

**ALEC** | American  
Legislative  
Exchange  
Council

**IN UTAH**

The Voice Of Corporate Special Interests  
In The Halls Of Utah's Legislature



## **Introduction**

A number of reports have detailed how the American Legislative Exchange Council (ALEC) exerts influence over politics and policy in state Capitols throughout the country. These reports document how ALEC—made up of corporations, conservative foundations and state legislators—has created model legislation that is exported to states nationwide and introduced by lawmakers as their own. In partnership with its 2,000 members, ALEC boasts that it “has over 1,000 of these bills introduced by legislative members every year, with one in every five of them enacted into law.”<sup>1</sup>

The work of the Center for Media Democracy, People for the American Way, Common Cause, Progress Now’s state affiliates and others have increased awareness of the ALEC agenda, and more than 50 state legislators and 25 corporations have left ALEC as a result. With Utah hosting ALEC’s annual meeting, there have been assurances from Utah legislators that they are not a “rubber stamp” for ALEC.<sup>2</sup> This report offers the first comprehensive accounting of how the ALEC agenda has been promoted and often adopted in Utah.

By comparing model bills available at [alecexposed.org](http://alecexposed.org) and internal documents released by Common Cause in connection to its whistle-blower lawsuit<sup>3</sup> with bills introduced in the Utah Legislature since 2001, this reports documents that Utah legislators have made substantial direct use of ALEC model legislation and policy ideas. The Utah Legislature has too often acted as a pass-through for ALEC, introducing ALEC model language word for word on at least 17 occasions. The real vetting process for this legislation is at ALEC’s closed-door conferences where corporations have an equal say with legislators in crafting model legislation. This non-transparent process is antithetical to democracy. The lack of transparency regarding ALEC’s involvement and the policy implications of these bills are detrimental to our political process and too often result in policy that is harmful to our communities, our economy and our environment.

## **Legislative Summary**

### **Education Policy**

In education policy, direct language from at least four ALEC model bills has been introduced since 2000. Although none became law, they still represent a step back from a commitment to equal educational opportunities for all.

- The Comprehensive Legislative Package Opposing the Common Core State Standards Initiative would have repealed Utah’s 2010 adoption of the Common Core standards, depriving students and teachers alike of the state’s participation in common, rigorous education standards that improve achievement.
- The Free Enterprise Education Act would have dictated specific curriculum to high school teachers to teach a course on the “free enterprise system.” This curriculum is sponsored by the U.S. Chamber of Commerce.

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<sup>1</sup> ALEC Exposed, “ALEC FAQ,” Center for Media and Democracy [http://alecexposed.org/wiki/What\\_is\\_ALEC%3F](http://alecexposed.org/wiki/What_is_ALEC%3F)

<sup>2</sup> Robert Gehrke, “ALEC bringing its clout, agenda and convention to Utah,” *Salt Lake Tribune*, July 14, 2012. <http://www.sltrib.com/sltrib/politics/54485756-90/alec-utah-legislation-group.html.csp?page=3>

<sup>3</sup> Eric R. Havian, et al., “Letter to the IRS Internal Revenue Service under the Tax Whistleblower Act, Exhibit 4—Task Force materials,” Common Cause, April 20, 2012. <http://www.commoncause.org/site/pp.asp?c=dkLNK1MQIwG&b=8072485>

- The Parental Rights Amendment would place in the state constitution seemingly harmless language guaranteeing parents’ right to “direct the upbringing and education of their children.” A former governor of Colorado, when this surfaced there, called it “a full employment bill for lawyers” that could “get in the way of reasonable child abuse laws” and “permit censorship of materials and programs in public libraries and schools.”<sup>4</sup>
- The Innovation Schools and School Districts Act would allow districts to waive regulations that protect services for special education and English as second language students and provide due process for teachers and staff.

Another ALEC bill, the Career Ladder Opportunity Act, was just repealed in the 2012 general session of the Legislature. This is a program that based some teachers’ pay on student performance.

Other Utah education bills do not incorporate exact ALEC model language, but would still enact policies in keeping with ALEC’s models. Among these bills are H.B. 123’s (2012) Education Savings Account Program, H.B. 340’s Parental Choice in Education Program, and S.B. 151’s (2012) Opportunity Scholarship Program. These programs essentially create school vouchers or other taxpayer support for private schools. This is a policy that has not proven to raise student achievement and diverts resources from traditional public schools. Utah voters overwhelmingly rejected this idea in 2007.

### **Jobs and Economic Policy**

In Utah, at least 10 bills affecting jobs and economic policy have been introduced that use ALEC language either in whole or in significant part.<sup>5</sup> Of these, four became and are still law.<sup>6</sup>

- The Voluntary Contributions Act prohibits government employees from contributing to a union’s political fund through automatic payroll deduction. Such constraints make it harder for workers to have a voice on behalf of their families and to have a say in improving the services they provide.
- The Council on Efficient Government Act encourages the privatization of government services to, in part, “eliminate unfair competition with a private enterprise.” We believe this process has been a failure for taxpayers. For example, in 2010, Utah’s Privatization Policy Board rejected its own commissioned study that did not recommend hospital privatization.<sup>7</sup> Additional principles embodied in ALEC’s Government Services Competition Act have been periodically introduced in legislation—most recently in H.B. 94 in the 2012 general session—that would further empower the Utah Privatization Policy Board to favor private interests over the public good.

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<sup>4</sup> People for the American Way Foundation, “Parental Rights: The Trojan Horse of the Religious Right Attack on Public Education,” <http://www.pfaw.org/media-center/publications/parental-rights#parental>

<sup>5</sup> These ALEC bills are the Voluntary Contributions Act, the Council on Efficient Government Act, the Civil Rights Act, the Living Wage Mandate Preemption Act, the Interstate Insurance Product Regulation Compact Resolution/ NAIC Interstate Insurance Product Regulation Compact Model Act, the Union Financial Responsibility Act, the Resolution in Opposition to the REAL ID Act, the Resolution Calling for the Congress of the United States to Call a Constitutional Convention Pursuant to Article V of the United States Constitution to Propose a Constitutional Amendment Permitting Repeal of any Federal Law or Regulation by Vote of Two-Thirds of the State Legislature, and the Noneconomic Damage Awards Act.

<sup>6</sup> The four bills are the Voluntary Contributions Act, the Council on Efficient Government Act, the Living Wage Mandate Preemption Act, and the Interstate Insurance Product Regulation Compact Resolution/ NAIC Interstate Insurance Product Regulation Compact Model Act.

<sup>7</sup> Randy Simmons, et al., “Privatization Policy Board 2010 Annual Report,” Privatization Policy Board, Nov. 15, 2011. [http://www.upea.net/documents/PPBoard\\_Letter.pdf](http://www.upea.net/documents/PPBoard_Letter.pdf)

- The Living Wage Mandate Preemption Act bars a local government and other state entities from requiring state contractors to pay their workers above the federal minimum wage. We believe this lowers wage standards for all workers, encourages a race to the bottom by contractors, and could leave those with previously good jobs making poverty level wages.
- The Noneconomic Damage Awards Act caps noneconomic awards at \$250,000 in personal injury and other lawsuits. These laws arbitrarily limit awards without regard for the pain and suffering of a victim.

In 1999, the Utah Legislature passed H.J.R. 8, legislation that mandated a secret ballot election for workplace representation, just like ALEC passed its Resolution to Support State Efforts to Protect Secret Ballot Elections.

### **Budget and Tax Policy**

Since 2000, at least two additional ALEC model bills on budget and tax policy have been introduced either as a standalone bill or as a bill that uses a significant amount of language from ALEC. These are the Supermajority Act and the Resolution to Restate State Sovereignty. If they had been passed into law, the bills would have necessitated disinvestment from public services because of the artificial constraints placed on the state's ability to raise revenue and spend money.

A large number of tax and budget policy prescriptions reflect ALEC model legislation initiatives, many in Utah's Constitution. Recent reports suggest nearly \$1 billion in state resources escapes legislative scrutiny because these "tax expenditures" have been written in the code to shrink the tax base. Similarly, tax "earmarks ... permanently divert a share of sales tax collections from the unrestricted portion of the General Fund. These monies automatically bypass the annual appropriations process and are directed to specific projects without systematic review."<sup>8</sup> For example, as ALEC recommends in its Constitutional Amendment Restricting the Use of Vehicle Fees and Taxes for Highway Purposes, Article XIII Section 5 of the Utah Constitution limits motor vehicle fees and tax revenue to spending on roads. Similarly, Utah's Transparency in Government Finance rules in, Utah Code Title 63A Chapter 3 Sections 401 et seq., requires a website to post certain financial information of government entities just like ALEC's Transparency and Government Accountability Act. Other ALEC ideas pressed by Utah legislators include resolutions to demand that Congress pass a balanced budget amendment to the U.S. Constitution,<sup>9</sup> attacks of the use tax,<sup>10</sup> and laws limiting legislative taxing and spending powers.<sup>11</sup>

Finally, Utah's pension reform—S.B. 43 in the 2010 legislative session—has been trumpeted by ALEC itself as a model<sup>12</sup> and cited as a reason Utah is the top state in ALEC's "Rich States, Poor States"

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<sup>8</sup> Allison Rowland and Tracy Gruber, "What's Eating Utah's General Fund? How Tax Expenditures and Earmarks Undermine the Budget Process," Voices for Utah Children, May 17, 2012.  
[http://www.utahchildren.org/images/stories/2012\\_News\\_Articles/Reports/Whats\\_Eating\\_Utahs\\_General\\_Fund\\_May\\_17\\_2012\\_Revised\\_Uploaded\\_5-30-12.pdf](http://www.utahchildren.org/images/stories/2012_News_Articles/Reports/Whats_Eating_Utahs_General_Fund_May_17_2012_Revised_Uploaded_5-30-12.pdf)

<sup>9</sup> The most recent resolution in the Utah Legislature was S.J.R. 28 in the 2011 session. The ALEC model is the Balanced Budget Amendment Resolution.

<sup>10</sup> While ALEC's Use Tax Elimination Act would abolish all use taxes in a state, H.B. 200 (2012 general session) would create a \$400 tax credit for use tax liability.

<sup>11</sup> ALEC's Tax and Expenditure Limitation Act appears to be the inspiration for S.J.R. 22 (2012 general session).

<sup>12</sup> Dan Liljenquist for U.S. Senate 2012, "Just the Facts: Setting the Record Straight,"  
<http://www.danforutah.com/issues/just-the-facts/>

report.<sup>13</sup> However, no model ALEC language was found. The bill shifted all future pension risk to employees, and cut state funding.<sup>14</sup>

### **Environmental Policy**

On environmental policy, direct language from at least one ALEC model bill has been introduced since 2000. It passed into law.

- The Disposal and Taxation of Public Lands Act demands the federal government return certain lands to the state. The law has been flagged by the Office of Legislative Research and General Counsel as potentially unconstitutional. While ALEC was hoping to mount a challenge to federal control with a large coalition of Western states, Utah is the only state to pass the act into law.<sup>15</sup>

Other Utah environmental legislation and resolutions bear the ALEC mark. For example, the Environmental Literacy Improvement Act (H.B. 54, 1999 general session) creates pilot programs to provide a “balanced, comprehensive, unbiased, and interdisciplinary approach to the study of environmental issues.” Under the ALEC model, absent from Utah’s law, the program must “actively seek countervailing scientific and economic views on environmental issues.” Using the smokescreen of “balance,” the ALEC program, in essence, rejects science and would force the questioning of universally recognized scientific principles. H.B. 187 (2012 general session), the Agricultural Operation Interference Act, would make it unlawful to film or photograph an agricultural business without the prior consent of the owner and is similar to ALEC’s bill, the Animal and Ecological Terrorism Act; both target environmental activists exercising their free speech rights. H.B. 187, as written, goes further than the ALEC model because no unlawful intent is required to have committed a crime. Thus, 187 would criminalize conduct by journalists and even casual photographers. Also, as ALEC encouraged in its Resolution in Opposition to EPA’s Plan to Regulate Greenhouse Gases under the Clean Air Act, the Utah Legislature passed H.J.R. 12, which questioned the scientific consensus around climate change and urged the EPA to withdraw its carbon dioxide “Endangerment Finding.” This is a profoundly anti-science agenda and raises questions about whether our Statehouse is more concerned with polluters than with the well-being of citizens.

### **Healthcare**

Utah was one of 12 states to enact a version of ALEC’s Freedom of Choice in Healthcare Act.<sup>16</sup> The Utah statute prohibited “a state agency or department from implementing any provision of federal health care reform unless the agency reports to the Legislature.” ALEC brags that “ALEC state legislators have successfully worked to expose the truth about ObamaCare” and have led a coordinated “fight back” against the reform.<sup>17</sup> This includes, presumably, “fighting” against allowing young adults to stay on their parents’ health insurance until age 26, better access to preventive care, bans on lifetime limits on the dollar value of essential health benefits, and ending discrimination against pre-existing conditions.

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<sup>13</sup> Arthur Laffer, et al., “Rich States, Poor States,” American Legislative Exchange Council, 2012.

[http://www.alec.org/docs/RSPS\\_5th\\_Edition.pdf](http://www.alec.org/docs/RSPS_5th_Edition.pdf)

<sup>14</sup> Mark Olleman and Ilana Boivie, “Decisions, Decisions: Retirement Plan Choice for Public Employees and Employers,” National Institute on Retirement Security, September 2011.

[http://www.nirsonline.org/storage/nirs/documents/Decisions%20Decisions/final\\_decisions\\_decisions\\_report.pdf](http://www.nirsonline.org/storage/nirs/documents/Decisions%20Decisions/final_decisions_decisions_report.pdf)

<sup>15</sup> Robert Gehrke, “Utah alone in Sagebrush Rebellion after Arizona governor’s veto,” *Salt Lake Tribune*, May 15, 2012. <http://www.sltrib.com/sltrib/politics/54120702-90/arizona-bill-brewer-federal.html.csp>

<sup>16</sup> “ALEC’s Health Care Freedom Initiative” <http://www.alec.org/initiatives/health-care-freedom-initiative/>

<sup>17</sup> Id.

### **Voting Rights and Public Safety**

Two of ALEC's most controversial policy ideas—the Castle Doctrine and voter identification laws—have been adopted by the Utah Legislature. The state's Castle Doctrine, while not borrowing verbatim from the ALEC bill, nonetheless provides a strong legal presumption that the use of deadly force is reasonable when "entry or attempted entry is unlawful and is made or attempted by use of force, or in a violent and tumultuous manner, or surreptitiously or by stealth, or for the purpose of committing a felony." The doctrine also grants protections for the use of force not found in traditional common law. Similarly, while Utah's voter identification provisions are not as strict as the ALEC model, they still create barriers for people who would otherwise be eligible to vote. The ALEC model would require identification with a photograph. Utah allows a combination of identification documents that do not have a photo, and also gives a county clerk the discretion to determine identification "through some other means."

In all, 16 bills related to education, state budget, economic and other policy have incorporated exact ALEC model bill language. Of those, five have made it into law.

### **Conclusion**

The ALEC agenda, focused on privatization, often puts corporate profit ahead of the public interest and sees states' general funds as an economic resource to enrich corporate bottom lines. In conclusion, it is a corporate-sponsored agenda that does not serve the public interest or the taxpayers.

