncheon, sponsored by AT&amp;T</strong></td>
<td>11:30 a.m. - 1:30 p.m.</td>
<td>Douglas ABC</td>
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<tr>
<td>Speaker: Randall Stephenson, Chairman, CEO, and President, AT&amp;T</td>
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<tr>
<td>Keynote: Gov. Rick Perry (TX)</td>
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<tr>
<td>Workshop: Transferring Credits: Easing the Burden of Students and Taxpayers</td>
<td>1:45 p.m. - 3:00 p.m.</td>
<td>Elizabeth F</td>
</tr>
<tr>
<td>Workshop: Regional Climate Initiatives</td>
<td>1:45 p.m. - 3:00 p.m.</td>
<td>Elizabeth G</td>
</tr>
<tr>
<td>Workshop: Panel on Prescription Drug Abuse: Good Medicines, Bad Behavior</td>
<td>1:45 p.m. - 3:00 p.m.</td>
<td>Elizabeth H</td>
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<tr>
<td>Workshop: Visa</td>
<td>3:15 p.m. - 4:30 p.m.</td>
<td>Elizabeth F</td>
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<tr>
<td>Workshop: Show Me the Money: Improving Budget Transparency in the States</td>
<td>3:15 p.m. - 4:30 p.m.</td>
<td>Elizabeth G</td>
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<tr>
<td>Workshop: Restoring Good Faith to Insurance “Bad Faith” Legislation</td>
<td>3:15 p.m. - 4:30 p.m.</td>
<td>Elizabeth H</td>
</tr>
<tr>
<td>Diageo Wine and Cheese Reception Open to all attendees</td>
<td>5:00 p.m. - 6:00 p.m.</td>
<td>Elizabeth ABCDE</td>
</tr>
<tr>
<td>Chairman’s Reception, by invitation only Sponsored by AT&amp;T</td>
<td>5:30 p.m. - 6:30 p.m.</td>
<td>Ford ABC</td>
</tr>
<tr>
<td>International Relations Reception Sponsored by Reynolds American</td>
<td>6:00 p.m. - 7:00 p.m.</td>
<td>Elizabeth Terrace</td>
</tr>
<tr>
<td><strong>California Welcome Reception aboard the U.S.S. Midway, sponsored by California Host Committee</strong></td>
<td>6:30 p.m. - 8:30 p.m.</td>
<td>U.S.S. Midway</td>
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<tr>
<td>Hospitality Suite</td>
<td>9:00 p.m. - 11:00 p.m.</td>
<td>Ford ABC</td>
</tr>
<tr>
<td>Registration Open</td>
<td>7:30 a.m. - 5:00 p.m.</td>
<td>Litrenta Foyer</td>
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<tr>
<td>Event</td>
<td>Time</td>
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<tr>
<td>Plenary Breakfast, sponsored by Bayer Corporation</td>
<td>8:00 a.m. - 9:15 a.m.</td>
<td>Douglas ABC</td>
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<tr>
<td>Speaker: Greg Babe, President and CEO, Bayer Corporation</td>
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<tr>
<td>Keynote: Gov. Joe Manchin (WV), invited</td>
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<tr>
<td>ALEC Exhibition Hall Open</td>
<td>9:30 a.m. - 5:00 p.m.</td>
<td>Elizabeth ABCDE</td>
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<tr>
<td>Workshop: Cutting Crime and Budgets: Proven Solutions for Your State</td>
<td>9:30 a.m. - 10:45 a.m.</td>
<td>Elizabeth F</td>
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<tr>
<td>Workshop: The Changing Face of Journalism in the States</td>
<td>9:30 a.m. - 10:45 a.m.</td>
<td>Elizabeth G</td>
</tr>
<tr>
<td>Workshop: Creating True and Lasting Budget Reform in Your State</td>
<td>9:30 a.m. - 10:45 a.m.</td>
<td>Elizabeth H</td>
</tr>
<tr>
<td>Task Force Chairs Meeting</td>
<td>11:00 a.m. - 12:15 p.m.</td>
<td>Mohsen AB</td>
</tr>
<tr>
<td>Workshop: The 10th Amendment: Federalism and Restoring State Sovereignty</td>
<td>11:00 a.m. - 12:15 p.m.</td>
<td>Elizabeth F</td>
</tr>
<tr>
<td>Workshop: Building a Free-Market Movement in Your State</td>
<td>11:00 a.m. - 12:15 p.m.</td>
<td>Elizabeth G</td>
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<tr>
<td>Workshop: Protecting Philanthropic Freedom</td>
<td>11:00 a.m. - 12:15 p.m.</td>
<td>Elizabeth H</td>
</tr>
<tr>
<td>Plenary Luncheon, sponsored by Allergan</td>
<td>12:30 p.m. - 2:15 p.m.</td>
<td>Douglas ABC</td>
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<tr>
<td>Speaker: Lynn Salo, Vice President, Allergan Medical US Breast Aesthetics Division</td>
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<tr>
<td>Keynote:</td>
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<tr>
<td>Task Force: Commerce, Insurance, and Economic Development</td>
<td>2:30 p.m. - 5:30 p.m.</td>
<td>Elizabeth G</td>
</tr>
<tr>
<td>Task Force: Civil Justice</td>
<td>2:30 p.m. - 5:30 p.m.</td>
<td>Manchester DE</td>
</tr>
<tr>
<td>Task Force: Education</td>
<td>2:30 p.m. - 5:30 p.m.</td>
<td>Manchester GH</td>
</tr>
<tr>
<td>Task Force: Telecom and IT</td>
<td>2:30 p.m. - 5:30 p.m.</td>
<td>Manchester AB</td>
</tr>
<tr>
<td>Education Task Force Reception, by invitation only</td>
<td>5:30 p.m. - 6:30 p.m.</td>
<td>Manchester Foyer</td>
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<tr>
<td>Sponsored by Bridgepoint Education</td>
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<tr>
<td>Incoming Chairman's Reception, by invitation only</td>
<td>5:30 p.m. - 6:30 p.m.</td>
<td>Ford ABC</td>
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<tr>
<td>Sponsored by Reynolds American</td>
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<tr>
<td>State Delegation Night</td>
<td>6:00 p.m.</td>
<td>Ford ABC</td>
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<tr>
<td>Hospitality Suite</td>
<td>9:00 p.m. - 11:00 p.m.</td>
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### Saturday, August 7, 2010

<table>
<thead>
<tr>
<th>Event</th>
<th>Time</th>
<th>Location</th>
</tr>
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<tbody>
<tr>
<td>Registration Open</td>
<td>7:30 a.m. - 12:00 p.m.</td>
<td>Litrenta Foyer</td>
</tr>
<tr>
<td>ALEC Exhibition Hall Open</td>
<td>9:30 a.m. - 12:00 p.m.</td>
<td>Elizabeth ABCD</td>
</tr>
<tr>
<td><strong>Plenary Breakfast, Sponsored by Pfizer</strong></td>
<td>8:00 a.m. - 9:15 a.m.</td>
<td>Douglas ABC</td>
</tr>
<tr>
<td>Task Force: Public Safety and Elections</td>
<td>9:30 a.m. - 12:30 p.m.</td>
<td>Elizabeth H</td>
</tr>
<tr>
<td>Task Force: Health and Human Services</td>
<td>9:30 a.m. - 12:30 p.m.</td>
<td>Manchester AB</td>
</tr>
<tr>
<td>Task Force: Energy, Environment, and Agriculture</td>
<td>9:30 a.m. - 12:30 p.m.</td>
<td>Manchester GH</td>
</tr>
<tr>
<td>Task Force: Tax and Fiscal Policy</td>
<td>9:30 a.m. - 12:30 p.m.</td>
<td>Elizabeth G</td>
</tr>
<tr>
<td><strong>Plenary Luncheon, sponsored by Visa</strong></td>
<td>12:30 p.m. - 2:15 p.m.</td>
<td>Douglas ABC</td>
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<td>Speaker: Frm. Maj. Leader Dick Armey</td>
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**Closing Ceremonies**  
4:00 p.m. - 5:00 p.m.

### Sunday, August 8, 2010

<table>
<thead>
<tr>
<th>Event</th>
<th>Time</th>
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<tr>
<td>Prayer Service</td>
<td>9:00 a.m. - 10:30 a.m.</td>
<td>Ford ABC</td>
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<tr>
<td>Speaker: Cal Thomas, Syndicated Columnist</td>
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**2010 States & Nation Policy Summit**  
December 1-3  
Grand Hyatt Washington  
Washington, D.C.
TAX AND FISCAL POLICY TASK FORCE MEETING AGENDA
ALEC’S 2010 ANNUAL MEETING
SAN DIEGO, CALIFORNIA
9:30 A.M. - 12:30 P.M., SATURDAY, AUGUST 7

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

9:30 Call to Order, Welcome, and Introductions
Indiana Sen. Jim Buck
Bob Williams – Evergreen Freedom Foundation

9:40 Old Business – Approval of Spring Task Force Summit Minutes

9:45 A Report from the Public Pension Reform Working Group
Illinois Sen. Chris Lauzen

9:50 A Report from the Fiscal Policy Reform Working Group
Utah Sen. Wayne Niederhauser

9:55 A Report from the Fiscal Federalism Working Group
Jason Mercier – Washington Policy Center

10:00 Why America is Prosperous
Dr. Richard Vedder – Task Force Advisor

10:20 Reforms in Colorado
Colorado Rep. Glenn Vaad

10:30 Economic Freedom in the States
Dr. Matthew Mitchell – The Mercatus Center

10:50 Unemployment Insurance Taxes
Speaker TBA

11:00 Lessons from Liberalism’s Laboratory
The Honorable Michelle Steel – California Board of Equalization

11:20 Protecting the American Taxpayer
Christopher Finney - Finney, Stagnaro, Saba & Patterson CO., L.P.A.

