

ALEC IN ARIZONA:

THE VOICE OF CORPORATE SPECIAL INTERESTS
IN THE HALLS OF ARIZONA'S LEGISLATURE



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KEY FINDINGS

ALEC, the American Legislative Exchange Council, serves as a voice for corporate special interests in state legislatures across the country. Its corporate executives, lawyers and lobbyists, along with member legislators, draft, lobby for, and secure passage of a wide array of bills designed to promote corporate interests.

Arizona has one of the highest concentrations of ALEC legislators of any state in the United States – at least 50 of the 90 legislators now serving are ALEC members. Two-thirds of the Republican leadership in the Arizona House and Senate are on ALEC “task forces” that write “model” legislation for state legislators around the nation. The last three Arizona Senate Presidents have all served in ALEC leadership roles: Senator Robert L. Burns (International/Federal Relations task force), Senator Russell Pearce (Public Safety and Elections task force) and Senator Steve Pierce (Energy Environment and Agriculture task force).

Major corporations including Coca-Cola, Kraft, ExxonMobil and GlaxoSmithKline are key players in Arizona politics, and members of ALEC’s “Private Enterprise Board.” Over the past 10 years, the 22 companies represented on the Private Enterprise Board have spent \$16 million in Arizona state political campaigns.

Close analysis of AZ legislation on a range of subjects shows remarkably similar – if not identical – provisions to ALEC “model” bills, including:

- Draconian anti-immigrant measures that criminalize undocumented workers and penalize their employers, strip native-born Americans of their citizenship rights and require that all publications and materials disseminated by state agencies be written in English only
- Measures encouraging the privatization of state prisons to the benefit of the private prison industry
- Voter suppression bills that potentially disenfranchise tens of thousands of Arizonans
- Attacks on workers, their unions, and collective bargaining and the elimination of public employment through outsourcing and privatizing of government functions
- Attacks on public education through private school voucher programs
- Measures to prevent implementation of healthcare reform, and
- Attacks on federal environmental regulation by attempting to deny the federal government the ability to supersede weak state environmental legislation.

WHAT IS ALEC?

ALEC, the American Legislative Exchange Council, is a one-stop shop for corporations looking to identify and cultivate friendly state legislators and then work with them to get special-interest legislation introduced and passed. Founded in 1973 by Paul Weyrich, who helped build a nationwide conservative political infrastructure following the reelection of Richard Nixon, ALEC serves as a key voice for corporate special interests in state capitols across the country.

When legislators in multiple states introduce similar or identical bills to boost corporate power and profits, undermine workers' rights, limit corporate accountability for pollution or harm to consumers, privatize public education or restrict voting rights, for example, the odds are good that the legislation they are pushing was written by corporate lobbyists working through ALEC. According to ALEC's own legislative scorecard, 826 pieces of ALEC legislation were introduced in state legislatures around the country and 115 were enacted in 2009 alone.

ALEC's major funders include Exxon Mobil, the Scaife family, the Coors family, Charles Koch, the Bradley family, and the Olin family. . Members of ALEC's board represent major corporations such as Altria, AT&T, GlaxoSmithKline, Johnson & Johnson, Koch Industries, Kraft, PhRMA, Wal-Mart, Peabody Energy and State Farm. According to the American Association for Justice, over 80 percent of ALEC's finances come from corporate contributions.

ALEC serves as a forum for corporations to advise, lobby and sway legislators. By paying hefty dues and sponsorship fees, corporations are able to participate in ALEC conferences and seminars, where their lawyers, executives and lobbyists work alongside the elected officials they are attempting to influence. ALEC task forces comprised of representatives from corporations as well as elected legislators, draft and promote the organization's "model legislation." Each task force is chaired by both elected officials and "private sector" members.

This report details ALEC's footprint in Arizona. It identifies the 50 state legislators who are current ALEC members, a total that gives Arizona one of the highest concentrations of ALEC legislators in any state. It shines a spotlight on the Arizona-based corporations that support and participate in ALEC. The final section of the report analyzes the ALEC connection to specific legislation introduced – and often passed – by the Arizona legislature on a range of subjects. The detailed side-by-side analysis reveals that many Arizona laws are drawn word-for-word from ALEC drafts. The subject areas reviewed for this report include: (1) anti-immigrant measures, (2) the privatization of prisons, (3) voter suppression, (4) attacks on workers' rights, (5) the privatization of public education, (6) attacks on healthcare reform and (7) attacks on environmental regulation.