### **Known Utah Legislative Members of ALEC**

- ALEC State Chairman, Sen. Curt Bramble (R-16)
- ALEC State Chairman, Sen. Wayne Niederhouser (R-9)
- Senate President, Michael G. Waddoups (R-6)
- Senate Majority Leader, Scott K. Jenkins (R-20)
- Sen. Ralph Okerlund (R-24)
- Sen. Stephen H. Urquhart (R-29)
- Sen. Mark B. Madsen (R-13)
- Sen. Peter Kundson (R-17)
- Sen. Margaret Dayton (R-15)
- Sen. Howard A. Stephenson (R-11)
- Sen. Stuart C. Reid (R-18)
- Sen J. Stuart Adams (R-22)
- Sen. John Valentine (R14)
- Speaker of the House, Rebecca Lockhart (R-64)
- House Majority Leader, Brad L. Dee (R-11)
- Rep. Todd E. Kiser (R-41)
- Rep. Ryan Wilcox (R-7)
- Rep. Paul Ray (R-13)
- Rep. Chris N. Herrod (R-62)
- Rep. Dean Sanpei (R-63)
- Rep. David Clark (R-74)
- Rep. Bradley Daw (R-60)
- Rep. Roger Barrus (R-18)
- Rep. Keith Grover (R-61)
- Rep. Michael T. Morley (R-66)
- Rep. Eric K Hutchings (R-38)
- Rep. Ken Ivory (R-47)
- Rep. R. Curt Webb (R-5)
- Rep. Julie Fisher (R-17)
- Rep. Merlynn Newbold (R-50)
- Rep. Kenneth Sumsion (R-56)
- Rep. Wayne Harper (R-43)

## ALEC Model Bills in Utah

### Education Policy

S.C.R. 13: 2012 GENERAL SESSION	ALEC model
<p><b>CONCURRENT RESOLUTION ON COMMON CORE STANDARDS</b> Chief Sponsor: Aaron Osmond</p> <p>WHEREAS, high student performance is fundamentally linked to an overall reform of the public education system through a strong system of accountability and transparency built on state standards;</p> <p>WHEREAS, the responsibility for the upbringing and education of children lies with parents, supported by local school boards, and the state government; [...]</p> <p>WHEREAS, in 2009 and 2010, the state was offered the chance to compete for education funding through the Race to the Top (RTTT) program created by the United States Department of Education;</p> <p>WHEREAS, the only way to achieve a score in the RTTT competition sufficient to qualify for funding was to agree to participate in a consortium of states working toward jointly developing and adopting a common set of kindergarten through grade 12 curriculum standards;</p> <p>WHEREAS, the only common set of kindergarten through grade 12 curriculum standards is the set of standards developed through the Common Core State Standards Initiative, which was created without a grant of authority from any state;</p> <p>WHEREAS, locally elected officials, school leaders, teachers, and parents were not included in the discussion, evaluation, and preparation of the Common Core standards; [...]</p> <p>WHEREAS, no empirical evidence indicates that centralized education standards result in higher student achievement;</p> <p>WHEREAS, the National Assessment of Educational Progress (NAEP) currently allows comparisons of academic achievement to be made across states without the necessity of imposing national standards or curricula; [...]</p>	<p><b>Comprehensive Legislative Package Opposing the Common Core State Standards Initiative</b></p> <p><b>WHEREAS</b>, high student performance and closing the achievement gap is fundamentally linked to an overall reform of our public education system through a strong system of accountability and transparency built on state standards; and</p> <p><b>WHEREAS</b>, the responsibility for the education of each child of this nation primarily lies with parents, supported by locally elected school boards and state governments; and</p> <p><b>WHEREAS</b>, in 2009 and 2010, the State was offered the chance to compete for education funding through the “Race to the Top” program created by the U. S. Department of Education (“DOE”); and</p> <p><b>WHEREAS</b>, the only way to achieve a score in the competition sufficient to qualify for funding was to agree to “participation in a consortium of States that ... [i]s working toward jointly developing and adopting a common set of K-12 standards...”; and</p> <p><b>WHEREAS</b>, the only such “common set of K-12 standards” existent at that time, or since, is known as the Common Core Standards Initiative (“CCSI”) and was developed without a grant of authority from any state; and [...]</p> <p><b>WHEREAS</b>, local education officials, school leaders, teachers, and parents were not included in the discussion, evaluation and preparation of the CCSI standards that would affect students in this state; and</p> <p><b>WHEREAS</b>, no empirical evidence indicates that centralized education standards result in higher student achievement; and [...]</p> <p><b>WHEREAS</b>, the National Assessment of Educational Progress national test already exists and allows comparisons of academic achievement to be made across the states, without the necessity of imposing national standards, curricula, or assessments; and [...]</p>

WHEREAS, Race to the Top funding for states is limited, and \$350 million for consortia to develop new assessments aligned with the Common Core standards is not sufficient to cover the costs of overhauling state accountability systems, which includes implementation of standards and testing, associated professional development, and curriculum restructuring;  
 [...]
   
 WHEREAS, the centralized decision making that governs the Common Core standards is vulnerable to manipulation by special interest groups who over time may seek to lower the rigor and quality of the standards;  
 [...]
   
 NOW, THEREFORE BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urges the State Board of Education to reconsider the board's decision to adopt the Common Core standards and, in reconsidering the board's decision, evaluate the cost, control, and quality of Utah standards and assessments compared to the cost, control, and quality of the Common Core standards and SBAC assessments.

**WHEREAS**, when no less than 22 states face budget shortfalls and Race to the Top funding for states is limited, \$350 million for consortia to develop new assessments aligned with the CCSI standards will not cover the entire cost of overhauling state accountability systems, which includes implementation of standards and testing and associated professional development and curriculum restructuring; and  
**WHEREAS**, special interest groups can manipulate the vulnerability of the centralized decision making that governs common standards and lower the standards' rigor and quality over time to suit their priorities;

**Option A (Resolution):**  
**NOW, THEREFORE BE IT RESOLVED THAT** the {legislative body} of the state of {name of state} rejects any policies and procedures that would be incumbent on the state based on the Common Core State Standards Initiative.

<p><b>H.B. 370: 2012 GENERAL SESSION</b></p>	<p><b>ALEC model</b></p>
<p><b>EDUCATION ON FREE ENTERPRISE SYSTEM</b>          Chief Sponsor: Keith Grover</p> <p><b>Part 4. Free Enterprise Education Act</b>  <b>53A-13-401. Title.</b>  <i>This part is known as the "Free Enterprise Education Act."</i></p> <p>Section 2. Section <b>53A-13-402</b> is enacted to read:  <b>53A-13-402. Purpose.</b>  <i>The purpose and intent of this part are:</i>  <i>(1) to require all public school students to receive instruction on the free enterprise system during high school as a stand-alone course lasting at least one semester; and</i>  <i>(2) to require a passing grade in the course in order to receive a certificate or diploma of graduation.</i></p> <p>Section 3. Section <b>53A-13-403</b> is enacted to read:  <b>53A-13-403. Findings.</b>  <i>The Legislature finds and declares that:</i>  <i>(1) a flourishing economy arises from private sector initiative and entrepreneurship working in a free market protected by the rule of law and nurtured by limited government that guarantees private ownership rights, economic liberty, and equality of opportunity;</i></p>	<p><b>Free Enterprise Education Act</b></p> <p><b>Section 1. {Title}</b> This Act shall be known as the Free Enterprise Education Act.</p> <p><b>Section 2. {Purpose}</b> The purpose and intent of this Act are:          (A) To require all students to receive instruction in the free enterprise system during high school as a stand-alone course lasting at least one semester; and          (B) To require a passing grade in the course; in order to receive a certificate or diploma of graduation.</p> <p><b>Section 3. {Findings}</b> The legislature finds and declares that:          (A) A flourishing economy arises from private sector initiative and entrepreneurship working in a free market protected by the rule of law and nurtured by limited government that guarantees private ownership rights, economic liberty, and equality of opportunity. The foundation of a growing national economy, the free</p>



(2) the free enterprise system creates wealth, jobs, and prosperity, and is the foundation of a growing national economy;

(3) the American free enterprise system depends on well-educated citizens;

(4) too many students in the United States do not understand:

(a) the basic characteristics of the free enterprise system and its importance to economic growth and the creation of wealth and jobs; and

(b) the free enterprise system's central role in the tremendous economic challenges faced by individuals, companies, and entrepreneurs in establishing, building, and managing a business, and their contributions to American society;

(5) most efforts by federal and state government have generally focused on economics and personal financial literacy, but a full and complete understanding of the American free enterprise system requires a diligent study of history, political science, geography, culture, and current events in addition to economics and personal finance; and

(6) the study of the free enterprise system is critical to the development of students as productive citizens who understand the American economic and political system and the critical and central role of American business and entrepreneurs in the creation of wealth, jobs, and economic growth and prosperity.

Section 4. Section **53A-13-404** is enacted to read:

**53A-13-404. Administration of course.**

(1) Instruction in the free enterprise system shall be provided in a course lasting at least one semester during high school.

(2) Beginning with students entering high school in the 2013-14 school year, a student shall:

(a) be required to fulfill the free enterprise requirement described in Subsection (1); and

(b) receive a passing grade in the course described in Subsection (1) in order to receive a certificate or diploma of graduation.

(3) The State Board of Education or its designee shall adopt free enterprise content standards and curriculum, consistent with this part.

(4) The State Board of Education or its designee shall carry out appropriate professional development training for a teacher who instructs the free enterprise course.

enterprise system creates wealth, jobs, and prosperity and sustains political stability.

(B) The American free enterprise system depends on well-educated citizens. Today, too many students in the United States do not understand the basic characteristics of the free enterprise system and its importance to economic growth and the creation of wealth and jobs. These students do not understand the free enterprise system's central role in the tremendous economic growth experienced in the United States since its founding, as well as the challenges faced by individuals, companies, and entrepreneurs in establishing, building, and managing a business and their contributions to American society.

(C) Most efforts by federal and state governments have generally focused on economics and personal financial literacy, but a full and complete understanding of the American free enterprise system requires a diligent study of not only economics and personal finance but also other disciplines, including history, political science, geography, culture, and current events.

[...]

(H) The study of the free enterprise system is critical to the development of students as productive citizens who understand the American economic and political system and the critical and central role of American business and entrepreneurs in the creation of wealth, jobs, and economic growth and prosperity.

**Section 4. {Administration of Course}**

(A) Instruction in the free enterprise system shall be provided in a course lasting at least one semester during high school.

(B) Beginning with students entering high school in [insert year] school year, such students shall be required to fulfill the free enterprise requirement in Section 4(A) and sustain a passing grade in the course in order to receive a certificate or diploma of graduation.

(C) The State Board of Education [or other appropriate State Agency] shall adopt free enterprise content standards consistent with this Act.

[...]

(E) The State Board of Education [or other appropriate State or Local Agency] shall carry out appropriate professional development training. In carrying out this

(5) The State Board of Education shall:  
(a) accept a curriculum, course description, or description of a series of classes taken in combination from a school or school board;  
(b) determine whether the curriculum, course description, or description of a series of classes taken in combination, described in Subsection (5)(a), currently meets the goals and requirements of this part; and  
(c) approve all current curricula, courses, or series of courses taken in combination that meet the goals and requirements of this part as satisfying the graduation requirement mandated by this part.  
(6) The State Board of Education may contract with one or more organizations that have expertise in the development of curriculum or continuing education courses, described in Subsections (3) and (4), to develop curriculum that meets the education goals described in this part.  
(7) Beginning in school year 2017-18, any statewide curriculum-based test shall include questions on the free enterprise system.  
(8) The State Board of Education or its designee shall submit a report on the implementation of the Free Enterprise Education Act to the Education Interim Committee during the 2013 legislative interim.

Section 5. Section **53A-13-405** is enacted to read:  
**53A-13-405. Areas of instruction.**  
At a minimum, the following areas of instruction shall be included in the free enterprise course curriculum:  
(1) the basic characteristics of a free enterprise system, including:  
(a) the role played by the rule of law;  
(b) private property ownership;  
(c) profit and loss;  
(d) competition and regulation;  
(e) supply and demand;  
(f) consumers and producers; and  
(g) technological innovation in creating and sustaining a free enterprise system;  
(2) the benefits of economic growth, wealth creation, and technological innovation and the role played by the free enterprise system in achieving those benefits, as compared to other economic systems;  
(3) the importance of the rule of law, private ownership

paragraph, the State Board of Education [or other appropriate State or Local Agency] may contract with one or more organizations that have expertise in the areas of instruction designated in Section 5.

(F) Beginning in year [insert year], any statewide curriculum-based tests shall include questions on the free enterprise system.  
 (G) Not later than 18 months after enactment, the State Department of Education [or other appropriate State Agency] shall submit a report to the legislature on implementation of this Act.

**Section 5. {Areas of Instruction}**  
 At a minimum, the following areas of instruction shall be included in the free enterprise course:  
 (A) The basic characteristics of a free enterprise system, including the roles played by the rule of law, private property ownership, profit and loss, competition and regulation, supply and demand, consumers and producers, and technological innovation in creating and sustaining a free enterprise system.  
 (B) The benefits of economic growth, wealth creation, and technological innovation and the role played by the free enterprise system in achieving these benefits as compared to other economic systems.  
 (C) The importance of the rule of law, private ownership rights, economic liberty, and equality of opportunity to the

<p><u>rights, economic liberty, and equality of opportunity to the free enterprise system;</u></p> <p><u>(4) the role of the United States Constitution in preserving the rights and freedoms described in Subsection (3);</u></p> <p><u>(5) the impact of government spending, regulation, taxation, and monetary and trade policies on economic growth, entrepreneurship, productivity, and technological innovation; and</u></p> <p><u>(6) the opportunities presented by, and challenges of, starting a business.</u></p>	<p>free enterprise system, and the role of the United States Constitution in preserving these rights and freedoms.</p> <p>(D) The impact of government spending, regulations, and tax, monetary, and trade policies upon economic growth, entrepreneurship, productivity, and technological innovation.</p> <p>(E) The opportunities presented by, and the challenges of, starting a business.</p>
<p><b>H.J.R. 5: 2012 GENERAL SESSION</b></p>	<p><b>ALEC Model</b></p>
<p><b>JOINT RESOLUTION ON PARENTAL RIGHTS AND FUNDAMENTAL LIBERTIES</b>  Chief Sponsor: Christopher N. Herrod</p> <p>WHEREAS, the right of parents to direct the upbringing and education of their children is a fundamental right protected by the constitutions of the United States and the state of Utah;  [...]</p>	<p><b>Parental Rights Amendment</b></p> <p><b>Section 1. {Short Title}</b> This Act shall be known as the Parental Rights Amendment.  <b>Section 2. {Main Provision}</b> 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.</p>
<p><b>H.B. 268: 2010 GENERAL SESSION</b></p>	<p><b>ALEC Model</b></p>
<p><b>PUBLIC SCHOOL INNOVATIONS</b>  Chief Sponsor: Keith Grover</p> <p>Section 1. Section <b>53A-1a-1101</b> is enacted to read:  <b>Part 11. Innovation Schools Act</b>  <b>53A-1a-1101. Title.</b>  <i>This part is known as the "Innovation Schools Act."</i>  Section 2. Section <b>53A-1a-1102</b> is enacted to read:  <b>53A-1a-1102. Purpose.</b>  <i>The Innovation Schools Act is enacted to achieve the following purposes:</i>  (1) <i>to grant to school districts and charter schools greater ability to meet the educational needs of a diverse and constantly changing student population;</i>  (2) <i>to encourage intentionally diverse approaches to learning and education with individual school districts;</i>  (3) <i>to improve educational performance through greater individual school autonomy and managerial flexibility;</i>  (4) <i>to encourage innovation in education by providing</i></p>	<p><b>THE INNOVATION SCHOOLS AND SCHOOL DISTRICTS ACT Model Legislation</b></p> <p><b>Section 1. {Title}</b> The Innovation Schools and School Districts Act  <b>Section 2. {Legislative Declaration}</b>  [...]  (B) The Legislature therefore finds that it is in the best interests of the people of [state] to enact the "Innovation Schools and School Districts Act" to achieve the following purposes:  (1) To grant to [state]'s school districts and public schools greater ability to meet the educational needs of a diverse and constantly changing student population;  (2) To encourage intentionally diverse approaches to learning and education within individual school districts;  (3) To improve educational performance through greater individual school autonomy and managerial flexibility;  [...]  (5) To encourage innovation in education by providing</p>

local school communities and principals with greater control over levels of staffing, personnel selection and evaluation, scheduling, and educational programming with the goal of achieving improved student achievement;  
(5) to encourage school districts and schools to find new ways to allocate resources for the benefit of the students they serve; and  
(6) to hold schools that receive greater autonomy under this part accountable for student academic achievement, as measured by the Utah Performance Assessment System for Students and other more specifically tailored accountability measures.