11:40 Consideration of Proposed Model Legislation

I. The Transparency and Government Accountability Act
Mike Barnhart – Sunshine Review

II. The Balanced Budget Certification Act
Dr. Byron Schlomach – The Goldwater Institute

III. The Spending Evaluation Act
Dr. Byron Schlomach – The Goldwater Institute

IV. A Resolution in Opposition to Value Added Taxes
Americans for Tax Reform

12:25 New Business

12:30 Adjournment
The Transparency and Government Accountability Act

Summary

“Transparency” is government’s obligation to share information that citizens need to hold officials accountable for the conduct of the people’s business. Despite “sunshine” laws and pro-transparency rhetoric, information requests are routinely ignored. This bill affirms that state government must disclose certain information in a timely manner, so that citizens may hold their elected officials accountable.

The Balanced Budget Certification Act

Summary

This bill proposes a constitutional amendment requiring a state official to assist in the budget process. This official cannot be involved in writing or approving the budget. Furthermore, the official must estimate state revenues and certify that all spending proposed by the Legislature is funded with available revenue.

The Spending Evaluation Act

Summary

This bill proposes a constitutional amendment to create the Government Review Commission. This commission would rigorously evaluate current and proposed state programs, agencies, and mandates.

A Resolution in Opposition to Value-Added Taxes

Summary

The value-added taxes (VAT) would impose a tremendous burden on American taxpayers, their families and businesses. In Europe, other taxes have risen at the same time as the VAT has risen, increasing the level of taxation. To prevent a similar experience in America, this resolution expresses strong opposition to the VAT tax.
THE TRANSPARENCY AND GOVERNMENT ACCOUNTABILITY ACT

Summary

“Transparency” is government’s obligation to share information with citizens that is needed to make informed decisions and hold officials accountable for the conduct of the people’s business.

Transparency exists on government websites largely at the munificence of officials. The burden of negotiating complex and costly Freedom of Information Act (FOIA) petitions rests squarely on the shoulders of citizens and journalists. Despite “sunshine” laws and much pro-transparency rhetoric, information requests by journalists and citizens are routinely ignored, given the bureaucratic “slow roll” and discouraged by inflated price tags for staff time and copying.

FOIAs and official goodwill are insufficient in securing citizens and journalists information they need and have a right to review.

Therefore, this act affirms that the government of the state of {name of state} has a duty to affirmatively disclose certain information, in a timely manner, and to shift the burden from citizens and journalists to the state, to share all information necessary, so that citizens may hold their elected officials accountable.

THE PEOPLE OF THE STATE OF {name of state} DO ENACT AS FOLLOWS:

SECTION 1.

The State of {name of state} shall maintain an official, searchable website accessible to all citizens that affirmatively discloses all appropriate information as described in subsections (a through i). The state website shall use a consistent website domain and present all information in “plain English”. The state website shall have an easy-to-understand interface and shall be well organized, easy to navigate and without tedious plug-in downloads.

The state website shall post all open meetings laws, notices about public meetings, committees and boards, minutes of past meetings, a schedule, and meeting agendas for future and past meetings, and

(a) budget information, including:

i. All budgets, current and historic
ii. Graphs showing spending and revenue over time
iii. A check register including:

1. The amount of the payment
2. Date
3. Check number
4. To whom the payment was made (including the address)
5. What it was for
6. Budgetary authority for the expenditure
7. Functional expenditure category
8. Sources of funds
9. Links to the relevant contracts under which the payment was made

(a) Elected officials information, including:
   i. Contact information for all elected officials
   ii. Terms of office and date of next election
   iii. Voting record
   iv. Party affiliation
   v. Conflict of interest rules
   vi. Committee appointments

(b) Administrative official information, including:
   i. Contact information for all appointed administrators
   ii. Terms of office
   iii. Governing boards and by laws for agencies
   iv. Party Affiliation
   v. Conflict of interest rules

(c) Ethics information, including:
   i. Ethics commission and guidelines for ethical behavior of state officials
   ii. Process for reporting ethics violations
   iii. Status of current investigations and results of investigations

(d) Audit information, including:
   i. Status of regular audits of state agencies and departments, including the Governor and the Assembly
   ii. Audit results
   iii. Schedule of all financial audits
   iv. Performance audits for state programs

(e) Contract information, including:
   i. Rules governing contracts
   ii. Bids and contracts for purchases over $10,000
   iii. Vendor campaign contributions and the vendor contract
Lobbying information, including:

i. Disclosure of state-paid lobbying activity
ii. Database of registered lobbyists
iii. Agency lobbying contracts
iv. All grants given to non-profit organizations, reason for the grant and a contact in the organization responsible for oversight

Freedom of Information Act (FOIA) information, including:

i. FOIA contact for every state agency/department in one central location
ii. Department/Agency FOIA officer posted on Department homepage
iii. Annual compliance survey performed measuring, number of FOIAs submitted, number fulfilled, average time for compliance and reasons for denials

Tax information, including:

i. Central location for all tax information, including state "fees" such as drivers' licenses

Agency disclosure of all sources of revenue
Proposing a constitutional amendment requiring {Appropriate Statewide Elected Official Not Involved in Writing or Approving the State Budget} to estimate state revenues and certify that all spending proposed by the Legislature is funded with available revenue.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF {name of state}:

SECTION 1. Article xx, {name of state} Constitution, is amended by adding Section xx to read as follows:

Section xx: {Financial Statement and Estimate by {Appropriate Official}; Limitation of Appropriations}

(a) It shall be the duty of the {Appropriate Statewide Elected Official Not Involved in Writing or Approving the State Budget} in advance of each Regular Session of the Legislature to prepare and submit to the Governor and to the Legislature upon its convening a statement under oath showing fully the financial condition of the State Treasury at the close of the last fiscal period and an estimate of the probable receipts and disbursements for the then current fiscal year. There shall also be contained in said statement an itemized estimate of the anticipated revenue based on the laws then in effect that will be received by and for the State from all sources showing the fund accounts to be credited during the succeeding budget period and said statement shall contain such other information as may be required by law. Supplemental statements shall be submitted at any Special Session of the Legislature and at such other times as may be necessary to show probable changes.

(b) Except in the case of emergency and imperative public necessity and with a four-fifths vote of the total membership of each House, no appropriation in excess of the cash and anticipated revenue of the funds from which such appropriation is to be made shall be valid. No bill containing an appropriation shall be considered as passed or be sent to the Governor for consideration until and unless the {Appropriate Statewide Elected Official Not Involved in Writing or Approving the State Budget} endorses his certificate thereon showing that the amount appropriated is within the amount estimated to be available in the affected funds. When the {Appropriate Statewide Elected Official Not Involved in Writing or Approving the State Budget} finds an appropriation bill exceeds the estimated revenue he shall endorse such finding thereon and return to the House in which same originated. Such information shall be immediately made known to each House and the necessary steps shall be taken to bring such appropriation to within the revenue, either by providing additional revenue or reducing the appropriation.

SECTION 2. The constitutional amendment proposed by this resolution shall be submitted to the voters at an election to be held {appropriate date}. The ballot shall be printed to permit voting for or against the proposition: “The constitutional amendment requiring {Appropriate Statewide Elected Official Not Involved in Writing or Approving the State Budget} to estimate state revenues and certify that all spending proposed by the Legislature is funded with available revenue.”
the State Budget to estimate state revenues and certify that all spending proposed by the Legislature is funded with available revenue
Proposing a constitutional amendment requiring a rigorous evaluation of current and proposed state programs, agencies and mandates.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF {name of state}:

SECTION 1. Article xx, {name of state} Constitution, is amended by adding Section xx to read as follows:

Section xx. {Evaluations of Proposed and Existing Government Programs, Agencies, and Mandates Required.}

(a) No Act of the Legislature that creates a new program, agency, or mandate requiring the expenditure of public funds may be considered Law unless and until the Act has been evaluated as prescribed herein and the results of the evaluation are fully disseminated to the public.

(b) All programs, agencies, and mandates in existence as of when this Section became law shall be evaluated as prescribed herein within a period of 10 years and the results of each evaluation fully disseminated to the public. All programs, agencies, and mandates shall be evaluated as prescribed herein every 10 years and statutes authorizing any program, agency, or mandate not so evaluated shall be null and void pending the evaluation.