ALEC LEGISLATORS IN ARIZONA: TASK FORCE MEMBERS IN 2011

Arizona has one of the highest concentrations of ALEC legislators of any state in the United States. Among the 90 members of the Arizona Legislature- 60 in the House and 30 in the Senate- 50 have been documented as members of ALEC. The actual total likely is higher, as no “official list of ALEC members is available. Two thirds of the legislature’s Republican leadership serves on ALEC task forces, and the previous three Arizona Senate Presidents have all served: Sen. Robert L. Burns (International/Federal Relations task force), Sen. Russell Pearce (Public Safety and Elections task force) and Sen. Steve Pierce (Energy Environment and Agriculture).

All but one of the ALEC members we have identified are Republicans. Among Arizona Republican senators, 16 of 21 are in ALEC, as are 33 of 40 Republicans from the House. Rep. Debbie Lesko is the ALEC Arizona Public Sector Chair, a role which according to ALEC’s bylaws, requires her “working to introduce model legislation”. In 2011, Senator Nancy Barto was made “ALEC legislator of the year” (See www.alec.org). This section of the report lists current legislators whose ALEC membership has been verified. The side-by-side comparisons of ALEC model bills and actual legislation found later in the report list the legislative offices held by the bills’ sponsors and co-sponsors at the time the bills were considered in the legislature.

Civil Justice

Senator Andy Biggs (<i>Majority Leader</i>)	(R) District 22
Senator Adam Driggs	(R) District 11
Senator Don Shooter	(R) District 24
Representative Eddie Farnsworth	(R) District 22
Representative David Burnell Smith	(R) District 7
Representative J. Ted Vogt	(R) District 30

Commerce, Insurance and Economic Development

Senator Gail Griffin	(R) District 25
Senator John P. McComish	(R) District 20
Senator Albert Anthony Melvin	(R) District 26
Representative Rick Gray	(R) District 9
Representative Thomas Forese	(R) District 21
Representative Andy Tobin (<i>Speaker of the House</i>)	(R) District 1

Education

Senator Rich Crandall	(R) District 25
Representative Steve Court (<i>Majority Leader</i>)	(R) District 18
Representative Chester Crandell	(R) District 5
Representative John Fillmore	(R) District 23
Representative Doris Goodale	(R) District 3
Representative Amanda A. Reeve	(R) District 6

Energy, Environment and Agriculture

Senator Sylvia Allen (<i>President Pro Tempore</i>)	(R) District 5
Senator Steve Pierce (<i>Senate President</i>)	(R) District 1

Health and Human Services

Senator Nancy Barto (R) District 7
Representative Cecil Ash (R) District 18
Representative Brenda Barton (R) District 5
Representative Peggy Judd (R) District 25
Representative Kimberly Yee (R) District 10

International/Federal Relations

Representative Jack W. Harper (R) District 4
Representative Debbie Lesko (*Majority Whip*) (R) District 9

Public Safety and Elections

Senator Steve M. Smith (R) District 23
Representative Richard Miranda (D) District 13
Representative David M. Gowan (R) District 30
Representative John Kavanagh (R) District 8
Representative Steve R. Urie (R) District 22

Tax and Fiscal Policy

Senator Lori Klein (R) District 6
Senator Rick Murphy (R) District 9
Senator Steven B. Yarbrough (R) District 21
Representative Justin D. Olson (R) District 19

Telecommunications and Information Technology

Senator Scott Bundgaard (R) District 4
Representative Jeff Dial (R) District 20
Representative Terri Proud (R) District 26
Representative Bob Robson (R) District 20
Representative David W. Stevens (R) District 25

Other ALEC members from Arizona

Senator Michele Reagan (R) District 8
Representative Judy M. Burges (R) District 4
Representative Karen Fann (R) District 1
Representative Russell L. Jones (R) District 24
Representative Kate Brophy McGee (R) District 11
Representative Nancy McLain (R) District 3
Representative Javan "J.D." Mesnard (R) District 21
Representative Frank Pratt (R) District 23
Representative James P. Weiers (R) District 12

Task force membership above correct as of 2011. Other ALEC members correct as of 2010.

AT HOME IN ARIZONA: ALEC CORPORATE MEMBERS

For decades, corporations have been using ALEC as a vehicle to get their bills introduced in Arizona. These corporations include major US brands like Coca-Cola, Kraft and ExxonMobil, and foreign based corporations including GlaxoSmithKline and Reed Elsevier, who are all currently represented on ALEC's "Private Enterprise Board." Below are the major corporations based in Arizona that are affiliated with ALEC:



American Traffic Solutions

James Tuton, President & CEO

Member of the ALEC Public Safety & Elections task force.

Employees: 500-1000

Founded in 1987, ATS manufactures red light cameras, which are used in 26 states and the District. ATS supplies 40% of the automated traffic safety enforcement equipment in use throughout the US.