Section 3. Section **53A-1a-1103** is enacted to read:

**53A-1a-1103. Definitions.**

As used in this part:

- (1) "District of innovation" means a school district that is designated as a district of innovation pursuant to Section 53A-1a-1107 .  
(2) "Innovation school" means a school in which a local school board implements an innovation plan pursuant to Section 53A-1a-1104 .  
(3) "Innovation school zone" means a group of schools of a school district:  
(a) that:  
(i) share common interests, such as geographical location or educational focus; or  
(ii) sequentially serve classes of students as they progress through elementary and secondary education; and  
(b) in which a local school board implements a plan for creating an innovation school zone pursuant to Section 53A-1a-1104 .

Section 4. Section **53A-1a-1104** is enacted to read:

**53A-1a-1104. Innovation plans -- Submission -- Contents.**

- (1) (a) (i) A school of a school district may submit to its local school board an innovation plan as described in Subsection (3).  
(ii) A group of schools of a school district that share common interests, such as geographical location or educational focus, or sequentially serve classes of students as they progress through elementary and secondary education may jointly submit to their local school board a plan to create an innovation school zone as described in Subsection (4).  
(b) A local school board shall:

local school communities and principals with greater control over levels of staffing, personnel selection and evaluation, scheduling, and educational programming with the goal of achieving improved student achievement;

(6) To encourage school districts and public schools to find new ways to allocate resources, including through implementation of specialized school budgets, for the benefit of the students they serve; and

(7) To hold public schools that receive greater autonomy under the article accountable for student academic achievement, as measured by the [state] Student Assessment Program, other more specifically tailored accountability measures, and the federal requirements of adequate yearly progress.

**Section 3. {Definitions}** As used in this article, unless the context otherwise requires:

[...]

- (B) "District of Innovation" means a school district that is designated as a district of innovation pursuant to Section 7.  
(C) "Innovation School" means a school in which a local school board implements an innovation plan pursuant to Section 4.  
(D) "Innovation School Zone" means a group of schools of a school district that share common interests, such as geographical location or educational focus, or that sequentially serve classes of students as they progress through elementary and secondary education and in which a local school board implements a plan for creating an innovation school zone pursuant to Section 4.

[...]

**Section 4. {Innovation Plans – Submission – Contents}**

(A)  
(1) A public school or a school district may submit to its local school board an innovation plan as described in Subsection (C) of this section. A group of public schools of a school district that share common interests, such as geographical location or educational focus, or that sequentially serve classes of students as they progress through elementary and secondary education may jointly submit to their local school board a plan to create an innovation school zone as described in Subsection (D) of this section.

(2) A local school board shall receive and review each

(i) receive and review each:  
(A) innovation plan submitted pursuant to Subsection (1)(a)(i); or  
(B) plan for creating an innovation school zone submitted pursuant to Subsection (1)(a)(ii); and  
(ii) within 60 days after receiving an innovation plan described in Subsection (1)(b)(i)(A) or plan for creating an innovation school zone described in Subsection (1)(b)(i)(B), approve or disapprove the plan.  
(c) (i) If a local school board rejects a plan submitted as described in Subsection (1)(b), it shall provide to the school or group of schools that submitted the plan a written explanation of the basis for its decision.  
(ii) A school or group of schools may resubmit an amended innovation plan or amended plan for creating an innovation school zone at any time after denial.  
(d) If a local school board approves a plan, it shall seek approval of the plan from the State Board of Education pursuant to Section 53A-1a-1107 .  
(2) (a) A local school board may initiate and collaborate with a school of the school district to create:  
(i) an innovation plan, as described in Subsection (3); or  
(ii) a plan to create an innovation school zone, as described in Subsection (4).  
(b) A local school board shall ensure that a school that would be affected by a plan has an opportunity to participate in the creation of the plan.  
(c) A local school board may approve or create a plan to create an innovation school zone that includes all schools of the school district.  
(d) If a local school board creates an innovation plan or a plan for creating an innovation school zone, the local school board shall seek approval of the plan from the State Board of Education pursuant to Section 53A-1a-1107 .  
(3) An innovation plan, whether submitted by a school or created by a local school board through collaboration between the local school board and a school, shall include the following information:  
(a) a statement of the school's mission and why designation as an innovation school would enhance the school's ability to achieve its mission;  
(b) a description of the innovations the school would implement, which may include innovations in:  
(i) school staffing;  
(ii) curriculum or assessment;  
(iii) class scheduling;

innovation plan or plan for creating an innovation school zone submitted pursuant to Paragraph (1) of this Subsection (A). The local school board shall either approve or disapprove the innovation plan or plan for creating an innovation school zone within 60 days after receiving the plan.

(3) If the local school board rejects the plan, it shall provide to the public school or group of public schools that submitted the plan a written explanation of the basis for its decision. A public school or group of public schools may resubmit an amended innovation plan or amended plan for creating an innovation school zone at any time after denial.

(4) If the local school board approves the plan, it may proceed to seek designation of the school district as a district of innovation pursuant to Section 7.

(B) A local school board may initiate and collaborate with one or more public schools of the school district to create one or more innovation plans, as described in Subsection (C) of this section, or one or more plans to create innovation school zones, as described in Subsection (D) or this section. In creating an innovation plan or a plan to create an innovation school zone, the local school board shall ensure that each public school that would be affected by the plan has the opportunity to participate in creation of the plan. A local school board may approve or create a plan to create an innovation school zone that includes all of the public schools of the school district. If the local school board creates an innovation plan or a plan for creating an innovation school zone, the local school board may seek designation of the school district as a district of innovation pursuant to Section 7.

(C) Each innovation plan, whether submitted by a public school or created by a local school board through collaboration between the local school board and a public school, shall include the following information:

(1) A statement of the public school's mission and why designation as an innovation school would enhance the school's ability to achieve its mission;

(2) A description of the innovations the public school would implement, which may include, but need not be limited to, innovations in school staffing; curriculum and assessment; class scheduling; use of financial and other resources; and faculty recruitment, employment,

(iv) use of financial or other resources; or  
(v) faculty recruitment, employment, evaluation, or compensation;  
(c) a listing of the programs, policies, or operational documents within the school that would be affected by the school's identified innovations and the manner in which they would be affected, including the:

(i) educational program;  
(ii) length of the school day and school year at the school;  
(iii) student promotion and graduation policies;  
(iv) assessment plan;  
(v) proposed budget; and  
(vi) proposed staffing plan;

(d) an identification of the improvements in academic performance that the school expects to achieve in implementing the innovations;

(e) an estimate of the cost savings and increased efficiencies, if any, the school expects to achieve in implementing its identified innovations;

(f) a statement of the level of support for designation as an innovation school demonstrated by the:

(i) personnel employed at the school;  
(ii) students and parents of students enrolled in the school; and

(iii) community surrounding the school;

(g) a description of any State Board of Education rule or district policy for which the school would need an exemption to implement its identified innovations; and

(h) any additional information required by the local school board of the school district in which the innovation plan would be implemented.

(4) A plan for creating an innovation school zone, whether submitted by a group of schools or created by a local school board through collaboration with a group of public schools, shall include:

(a) the information described in Subsection (3) for each school included in the innovation school zone;

(b) a description of how innovations in the schools in the

evaluation, and compensation;

(3) A listing of the programs, policies, or operational documents within the public school that would be affected by the public school's within the public school that would be affected by the public school's identified innovation and the manner in which they would be affected. The programs, policies, or operational documents may include, but need not be limited to:

(a) the research-based educational program the public school would implement;

(b) the length of school day and school year at the public school;

(c) the student promotion and graduation policies to be implemented at the public school;

(d) the public school's assessment plan;

(e) the proposed budget for the public school; and

(f) the proposed staffing plan for the public school.

(4) An identification of the improvements in academic performance that the public school expects to achieve in implementing the innovations;

(5) An estimate of the cost savings and increased efficiencies, if any, the public school expects to achieve in implementing its identified innovation;

[...]

(7) A statement of the level of support for designation as an innovation school demonstrated by the other persons employed at the public school, the students and parents of students enrolled in the public school, and the community surrounding the public school;

(8) A description of any statutory sections included in this title or any regulatory or district policy requirements that would need to be waived for the public school to implement its identified innovations;

[...]

(10) Any additional information required by the local school board of the school district in which the innovation plan would be implemented.

(D) Each plan for creating an innovation school zone, whether submitted by a group of public schools or created by a local school board through collaboration with a group of public schools, shall include the information specified in Subsection (C) of this section for each public school that would be included in the innovation school zone. A plan for creating an innovation school zone shall also include the following additional information:

(1) A description of how innovations in the public schools

innovation school zone are integrated to achieve results that are less likely to be accomplished by a school working alone;

(c) an estimate of any economies of scale that may be achieved by innovations implemented jointly by the schools within the innovation school zone; and

(d) a statement of the level of support for creating an innovation school zone demonstrated by the:

(i) personnel employed at each school included in the innovation school zone;

(ii) students and parents of students enrolled in each school included in the innovation school zone; and

(iii) community in which the innovation school zone is located.

Section 5. Section **53A-1a-1105** is enacted to read

**53A-1a-1105. Suggested innovations.**

In considering or creating an innovation plan described in Subsection 53A-1a-1104 (3) or a plan for creating an innovation school zone described in Subsection 53A-1a-1104 (4), a local school board is encouraged to consider innovations in the following areas:

(1) curriculum and academic standards and assessments;

(2) accountability measures, including the use of a variety of accountability measures to more accurately present a complete measure of student learning and accomplishment, such as:

(a) graduation or exit examinations;

(b) end-of-course examinations;

(c) student portfolio reviews;

(d) national and international assessments;

(e) measuring the percentage of students continuing into higher education; and

(f) measuring the percentage of students simultaneously obtaining a high school diploma and an associate's degree or a career and technical education certificate;

(3) provision of services, including:

(a) special education services;

in the school innovation zone would be integrated to achieve results that would be less likely to be accomplished by each public school working alone;

(2) An estimate of any economies of scale that would be achieved by innovations implemented jointly by the public schools within the innovation school zone;

[...]

(4) A statement of the level of support for creating an innovation school zone demonstrated by the other persons employed at each public school that would be included in the zone, the students and parents of students enrolled in each public school that would be included in the zone, and the community in which the local school board would approve the innovation school zone. In determining the level of support, each public school shall specifically solicit input concerning the selection of public schools included in the innovation school zone and the strategies and procedures that would be used in implementing and integrating the innovations within the public schools in the zone.

**Section 5. {Suggested Innovation}**

(A) In considering or creating an innovation plan or a plan for creating an innovation school zone, each local school board is strongly encouraged to consider innovations in the following areas:

(1) Curriculum and academic standards and assessments;

(2) Accountability measures, including but not limited to expanding the use of a variety of accountability measures to more accurately present a complete measure of student learning and accomplishment. The accountability measures adopted by an innovation school or an innovation school zone may include, but need not be limited to:

(a) use of graduation or exit examinations;

(b) use of end-of-course examinations;

(c) use of student portfolio reviews;

(d) use of national and international accountability measures such as the national assessment of educational progress and the program for international student assessment;

(e) measuring the percentage of students continuing into higher education; and

(f) measuring the percentage of students simultaneously obtaining a high school diploma and an associate's degree or a career and technical education certificate.

(3) Provision of services, including but not limited to special education services; services for gifted and talented

(b) services for gifted and talented students;  
(c) services for students for whom English is not the dominant language;  
(d) educational services for students at risk of academic failure, expulsion, or dropping out; and  
(e) support services provided by social services agencies;  
(4) teacher recruitment, training, preparation, and professional development;  
(5) teacher employment;  
(6) performance expectations and evaluation procedures for teachers and principals;  
(7) compensation for teachers, principals, and other school building personnel, including:  
(a) performance pay plans;  
(b) total compensation plans; and  
(c) other innovations with regard to retirement and other benefits;  
(8) school governance and the roles, responsibilities, and expectations of principals in innovation schools or schools within an innovation school zone; and  
(9) preparation and counseling of students for transition to higher education or the work force.

Section 6. Section **53A-1a-1106** is enacted to read:  
**53A-1a-1106. Innovation planning -- Financial support.**  
A school and a local school board are encouraged to seek and accept public and private gifts, grants, and donations to offset the costs of developing and implementing innovation plans and plans for creating innovation school zones.

Section 7. Section **53A-1a-1107** is enacted to read:  
**53A-1a-1107. State Board of Education approval of a plan -- District of innovation designation.**  
(1) A local school board that approves or collaboratively creates an innovation plan described in Subsection 53A-1a-1104 (3) or plan for the creation of an innovation school zone described in Subsection 53A-1a-1104 (4) shall submit the plan to the State Board of Education.

(2) Within 60 days after receiving a local school board's plan, the State Board of Education shall:  
(a) approve the plan;  
(b) deny approval of the plan; or  
(c) make suggested changes or additions to the plan, including suggestions for further innovations or for measures to increase the likelihood that the innovations will result in greater academic achievement within the innovation schools or innovation school zones.  
(3) A local school board may choose to withdraw and

students; services for students for whom English is not the dominant language; educational services for students at risk of academic failure, expulsion, or dropping out; and support services provided by the department of human services or county social services agencies;  
(4) Teacher recruitment, training, preparation, and professional development;  
(5) Teacher employment;  
(6) Performance expectations and evaluation procedures for teachers and principals;  
(7) Compensation for teachers, principals, and other school building personnel, including but not limited to performance pay plans, total compensation plans, and other innovations with regard to retirement and other benefits;  
(8) School governance and the roles, responsibilities, and expectations of principals in innovation schools or schools within an innovation school zone; and  
(9) Preparation and counseling of students for transition to higher education or the work force.

**Section 6. {Innovation Planning – Financial Support}**  
(A) Each public school and each local school board is authorized and encouraged to seek and accept public and private gifts, grants, and donations to offset the costs of developing and implementing innovation plans and plans for creating innovation school zones.

**Section 7. {District of Innovation – Designation}**  
(A) Each local school board may seek for its school district designation by the state board as a district of innovation. A local school board may seek the designation on the basis of innovation plans or plans for creating innovation school zones approved or collaboratively created by the local school board pursuant to Section 4.  
(B) A local school board that seeks designation as a district of innovation shall submit one or more innovation plans or plans for creating an innovation school zone to the commissioner for review and comment by the commissioner and the state board. Within 60 days after receiving a local school board's plan, the commission and the state board shall respond to the local school board with any suggested changes or additions to the plan, including but not limited to suggestions for further innovations or for measures to increase the likelihood that



resubmit its innovation plan or plan for creating an innovation school zone to address suggested changes or additions made by the State Board of Education.