(c) A Government Review Commission consisting of nine members shall be appointed with the Governor, the Speaker of the House, and the presiding officer of the Senate appointing three members each. No member of the Government Review Commission may currently be a Member of the Legislature or be an employee of any government within two years prior to appointment. No member of the Government Review Commission may be an employee, owner with more than a 5 percent share, or officer of a company or corporation that receives more than 20 percent of its gross revenue from government directly or through subcontracts. Members of the Government Review Commission shall serve without pay and at the discretion of the official who appointed them.

(d) The Auditor General {or appropriate officer} shall, in consultation with the Government Review Commission, contract with one or more independent third parties for the purpose of evaluating and reporting on programs, agencies, and mandates as required herein. The Auditor General {or appropriate officer} and the Government Review Commission shall review reports for completeness, adherence to professional standards, and sound methodology. The Auditor General shall promulgate the results of all evaluations required herein to the Governor, the Legislature, and the general public.
(e) Each program, agency, or mandate, whether newly proposed or already in existence shall be evaluated for whether it:

1. Creates clear and measurable net economic benefits that accrue generally to all citizens of the state, even in the absence of federal funding,
2. Interferes with citizens’ ability to engage in free enterprise,
3. Causes government spending to merely displace private spending and to what degree it does so,
4. Affects relative prices of goods and services and how it does so,
5. Clearly fills a necessary function that only government can fill,
6. Is likely to result in a financial obligation to the state that would necessitate a tax increase at some future time, and
7. Any other criteria the Government Review Commission shall deem appropriate, but which shall not preclude the criteria named above.

(f) The Legislature shall provide funds to the Auditor General {or appropriate officer} to carry out the functions required herein.

(g) Definitions.

1. “Independent third party” is a private entity or person having no ongoing financially dependent relationship with any government entity except the Auditor General that possesses the necessary expertise to conduct the evaluations and/or write the reports as described in this Section.

2. “Reports” means written documents that comprehensively record the methods used and results of evaluations of programs, agencies, and mandates.

(h) A resident taxpayer of the state shall have standing to seek de novo judicial review as to whether the criteria set out in this Section have been met, by filing an action seeking declaratory, injunctive, quo warranto, or writ of prohibition relief.

SECTION 2. The constitutional amendment proposed by this resolution shall be submitted to the voters at an election to be held {appropriate date}. The ballot shall be printed to permit voting for or against the proposition: “The constitutional amendment requiring a rigorous evaluation of current and proposed state programs, agencies and mandates.”
A RESOLUTION IN OPPOSITION TO VALUE-ADDED TAXES

Expressing the state’s opposition towards the value-added tax:

WHEREAS, a value-added tax (VAT) is yet another new tax which American families and small businesses would bear, and

WHEREAS, the typical VAT rate in Europe has grown from less than five percent in the 1960s to nearly twenty percent today, and

WHEREAS, the minimum VAT rate a country needs to join the European Union is fifteen percent, and

WHEREAS, other taxes in Europe have risen at the same time as the VAT has risen, leading to a very high level of taxation compared to the United States, and

WHEREAS, there is every reason to believe that the European experience of the last half-century would be repeated here, and

WHEREAS, there are pro-growth ways to help domestic manufacturing and international tax competitiveness without imposing a dangerous new VAT, and

WHEREAS, there are pro-growth and pro-family ways of executing tax reform that do not involve the introduction of a new type of tax into our tax structure,

BE IT RESOLVED that we the legislators of {name of state}:

urge all members of our state’s Congressional delegation to oppose a value-added tax on principle.

BE IT FURTHER RESOLVED that this state is on record as opposing a state- or local-level VAT for any reason.
American Legislative Exchange Council
Tax and Fiscal Policy Task Force
Spring Task Force Summit
St. Louis, MO
April 23, 2010

Task Force Members in Attendance

Public Sector (22)

Rep. John Adams, Ohio
Rep. Gail Bates, Maryland
Sen. Jim Buck, Indiana
Rep. Richard Carlson, Kansas
Rep. Jim Clark, Idaho
Rep. Gary Daniels, New Hampshire
Rep. Greg Forristall, Iowa
Rep. Ed Garner, Arkansas
Rep. Philip Hart, Idaho
Sen. Jeff Haverly, South Dakota
Sen. Chris Lauzen, Illinois
Rep. Norman Major, New Hampshire
Rep. Jeff May, Georgia
Rep. Wayne Niederhauser, Utah
Rep. Deb Peters, South Dakota
Rep. Jason Smith, Missouri
Rep. Larry Taylor, Texas
Rep. Jeff Thompson, Idaho
Rep. Eric Turner, Indiana
Sen. Daniel Verdin, South Carolina

Private Sector (25)

Ms. Sally Aiello, Wal-Mart Stores, Inc.
Mr. Eldon Andrus, Econ Mobil Corporation
Mr. Michael Barnhart, Sunshine Review
Mr. Carl Bearden, Americans for Prosperity
Mr. Jason Clemens, Pacific Research Institute
Mr. Kelly Cobb, Americans for Tax Reform Foundation
Ms. Jamie Fenwick, Time Warner Cable
Mr. Leonard Gilroy, Reason Foundation
Mr. Tom Giovanetti, Institute for Policy Innovation
Ms. Amber Gunn, Evergreen Freedom Foundation
Mr. Talmadge Heflin, Texas Public Policy Foundation
Mr. Joseph Henchman, Tax Foundation
Mr. James Hohman, Mackinac Center for Public Policy
Ms. Amanda Klump, Altria Client Services, Inc.
Ms. Lisa McCabe, Satellite Broadcasting and Communications Association
Mr. Nathan Pick, Americans for Tax Reform
Mr. Pete Poynter, AT&T
Mrs. Kristina Rasmussen, Illinois Policy Institute
Mr. Jon Sanders, John Locke Foundation
Mr. Greg Saphier, National Cable & Telecommunications Association
Mr. Pete Sepp, National Taxpayers Union
Mr. Alan Smith, Recovery Audit Specialists/ The Heartland Institute
Mr. Bob Williams, Evergreen Foundation, Tax and Fiscal Policy Task Force Private Chair
Mr. Lyle Williamson, Verizon Communications Inc.
Mr. Steve Woods, National Federation of Independent Business

Speakers/Advisors (6)
Ms. Pat Cannon, Allergan, Inc.
Mr. Roman Buhler, Constitutional Advocate
Mr. John Graham, Pacific Research Institute
Mr. John Gibbs, Comcast Cable Communications, LLC
Mr. Mike Prentiss, Proctor and Gamble
Mr. Steve Proper, Comcast Cable Communications, LLC

Staff (2)
Jonathan Williams, Tax and Fiscal Policy Task Force Director
Pia Decarsin, Legislative Assistant
Welcome and Introduction:

Senator Jim Buck and Mr. Bob Williams welcomed everyone and called the meeting to order.

Minutes from December’s States and National Policy Summit were unanimously approved.

Speakers and Discussion:

Representative John Adams, Ohio State Legislator gave a report on Fiscal Federalism and State Sovereignty.


Chris Atkins, Senior Fiscal Policy Advisor to Governor Mitch Daniels gave a report on Free Market Reforms in Indiana.

Bob Williams, Evergreen Foundation and Chairman of ALEC’s Private Sector Tax and Fiscal Policy Task Force explained various methods to avoid Budget Gimmicks.

Mike Barnhart from the Sunshine Review discussed different ways to promote Fiscal Transparency in the States.

Mr. Jonathan Williams, Director of the Tax and Fiscal Policy Task Force gave a report on the 3rd edition of Rich States, Poor States.

Mr. John Graham from the Pacific Research Institute gave a report on What ObamaCare Means for State Budgets.

Model Bill Discussion/Vote:

Amber Gunn from the Evergreen Freedom Foundation and Joe Henchman from the Tax Foundation proposed an updated version of ALEC’s Principles of Taxation. The updates were voted on by voice and passed the Taskforce.

Senator Wayne Niederhauser from Utah and Pete Sepp from the National Taxpayers Union presented ALEC’s model bill, Vote On Taxes Joint Resolution. The bill requires Congress to call a limited constitutional convention to vote on the Vote On Taxes Amendment. The Amendment requires Congress to receive consent from the governed on various fiscal policy changes including new taxes and increasing the federal debt. The bill passed unanimously.
Senator Jim Buck from Indiana presented ALEC’s model bill, **Automatic Income Tax Rate Adjustment Act**. This bill provides a reduction in the state adjusted gross income tax rate if year-over-year revenue from the adjusted gross income tax exceeds certain amounts. The bill passed the task force.

**New Business:**
No new business.

**Adjournment:**
A motion to adjourn was called and unanimously approved.
Mission Statement

The American Legislative Exchange Council’s mission is…

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

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

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

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

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

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.
SCHOLARSHIP POLICY BY MEETING

ALEC Spring Task Force Summit:

1. **Spring Task Force Summit Reimbursement Form**: ALEC Task Force Members are reimbursed by ALEC up to $350.00 for travel expenses. Receipts must be forwarded to the ALEC Policy Coordinator and approved by the Director of Policy.
2. ALEC Task Force Members’ room & tax fees for a two-night stay are covered by ALEC.
3. **Official Alternate Task Force Members** (chosen by the State Chair and whose names are given to ALEC more than 35 days prior to the meeting to serve in place of a Task Force Member who cannot attend) are reimbursed in the same manner as Task Force Members.
4. **State Scholarship Reimbursement Form**: Any fees above $350, or expenses other than travel and room expenses can be submitted by Task Force Members for payment from their state scholarship account upon the approval of the State Chair. Receipts must be submitted to the State Chair, who will submit the signed form to the Director of Membership.
5. **Non-Task Force Members** can be reimbursed out of the state scholarship fund upon State Chair approval. Receipts must be submitted to the State Chair, who will submit the appropriate signed form to the Director of Membership.