(4) (a) The State Board of Education shall approve a plan unless the board concludes that the submitted plan:

(i) is likely to result in a decrease in academic achievement in the innovation schools or innovation school zones; or

(ii) is not fiscally feasible.

(b) (i) If the State Board of Education does not approve a plan, it shall provide to the local school board a written explanation of the basis for its decision.

(ii) A local school board may resubmit an amended innovation plan or plan for creating an innovation school zone and seek approval of the amended plan at any time after denial.

(5) If the State Board of Education approves a plan under this section, it shall designate the school district that submitted the plan as a district of innovation.

[...]

Section 9. Section **53A-1a-1109** is enacted to read:

**53A-1a-1109. District of innovation -- Collective bargaining agreements.**

(1) (a) On or after the date on which the State Board of Education designates a school district as a district of innovation, any collective bargaining agreement initially entered into or renewed by the local school board of the district of innovation shall include a term that allows an innovation school or innovation school zone in the school district to be removed from the collective bargaining agreement.

[...]

(2) (a) A district of innovation is not required to seek removal of an innovation school or a school in an innovation school zone from a collective bargaining

(b) Each district of innovation shall include in its innovation plan a statement as to whether it will seek to remove an innovation school or the schools included in

the innovations will result in greater academic achievement within the innovation schools or innovation school zones. Based on the commissioner's and the state board's comments, the local school board may choose to withdraw and resubmit its innovation plan or plan for creating an innovation school zone.

(C)

(1) Within 60 days after receiving a local school board's innovation plan or plan for creating an innovation school zone, the state board shall designate the local school board's school district as a district of innovation unless the state board concludes that the submitted plan:

(a) is likely to result in a decrease in academic achievement in the innovation schools or innovation school zones; or

(b) is not fiscally feasible.

(2) If the state board does not designate a school district as a district of innovation, it shall provide to the local school board a written explanation of the basis for its decision. The local school board may resubmit an amended innovation plan or plan for creating an innovation school zone and seek designation of its school district as a school district of innovation at any time after denial.

[...]

**Section 9. {District of Innovation – Collective Bargaining Agreement}**

(A)

(1) On and after the date on which the state board designates a school district as a district of innovation, any collective bargaining agreement initially entered into or renewed by the local school board of the district of innovation shall include a term that allows each innovation school and each innovation school zone in the school district to waive any provisions of the collective bargaining agreement identified in the innovation plan as needing to be waived for the innovation school or the innovation school zone to implement its identified innovations.

[...]

(B) A district of innovation shall not be required to seek a waiver by an innovation school or a public school in an innovation school zone of any provision of the collective bargaining agreement. Each district of innovation shall include in its innovation plan a statement as to whether it will seek a waiver by an innovation

an innovation school zone from a collective bargaining agreement.

(3) A person who is a member of a collective bargaining unit and is employed by an innovation school or by a school included in an innovation school zone may request a transfer to another school within the district of innovation. The local school board shall make every reasonable effort to accommodate the person's request.

Section 10. Section **53A-1a-1110** is enacted to read:

**53A-1a-1110. Reporting.**

By October 1, 2012, and by October 1 of each year thereafter, the State Board of Education shall submit to the Education Interim Committee a report on innovation schools and innovation school zones. At a minimum, the report shall include:

(1) a listing, by school district, of the innovation schools and schools within an innovation school zone;

(2) an overview of the innovations implemented in innovation schools and innovation school zones in districts of innovation;

(3) an overview of the academic performance of students served in innovation schools and innovation school zones in each district of innovation, including a comparison between students' academic performance before and after implementation of the innovations; and

(4) any recommendations for legislative changes to further enhance the ability of local school boards to implement innovations.

innovation plan a statement as to whether it will seek a waiver by an innovation school or the public schools included in an innovation school zone of any of the provisions of the collective bargaining agreement.

(C) A person who is a member of the collective bargaining unit and is employed by an innovation school or by a school included in an innovation school zone may request a transfer to another public school of the district of innovation. The local school board shall make every reasonable effort to accommodate the person's request. [...]

**Section 11. {Reporting}**

(A) On or before March 1, 2010, and on or before March 1 each year thereafter, the commissioner and the state board shall submit to the governor and to the education committees of the Senate and the House of Representatives, or any successor committees, a report concerning the districts of innovation. At a minimum, the report shall include:

(1) The number of school districts designated as districts of innovation in the preceding academic year and the total number of districts of innovation in the state;

(2) The number of innovation schools and the number of innovation school zones, including the number of schools in the zone, in each district of innovation and the number of students served in the innovation schools and innovation school zones, expressed as a total number and as a percentage of the students enrolled in the district of innovation;

(3) An overview of the innovations implemented in the innovation schools and the innovation school zones in the districts of innovation;

(4) An overview of the academic performance of the students served in innovation schools and innovation school zones in each district of innovation, including a comparison between the students' academic performance before and since implementation of the innovations;

(5) Any recommendations for legislative changes based on the innovations implemented or to further enhance the ability of local school boards to implement innovations; and

(6) Any additional information requested by the governor or a member of the Legislature.

(B) The commissioner shall ensure that the annual report submitted pursuant to this section is promptly posted on the Department of Education Web site.

	Section 12. {Safety Clause} The [State] Legislature hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.
Utah Code Sections 53A-9-101-104 REPEALED BY HB 156 (2012 GENERAL SESSION)-- See section 5.	ALEC Model
<p>§ 53A-9-101. Purpose</p> <p>(1) 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 schools 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.</p> <p>(2) 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.</p> <p>§ 53A-9-102. Definitions</p> <p>As used in this chapter:</p> <p>(1) "Career ladder" means a compensation system developed by a school district, with advice and counsel from parents, teachers, and school administrators who represent the various schools throughout the district, which is in accordance with provisions of this chapter and applicable policies and guidelines adopted by the State Board of Education.</p> <p>[...]</p> <p>(3) "Evaluation system" means the educator evaluation program developed under Title 53A, Chapter 10, Educator Evaluation.</p> <p>§ 53A-9-103. Authorized components</p> <p>Career ladders may include the following components:</p> <p>(1) (a) An extended contract year for teachers, providing for additional paid nonteaching days beyond the regular school year for curriculum development and other</p>	<p><b>Career Ladder Opportunity Act</b> <b>Model Legislation</b></p> <p><b>Section 1. {Short Title.}</b> This Act may be cited as the Career Ladder Opportunity Act.</p> <p><b>Section 2. {Purpose.}</b> 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.</p> <p><b>Section 3. {Authorization.}</b> 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.</p> <p><b>Section 4. {Definitions.}</b> As used in this Act:</p> <p>(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.</p> <p>(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.</p> <p><b>Section 5. {Components of career ladders.}</b> Career ladders may include the following components:</p> <p>(A) an extended contract year for teachers, providing for additional paid non-teaching days beyond the regular school year for curriculum development, in-service</p>

professional development activities.

(b) School boards may approve individual exceptions to the extended year contract.

(2) 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, disabled, specialized, applied technology, gifted and talented, and adult education programs.

(3) A fair and consistent procedure:

(a) for selecting teachers who will be given additional responsibilities; and

(b) which incorporates clearly stated job descriptions and qualifications for each level on the career ladder.

(4) (a) 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 such as:

- (i) assisting students and mentoring beginning teachers;
- (ii) curriculum and lesson plan development;
- (iii) helping established teachers improve their teaching skills;
- (iv) volunteer training;
- (v) planning;
- (vi) facilities and productivity improvements; and
- (vii) educational assignments directed at establishing positive relationships with the community, businesses, and parents.

(b) Administrative and extracurricular activities are not considered additional instruction-related activities under this Subsection (4).

(5) (a) A well defined program of evaluation and mentoring for beginning teachers, consistent with Subsections 53A-1a-104(7) and 53A-6-102(2)(a) and (b), designed to assist those teachers during provisional years of teaching to acquire and demonstrate the skills required of capable, successful teachers.

(b) Continuation in teaching from year to year shall be contingent upon satisfactory teaching performance.

(6) A clear and concise explanation of the evaluation system components, including the respective roles of parents, teachers, administrators, and the school board in the development of the evaluation system and provisions for frequent, comprehensive evaluations of teachers with less than three years' teaching experience

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,

<p>and periodic evaluations of other teachers consistent with Subsections 53A-1a-104(7) and 53A-6-102(2)(a) and (b).</p> <p>(7) (a) A program of advancement on the career ladder contingent upon effective teaching performance, evidence of which may include formal evaluation and assessment of student progress.</p> <p>(b) Student progress shall play a significant role in teacher evaluation.</p> <p>(c) Other criteria may include formal preparation and successful teaching experience.</p> <p>(8) An assessment of implementation costs.</p> <p>(9) 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.</p>	<p>and periodic evaluations of other teachers.</p> <p>(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 teacher a evaluation. Other criteria may include formal preparation and a successful teaching experience.</p> <p>(H) an assessment of implementation costs.</p> <p>(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.</p>
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**Jobs and Economic Policy**

H.B. 179: 2001 GENERAL SESSION	ALEC Model
<p><b>VOLUNTARY CONTRIBUTIONS ACT</b>  Sponsor: Chad E. Bennion  Part 14. Voluntary Contributions Act  <u>20A-11-1401</u>. Title.  <i>This part is known as the "Voluntary Contributions Act."</i>  Section 2. Section 20A-11-1402 is enacted to read:  <u>20A-11-1402</u>. Definitions.  (1) <i>As used in this part:</i>  (a) <i>"Ballot proposition" includes initiatives, referenda, proposed constitutional amendments, and any other items submitted to the voters for their approval or rejection.</i>  (b) <i>"Filing entity" means a candidate, officeholder, political action committee, political issues committee, political party, and each other entity required to report contributions under Title 20A, Chapter 11, Campaign and Financial Reporting Requirements.</i>  (c) <i>"Fund" means the separate segregated fund established by a labor organization for political purposes according to the procedures and requirements of this part.</i>  (d) (i) <i>"Labor organization" 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 employees about grievances, labor disputes,</i></p>	<p><b>Voluntary Contributions Act</b></p> <p><b>Model Legislation</b>  <b>Section 1. {Title}</b> This Act shall be known as the "Voluntary Contributions Act."  <b>Section 2. {Definitions}</b> As used in this Act, the following terms have the following meanings:  (A). "Ballot proposition" includes initiatives, referenda, proposed constitutional amendments, and any other items submitted to the voters for their approval or rejection.  (B). "Filing entity" means a candidate, officeholder, political committee, political party, and each other entity required to report contributions under [insert reference to applicable state law]  (C). "Fund" means the separate segregated fund established by a labor organization for political purposes according to the procedures and requirements of this Act.  (D). 1. "Labor organization" 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 employees about grievances, labor disputes,</p>

wages, rates of pay, hours of employment, or conditions of employment.

(ii) Except as provided in Subsection (1)(d)(iii), "labor organization" includes each employee association and union for employees of public and private sector employers.

(iii) "Labor organization" does not include organizations governed by the National Labor Relations Act, 29 U.S.C. Sec. 151 et. seq. or the Railroad Labor Act, 45 U.S.C. Sec 151 et seq.

(e) "Political activities" means lobbying, electoral activities, independent expenditures, or expenditures made to any candidate, political party, political action committee, political issues committee, voter registration campaign, or any other political or legislative cause, including ballot propositions.

(f) "Union dues" means dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment.

(2) Other terms defined in Section 20A-11-101 apply to this part.

Section 3. Section 20A-11-1403 is enacted to read: 20A-11-1403. Limits on labor organization contributions.

(1) Except as provided in Subsection (2), a labor organization may not expend union dues for political activities.

(2) (a) A labor organization may only make expenditures for political activities if the labor organization establishes a separate segregated fund that meets the requirements of this part.

(b) The labor organization shall ensure that:

(i) contributions to the fund are solicited independently from solicitation of union dues and from any other solicitations by the labor organization;

(ii) in soliciting contributions for the fund, the solicitor discloses, in clear and unambiguous language on the face of the solicitation, that contributions are voluntary and that the fund is a political fund and will be expended for political activities;

(iii) union dues are not used for political activities, transferred to the fund, or intermingled in any way with fund monies;

(iv) the cost of administering the fund is paid from fund contributions and not from union dues;

(v) contributions to the fund are not made from money collected from payroll deductions by an employer; and

(vi) each contribution is voluntary.

wages, rates of pay, hours or condition of employment.

2. Except as provided in (D)(1) of this section, "labor organization" includes each employee association and union for employees of public and private sector employers.

3. "Labor organization" does not include organizations governed by the national labor relations act, 29 U.S.C. section 151, et. seq. or the railway labor act, 45 U.S.C. section 151, et. seq.

(E). "Political activities" means electoral activities, independent expenditures, or expenditures made to any candidate, political party, political action committee, voter registration campaign, or any other political or legislative cause, including ballot propositions.

(F). "Union dues" means dues, fees, or other moneys required as a condition of membership in a labor organization.

### **Section 3. {Limits on Labor Organization Contributions}**

(A). 1. A labor organization may only make expenditures for political activities if the labor organization establishes a separate, segregated fund that meets the requirements of this Act.

2. A labor organization shall ensure that:

i. In soliciting contributions for the fund, the solicitor discloses, in clear and unambiguous language on the face of the solicitation, that contributions are voluntary and that the fund is a political fund and will be expended for political activities;

ii. Union dues are not used for political activities, transferred to the fund, or intermingled in any way with fund moneys;

iii. The cost of administering the fund is paid from fund contributions and not from union dues; and

iv. Each contribution is voluntary and shall be made by the member and may not come from or be remitted by the employer of the member.

(3) At the time the labor organization is soliciting contributions for the fund from an employee, the labor organization shall:

(a) affirmatively inform the employee, in writing, of the fund's political purpose; and

(b) affirmatively inform the employee, in writing, of the employee's right to refuse to contribute without fear of reprisal or loss of membership in the labor organization.

(4) The labor organization has the burden of proof to establish that the requirements of Subsections (2)(b) and (3) are met.

(5) Notwithstanding the requirements of Subsection (2)(b)(ii), a labor organization may use union dues to communicate directly with its own members about political candidates, ballot propositions, and other political issues.

Section 4. Section 20A-11-1404 is enacted to read: 20A-11-1404. Criminal acts -- Penalties.

(1) (a) It is unlawful for a labor organization to make expenditures for political activities by using contributions:

(i) secured by physical force or threat of force, job discrimination or threat of job discrimination, membership discrimination or threat of membership discrimination, or economic reprisals or threat of economic reprisals;

(ii) from union dues except as provided in Subsection 20A-11-1403 (5); or

(iii) obtained in any commercial transaction.

(b) When a labor organization is soliciting contributions for a fund from an employee, it is unlawful for a labor organization to fail to:

(i) affirmatively inform the employee in writing of the fund's political purpose; and

(ii) affirmatively inform the employee in writing of the employee's right to refuse to contribute without fear of reprisal or loss of membership in the labor organization.

(c) It is unlawful for a labor organization to solicit contributions for the fund from any person other than its members and their families.

(d) It is unlawful for a labor organization to pay a member for contributing to the fund by providing a bonus, expense account, rebate of union dues, or by any other form of direct or indirect compensation.

(2) Any person or entity violating this section is guilty of a class A misdemeanor.

(B). At the time the labor organization is soliciting contributions for the fund from an employee, the labor organization shall:

1. Affirmatively inform the employee, orally or in writing, of the fund's political purpose; and

2. Affirmatively inform the employee, orally or in writing, of the employee's right to refuse to contribute without fear of reprisal or loss of membership in the labor organization.

(C). The labor organization has the burden of proof to establish that the requirements of (A)(2) and (B) of this section are met.

(D). Notwithstanding the requirements of (A)(2)(ii) of this section, a labor organization may use union dues to communicate directly with its own members about political candidates, ballot propositions, and other political issues.

#### **Section 4. {Criminal Acts, Penalties}**

(A). 1. It is unlawful for a labor organization to make expenditures for political activities by using contributions:

i. Secured by physical force or threat of force, job discrimination or threat of job discrimination, membership discrimination or threat of membership discrimination, or economic reprisals or threat of economic reprisals; or

ii. [if necessary, insert the following:] From union dues except as provided in [insert reference to applicable state law].

2. When a labor organization is soliciting contributions for a fund from an employee, it is unlawful for a labor organization to fail to:

i. Affirmatively inform the employee orally or in writing of the fund's political purpose; and

ii. Affirmatively inform the employee orally or in writing of the employee's right to refuse to contribute without fear of reprisal or loss of membership in the labor organization.

3. It is unlawful for a labor organization to pay a member for contributing to the fund by providing a bonus, expense account, rebate of union dues, or by any other form of direct or indirect compensation.

(B). Any person or entity violating this section is guilty of a misdemeanor.

<p>Section 5. Section 20A-11-1405 is enacted to read:  <u>20A-11-1405. Registration -- Disclosure.</u>  <u>Each fund established by a labor organization under this part shall:</u>  <u>(1) register as a political action committee as required by this chapter; and</u>  <u>(2) file the financial reports for political action committees required by this chapter.</u></p>	<p><b>Section 5. {Registration, Disclosure}</b> Each fund established by a labor organization under this Act shall:</p> <p>(A). Register as a political committee as required by [insert reference to applicable statelaw].  (B). File the financial reports for political committees required by [insert reference to applicable state law].</p> <p><b>Section 6. {Prospective Application}</b> The provisions of this Act shall apply to all contracts entered into after the effective date of this Act, and shall apply to any renewal of existing contract.</p>
<p>Utah Code Sections 62I-4-101-303</p>	<p>ALEC Model</p>
<p><b>63I-4-101. Title.</b>  This chapter is known as the "Privatization Policy Board Act."  Enacted by Chapter 147, 2008 General Session  [...]  <b>63I-4-202. Privatization Policy Board -- Duties.</b>  (1) The board shall:  (a) review whether or not a good or service provided by an agency could be privatized to provide the same types and quality of a good or service that would result in cost savings;    (b) review privatization of a good or service at the request of:  (i) an agency; or  (ii) a private enterprise;  (c) review issues concerning agency competition with one or more private enterprises to determine:  (i) whether privatization:  (A) would be feasible;  (B) would result in cost savings; and  (C) would result in equal or better quality of a good or service; and  (ii) ways to eliminate any unfair competition with a private enterprise;  (d) recommend privatization to an agency if a proposed privatization is demonstrated to provide a more cost efficient and effective manner of providing a good or service;</p>	<p><b>COUNCIL ON EFFICIENT GOVERNMENT ACT</b>  <b>Model Legislation</b>  <b>Section 1. {Title.}</b>  This Act shall be known and may be cited as the Council on Efficient Government Act.    [...]  <b>Section 3. {Powers and duties of the council; annual report.}</b>  (A) The Council shall:  (1) Review whether or not a good or service provided by a state agency could be privatized to provide the same type and quality of good or service that would result in cost savings or best value. The Council may hold public hearings as part of its evaluation process and shall report its recommendations to the Governor, the President of the Senate and the Speaker of the House of Representatives.  (2) Review privatization of a good or service at the request of a state agency or a private enterprise.    (3) Review issues concerning agency competition with one or more private enterprises to determine ways to eliminate any unfair competition with a private enterprise.    (4) Recommend privatization to a state agency if a proposed privatization is demonstrated to provide a more cost efficient or more effective manner of providing a good or service.</p>



(e) comply with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in making rules establishing privatization standards, procedures, and requirements;  
(f) maintain communication with and access information from, other entities promoting privatization;  
(g) comply with Part 3, Commercial Activities Inventory and Review; and

(h) (i) prepare an annual report for each calendar year that contains:  
(A) information about the board's activities;  
(B) recommendations on privatizing a good or service provided by an agency; and  
(C) the status of the inventory created under Part 3, Commercial Activities Inventory and Review;  
(ii) submit the annual report to the Legislature and the governor by no later than January 15 immediately following the calendar year for which the report is made; and  
(iii) provide each interim an oral report to the Government Operations Interim Committee.

(2) In addition to filing a copy of recommendations for privatization with an agency head, the board shall file a copy of its recommendations for privatization with:  
(a) the governor's office; and  
(b) the Office of Legislative Fiscal Analyst for submission to the relevant legislative appropriation subcommittee.  
(3) (a) The board may appoint advisory groups to conduct studies, research, or analyses, and make reports and recommendations with respect to a matter within the jurisdiction of the board.  
(b) At least one member of the board shall serve on each advisory group.  
(4) (a) Subject to Subsection (4)(b), this chapter does not preclude an agency from privatizing the provision of a good or service independent of the board.

(b) If an agency privatizes the provision of a good or service, the agency shall include as part of the contract that privatizes the provision of the good or service that any contractor assumes all liability to provide the good or service.

(5) The board may review upon the request of a local entity a matter relevant to:

(5) Comply with Sections 4 and 5 of this bill.

[...]

(C) The council shall prepare an annual report on:

[...]

(3) Information about the council's activities.

(4) The status of the inventory created under Section 4 of this bill.

(D) The Council shall submit the annual report prescribed by Subsection C of this section to the Governor, the President of the Senate and the Speaker of the House of Representatives no later than January 15 immediately following the calendar year for which the report is made. The council shall provide an oral report to the Joint Legislative Budget Committee and the Governor's Office of Strategic Planning and Budgeting when the legislature is not in session.

[...]

(H) In addition to filing a copy of recommendations for privatization with an agency head, the council shall file a copy of its recommendations for privatization with the Governor's office, the Joint Legislative Budget Committee and the Governor's Office of Strategic Planning and Budgeting for submission to the relevant legislative appropriation subcommittee.

(I) The council may appoint advisory groups to conduct studies, research or analyses and make reports and recommendations with respect to a matter within the jurisdiction of the council. At least one member of the council shall serve on each advisory group.

(J) Subject to Section 5, subsection B, this article does not preclude a state agency from privatizing the provision of a good or service independent of the council.

(K) Except as provided by section state statute, any aggrieved person may elect to directly seek judicial relief.

- (a) (i) privatization; or
  - (ii) unfair competition with one or more private enterprises; and
  - (b) an activity or proposed activity of the local entity.
- [...]

**631-4-301. Board to create inventory.**

(1) By no later than June 30, 2009, the board shall create an inventory of activities of the agencies in this state to classify whether each activity is:

- (a) a commercial activity; or
- (b) an inherently governmental activity.

(2) The board shall update the inventory created under this section at least every two years.

(3) The board shall make the inventory available to the public through electronic means.

**631-4-203. Board accounting method.**

The board by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall establish an accounting method that:

- (1) is similar to generally accepted accounting principles used by a private enterprise;
- (2) allows an agency to identify the total actual cost of engaging in a commercial activity in a manner similar to how a private enterprise identifies the total actual cost to the private enterprise, including the following:

- (a) a labor expense, such as:
  - (i) compensation and benefits;
  - (ii) a cost of training;
  - (iii) a cost of paying overtime;
  - (iv) a cost of supervising labor; or
  - (v) another personnel expense;
- (b) an operating cost, such as:
  - (i) vehicle maintenance and repair;
  - (ii) a marketing, advertising, or other sales expense;
  - (iii) an office expense;
  - (iv) a cost of an accounting operation, such as billing;
  - (v) an insurance expense;
  - (vi) a real estate or equipment cost;
  - (vii) a debt service cost; or
  - (viii) a proportionate amount of other overhead or of a capital expense, such as vehicle depreciation and depreciation of other fixed assets;

**Section 4. {Commercial activities inventory and review.}**

(A) On or before a date selected by the legislature, the council shall create an inventory of activities of state agencies to classify whether each activity or elements of the activity are:

- (1) A commercial activity that can be obtained in whole or in part from a private enterprise.
  - (2) An inherently governmental activity.
- (B) The Council shall update the inventory created under this section at least every two years.
- (C) The Council shall make the inventory available to the public through electronic means.
- (D) State agencies shall cooperate with inventory requests made by the Council.

[...]

**Section 6. {Council accounting method.}**

The council, by rule, shall establish an accounting method that:

- (1) Is similar to generally accepted accounting principles used by a private enterprise.
- (2) Allows an agency to identify the total actual cost of engaging in a commercial activity in a manner similar to how a private enterprise identifies the total actual cost to the private enterprise, including the following:
  - (a) Labor expenses, such as compensation and benefits, costs of training, costs of paying overtime, costs of supervising labor or other personnel expenses.

(b) Operating costs, such as vehicle maintenance and repair, marketing, advertising or other sales expenses, office expenses, costs of an accounting operation such as billing, insurance expenses, real estate or equipment costs, debt service costs or a proportionate amount of other overhead or capital expenses, such as vehicle depreciation and depreciation of other fixed assets.

<p>(c) a contract management cost; and  (d) another cost particular to a person supplying the good or service; and  (3) provides a process to estimate the taxes an agency would pay related to engaging in a commercial activity if the agency were required to pay federal, state, and local taxes to the same extent as a private enterprise engaging in the commercial activity.</p> <p><b>631-4-302. Governor to require review of commercial activities.</b>  Beginning with fiscal year 2009-10, the governor shall at least once every two fiscal years:  (1) select at least three commercial activities that are being performed by an agency for examination; and  (2) require the Governor's Office of Planning and Budget to conduct the examination.</p> <p><b>631-4-303. Duties of the Governor's Office of Planning and Budget.</b></p> <p>(1) The Governor's Office of Planning and Budget shall:  (a) determine the amount of an appropriation that is no longer needed by an executive branch agency because all or a portion of the agency's provision of a good or service is privatized; and  (b) adjust the governor's budget recommendations to reflect the amount determined under Subsection (1)(a).  (2) The Governor's Office of Planning and Budget shall report its findings to the Legislature.  (3) This section does not prevent the governor from recommending in a budget recommendation the restoration of a portion of the appropriation to an agency that is reduced under this section.</p>	<p>(c) Contract management costs.  (d) Other costs particular to a person supplying the good or service.  (3) Provides a process to estimate the taxes a state agency would pay related to engaging in a commercial activity if the state agency were required to pay federal, state and local taxes to the same extent as a private enterprise engaging in the commercial activity.</p> <p><b>Section 7. {Governor; required review of commercial activities.}</b>  Beginning with a fiscal year the legislature designates, the Governor, at least once every two fiscal years, shall select at least three commercial activities that are being performed by a state agency to be examined by the Governor's Office of Strategic Planning and Budgeting.</p> <p><b>Section 8. {Duties of the Governor's Office of Strategic Planning and Budgeting.}</b>  (A) The Governor's Office of Strategic Planning and Budgeting shall:  (1) Determine the amount of an appropriation that is no longer needed by an executive branch agency because all or a portion of the agency's provision of a good or service is privatized.  (2) Adjust the Governor's budget recommendations to reflect the amount that is determined under paragraph 1.  (3) Report its findings to the President of the Senate and the Speaker of the House of Representatives.  (B) This section does not prevent the Governor from making a budget recommendation regarding the restoration of a portion of the appropriation to a state agency that is reduced under this section.</p>
<p><b>H.J.R. 24: 2010 GENERAL SESSION</b></p>	<p><b>ALEC Model</b></p>
<p><b>JOINT RESOLUTION ON EQUAL TREATMENT BY GOVERNMENT</b>  Chief Sponsor: Curtis Oda  Cosponsor: Carl Wimmer</p> <p>Section 1. It is proposed to enact Utah Constitution Article I, Section 30, to read:  Article I, Section 30. [Prohibition against discrimination and preferential treatment.]  <u>(1) Each of the following is subject to this section:</u>  <u>(a) the State, including any department, agency, or other governmental instrumentality of the State;</u></p>	<p><b>Civil Rights Act</b>  <b>Model Legislation</b></p> <p><b>Section 1. {Short Title.}</b> This Act shall be known as the Civil Rights Act.  [...]</p>

(b) each public institution of higher education; and  
(c) each county, city, town, school district, local district,  
special service district, and other political subdivision of  
the State.

(2) An entity that is subject to this section may not  
discriminate against, or grant preferential treatment to,  
any individual or group on the basis of race, sex, color,  
ethnicity, or national origin with respect to public  
employment, public education, or public contracting.

(3) Subsection (2) may not be construed to:

(a) prohibit a bona fide qualification based on sex that is  
reasonably necessary to the

normal functioning of public employment, public  
education, or public contracting;

(b) invalidate a court order or consent decree in force on  
January 1, 2011;

(c) prohibit action required to be taken to establish or  
maintain eligibility for a federal program, if ineligibility  
would result in a loss of federal funds; or

(d) affect an action taken before January 1, 2011.

(4) (a) The Legislature may by statute provide a remedy  
for a violation of Subsection (2).

(b) A remedy for a violation based on discrimination may  
not be substantially different than a remedy for a  
violation based on preferential treatment.

(c) A remedy for a violation based on discrimination or  
preferential treatment may not differ based on the race,  
sex, color, ethnicity, or national origin of a person or  
group. (5) Subsection (2) is self-executing.

#### **Section 4. {Discrimination Prohibited.}**

(A) The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

(B) Nothing in this section shall be interpreted as prohibiting bona fide qualifications based on sex that are reasonably necessary to the normal operation of public employment, public education, or public contracting.

(C) Nothing in this section shall be interpreted as invalidating any court order or consent decree that is in force as of the effective date of this section.

(D) Nothing in this section shall be interpreted as prohibiting action that must be taken to establish or maintain eligibility for any federal program, where ineligibility would result in a loss of federal funds to the state.

(E) For the purposes of this section, "state" shall include, but not necessarily be limited to, the state itself, any city, county, city and county, public university system, community college district, school district, special district, or any other political subdivision or governmental instrumentality of or within the state.

(F) The remedies available for violations of this section shall be the same, regardless of the injured party's race, sex, color, ethnicity, or national origin, as are otherwise available for violations of anti-discrimination laws.

S.B. 138 Enrolled: 2001 GENERAL SESSION

ALEC Model

#### **MINIMUM WAGE APPLICABILITY**

Sponsor: Howard A. Stephenson

Section 1. Section 34-30-106 is enacted to read:  
34-30-106. Limitations on minimum wage imposed by cities, towns, or counties.

(1) A city, town, or county may not establish, mandate,  
or require a minimum wage that exceeds the federal  
minimum wage as provided in 29 U.S.C. Sec. 201 et seq.,  
Fair Labor Standards Act of 1938.

(2) (a) A city, town, or county may not require that a

#### **Living Wage Mandate Preemption Act**

##### **Model Legislation**

**Section 1. {Short Title.}** This Act shall be known as the Living Wage Mandate

[...]