ALEC Annual Meeting:

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

ALEC States & Nation Policy Summit:

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

ALEC Academies:

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

FROM: JONATHAN WILLIAMS, TASK FORCE DIRECTOR

DATE: OCTOBER 27, 2011

RE: 35 DAY MAILING—ALEC’S STATES AND NATION POLICY SUMMIT: TAX AND FISCAL POLICY TASK FORCE

The American Legislative Exchange Council will host its States and Nation Policy Summit from November 30th to December 2nd at the Westin Kierland Resort in Phoenix, Arizona. The Tax and Fiscal Policy Task Force will meet on Friday, December 2nd from 2:30 p.m. until 5:30 p.m.

The 21st Century Commerce and Taxation Working Group will convene on Wednesday, November 30th from 8:00 a.m. until 9:00 a.m. The Fiscal Federalism Working Group will also convene on Wednesday from 9:15 a.m. until 11:00 a.m. The Fiscal Policy Reform Working Group will convene on Thursday, December 1st from 2:45 p.m. until 5:00 p.m. The Public Pension Reform Working Group will also convene on Thursday, December 1st from 2:30 p.m. until 3:30 p.m.

Please find the following materials enclosed:

- States and Nation Policy Summit Tentative Schedule
- Task Force Meeting Tentative Agenda
- Draft Model Legislation
- Annual Meeting Minutes
- Articles of Interest
- ALEC Mission Statement
- ALEC Task Force Operating Procedures
- ALEC Meeting Reimbursement Policies

Travel and Accommodations: ALEC’s States and Nation Policy Summit and all Task Force meetings will be held at the Westin Kierland Resort in Phoenix, Arizona. Visit www.alec.org today to register and arrange housing. Please call (202)-742-8538 if you have any questions about registration.

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

Cordially,

Jonathan P. Williams
Tax and Fiscal Policy Task Force Director
Tuesday, November 29th

Joint Board of Directors Meetings 7:30 am – 5:00 pm
Registration 12:00 pm – 5:00 pm
ALEC Joint Board Reception and Dinner 6:00 pm – 9:30 pm

Wednesday, November 30th

Registration 7:30 am – 5:00 pm
Task Force Subcommittee Meetings 8:00 am – 11:30 am
Exhibits 9:00 am – 5:00 pm
State Chairs Meeting 9:00 am – 11:00 am
New Legislator Orientation 10:15 am – 11:15 am
Opening Plenary Luncheon 11:30 am – 1:15 pm
Task Force Chairs Meeting 1:30 pm – 2:45 pm
Workshops 1:30 pm – 4:15 pm
Welcome Reception 6:30 pm – 8:30 pm

Thursday, December 1st

Registration 7:30 am – 5:00 pm
Plenary Breakfast 8:00 am – 9:15 am
Exhibits 9:00 am – 5:00 pm
Workshops 9:30 am – 12:15 pm
Plenary Luncheon 12:30 pm – 2:15 pm
Task Force Meeting:
  - Civil Justice
  - Commerce, Insurance, and Economic Development
  - Education
  - Telecommunications and Information Technology

National Chairman’s Reception, by Invitation Only 5:30 pm – 6:30 pm
Gala Holiday Reception 6:30 pm – 8:30 pm
Hospitality Suite 9.00 pm – 11.00 pm
Friday, December 2nd
Registration
7:30 am – 2:30 pm
Plenary Breakfast
8:00 am – 9:15 am
Exhibits
9:00 am – 5:00 pm
Workshops
9:30 am – 12:15 pm
Plenary Luncheon
12:30 pm – 1:45 pm
Task Force Meetings:
2:00 pm – 5:00 pm
- Energy, Environment and Agriculture
- Health and Human Services
- International Relations
- Public Safety and Elections
- Tax and Fiscal Policy

State Delegation Night
Beginning at 6:30 pm
TAX AND FISCAL POLICY TASK FORCE MEETING
ALEC’S 2011 STATES AND NATION POLICY SUMMIT
PHOENIX, ARIZONA
FRIDAY, DECEMBER 2ND, 2:00 P.M. – 5:00 P.M.

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

2:00 Call to Order, Welcome, and Introductions
Indiana Sen. Jim Buck
Bob Williams – Freedom Foundation

2:05 Old Business – Approval of Annual Minutes

2:10 A Report from the Public Pension Reform Working Group

2:15 A Report from the Fiscal Policy Reform Working Group

2:20 A Report from the 21st Century Commerce and Taxation Working Group

2:25 State Budget Solutions
Bob Williams – Freedom Foundation

2:35 Kansas Budget Reforms
Steve Anderson – Kansas Budget Director

2:45 In Defense of Capitalism
Dr. Tim Nash – Northwood University

3:00 Budget Reform in Colorado
Penn Piffner – Independence Institute

3:15 Consideration of Proposed Model Legislation

I. A Resolution Opposing State Bailouts by the Federal Government
Brian Costin – Illinois Policy Institute

II. Federal Receipts Reporting Requirements Act
Utah Sen. Wayne Niederhauser

III. Model Legislation for Universal Regulatory Tax Credits
Steve Slivinski – Goldwater Institute

IV. Public Pension Accounting Responsibility Act
Rich Danker – American Principles Project
V. Amendments to ALEC’s Balanced Budget Amendment Policy
Indiana Senator Jim Buck

4:45 New Business

5:00 Adjournment
Bill Summaries

A Resolution in Opposing State Bailouts by the Federal Government

This resolution declares that the Federal Government should not take any action to redeem, assume, or guarantee state debt. It also asks that the Secretary of the Treasury report to Congress any negotiations to this effect.

Federal Receipts Reporting Requirements Act

This bill requires state agencies and political subdivisions to report all receipts of federal funds and the percentage of their budget that comes from federal funding. Agencies and political subdivisions are also required to create and report a plan in case of a reduction in federal funding.

Universal Regulatory Tax Credits Act

This bill creates a Universal Regulatory Tax Credit which taxpayers may claim if they have incurred costs and expenses as a result of excessive regulations imposed by the state, state agencies, or political subdivisions. It also requires that the Office of the Treasurer adopt rules and procedures by which taxing authorities may recoup these lost revenues from the entity that imposed the excessive regulation.

Public Pension Accounting Responsibility Act

In order to promote accountability in state retirement systems, this bill requires the chief executive and chief financial officers of the state to certify the accuracy of the information presented in the Comprehensive Annual Financial Report (CAFR). It also requires them to establish internal controls to monitor the state’s retirement system.

Amendments to ALEC’s Balanced Budget Amendment Policy

These amendments provide an Article V Constitutional convention for the purpose of discussing the adoption of a Balanced Budget Amendment to the U.S. Constitution. The Balanced Budget Amendment would require that annual federal spending not exceed estimated revenue, except in an emergency.
A Resolution in Opposing State Bailouts by the Federal Government

WHEREAS each State of the Union is a sovereign entity with a constitution and authority to issue sovereign debt;

WHEREAS the legislature of each State of the Union has the authority to reduce spending or raise taxes to pay the obligations to which the State has committed itself;

WHEREAS the officials of each State of the Union have the legal obligation to fully disclose the financial condition of the State to investors who purchase the debt of such State;

WHEREAS Congress has rejected prior requests from State creditors for payment of defaulted State debt; and

WHEREAS during the financial crisis in 1842, the Senate requested that the Secretary of State report any negotiations with State creditors to assume or guaranty State debts, to ensure that no promises of Federal Government support were proffered:

NOW THEREFORE, LET IT BE RESOLVED THAT:

(1) the Federal Government should take no action to redeem, assume, or guarantee State debt; and

(2) the Secretary of the Treasury should report to Congress negotiations to engage in actions that would result in an outlay of Federal funds on behalf of creditors to a State.
Federal Receipts Reporting Requirements Act

Summary

This bill requires all state agencies and political subdivisions to disclose (i) total federal receipts; (ii) the percentage such receipts are of their respective budget, and (iii) what their specific contingency plan is if federal receipts are diminished.

Model Legislation

{Title, enacting clause, etc.}

Section 1 {Title} This act may be cited as the Federal Receipts Reporting Requirements Act.

Section 2 {Definitions.}

(A) As used in this section:

(1) "Designated state agency" means the [list state departments].

(2) "Designated state agency" does not include the judicial branch, the legislative branch, or an office or other entity within the judicial branch or the legislative branch.

(3) “Political Subdivision” means [list political subdivisions].

(4) "Federal receipts" means the federal financial assistance, as defined in 31 U.S.C. Sec. 7501, that is reported as part of a single audit.

(5) "Single audit" is as defined in 31 U.S.C. Sec. 7501.