#### **Section 4. {Repeal and Preemption of Local Law.}**

(A) Except as provided in Section 4 (B) and Section 5, any and all living wage mandates enacted by any political subdivision of this state are repealed.

person who contracts with the city, town, or county pay that person's employees a wage that exceeds the federal minimum wage as provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

(b) Subsection (2)(a) does not apply when federal law requires the payment of a prevailing or minimum wage to persons working on projects funded in whole or in part by federal funds.

(B) Except as provided in Section 5, no political subdivision of this state may enact, maintain, or enforce by charter, ordinance, purchase agreement, contract, regulation, rule, or resolution, either directly or indirectly, a living wage mandate in an amount greater than this state's applicable state minimum wage [or, if applicable: "in the federal Fair Labor Standards Act of 1938, as amended {29 U.S.C. Sec. 201 et seq.}"].

**Section 5. {Severability Clause.}**

(A) The prohibitions in Section 4 of this title shall not [choose any/all of the following]:

- (1) Prohibit a political subdivision of this state from enacting, maintaining, or enforcing through a collective bargaining agreement or other means a minimum wage requirement governing compensation paid by that political subdivision to employees of that political subdivision;
- (2) Apply to a collective bargaining agreement negotiated between a political subdivision and the bargaining representative of the employees of the political subdivision;
- (3) Limit, restrict, or expand a prevailing wage required under existing state law [cite code/statute];
- (4) Apply when applicable federal law requires the payment of a prevailing or minimum wage to persons working on projects funded in whole or in part by federal funds.

**H.B. 430: 2007 GENERAL SESSION**

**PUBLIC EMPLOYEES UNION FINANCIAL RESPONSIBILITY ACT**

Chief Sponsor: Gregory H. Hughes

Section 1. Section 34-44-101 is enacted to read:

CHAPTER 44. PUBLIC EMPLOYEES UNION FINANCIAL RESPONSIBILITY ACT

34-44-101. Title.

This chapter is known as the "Public Employees Union Financial Responsibility Act."

[...]

Section 3. Section 34-44-201 is enacted to read:

34-44-201. Report of labor organizations.

(1) A labor organization shall adopt a constitution and bylaws and shall file a report, signed by its president and secretary or corresponding principal officers, containing the following information:

**ALEC Model**

**Union Financial Responsibility Act**

**Model Legislation**

**Section 1. {Definitions}** For the purposes of this Act: [...]

**Section 3. {REPORTING BY LABOR ORGANIZATIONS AND OFFICERS AND EMPLOYEES OF LABOR ORGANIZATIONS}**

(A). Report of Labor Organizations

- (1). Every labor organization shall adopt a constitution and bylaws and shall file a copy thereof with the [STATE

(a) the name of the labor organization, its mailing address, and any other address at which it maintains its principal office or at which it keeps the records referred to in this title;  
(b) the name and title of each of its officers;  
(c) a copy of the adopted constitution and bylaws;  
(d) (i) the initiation fee or fees required from a new or transferred member; and  
(ii) fees, if any, for work permits required by the reporting labor organization;  
(e) the regular dues or fees or other periodic payments required to remain a member of the reporting labor organization; and  
(f) detailed statements, or references to specific provisions of documents filed under this Subsection (1) which contain the statements, showing the provisions made and procedures followed with respect to each of the following:  
(i) qualifications for, or restrictions on, membership;  
(ii) levying of assessments;  
(iii) participating in insurance or other benefit plans;  
(iv) authorization for disbursement of funds of the labor organization;  
(v) audit of financial transactions of the labor organization;  
(vi) the calling of regular and special meetings;  
(vii) the selection of officers, stewards, and any representatives to other bodies composed of labor organizations' representatives, with a specific statement of the manner in which each officer was elected, appointed, or otherwise selected;  
(viii) discipline or removal of officers or agents for breaches of their trust;  
(ix) imposition of fines, suspensions, and expulsions of members, including the grounds for the action, and any provision made for notice, hearing, judgment on the evidence, and appeal procedures;  
(x) authorization for bargaining demands;  
(xi) ratification of contract terms;  
(xii) authorization for strikes; and  
(xiii) issuance of work permits.  
(2) The report shall be filed with the commissioner as defined under Section 34A-1-102, on or before December 31, 2007.  
(3) If any change is made in the information required under Subsection (1), the labor organization shall file an amended report at the time the reporting labor organization files with its annual financial report

OFFICIAL/AGENCY], together with a report, signed by its president and secretary or corresponding principal officers, containing the following information:  
(a). The name of the labor organization, its mailing address, and any other address at which it maintains its principal office or at which it keeps the records referred to in this title;  
(b). The name and title of each of its officers;  
(c). The initiation fee or fees required from a new or transferred member and fees for work permits required by the reporting labor organization;  
(d). The regular dues or fees or other periodic payments required to remain a member of the reporting labor organization; and  
(e). Detailed statements, or references to specific provisions of documents filed under this subsection which contain such statements, showing the provisions made and procedures followed with respect to each of the following:  
(i). Qualifications for, or restrictions on, membership;  
(ii). Levying of assessments;  
(iii). Participating in insurance or other benefit plans;  
(iv). Authorization for disbursement of funds of the labor organization;  
(v). Audit of financial transactions of the labor organization;  
(vi). The calling of regular and special meetings;  
(vii). The selection of officers and stewards and of any representatives to other bodies composed of labor organizations representatives, with a specific statement of the manner in which each officer was elected, appointed, or otherwise selected;  
(viii). Discipline or removal of officers or agents for breaches of their trust;  
(ix). Imposition of fines, suspensions, and expulsions of members, including the grounds for such action and any provision made for notice, hearing, judgment on the evidence, and appeal procedures;  
(x). Authorization for bargaining demands;  
(xi). Ratification of contract terms;  
(xii). Authorization for strikes; and  
(xiii). Issuance of work permits.  
(B). Any change in the information required by this subsection shall be reported to the [STATE OFFICIAL/AGENCY] at the time the reporting labor

required under Section 34-44-202 .

Section 4. Section 34-44-202 is enacted to read:  
34-44-202. Annual financial reports.

(1) A labor organization shall file an annual financial report disclosing its financial condition and operations for its preceding fiscal year. The report shall be signed by its president and treasurer, or corresponding principal officers, and contain the following information:

(a) assets and liabilities at the beginning and end of the fiscal year;

(b) receipts of any kind and the sources thereof;

(c) salary, allowances, and other direct or indirect disbursements, including reimbursed expenses, to each officer and also to each employee who, during the fiscal year, received more than \$10,000 in the aggregate from the labor organization and any other labor organization affiliated with it or with which it is affiliated, or which is affiliated with the same parent body;

(d) direct and indirect loans made to any officer, employee, or member, which when aggregated equal more than \$250 during the fiscal year, including a statement of the purpose of each loan, security for each loan, if any, and arrangements for repayment of each loan;

(e) direct and indirect loans made to any business enterprise, including a statement of the purpose of each loan, security of each loan, if any, and arrangements for repayment of each loan; and

(f) other disbursements made by the labor organization, including the purposes for the disbursements in all categories as determined by the commissioner.

(2) The annual financial report shall be filed with the commissioner within 90 days after the end of the labor union's fiscal year.

(3) (a) A labor organization required to file a report under this section shall make the information required to be contained in the report available to all of its members.

organization files with the [STATE OFFICIAL/AGENCY] the annual required financial report.

(C). Every labor organization must annually, within 90 days of the end of its fiscal year, provide financial disclosure information to all employees in the bargaining unit and to the general public by filing with the [STATE OFFICIAL/AGENCY], a financial report signed by its the organization's president and treasurer or corresponding principal officers, containing the following information in such detail as may be necessary accurately to disclose its financial condition and operations for its preceding fiscal year:

(1). Assets and liabilities at the beginning and end of the fiscal year;

(2). Receipts of any kind and the sources thereof;

(3). Salary, the cost of fringe benefits, allowances, and other direct or indirect disbursements (including reimbursed expenses) to each officer and also to each employee who, during such fiscal year, received more than \$10,000 in the aggregate from such labor organization and any other labor organization affiliated with it or with which it is affiliated, or which is affiliated with the same parent body;

[...]

(10). Direct and indirect loans made to any officer, employee, or member, which aggregated more than \$250 during the fiscal year, together with a statement of the purpose, security, if any, and arrangements for repayment;

(11). Direct and indirect loans to any business enterprise, together with a statement of the purpose, security, if any, and arrangements for repayment; and

(12). Other disbursements made by it including the purposes thereof, all in such categories as the [STATE OFFICIAL/AGENCY] may prescribe.

(D) The report required in subsection (C) of this section must be prepared by an auditing organization, independent of the labor organization, using generally accepted auditing standards and generally accepted accounting principles, that ensures the accuracy and veracity of the information provided by the labor organization. All expenditures must be reported as either germane to collective bargaining, contract administration, or grievance processing, or not so related.

(b) A labor organization and its officers shall be under a duty, which shall be enforceable by suit filed by any member of the organization in a court, to permit a member of the labor organization to examine any books, records, and accounts necessary to verify the validity of a report required by this section.

Section 5. Section 34-44-203 is enacted to read:  
34-44-203. Report of officers and employees of labor organizations.

(1) Except for an employee that performs exclusively clerical or custodial services, each officer and employee of a labor organization shall file with the commissioner, a signed report listing and describing, for the preceding fiscal year of the labor organization:

(a) any stock, bond, security, or other legal or equitable interest, and any income or other benefit with monetary value, including reimbursed expenses, which the officer or employee, or the officer or employee's spouse or minor child, directly or indirectly held in or derived from a business entity, if:

(i) (A) the business entity conducts business with a governmental entity whose employees the labor organization represents or is actively seeking to represent; and

(B) a substantial part of the business entity's activity consists of buying, selling, and leasing property, goods, or services to or from the labor organization; or

(ii) any part of the business entity's activity consists of buying, selling, or leasing property, goods, or services to or from the labor organization;

(b) any direct or indirect business transaction or arrangement between the officer or employee, or the officer or employee's spouse or minor child, and any governmental entity whose employees the labor organization represents or is actively seeking to represent, except:

(i) work performed and payments and benefits received as a bona fide employee of the governmental entity; and

(ii) purchases and sales of goods or services in the regular course of business at prices generally available to

(E). Every labor organization required to submit a report under this title shall make available the information required to be contained in such report to all of its members, and every such labor organization and its officers shall be under a duty enforceable at the suit of any member of such organization in the [COURT OF JURISDICTION] where the labor organization maintains its principal office or in any court of competent jurisdiction to permit such member for just cause to examine any books, records, and accounts necessary to verify such report.

(F). Report of Officers and Employees of Labor Organizations

(1). Every officer of a labor organization and every employee of a labor organization (other than an employee performing exclusively clerical or custodial services) shall file with the [STATE OFFICIAL/AGENCY] within 90 days of the end of its fiscal year, a signed report listing and describing for his preceding fiscal year:

(a). Any stock, bond, security, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child directly or indirectly derived from, any business any part of which consists of buying from, selling or leasing to, or otherwise dealing with, an agency whose employees such labor organization represents or is actively seeking to represent;

(b). Any stock, bond, security, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child directly or indirectly derived from, a business any part of which consists of buying from, or selling or leasing directly or indirectly to, or which consists of buying from, or selling or leasing directly or indirectly to, or otherwise dealing with such labor organization;

(c). Any direct or indirect business transaction or arrangement between his or his spouse or minor child and any agency whose employees his organization represents or is actively seeking to represent, except work performed and payments and benefits received as a bona fide employee of such agency and except purchases and sales of goods or services in the regular course of business at prices generally available to any employee of such agency; and



any employee of the governmental entity; and  
(c) any payment of money or other thing of value,  
including reimbursed expenses, which the officer or  
employee, or the officer or employee's spouse or minor  
child, received directly or indirectly from any employer or  
any person who acts as a labor relations consultant to an  
employer, except payments of the kinds referred to in 29  
U.S.C. 186(c).

(2) The provisions of Subsection (1) of this section shall  
not be construed to require any officer or employee to  
report:

(a) the officer or employee's bona fide investments:

(i) in securities traded on a securities exchange  
registered as a national securities exchange under the  
Securities Exchange Act of 1934; or

(ii) in shares in an investment company registered under  
the investment company act or in securities of a public  
utility holding company registered under the Public  
Utility Holding Company Act of 1935; or

(b) to report any income derived from investments  
described under Subsection (2)(a).

(3) Nothing contained in this section shall be construed  
to require any officer or employee of a labor  
organization to file a report under Subsection (1) unless  
the officer or employee, or the officer or employee's  
spouse or minor child:

(a) holds or has held an interest in the stock, bond, or  
other interest, has received any income in the stock,  
bond, or other interest, or any other benefit with  
monetary value or a loan; or

(b) has engaged in a transaction described under  
Subsection (1).

Section 6. Section 34-44-301 is enacted to read:

34-44-301. Attorney-client communications exempted.  
Nothing contained in this chapter shall be construed to  
require an attorney who is a member in good standing of  
the bar of any state, to include in any report required to  
be filed under this chapter any information which was  
lawfully communicated to the attorney by any of the  
attorney's clients in the course of a legitimate attorney-  
client relationship.

Section 7. Section 34-44-302 is enacted to read:  
34-44-302. Reports made public information.

(1) In accordance with Title 63, Chapter 2, Government  
Records Access and Management Act, the contents of  
the reports and documents filed with the commissioner  
under Sections 34-44-201 , 34-44-202 , and 34-44-203  
are public records.

(d). Any payment of money or other thing of value (including reimbursed expenses) which he or his spouse or minor child received directly or indirectly from any person who acts as a labor relations consultant to an employer.

(2). The provisions of paragraphs of this section shall not be construed to require any such officer or employee to report his bona fide investments in securities traded on a securities exchange registered as a national securities exchange under the Securities Exchange Act of 1934, in shares in an investment company registered under the investment Company Act or in securities of a public utility holding company registered under the Public Utility Holding Company Act of 1935, or to report any income derived there from.

(G). Attorney-Client Communications Exempted: Nothing contained in this Act shall be construed to require an attorney who is a member in good standing of the bar of any State, to include in any report required to be filed pursuant to the provisions of this Act any information which was lawfully communicated to such attorney by any of his clients in the course of a legitimate attorney-client relationship.

(H). Reports Made Public Information

(1). The contents of the reports and documents filed with the [STATE OFFICIAL/AGENCY] pursuant to this Act shall be public information, and the [STATE OFFICIAL/AGENCY] may publish any information and data which he obtains

(2) The commissioner may:  
(a) publish any information and data which the commissioner obtains under this chapter; and  
(b) use the information and data for statistical and research purposes, and compile and publish studies, analyses, reports, and surveys based on the information as the commissioner determines appropriate.

Section 8. Section 34-44-303 is enacted to read:  
34-44-303. Maintenance of records.

(1) A person required to file any report under this title shall maintain records on the matters required to be reported, which shall be in sufficient detail so that the reports may be verified, explained, or clarified, and checked for accuracy and completeness. The records shall include vouchers, worksheets, receipts, and applicable resolutions.

(2) A labor organization required to file a report under this chapter shall keep the records available for examination for a period of not less than five years after the filing of the documents based on the information which they contain.

Section 9. Section 34-44-401 is enacted to read:  
34-44-401. Rules.

In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commissioner may make rules prescribing the form and publication of reports required to be filed under this chapter. The rules shall:

(1) allow simplified reports for labor organizations for whom the commissioner finds that, by virtue of their size, a detailed report would be unduly burdensome; and  
(2) allow the commissioner to revoke the allowance for simplified forms of a labor organization if the commissioner determines, after an investigation and due notice and opportunity for a hearing, that the purposes of this chapter would be served by the revocation of the simplified report authorization.