Section 2 {Federal Receipts Reporting Requirements.}

(A) Designated state agencies and political subdivisions shall each year, on or before October 31, prepare a report that:

(1) reports the aggregate value of federal receipts the designated state agency or political subdivision received for the preceding fiscal year;

(2) reports the aggregate amount of federal funds appropriated by the Legislature to the designated state agency or political subdivision for the preceding fiscal year;

(3) calculates the percentage that constitutes federal receipts of the total budget for the designated state agency or political subdivision received for that fiscal year; and

(4) develops a plan(s) for operating the designated state agency or political subdivision if there is a reduction of:

(a) 5 percent or more in the federal receipts that the designated state agency or political subdivision receives; and
(b) 25 percent or more in the federal receipts that the designated state agency or political subdivision receives.

(B) The designated state agencies and political subdivisions shall submit the report to the [Division of Finance] on or before November 1 of each year.

(C) (1) The [Division of Finance] shall, on or before November 30 of each year, prepare a report that:

(a) compiles and summarizes the reports the [Division of Finance] receives in accordance with Subsection 2(B); and
(b) compares the aggregate value of federal receipts each designated state agency and political subdivision received for the previous fiscal year to the aggregate amount of federal funds to the total budget of the designated state agency or political subdivision for that fiscal year.

(2) The [Division of Finance] shall, as part of the report required by Subsection 2(C)(1), compile a list of designated state agencies and political subdivisions that do not submit a report as required by this section.

(D) The [Division of Finance] shall submit the report required by Subsection 2(C) to the [Appropriations Committee] on or before December 1 of each year.

(E) Upon receipt of the report required by Subsection 2(C), the [chair(s) of the Appropriations Committee] shall place the report on the agenda for review and consideration at the next [Appropriations Committee] meeting.

(F) When considering the report required by Subsection 2(C), the [Appropriations Committee] may elect to:

(1) recommend that the Legislature reduce or eliminate appropriations for a designated state agency or political subdivision;
(2) take no action; or
(3) take another action that a majority of the committee approves.
Universal Regulatory Tax Credits Act

Summary

This bill creates a Universal Regulatory Tax Credit which taxpayers may claim if they have incurred costs and expenses as a result of excessive regulations imposed by the state, state agencies, or political subdivisions. It also requires that the Office of the Treasurer adopt rules and procedures by which taxing authorities may recoup these lost revenues from the entity that imposed the excessive regulation.

Model Legislation

{Title, enacting clause, etc.}

Section 1 {Title} This act may be cited as the Universal Regulatory Tax Credits Act.

Section 2 {Definitions.}

(A) In this section, unless the context otherwise requires:

(1) “Regulation” means any legislation, administrative rule, or executive action by the state, its agencies or political subdivisions, which is governmental in nature and not proprietary, that has the force of law and a) requires individuals or private organizations to act in one or more ways, b) restricts or prohibits individuals or private organizations from acting in one or more ways, or c) restricts or prohibits one or more property conditions.

(2) “Excessive regulation” means: a) any regulation that does not protect individuals from verifiable and substantial damage to their health and safety; b) any regulation that primarily serves esthetic or cultural purposes; c) any regulation that restricts or prohibits ordinarily harmless property conditions; d) any regulation that restricts or prohibits ordinarily harmless action by individuals or organizations; e) any regulation that restricts or prohibits the ordinarily harmless exercise or enjoyment of an individual or organization’s legal right(s); and f) any regulation that mandates individuals or organizations take action that is i) unlikely to promote public health or safety, and ii) likely to cause substantially more economic costs than benefits.

(3) “Creditable cost” means the loss of the fair market value of property incurred as a direct result of an excessive regulation.

(4) “Creditable expense” means any actual expense that is incurred as a direct result of an excessive regulation; including, but not limited to, the fair market value of time spent fulfilling regulatory requirements.

(5) “Taxpayer” means the individual or entity upon which any tax authorized by Titles _________________ is imposed or assessed.

Section 3 {Universal Regulatory Tax Credit.}
(A) A credit is allowed against the taxes imposed, levied, assessed or authorized by Titles ______ for the creditable costs and creditable expenses of excessive regulation incurred by a taxpayer after December 31, 2011.

(B) The credit allowed under this section is the total amount of creditable costs and creditable expenses incurred by a taxpayer in the corresponding taxable year.

(C) Subject to the following limitations, the taxpayer may claim a credit under Titles ______ in the corresponding taxable year and the taxpayer may carry forward for up to ten consecutive taxable years the unclaimed amount of the credit. The following limitations apply to the amount of a credit that may be claimed:

(1) The taxpayer may claim a credit in an amount that is up to 10 percent of that taxpayer’s aggregate tax liability under any of Titles ______ in the taxable year in which the creditable costs and expenses are incurred.

(2) If any portion of the credit is carried forward into a consecutive taxable year, then the taxpayer may claim a credit in an amount that is up to 100 percent of that taxpayer’s aggregate tax liability under any of Titles ______ in that taxable year ratably to the extent that any excessive regulation giving rise to any portion of the carried-over credit had not been previously repealed or rescinded.

Section 4 {Filing Requirements.}

(A) For each applicable taxable year, the taxpayer shall claim the credit on a singular form prescribed by the Office of the Treasurer, tendered to the relevant taxing authority under Titles ______ when the related tax liability is due, in which the taxpayer shall identify:

(1) Each excessive regulation giving rise to any portion of the credit and the corresponding amount of creditable costs and creditable expenses attributable to each such excessive regulation;

(2) The state agency and/or political subdivision directly responsible for enacting, promulgating and/or enforcing each such excessive regulation;

(3) The nature, source, and amount of any tax liability to which the claimed credit is applied;

(4) The taxpayer’s aggregate tax liability under Titles ______;

(5) The total amount of any portion of the credit that will be applied in the current taxable year; and

(6) The total amount of any portion of the credit that will be carried over into consecutive taxable years.

(7) In the case of any failure to comply with this subsection, the taxing authority shall disallow the credit until the taxpayer is in full compliance.

(B) All or part of any unclaimed amount of any credit allowed under this section may be assigned under the following conditions:
A single assignment may involve one or more assignees; but an assignee may not again assign the credit.

Both the assignor and assignee must submit together a single written notice of the assignment to the Office of the Treasurer within thirty (30) days after the assignment. The notice shall include a processing fee equal to two hundred dollars. The notice shall include: a) the name of the assignor and assignee; b) the date of the assignment; c) the amount of the assignment; d) the assignor’s tax credit balance before the assignment and the remaining balance after the assignment; and e) all tax identification numbers for both assignor and assignee.

In submitting any claim for a credit, the assignee must furnish the relevant taxing authority with a genuine copy of the foregoing notice.

In the case of any failure to comply with this subsection, the taxing authority shall disallow the tax credit until the assignor and assignee are in full compliance.

Section 5 {Rules for Recouping Revenues.}

(A) The Office of the Treasurer shall adopt rules and publish and prescribe forms and procedures as necessary to allow taxing authorities under Titles _______ to recoup revenues attributable to any claimed credit under this section from any distinct state agency or political subdivision that is directly or jointly responsible for enacting, promulgating and/or enforcing each excessive regulation giving rise to any portion of the credit in a corresponding amount. The rules promulgated hereunder shall provide:

(1) The Office of the Treasurer shall have authority to establish a secure electronic clearinghouse whereby demands for recoupment may be claimed and paid through electronic debits and credits to the accounts of the respective taxing authority, state agency, or political subdivision.

(2) The taxing authority shall promptly make demand for recoupment upon each responsible state agency or political subdivision in a form that communicates all relevant information supplied by the taxpayer.

(3) Each responsible state agency or political subdivision receiving said demand shall be liable for the same and promptly pay the amount demanded ratably.

(4) If the state agency or political subdivision receiving said demand does not have sufficient funds to pay the amount demanded, and will not have sufficient funds to pay the amount demanded without engaging in new borrowing or imposing new or increased taxes or fees, then each underlying excessive regulation identified by the taxpayer, and all related enforcement proceedings or penalties, shall be immediately deemed void ab initio and without lawful effect, and not replaced with any substantially equivalent regulation, for each tax year in which the tax credit has been or could have been claimed, whereupon the demand shall be deemed paid in full.

(B) The Office of the Treasurer shall maintain annual data on the total amount of monies credited pursuant to this section, and shall provide those data, both aggregated and disaggregated, categorized according to excessive regulation, taxing authority and
responsible state agency and/or political subdivision, without the personal identifying
information of any taxpayer, to the public electronically on demand.

(C) Neither a taxing authority nor a state agency or political subdivision that is
responsible for excessive regulation may engage in new borrowing or impose new or
increased taxes or fees to offset the fiscal impact of any credit allowed under this
section. Accordingly, if the fiscal impact of any credit allowed by this section
threatens public health and safety by requiring the discontinuation of essential
governmental services, then the underlying excessive regulation identified by the
taxpayer, and all related enforcement proceedings or penalties, shall be immediately
deemed void ab initio and without lawful effect, and not replaced with any
substantially equivalent regulation, for each tax year in which the tax credit has been
or could have been claimed, whereupon the tax credit shall be disallowed upon
corresponding notice given to the taxpayer.

(D) The Office of the Treasurer shall adopt rules and publish and prescribe forms and
procedures as necessary to effectuate this section and its purposes of furnishing
taxpayers with compensation for excessive regulation and encouraging responsible
state agencies and political subdivisions to repeal or rescind excessive regulation.

Section 6 {Construction and Severability.}

(A) If a provision of this section or its application to any person or circumstance is held
invalid for any reason, the invalidity does not affect other provisions or applications
of this section that can be reasonably be given effect without the invalid provision or
application, and to this end the provisions of this section are severable. In any court
challenge to the validity of this section, taxpayers shall have standing to intervene.
Public Pension Accounting Responsibility Act

Summary

In order to provide accountability in state retirement systems, The Act applies standards similar to Sarbanes-Oxley to the principal executive and financial officers of the State. Officers are charged with certifying that the Comprehensive Annual Financial Report (CAFR) is, to the best of their knowledge, accurate. They are further required to establish effective internal controls for monitoring state retirement systems. Knowingly violating any provision of this Act shall result in a fine, imprisonment, or both.

Model Legislation

{Title, enacting clause, etc.}

Section 1 {Title} This act may be cited as the Public Pension Accounting Responsibility Act.

Section 2 {CAFR Certification Requirements.} The principal executive officer or officers and the principal financial officer or officers, or persons performing similar functions, of the State and each incorporated municipality and the principal officers of the retirement system shall certify annually that--

(A) The signing officer has reviewed the Comprehensive Annual Financial Report (CAFR) of the retirement system;

(B) Based on the officer's knowledge, the CAFR does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading;

(C) Based on such officer's knowledge, the financial statements, and other financial information included in the CAFR, fairly present in all material respects the financial condition and results of operations of the issuer as of, and for, the periods presented in the CAFR;

(D) The signing officers—

(1) are responsible for establishing and maintaining internal controls;

(2) have designed such internal controls to ensure that material information relating to the issuer and its consolidated subsidiaries is made known to such officers by others within those entities, particularly during the period in which the periodic reports are being prepared;

(3) have evaluated the effectiveness of the issuer's internal controls as of a date within 90 days prior to the CAFR; and
(4) have presented in the CAFR their conclusions about the effectiveness of their
internal controls based on their evaluation as of that date;

(E) The signing officers have disclosed to the issuer's auditors and the audit committee of
the trustees (or persons fulfilling the equivalent function)--

(1) all significant deficiencies in the design or operation of internal controls
which could adversely affect the issuer's ability to record, process, summarize,
and report financial data and have identified for the issuer's auditors any
material weaknesses in internal controls; and

(2) any fraud, material misrepresentation, or failure to present information in a
non-misleading fashion either to investors or beneficiaries, whether or not
material, that involves management or other employees who have a significant
role in the issuer's internal controls; and

(F) The signing officers have indicated in the CAFR whether or not there were significant
changes in internal controls or in other factors that could significantly affect internal
controls subsequent to the date of their evaluation, including any corrective actions
with regard to significant deficiencies and material weaknesses. Whoever knowingly
violates any provision hereof shall be fined under this title, imprisoned not more than
20 years, or both.
Amendments to ALEC’s Balanced Budget Amendment Policy

Summary
These amendments provide an Article V Constitutional convention process in order to discuss adopting a Balanced Budget Amendment to the U.S. Constitution.

Model Legislation

{Title, enacting clause, etc.}

For a Convention to Propose a Balanced Budget Amendment

Be it resolved by the legislature of the State of ______:

Section 1.

The legislature of the State of ______ hereby applies to Congress, under the provisions of Article V of the Constitution of the United States, for the calling of a convention of the states limited to proposing an amendment to the Constitution of the United States requiring that in the absence of a national emergency the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated Federal revenues for that fiscal year [together with any related and appropriate fiscal restraints].

Section 2.

The secretary of state is hereby directed to transmit copies of this application to the President and Secretary of the Senate and to the Speaker and Clerk of the House of Representatives of the Congress, and copies to the members of the said Senate and House of Representatives from this State; also to transmit copies hereof to the presiding officers of each of the legislative houses in the several States, requesting their cooperation.

Section 3.

This application is to be considered as covering the same subject matter as the presently-outstanding balanced budget applications from other states, including but not limited to previously-adopted applications from _________, and this application shall be aggregated with same for the purpose of reaching the two thirds of states necessary to require the calling of a convention, but shall not be aggregated with any applications on any other subject.

Section 4.

This application constitutes a continuing application in accordance with Article five (V) of the Constitution of the United States until the legislatures of at least two-thirds of the several states have made applications on the same subject. It supersedes all previous applications by this legislature on the same subject.
Welcome and Introduction:

Bob Williams and Indiana Sen. Jim Buck welcomed everyone and called the meeting to order.

Minutes from the 2011 Spring Task Force Summit were unanimously approved.

Speakers and Discussion:


Jim Carter from Emerson Electric and Scott Hodge from the Tax Foundation presented on Corporate Taxes and International Competitiveness.

Joe Crosby from the Council on State Taxation discussed Multistate Corporate Tax Policy.

Bob Williams discussed State Budget Solutions.

Peter Ferrara, author of America’s Ticking Bankruptcy Bomb presented on The Peril of State Income Taxes.

Model Bill Discussion/Votes:

The Public Pension Accounting Responsibility Act was introduced by Bob Williams of Freedom Foundation. The bill was tabled for a later meeting.

Bob Williams also introduced ALEC’s Statement of Principles on Fixing State and Local Government Defined Benefit Plans, which was amended and passed unanimously by voice vote.

The Unfunded Pension Liabilities Accounting and Transparency Act was introduced by Bob Williams and was amended and passed unanimously by voice vote.
Bob Williams lastly introduced the Amendments to ALEC’s Defined- Contribution Pension Reform Act, which was amended unanimously and passed with one private sector vote against.

Ted Dabrowski, of Illinois Public Policy Institute, introduced the Pension Funding and Fairness Act, which was amended and passed unanimously by voice vote.

The Resolution Supporting the Mobile Workforce State Income Tax Simplification Act was introduced by Joe Crosby of COST. The bill passed unanimously by voice vote.

The Resolution Urging Congress to Cut the Federal Corporate Tax Rate was introduced by Tax Foundation’s Joe Henchman. The bill passed unanimously by voice vote.

Two bills introduced by Utah Sen. Wayne Niederhauser, the Performance Note Act and the Resolution on Streamlined Sales and Use Tax, were withdrawn so that they may be revised and reintroduced at a later date.

New Business
No new business.

Adjournment
A motion to adjourn was called and unanimously approved.
Judge Economic Policies By State’s Credit Ratings

By JAMES CARTER AND CHRISTINE HARBIN
Posted 10/18/2011 06:14 PM ET

The Tenth Amendment and America’s federalist structure give the states the right to be “laboratories of democracy” — each with the opportunity to implement unique public policies within the confines of their borders.

Writing for the dissent in an early 1932 Supreme Court case, Justice Louis Brandeis celebrated this right, declaring:

“It is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory, and try novel social and economic experiments without risk to the rest of the country.”

In the nearly eight decades since Brandeis issued his opinion, divergent state-level economic policies have led some states to prosper while others have suffered — sometimes painfully — that not all “experiments” succeed. Divergent policies bring divergent outcomes.

Imperfect as they are, state credit ratings speak volumes about the underlying quality of a state’s economic policies.

But what are they saying?

What are highly rated states doing right?

What are the lowest rated states — California and Illinois, in particular — doing wrong?

- States with strong credit ratings have a few key traits in common. For one, they tend to keep taxes low.
- The average top marginal personal income-tax rate for states boasting the S&P’s AAA and AA+ credit ratings (the two highest ratings) is 5.1%. This figure rises to 6.3% for states in the middle-rated group (AA and AA-) and 7.7% in states in the lowest-rated group (A+ and A).
- The average top marginal corporate income-tax rate for states boasting the S&P’s AAA and AA+ credit ratings is 6.7%. This figure rises to 7.3% for states in the middle-rated group and 9.2% in states in the lowest-rated group.
- The overall state and local tax burden is lowest in the highest-rated group and highest in the lowest-rated group.
- State governments with strong credit ratings tend to carry less debt and spend less on debt service. On average, the highest-rated states spend 7.8% of their annual tax revenue on debt service. States in the middle-rated group (AA and AA-) spend 8.4% while those in the lowest-rated group (A+ and A) spend 9.2%.
- State governments with strong credit ratings are far more likely to be a “right-to-work” state. Roughly half of the states with AAA and AA+ credit ratings give employees the right to decide whether to join or financially support a union.
- Fewer than one in three states in the middle-rated group, and none of the states in the lowest-rated group, give employees that right.
- States with strong credit ratings maintain quality legal systems that are conducive to economic growth. As a group, states with the highest credit ratings score the highest in the U.S. Chamber of Commerce’s “State Liability Systems Ranking Study.” States with the lowest credit ratings tend to fare among the worst in the study.
- States with strong credit ratings tend to maintain those ratings for extended periods of time. That is, credit ratings may rise and fall for most states, but the highest-rated states tend to maintain consistently high credit ratings.
For example, Missouri, North Carolina, Virginia and Utah have each held AAA credit ratings for at least 45 years while Maryland has held that distinction for 50 years.