Section 10. Section 34-44-501 is enacted to read:  
34-44-501. Penalties.

pursuant to this Act. The [STATE OFFICIAL/AGENCY] may use the information and data for statistical and research purposes, and compile and publish such studies, analyses, reports, and surveys based thereon as he may deem appropriate.

[...]

(I). Maintenance of Records: Every person required to file any report under this title shall maintain records on the matters required to be reported which will provide in sufficient detail the necessary basic information and data from which the documents filed with the [STATE OFFICIAL/AGENCY] may be verified, explained or clarified, and checked for accuracy and completeness, and shall include vouchers, worksheets, receipts, and applicable resolutions, and shall keep such records available for examination for a period of not less than five years after the filing of the documents based on the information which they contain.

[...]

(K). Rules and Regulations

(1). The [STATE OFFICIAL/AGENCY] shall have authority to issue, amend, and rescind rules and regulations prescribing the form and publication of reports required to be filed under this title and such other reasonable rules and a regulations (including rules prescribing reports concerning trusts in which a labor organization is interested) as the [STATE OFFICIAL/AGENCY] may find necessary to prevent the circumvention or evasion of such reporting requirements.

(2). The [STATE OFFICIAL/AGENCY] shall prescribe by general rule simplified reports for labor organizations for whom the [STATE OFFICIAL/AGENCY] finds that by virtue of their size a detailed report would be unduly burdensome, but the [STATE OFFICIAL/AGENCY] may revoke such provision for simplified forms of any labor organization if the [STATE OFFICIAL/AGENCY] determines, after such investigation as the [STATE OFFICIAL/AGENCY] deems proper and due notice and opportunity for a hearing, that the purposes of this section would be served thereby.

[...]

(M). Criminal Provisions

(1) A person who willfully violates this chapter shall be guilty of a class B misdemeanor.

(2) A person who makes a false statement or representation of a material fact knowing it to be false, or who knowingly fails to disclose a material fact, in any document, report, or other information required under the provisions of this chapter, is guilty of a class B misdemeanor.

(3) A person who willfully makes a false entry in or willfully conceals, withholds, or destroys any books, records, reports, or statements required to be kept by any provision of this chapter is guilty of a class B misdemeanor.

(4) An individual required to sign reports under Section 34-44-201, 34-44-202, or 34-44-203 shall be personally responsible for the filing of the reports and for any statement contained in the report the individual knows to be false.

Section 11. Section 34-44-502 is enacted to read:  
34-44-502. Civil enforcement.

(1) Whenever it appears that any person has violated or is about to violate any of the provisions of this chapter, the commissioner may bring a civil action for relief as may be appropriate.

(2) Any action may be brought in a court in the jurisdiction where the alleged violation occurred or in the jurisdiction where the labor organization maintains its principal office.

Section 12. Section 34-44-503 is enacted to read:  
34-44-503. Investigations.

(1) The attorney general or the commissioner may make an investigation in connection any violation of this chapter and may enter any places and inspect any records and accounts and question any person the attorney general or the commissioner considers necessary to enable him to determine the relevant facts.

(2) The attorney general or the commissioner may report to interested persons or officials concerning the facts required to be shown in any report required by this chapter and concerning the reasons for failure or refusal to file a report or any other matter which is considered to be appropriate as a result of an investigation.

Section 13. Section 34-44-601 is enacted to read:  
34-44-601. Exemption for organizations covered by federal statute.

The provisions of this chapter do not apply to any labor

(1). Any person who willfully violates this title shall be fined not more than [\$10,000] or imprisoned for not more than [one year], or both.

(2). Any person who makes a false statement or representation of a material fact, knowing it to be false, or who knowingly fails to disclose a material fact, in any document, report, or other information required under the provisions of this title shall be fined not more than [\$10,000] or imprisoned for not more than one year, or both.

(3). Any person who willfully makes a false entry in or willfully conceals, withholds, or destroys any books, records, reports, or statements required to be kept by any provision of this title shall be fined not more than [\$10,000] or imprisoned for not more than [one year], or both.

(4). Each individual required to sign reports under section 201 shall be personally responsible for the filing of such reports and for any statement contained therein which he knows to be false.

(N). Civil Enforcement

(1). Whenever it shall appear that any person has violated or is about to violate any of the provisions of this title, the [STATE OFFICIAL/AGENCY] may bring a civil action for such relief (including injunctions) as may be appropriate.

(2). Any such action may be brought in the [COURT OF JURISDICTION] where the alleged violation occurred or where the labor organization maintains its principal office.  
[...]

#### **Section 5. {MISCELLANEOUS PROVISIONS}**

(A). Investigations

(1). The [STATE OFFICIAL/AGENCY] shall have power when he believes it necessary in order to determine whether any person has violated or is about to violate any provision of this Act, to make an investigation and in connection therewith he may enter such places and inspect such records and accounts and question such persons as he may deem necessary to enable him to determine the facts relative thereto.

(2). The [STATE OFFICIAL/AGENCY] may report to interested persons or officials concerning the facts required to be shown in any report required by this Act and concerning the reasons for failure or refusal to file such a report or any other matter which he deems to be appropriate as a result of such an investigation.

<p><i>organization required to file annual or semiannual disclosure reports under the federal Labor Management Reporting and Disclosure Act.</i></p>	
<p><b>Utah Code Section 78B-3-410</b></p>	<p><b>ALEC Model</b></p>
<p><b>78B-3-410. Limitation of award of noneconomic damages in malpractice actions.</b>  (1) In a malpractice action against a health care provider, an injured plaintiff may recover noneconomic losses to compensate for pain, suffering, and inconvenience. The amount of damages awarded for noneconomic loss may not exceed:  (a) for a cause of action arising before July 1, 2001, \$250,000;</p>	<p><b>Noneconomic Damage Awards Act</b>  [...]  <b>Section 3. {Damage awards.}</b> In any personal injury action, the prevailing plaintiff may be awarded:  (A) Compensation for economic damages suffered by the injured plaintiff; and  (B) Compensation for the noneconomic damages suffered by the injured plaintiff not to exceed:  (1) \$250,000; or  (2) the amount awarded in economic damages, whichever amount is greater.</p>
<p><b>H.J.R. 2: 2011 GENERAL SESSION</b></p>	<p><b>ALEC Model</b></p>
<p><b>JOINT RESOLUTION APPLYING TO CONGRESS TO CALL A CONSTITUTIONAL CONVENTION ON THE PROCESS FOR REPEAL OF FEDERAL LAWS</b>  Chief Sponsor: David Clark</p> <p>WHEREAS, Article I of the United States Constitution begins, "All legislative powers herein granted shall be vested in a Congress";  WHEREAS, the United States Congress has exceeded the legislative powers granted to it in the Constitution of the United States encroaching on the powers that are "reserved to the states respectively, or to the people" as the Tenth Amendment affirms, and the rights "retained by the people" to which the Ninth Amendment refers;  WHEREAS, this encroachment includes the accumulation of federal debt which, combined with interest, represents a future tax, and is of such great proportion that responsibility for its payment will be passed to future, unborn generations of Americans to assume without their consent, thereby disparaging their rights;  WHEREAS, this encroachment also includes compelling state and local governments to comply with federal laws and regulations without accompanying funding for these mandates;  WHEREAS, in Federalist Paper Number 85, Alexander Hamilton wrote in reference to Article V of the United States Constitution and the calling of a convention for the purpose of proposing amendments that, "We may safely rely on the disposition of the State legislatures to</p>	<p><b>Resolution Calling for the Congress of the United States to Call a Constitutional Convention Pursuant to Article V of the United States Constitution to Propose a Constitutional Amendment Permitting Repeal of any Federal Law or Regulation by Vote of Two-Thirds of the State Legislatures</b></p> <p>WHEREAS, Article I of the United States Constitution begins "All legislative powers herein granted shall be vested in a Congress"; and  WHEREAS, the Congress has exceeded the legislative powers granted in the Constitution thereby encroaching on the powers that are "reserved to the states respectively, or to the people" as the Tenth Amendment affirms and the rights "retained by the people" to which the Ninth Amendment refers; and  WHEREAS, this encroachment includes the accumulation of federal debt, which combined with interest represents a future tax, and is of such great proportion that responsibility for its payment will be passed to future, unborn generations of Americans to assume without their consent, thereby disparaging their rights; and  WHEREAS, this encroachment also includes compelling state and local governments to comply with federal laws and regulations without accompanying funding for such mandates; and  WHEREAS, in Federalist No. 85, Alexander Hamilton wrote in reference to Article V of the Constitution and the calling of a convention for the purpose of proposing amendments that, "We may safely rely on the disposition of the State legislatures to erect barriers against the encroachments of</p>

erect barriers against the encroachment of the national authority"; and

WHEREAS, the United States Constitution should be amended in order to halt federal encroachment and restore a proper balance between the powers of the United States Congress and those of the several states, and to prevent the denial or disparagement of the rights retained by the people:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah hereby applies to the United States Congress to call a Constitutional Convention, pursuant to Article V of the United States Constitution for the limited purpose of proposing a constitutional amendment that permits the repeal of any federal law or regulation by a vote of two-thirds of the state legislatures;

BE IT FURTHER RESOLVED that Congress submit to that Convention for its consideration the following amendment: "Any provision of law or regulation of the United States may be repealed by the several states, legislatures of two-thirds of the several states approve resolutions for this purpose that particularly describe the same provision or provisions of law or regulation repealed."

BE IT FURTHER RESOLVED that the application made by this resolution calling for a limited Purpose Constitutional Convention is revoked, withdrawn, nullified, and superseded to the same effect as if it had never been passed, and retroactive to the date of passage, if it is used for the purpose of calling a convention or used in support of conducting a convention to amend the Constitution of the United States for any purpose other than consideration of the amendment proposed in this resolution.

BE IT FURTHER RESOLVED that the Legislature, on behalf of the state of Utah, reserves its right to add other proposed amendments to the United States Constitution to be considered by the Constitutional Convention by adopting one or more subsequent resolutions.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah recommends that delegates to the convention, when called, be selected according to procedures established by the legislatures of each state.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States Senate, the

the national authority"; and

WHEREAS, the Constitution should be amended in order to halt federal encroachment and restore a proper balance between the powers of Congress and those of the several states, and to prevent the denial or disparagement of the rights retained by the people;

NOW THEREFORE BE IT RESOLVED That the Congress of the United States be urged to call a constitutional convention pursuant to Article V of the United States Constitution for the purpose of proposing a constitutional amendment that permits the repeal of any federal law or regulation by vote of two-thirds of the state legislatures, and the {insert state} Delegation to such Convention, when called, shall propose the following amendment: "Any provision of law or regulation of the United States may be repealed by the several states, and such repeal shall be effective when the legislatures of two-thirds of the several states approve resolutions for this purpose that particularly describe the same provision or provisions of law or regulation to be repealed;" and

BE IT RESOLVED FURTHER, That delegates to such Convention, when called, be selected according to procedures established by the legislatures of the several states; and

BE IT RESOLVED FURTHER, That the Clerk of the {state legislative body} transmit copies of this resolution to the

<p>Speaker of the United States House of Representatives, and to the members of Utah's congressional delegation so that they may be apprised of the sense of the Utah State Legislature in this matter.</p>	<p>Speaker of the United States House of Representatives, the President of the United States Senate, and the members of Representatives, the President of the United States Senate, and the members of the {insert state} Congressional Delegation so that they may be apprised of the sense of the {state legislative body} in this matter.</p>
<p><b>H.R. 2: 2007 GENERAL SESSION</b></p>	<p><b>ALEC Model</b></p>
<p><b>RESOLUTION OPPOSING REAL ID ACT</b>  Chief Sponsor: Glenn A. Donnelson</p> <p>WHEREAS, the implementation of the REAL ID Act intrudes upon the states' sovereign power to determine their own policies for identification, licensure, and credentialing of individuals residing therein;  WHEREAS, one page of the 428 page 9/11 Commission report that did not give consideration to identification issues, prompted Congress to pass the legislation which created the REAL ID Act, ignoring states' sovereignty and their right to self-governance;  WHEREAS, the REAL ID Act converts the state driver licensing function into federal law enforcement and national security functions that are outside the purpose and core competency of driver licensing bureaus;  WHEREAS, the REAL ID Act constitutes an unfunded mandate by the federal government to the states;  WHEREAS, the REAL ID Act requires states to conform their processes of issuing driver licenses and identification cards to federal standards by May 2008;  WHEREAS, the National Governor's Association, National Conference of State Legislatures, and American Association of Motor Vehicle Administrators predict state compliance with the REAL ID Act provisions will require all of the estimated 245 million current driver license and identification card holders in the United States to renew their current identity documents in person by producing three or four identity documents, thereby increasing processing time and doubling wait time at licensing centers;  WHEREAS, identification-based security provides only limited security benefits because it can be avoided by defrauding or corrupting card issuers and because it gives no protection against people not already known to be planning or committing wrongful acts;  WHEREAS, the REAL ID Act will cost the states over \$11 billion to implement according to a recent survey of 47 state licensing authorities conducted by the National</p>	<p><b>Resolution in Opposition to the REAL ID Act</b></p> <p>WHEREAS, the implementation of the REAL ID Act intrudes upon the states' sovereign power to determine their own policies for identification, licensure and credentialing of individuals residing therein; and  WHEREAS, one page of the 400-page 9/11 Commission report, that did not give consideration to identification issues, prompted Congress to pass the legislation which created the Real ID Act, ignoring states' sovereignty and their right to self governance; and  WHEREAS, the REAL ID Act converts the state driver licensing function into federal law enforcement and national security functions that are outside the purpose and core competency of driver licensing bureaus; and  WHEREAS, the REAL ID Act thus constitutes an unfunded mandate by the federal government to the states; and  WHEREAS, the REAL ID Act requires states to conform their processes of issuing drivers licenses and identification cards to federal standards by May 2008; and  WHEREAS, the study cited below predicts state compliance with the REAL ID Act's provisions will require all of the estimated 245 million current cardholders in the United States to renew their current identity documents in person by producing three or four identity documents, thereby increasing processing time and doubling wait time at licensing centers; and</p> <p>WHEREAS, identification-based security provides only limited security benefits because it can be avoided by defrauding or corrupting card issuers, and because it gives no protection against people not already known to be planning or committing wrongful acts; and  WHEREAS, the REAL ID Act will cost the states over \$11 billion to implement according to a recent survey of 47 state licensing authorities conducted by the National</p>

Governor's Association, the National Conference of State Legislatures, and the American Association of Motor Vehicle Administrators;

WHEREAS, the use of identification-based security cannot be justified as part of a "layered" security system if the costs of the identification "layer"--in dollars, lost privacy, and lost liberty--are greater than the security identification provides;

WHEREAS, the "common machine-readable technology" required by the REAL ID Act would convert state-issued driver licenses and identification cards into tracking devices, allowing computers to note and record people's whereabouts each time they are identified;

WHEREAS, a more secure and flexible system of verifying identity may be achieved by less intrusive means to the individual and to states by employing the free market and private sector ingenuity;

WHEREAS, the requirement that states maintain databases of information about their citizens and residents and then share this personal information with all other states will expose every state to the information security weaknesses of every other state and threaten the privacy of every American;

WHEREAS, the REAL ID Act wrongly coerces states into doing the federal government's bidding by threatening to refuse noncomplying states' citizens the privileges and immunities enjoyed by other states' citizens;

WHEREAS, the REAL ID Act threatens the privacy and liberty of those individuals belonging to unpopular or minority groups, including racial and cultural organizations, firearm owners and collectors, faith-based and religious affiliates, political parties, and social movements;