None of this should come as a surprise. States that keep taxes and spending in check have a greater untapped capacity to meet their debt obligations and deal with budget problems as they arise.

States that maintain policies conducive to economic growth are less likely to encounter debt and budget crises and, over time, benefit from a healthier tax base.

Justice Brandeis believed in the usefulness of having states "try novel social and economic experiments."

But with decades of divergent policies and divergent outcomes behind us, the lesson going forward should be clear to anyone willing to listen.

- Carter was a deputy assistant secretary of the U.S. Treasury under President George W. Bush and served on the staff of the Senate Budget Committee. Harbin is a research manager for the American Legislative Exchange Council, a nonpartisan group of state legislators.

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N.M. Can Remove Its Own Obstacles To Economic Future Full of Promise

By Jonathan Williams / Tax and Fiscal Policy Task Force director, American Legislative Exchange Council on Thu, Sep 15, 2011

Why is it that some states prosper today, while many others continue to struggle? Incorporating data from the 2010 census and many other respected sources, the latest edition of the American Legislative Exchange Council’s “Rich States, Poor States” publication explains why some states have enjoyed population, income and job growth over the past decade, while others suffered from economic malaise.

Through statistical and anecdotal evidence, “Rich States, Poor States” makes a compelling case that pro-growth fiscal policy is what really makes the difference.

No state has ever taxed, borrowed or spent its way to prosperity. States that allow the government to heavily interfere with economic transactions through increased tax rates, burdensome regulations and bloated spending have lost economic vitality and have seen residents migrate to states with lower taxes and more competitive business climates.

More than just an engaging economic study, the award-winning “Rich States, Poor States” offers policymakers a valuable road map to revitalizing their state economy through fiscal reform, based on free-market, limited government principles. This book compiles numerous case studies on the success of pro-growth economic and tax policies. The authors offer the states solutions on how to tackle budget deficits without raising taxes, what to do about underfunded state pension systems and how to create new businesses and private-sector jobs.

Furthermore, the fourth edition of “Rich States, Poor States” contains the much-anticipated 2011 ALEC-Laffer State Economic Competitiveness Index. It analyzes the real effects of current policies within each state and ranks the states according to their economic growth.

The publication outlines two sets of state rankings. An economic performance ranking is based on the past 10 years of economic data and takes into consideration income, population and job growth. An economic outlook ranking uses 15 policy variables, including various tax burdens, recently legislated tax changes, regulatory burdens and labor policy.

We encourage policymakers to examine how their state ranks in this year’s edition, as well as how their economic policies compare to the rest of the nation.

The beauty of the American experiment is that we have 50 “laboratories of democracy” that we can study to replicate the policies that have worked and avoid those that have failed. “Rich States, Poor States” is an indispensable 50-state resource for legislators tasked with guiding their states through these tumultuous economic times. Armed with...
the reliable facts and detailed analysis, this publication is a tool that gives lawmakers in each and every state realistic suggestions to improve their state’s economic outlook.

According to the rankings, New Mexico performed relatively well over the past decade with an economic performance ranking of 5. Contributing factors to this strong showing include the relative fiscal constraint of the Johnson years and the significant tax relief enacted during the Richardson years.

Unfortunately, New Mexico’s outlook is not so bright. It still faces significant tax and regulatory obstacles, which led us to give it a ranking of 39th in terms of economic outlook.

New Mexico – like any other state – holds its economic future in its own hands. Despite national economic woes, there are great opportunities for reform and improvement. We hope “Rich States, Poor States” can contribute to making the right policy decisions.

Learn more about the policies that will lead to growth and prosperity in this year’s edition of “Rich States, Poor States.” The full-text PDF is available for free on ALEC’s website: www.alec.org/rsps.

Jonathan Williams is a co-author of “Rich States, Poor States.”
'Rich States, Poor States:' How Does Georgia Rank? How Can It Improve?

By Jonathan Williams and Kailee Tkacz

Three years after the economic downturn, many wonder: What are the key drivers for growth in Georgia and what can be done to make the state more fiscally competitive?

The latest edition of the American Legislative Exchange Council’s "Rich States, Poor States," uses 2010 census data to explain why some states have prospered in the last decade while others have continued to suffer economic decline. Through statistical and anecdotal evidence, the analysis makes a compelling case that pro-growth economic policy is what really makes the difference in achieving long-term growth in Georgia.

The fourth edition of "Rich States, Poor States" outlines two sets of state rankings. The first ranks economic performance based on the past 10 years of economic data such as income, population and job growth. The second ranks economic outlook by using 15 policy variables that include tax and regulatory burdens, recently legislated tax changes and labor policy.

So, where does the Peach State rank compared to other states?

The 2011 ALEC-Laffer State Economic Competitiveness Index ranks Georgia 33rd in the nation for economic performance and 11th for economic outlook.

Georgia levies no inheritance or estate tax. It’s a right-to-work state and keeps its minimum wage at the federal floor level of $7.25. These factors give Georgia an overwhelmingly competitive economic advantage in comparison to many other states across the nation.

In addition, Georgia keeps its excise taxes low relative to neighboring states. Georgia has the lowest cigarette tax at 37 cents per pack in the Southeast region and the second lowest gas tax, at 20.8 cents per gallon. By keeping tax rates lower than surrounding states, Georgia proves that it is open and ready for business.

While Georgia fares relatively well, research in neighboring states such as Florida and Tennessee (eighth), which both have no personal income tax.

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<td>Economic Performance Rank</td>
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If Georgia wishes to compete against its neighbors, it should follow their lead and seriously consider repealing the state's personal income tax. To further attract businesses, Georgians should also consider lowering the corporate income tax rate.

Georgia needs to remember that no state has ever taxed, borrowed or spent its way to prosperity. "Rich States, Poor States" shows that states that allow the government to heavily interfere with economic transactions through increased tax rates, burdensome regulations and bloated spending have lost economic vitality. Many states have even seen taxpayers migrate to states with lower taxes and more competitive business climates.

The beauty of the American experiment is that there are 50 "laboratories of democracy" that can replicate the policies that have worked and avoid those that have failed. "Rich States, Poor States" offers solutions on how to tackle budget deficits without raising taxes, what to do about underfunded state pension systems and how to encourage the creation of new businesses and private-sector jobs. The book delivers reliable facts and detailed analysis that can help Georgia policy-makers revitalize the state's economy through free-market, limited government principles.

Like any other state, Georgia holds its economic future in its own hands. By creating an environment where businesses can invest, develop and create jobs, Georgia can lead the way for economic competitiveness not only in the Southeast, but also across the nation.

Georgia's economic rankings will continue to improve over the next few years, given the recently launched Georgia Competitiveness Initiative that is uniting state agencies and the business community in seeking innovative solutions for long-term economic growth and job creation.

To learn more about the policies that will lead to growth and prosperity in Georgia, register for the 2011 Georgia Legislative Policy Briefing on September 30, 2011. Find the fourth edition of "Rich States, Poor States." at http://www.alec.org.

Jonathan Williams is co-author of "Rich States, Poor States" and Tax and Fiscal Policy Task Force Director at the American Legislative Exchange Council (ALEC). Kailee Tkacz is an ALEC Research Analyst. This commentary was written for the Georgia Public Policy, an independent think tank that proposes practical, market-oriented approaches to public policy to improve the lives of Georgians. Nothing written here is to be construed as necessarily reflecting the views of the Georgia Public Policy Foundation or as an attempt to aid or hinder the passage of any bill before the U.S. Congress or the Georgia Legislature. © Georgia Public Policy Foundation (September 23, 2011). Permission to reprint in whole or in part is hereby granted, provided the authors and their affiliations are cited.
Mission Statement

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

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

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

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

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

To prepare the next generation of political leadership through educational programs that promote the principles of Jeffersonian democracy, which are necessary for a free society.
American Legislative Exchange Council
TASK FORCE OPERATING PROCEDURES

I. MISSION OF TASK FORCES

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

II. TASK FORCE RESPONSIBILITIES

A. Task Forces have the primary responsibility for identifying critical issues and developing ALEC’s official policy statements and model legislation appropriate to the specific subject areas of the Task Force.

B. Task Forces serve as forums for an exchange of ideas and sharing of experiences between ALEC’s state legislator and private sector members.

C. Task Forces are responsible for developing and sponsoring the following educational activities appropriate to the specific subject area of the Task Force:

- publications that express policy positions, including, but not limited to State Factors and Action Alerts;
- educational communication and correspondence campaigns;
- issue specific briefings, press conferences and press campaigns;
- witness testimony and the activities of policy response teams;
- workshops at ALEC’s conferences; and
- specific focus events.

D. The Executive Director is to develop an annual budget, which shall include expenses associated with Task Force meetings and educational activities. A funding mechanism to finance all meetings and educational activities proposed by Task Forces must be available before they can be undertaken.
III. GENERAL PROCEDURES

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

The Director of Policy with the consent of the Executive Director assigns a model bill or resolution to the most appropriate Task Force based on Task Force content and prior jurisdictional history 35 days before a Task Force Meeting. All Task Force Co-Chairs will be provided an email or fax summary of all model bills and resolutions 35 days before the Task Force meeting. If both the Co-Chairs of a Task Force are in agreement that they should have jurisdiction on model legislation or a resolution, the legislation or resolution will be considered by the Task Force. If the other Task Force Co-Chairs believe they should have jurisdiction or if the author of the model bill or resolution does not agree on the jurisdictional assignment of the bill, they will have 10 days after the 35-day mailer deadline to submit in writing or by electronic appeal to the Director of Policy their intent to challenge the jurisdictional assignment. The Director of Policy will notify the Executive Director who 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. If a Task Force is unable to develop an operating budget, the Board of Directors will determine whether to continue the operations of the Task Force. This determination will be made according to: (1) the level of membership on the Task Force, and (2) the need for continued services developed by the Task Force for ALEC.

F. The Board of Directors shall have the authority to allocate limited general support funds to finance the annual operating budget of Task Forces that meet the requirements prescribed in Section III (E). The Executive Director shall determine, and report to the Board of Directors, the amount of general support funds available to underwrite such Task Forces.

IV. MEMBERSHIP AND MEMBER RESPONSIBILITIES

A. The membership of a Task Force consists of legislators who are members in good standing of ALEC and are duly appointed to the Task Force, in accordance with Section VI (A) and private sector organizations that are full members of ALEC, contribute to the assessment for the Task Force operating budget, and are duly appointed to the Task Force, in accordance with Section VI (B). Private sector organizations that were full members of ALEC and contributed the assessment for the Task Force’s operating budget in the previous year, can be appointed to the Task Force for the current year, conditional upon renewal of full ALEC membership and receipt of the current year’s assessment for the Task Force operating budget prior to March 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

Revised May 2009 & Bold added September 2011
A. Prior to February 1 of each odd-numbered year, the current and immediate past National chairman will jointly select and appoint in writing three legislative members and three alternates to the Task Force who will serve for the current operating cycle, after receiving nominations from ALEC’s Public and Private State Chairs, the Executive Director and the ALEC Public and Private Sector members of the Board. At any time during the year, the National Chairman may appoint in writing new legislator members to each Task Force, except that no more than three legislators from each state may serve as members of any Task Force, no legislator may serve on more than one Task Force and the appointment cannot be made earlier than thirty days after the new member has been nominated. In an effort to ensure the nonpartisan nature of each Task Force, it is recommended that no more than two legislators of any one political party from the same state be appointed to serve as members of any Task Force. A preference will be given to those ALEC legislator members who serve on or chair the respective Committee in their state legislature. A preference will be given to legislators who sponsor ALEC Task Force model legislation in the state legislature.

B. Prior to January 10 of each odd-numbered year, the current and immediate past National Chairman will jointly select and appoint in writing the Task Force Chair who will serve for the current operating cycle, after receiving nominations from the Task Force. Nominations will be requested by the outgoing Task Force Chair and may be placed in rank order prior to transmittal to the Executive Director no later than December 1 of each even-numbered year. No more than five names may be submitted in nomination by the outgoing Task Force chair. The current and immediate past National Chairmen will jointly make the final selection, but should give strong weight to the recommendations of the outgoing Task Force Chair. In an effort to empower as many ALEC leaders as possible, State Chairs and members of the Board of Directors will not be selected as Task Force Chairs. Task Force Chairs shall serve for one operating cycle term. Where special circumstances warrant, the current and immediate past National Chairmen may reappoint a Task Force Chair to a second operating cycle term.

C. Prior to February 1 of each odd numbered year, the Public and Private Sector Task Force Co-Chairs will select and appoint in writing the legislative and private sector members of the Task Force Executive Committee, who will serve for the current operating cycle. The Public and Private Sector Task Force Co-Chairs will select and appoint in writing the legislative and private sector members and advisors to any subcommittee.

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D. Prior to February 1 of each year, the Private Enterprise Board Chair and the immediate past Private Enterprise Board Chair will select and appoint in writing the private sector members to the Task Force who will serve for the current year. The appointment letter shall be mailed to the individual designated as the primary contact for the private sector entity. At any time during the year, the Chair of the Private Enterprise Board may appoint in writing new private sector members to each Task Force, but no earlier than thirty days after the new member has qualified for full membership in ALEC and contributed the assessment for the appropriate Task Force’s operating budget.

E. Prior to January 10 of each odd-numbered year, the Chair of the Private Enterprise Board and the immediate past Private Enterprise Board Chair will select and appoint in writing the Task Force Private Sector Co-Chair who will serve for the current operating cycle, after receiving nominations from the Task Force. Nominations will be requested by the outgoing Task Force Private Sector Chair and may be placed in rank order prior to transmittal to the Chair of the Private Enterprise Board. The Chair and the immediate past Chair of the Private Enterprise Board will make the final selection, but should give strong weight to the recommendations of the outgoing Private Sector Task Force Co-Chair. In an effort to empower as many ALEC private sector members as possible, Private Enterprise State Chairs and members of the Private Enterprise Board will not be selected as Private Sector Task Force Co-Chairs. Private Sector Task Force Co-Chairs shall serve for one operating cycle term. Where special circumstances warrant, the current and immediate past Chair of the Private Enterprise Board may reappoint a Task Force Private Sector Chair to a second operating cycle term.

F. Prior to February 1 of each odd-numbered year, the Task Force Private Sector Co-Chair will select and appoint in writing the private sector members of the Task Force Executive Committee, who will serve for the current operating cycle. The Task Force Private Sector Co-Chair shall select and appoint in writing the private sector members of any subcommittees.

G. The Public and Private Sector Task Force Co-Chairs, may jointly appoint subject matter experts to serve as advisors to the Task Force. The National Chair and the Private Enterprise Board Chair may also jointly recommend to the Task Force Co-Chairs subject matter experts to serve as advisors to the Task Force.

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VII. REMOVAL AND VACANCIES

A. The National Chair may remove any Public Sector Task Force Co-Chair from his position and any legislative member from a Task Force with or without cause. Such action will not be taken except upon thirty days written notice to such Chair or member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive Task Force meetings.

B. The Public Sector Task Force Co-Chair may remove any legislative member of an Executive Committee or subcommittee from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive meetings.

C. The Chairman of the Private Enterprise Board may remove any Private Sector Task Force Co-Chair from his position and any private sector member from a Task Force with cause. Such action shall not be taken except upon thirty days written notice to such Chair or member whose removal is proposed. For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues.

D. The Private Sector Task Force Co-Chair may remove any private sector member of an Executive Committee or subcommittee from his position with cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues.

E. The Public and Private Sector Task Force Co-Chairs may remove an advisor from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such advisor whose removal is proposed.

F. Any member or advisor may resign from his position as Public Sector Task Force Co-Chair, Private Sector Task Force Co-Chair, public or private sector Task Force member, Task Force advisor, Executive Committee member or subcommittee member at any time by writing a letter to that effect to the Public Sector and Private Sector Task Force Co-Chairs. The letter should specify the

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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 any form of electronic communication on any action pertaining to policy statements, model legislation or educational activity. The deadline for the receipt of votes can be no earlier than thirty-five days after notification of the vote is mailed or notified by any form of electronic communication, unless an emergency situation is declared pursuant to Section VIII (H), in which case the deadline can be no earlier than ten days after notification is mailed or notified by any form of electronic communication. Such votes are exempt from all rules in Section VIII, except: (1) the requirement that copies of model legislation and
policy statements be mailed or notified by any form of electronic communication with the notification of the vote and (2) the requirement that a majority of legislative members voting and a majority of the private sector members voting, polled separately, is required to approve any action by a Task Force.

H. For purposes of Sections VIII(A), (B) and (G), an emergency situation can be declared by:

    (1) Unanimous vote of all members of the Task Force Executive Committee present at an Executive Committee meeting prior to the meeting at which the Task Force votes on the model bill, resolution or policy statement; or
    (2) At least three-fourth majority vote of the legislative and private sector Task Force members (voting in accordance with Section VIII (F)) present at the meeting at which the members vote on the model bill, resolution or policy statement.

I. Ten Task Force members shall constitute a quorum for a Task Force meeting. One-half of the legislative and one-half of the private sector members of an Executive Committee shall constitute a quorum for an Executive Committee meeting.

IX. REVIEW AND ADOPTION PROCEDURES

A. All Task Force policy statements, model bills or resolutions shall become ALEC policy either: (1) upon adoption by the Task Force and affirmation by the Board of Directors or (2) thirty days after adoption by the Task Force if no member of the Board of Directors requests, within those thirty days, a formal review by the Board of Directors. General information about the adoption of a policy position may be announced upon adoption by the Task Force.

B. The Executive Director shall notify the Board of Directors of the approval by a Task Force of any policy statement, model bill or resolution within ten days of such approval. Members of the Board of Directors shall have thirty days from the date of Task Force approval to review any new policy statement, model bill or resolution prior to adoption as official ALEC policy. Within those thirty days, any member of the Board of Directors may request that the policy be...
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.
ALEC Spring Task Force Summit:

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

ALEC Annual Meeting:

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

ALEC States & Nation Policy Summit:

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

ALEC Academies:

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