WHEREAS, Congress passed the REAL ID Act without a single hearing in either house and without an up-or-down vote in either house;

WHEREAS, the REAL ID Act thus imposes a national identification system through the states, premised upon the threat to national security, but without the benefit of public debate and discourse; and

WHEREAS, the REAL ID Act is determined by the Utah State House of Representatives to be in opposition to the Jeffersonian principles of individual liberty, free markets, and limited government:

Governor's Association, the National Conference of State Legislatures, and the American Association of Motor Vehicle Administrators; and

WHEREAS, the use of identification-based security can not be justified as part of a "layered" security system if the costs of the identification "layer" – in dollars, lost privacy, and lost liberty – is greater than the security identification provides; and

WHEREAS, the "common machine-readable technology" required by the REAL ID Act would convert state-issued drivers' licenses and identification cards into tracking devices, allowing computers to note and record people's whereabouts each time they are identified; and

WHEREAS, a more secure and flexible system of verifying identity may be achieved by less-intrusive means to the individual and to states by employing the free market and private-sector ingenuity; and

WHEREAS, the requirement that states maintain databases of information about their citizens and residents and then share this personal information with all other states will expose every state to the information security weaknesses of every other state and threaten the privacy of every American; and

WHEREAS, the REAL ID Act wrongly coerces states into doing the federal government's bidding by threatening to refuse non-complying states' citizens the privileges and immunities enjoyed by other states' citizens; and

WHEREAS, the REAL ID Act threatens the privacy and liberty of those individuals belonging to unpopular or minority groups, including racial and cultural organizations, firearm owners and collectors, faith-based and religious affiliates, political parties, and social movements; and

WHEREAS, the REAL ID Act thus imposes a national identification system through the states premised upon the threat to national security, but without the benefit of public debate and discourse;

THEREFORE, BE IT RESOLVED that the REAL ID Act is determined by the American Legislative Exchange Council (ALEC) to be in opposition to the Jeffersonian principles of individual liberty, free markets and limited government; and

<p>NOW, THEREFORE, BE IT RESOLVED that the Utah House of Representatives urges the United States Congress and the United States Department of Homeland Security to suspend implementation of the REAL ID Act.</p> <p>BE IT FURTHER RESOLVED that the REAL ID Act should be repealed outright by the United States Congress to avoid the significant problems it currently poses to state sovereignty, individual liberty, and limited government.</p> <p>BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and the members of Utah's congressional delegation.</p>	<p>THEREFORE, BE IT FURTHER RESOLVED that ALEC implores the United States Congress and the U.S. Department of Homeland Security to suspend implementation of the REAL ID Act; and</p> <p>THEREFORE, BE IT FURTHER RESOLVED that the REAL ID Act should be repealed outright by the United States Congress to avoid the significant problems it currently poses to state sovereignty, individual liberty and limited government.</p>
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**Tax and Budget Policy**

S.J.R. 6: 2012 GENERAL SESSION	ALEC Model
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<p><b>JOINT RESOLUTION AMENDING STATE TAXING AUTHORITY</b></p> <p>Chief Sponsor: Casey O. Anderson</p> <p>Section 1. It is proposed to amend Utah Constitution Article VI, Section 22, to read:</p> <p><b>Article VI, Section 22. [Reading of bills -- Bill to contain only one subject – Bills passed by majority.]</b></p> <p><i>(1) Every bill shall be read by title three separate times in each house except in cases where two-thirds of the house where such bill is pending suspend this requirement.</i></p> <p><i>(2) Except general appropriation bills and bills for the codification and general revision of laws, no bill shall be passed containing more than one subject, which shall be clearly expressed in its title.</i></p> <p><i>(3) The vote upon the final passage of all bills shall be by yeas and nays and entered upon the respective journals of the house in which the vote occurs.</i></p> <p><i>(4) No bill or joint resolution shall be passed except with the assent of the majority of all the members elected to each house of the Legislature[-], <u>except that the assent of two-thirds of all members elected to each house is required for any bill that provides for:</u></i></p> <p><i>(a) a tax increase; or</i></p> <p><i>(b) a fee increase if the increased fee will generate revenue exceeding the actual cost of providing the service for which the fee is charged.</i></p> <p>Section 2. <b>Submittal to voters.</b></p> <p><i>The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.</i></p> <p>Section 3. <b>Effective date.</b></p> <p><i>If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2013.</i></p>	<p><b>Super-Majority Act</b></p> <p>Be it enacted by the Legislature (two-thirds of all members elected to each House thereof concurring therein):</p> <p><b>Section 1.</b> Amend Article (number) of the Constitution of the state by adding a new Section thereto as follows:</p> <p>(A) Imposition or levy of new taxes or license fee.</p> <p>(1) No tax or license fee may be imposed or levied except pursuant to an act of the legislature adopted with the concurrence of two-thirds of all members of each House.</p> <p>(2) This amendment shall not apply to any tax or license fee authorized by an act of the legislature that has not taken full effect upon the effective date of this bill.</p> <p>(B) Limitation on increase of rate of taxes and license fees.</p> <p>(1) The effective rate of any tax levied or license fee imposed may not be increased except pursuant to an act of the legislature adopted with the concurrence of two thirds of all members of each House.</p>
<p><b>H.C.R. 2: 2010 GENERAL SESSION</b></p>	<p><b>ALEC Model</b></p>
<p><b>CONCURRENT RESOLUTION ON STATES RIGHTS</b></p> <p>Chief Sponsor: Julie Fisher</p> <p>WHEREAS, the Tenth Amendment to the United States Constitution reads as follows: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people";</p> <p>WHEREAS, the Tenth Amendment defines the total</p>	<p><b>Resolution to Restate State Sovereignty Model Resolution</b></p> <p>WHEREAS, The 10th Amendment to the Constitution of the United States reads as follows: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people;" and</p> <p>WHEREAS, The 10th Amendment defines the total scope</p>

scope of federal power as being that specifically granted by the United States Constitution and no more; WHEREAS, the scope of power defined by the Tenth Amendment means that the federal government was created by the states specifically to be an agent of the states;

WHEREAS, today the states are demonstrably treated as agents of the federal government;

WHEREAS, many federal laws are directly in violation of the Tenth Amendment to the United States Constitution; [...]

WHEREAS, The United States Supreme Court has ruled in *New York v. United States*, 112 S. Ct. 2408 (1992), that congress may not simply commandeer the legislative and regulatory processes of the states; and

WHEREAS, a number of proposals from previous administrations and others now pending from the present administration and from congress may further violate the Constitution of the United States:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, claim sovereignty under the Tenth Amendment to the United States Constitution over all powers not otherwise enumerated and granted to the federal government by the Constitution of the United States.

BE IT FURTHER RESOLVED that the Legislature and the Governor strongly urge the federal government and the United States Congress to immediately cease and desist the issuance of mandates and laws that are beyond the scope of these constitutionally delegated

BE IT FURTHER RESOLVED that the Legislature and the Governor strongly urge the federal government and the United States Congress to repeal existing regulations and laws that direct states to comply under threat of civil or criminal penalties or sanctions or that require states to pass legislation or lose federal funding.

BE IT FURTHER RESOLVED that copies of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the Speaker of the House and the President of the Senate of each state's legislature of the United States of America, and to the members of Utah's congressional delegation.

of federal powers as being that specifically granted by the United States Constitution and no more; and WHEREAS, The scope of federal power defined by the 10th Amendment means that the federal government was created by the states specifically to be an agent of the states; and

[...]

WHEREAS, Today, in (insert year), the states are demonstrably treated as agents of the federal government; and

[...]

WHEREAS, Many federal mandates are directly in violation of the 10<sup>th</sup> Amendment to the Constitution of the United States; and

WHEREAS, The United States Supreme Court has ruled in *New York v. United States*, 112 S. Ct. 2408 (1992), that Congress may not simply commandeer the legislative and regulatory processes of the states; and

WHEREAS, A number of proposals from previous administrations and some now pending from the present administration and from Congress may further violate the United States Constitution;

NOW THEREFORE BE IT RESOLVED, That the State of (insert State) hereby claims sovereignty under the 10<sup>th</sup> Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the United States Constitution.

BE IT FURTHER RESOLVED, That this serve as Notice and Demand to the federal government, as our agent, to cease and desist, effective immediately, mandates that are beyond the scope of its constitutionally delegated powers.

BE IT FURTHER RESOLVED, That copies of this Resolution be sent to the president of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, The Speaker of the House and the President of the Senate of each state's legislature of the United States of America, and (insert state) Congressional delegation. The more centralized and remote a government is from its people the more

	<p>undemocratic and dangerous it will become. In the words of Thomas Jefferson, "The true theory of our Constitution is surely the wisest and best...When all government...shall be drawn to Washington and the centre of all power, it will render powerless the checks provided on one government on another, and will become as...oppressive as the government from with we separated."</p> <p>Constitutional power must be restored to the state and to the people. It is the duty of each State to reaffirm its sovereignty and serve notice to the federal government to cease and desist all activity outside the scope of its constitutional powers.</p>
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**Environmental Policy**

<p><b>HB. 148 Enrolled: 2012 GENERAL SESSION</b></p>	<p><b>ALEC model</b></p>
<p><b>TRANSFER OF PUBLIC LANDS ACT AND RELATED STUDY</b>  <b>Chief Sponsor: Ken Ivory</b>  Senate Sponsor: Wayne L. Niederhauser</p> <p>Section 1. Section <b>63L-6-101</b> is enacted to read:</p> <p><b>CHAPTER 6. TRANSFER OF PUBLIC LANDS ACT</b>  <i>This chapter is known as the "Transfer of Public Lands Act."</i></p> <p>Section 2. Section <b>63L-6-102</b> is enacted to read:  <b>63L-6-102. Definitions.</b>  <i>As used in this chapter:</i>  (1) <i>"Governmental entity" is as defined in Section 59-2-511.</i>  (2) <i>"Net proceeds" means the proceeds from the sale of public lands, after subtracting expenses incident to the sale of the public lands.</i>  (3) <i>"Public lands" means lands within the exterior boundaries of this state except:</i>  <i>(a) lands to which title is held by a person who is not a governmental entity;</i>  <i>(b) lands owned or held in trust by this state, a political subdivision of this state, or an independent entity;</i>  <i>(c) lands reserved for use by the state system of public education as described in Utah Constitution Article X, Section 2, or a state institution of higher education listed in Section 53B-1-102 ;</i>  <i>(d) school and institutional trust lands as defined in Section 53C-1-103 ;</i>  <i>(e) lands within the exterior boundaries as of January 1,</i></p>	<p><b>Disposal and Taxation of Public Lands Act</b></p> <p><b>Section 1. Definitions.</b> As used in this chapter:</p> <p>(A) "Net proceeds" means the proceeds from the sale of public lands, after subtracting expenses incident to the sale of the public lands.  (B) "Public lands" means lands within the exterior boundaries of this state except:  (1) lands to which title is held by a person who is not a governmental entity;  (2) lands owned or held in trust by this state, a political subdivision of this state, or an independent  (3) lands reserved for use by the state system of public education  (4) school and institutional trust lands</p>

2012, of the following that are designated as national parks:

[...]

(i) lands with respect to which the jurisdiction is ceded to the United States as provided in Section 63L-1-201 or 63L-1-203 ;

(j) real property or tangible personal property owned by the United States if the property is within the boundaries of a municipality; or

(k) lands, including water rights, belonging to an Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

Section 3. Section **63L-6-103** is enacted to read:

**63L-6-103. Transfer of public lands.**

(1) On or before December 31, 2014, the United States shall:

(a) extinguish title to public lands; and

(b) transfer title to public lands to the state.

(2) If the state transfers title to any public lands with respect to which the state receives title under Subsection (1)(b), the state shall:

(a) retain 5% of the net proceeds the state receives from the transfer of title; and

(b) pay 95% of the net proceeds the state receives from the transfer of title to the United States.

(3) In accordance with Utah Constitution Article X, Section 5, the amounts the state retains in accordance with Subsection (2)(a) shall be deposited into the permanent State School Fund.

Section 4. Section **63L-6-104** is enacted to read:

**63L-6-104. Severability clause.**

If any provision of this chapter or the application of any provision to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of this chapter shall be given effect without the invalid provision or application. The provisions of this chapter are severable.

Section 5. **Constitutional Defense Council study.**

(1) During the 2012 interim, the Constitutional Defense Council created in Section 63C-4-101 shall prepare proposed legislation:

(a) creating a public lands commission to:

(i) administer the transfer of title of public lands to the state; and

(ii) address the management of public lands and the management of multiple uses of public lands, including addressing managing open space, access to public lands,

(5) national parks

(6) lands ceded to the United States

(7) lands, including water rights, belonging to an Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States

**Section 2.** Disposal and taxation of public lands.

(A) On or before December 31, 2014, the United States shall sell public lands.

(B) The United States shall pay to this state 5 percent of the net proceeds of the sale of public lands.

(C) The amounts described in Subsection (B) shall be deposited into the permanent State School Fund.

(D) Beginning on January 1, 2015, public lands that the United States has not sold as of December 31, 2014, are subject to property taxation.

**Section 3.** Federalism Subcommittee study.

(A) the legislature creates a Federalism Subcommittee to study:

(1) procedures and requirements for subjecting public lands that the United States has not sold as of December 31, 2014, to property taxation, including the creation of a lien and the seizure and sale of the public lands;

and the sustainable yield of natural resources on public lands;

(b) to establish actions that shall be taken to secure, preserve, and protect the state's rights and benefits related to the United States' duty to have extinguished title to public lands, in the event that the United States does not meet the requirements of Title 63L, Chapter 6, Transfer of Public Lands Act;

(c) making any necessary modifications to the definition of "public lands" in Section 63L-6-102 , including any necessary modifications to a list provided in Subsections 63L-6-102 (3)(e) through (h); (d) making a determination of or a process for determining interests, rights, or uses related to:

(i) easements;

(ii) geothermal resources;

(iii) grazing;

(iv) mining;

(v) natural gas;

(vi) oil;

(vii) recreation;

(viii) rights of entry;

(ix) special uses;

(x) timber;

(xi) water; or

(xii) other natural resources or other resources; and

(e) determining what constitutes "expenses incident to the sale of public lands" described in Subsection 63L-6-102 (2).

[...]

(3) The Constitutional Defense Council may study any other issue related to public lands as determined by the Constitutional Defense Council.

(4) The Constitutional Defense Council shall:

(a) make a preliminary report on its study and preparation of proposed legislation to the Natural Resources, Agriculture, and Environment Interim Committee and the Education Interim Committee:

(i) on or before the June 2012 interim meeting; and

(ii) on or before the September 2012 interim meeting; and

(b) report on its findings, recommendations, and proposed legislation to the Natural Resources, Agriculture, and Environment Interim Committee and the

Education Interim Committee on or before the November 2012 interim meeting.

(2) the definition of "public lands", including whether to address as part of the definition interests, rights, or uses related to:

(a) easements;

(b) geothermal resources;

(c) grazing;

(d) mining;

(e) recreation;

(f) rights of entry;

(g) special uses;

(h) timber;

(i) water; or

(j) other natural resources;

(3) the determination of what constitutes expenses incident to the sale of public lands; and

(4) issues related to [National Parks, National Monuments, National Recreation Areas, etc].

(B) The Federalism Subcommittee may study any other issue related to the disposal and taxation of public lands as determined by the subcommittee.

(C) The Federalism Subcommittee shall report its findings and recommendations