ATS donates to a number of advocacy groups, including The National Coalition for Safer Roads and Keep Houston Safe.



Association of American Physicians & Surgeons

Alieta Eck, MD, President

Member of the ALEC Health and Human Services task force.

Members: Approximately 3,000

The AAPS is an advocacy group of physicians who support the implementation of conservative medical policies. They have a wide ranging agenda, including opposition to federal healthcare reforms, abortion rights, over-the-counter contraceptives, LGBT rights, the FDA, Medicare and Medicaid. Stephanie Mencimer of *Mother Jones* Magazine wrote of them in 2009: "despite the lab coats and the official-sounding

name, the docs of the AAPS are hardly part of mainstream medical society. Think Glenn Beck with an MD."

The AAPS publishes the *Journal of American Physicians and Surgeons*, but it is not listed as a scientific source. Through this they promote ideological, unscientific, and often totally discredited positions, including claims that humans are not responsible for global warming, a link between the "gay male lifestyle" and a shorter lifespan, and a study claiming to link abortions with breast cancer. Through ALEC they are helping to write state legislation on Healthcare.



Goldwater Institute

Thomas C. Patterson, Chairman

Member of the ALEC Tax and Fiscal Policy task force and the Energy, Environment and Agriculture task force.

Employees: Approximately 50 in Arizona

This Koch-funded think-tank was established in 1988 and advocates for reducing the role of the federal and state government, lowering taxes and eliminating corporate regulations. They consistently oppose electoral reform and union protections and promote policies aimed at privatizing our schools.

Goldwater regularly engages in litigation, including *NLRB v. State of Arizona* (challenging labor unions' use of a secret ballot), *Miller v. Arizona Corporation Commission* (challenging the Commission's right to enact environmental policy) and *Arizona Advocacy Network Foundation v. Bennett* (attempts to have Arizona's Clean Elections law ruled unconstitutional).



Pinnacle West Capital Corporation

Donald E. Brandt, Chairman & CEO

Co-chair of the ALEC Energy, Environment and Agriculture task force.

Employees: 7,600

Pinnacle West Capital Corporation is the holding company which owns Arizona Public Services Company, the largest utility company in Arizona; it provides electricity to the northern and central parts of the state, including Phoenix. Roughly 40% of their energy comes from three nuclear reactors, a third from natural gas and a quarter from coal.



Salt River Project

David Rousseau, President

Member of ALEC's Private Enterprise Board and the ALEC Energy, Environment and Agriculture task force.

SRP is the ALEC Arizona Private Sector Chair.

Employees: Approximately 4,400

SRP is two entities. The Salt River Project Agricultural Improvement and Power District, a political subdivision of the state of Arizona, provides electricity to Phoenix. The Salt River Valley Water Users' Association, a private corporation, provides water throughout central Arizona.



TASER
INTERNATIONAL®

TASER International

Patrick W. Smith, Co-founder & CEO

Thomas P. Smith, Co-founder & President

Member of the ALEC Public Safety & Elections task force.

Employees: 320

Founded in 1993, TASER International is the manufacturer of (usually) non-lethal personal defense weapons. Tasers are provided to military and law enforcement officials around the world, as well as hundreds of thousands of private citizens.

TASER also manufactures several other products, including a cell phone monitoring/blocking service marketed to parents of teenagers, a cloud storage facility for storing evidence to be used at trial and an electroshock shotgun round for use by law enforcement only.

ALEC-INSPIRED LEGISLATION IN ARIZONA

An examination of legislation considered by the Arizona legislature over the past several years shows ALEC's imprint. Among the bills sponsored by ALEC-connected legislators that contain remarkably similar – if not identical – provisions to ALEC “model” bills are:

- Draconian anti-immigrant measures that criminalize undocumented workers and penalize their employers, strip native-born Americans of their citizenship rights and require that all publications and materials disseminated by state agencies be written in English only
- Measures encouraging the privatization of state prisons to the benefit of the private prison industry
- Voter suppression bills that potentially disenfranchise tens of thousands of Arizonans
- Attacks on workers by undermining unions and collective bargaining rights and eliminating public employment through outsourcing and privatizing of government functions
- Attacks on public education through private school voucher programs
- Measures to prevent implementation of healthcare reform, and
- Attacks on federal environmental regulation through attempts to deny the federal government the ability to supersede weak state environmental legislation.

Anti-Immigration

Undocumented workers – and everyday citizens – are under attack in Arizona. Legitimate concerns about border safety and gang violence have been sensationalized and overblown, creating a climate of fear that has stoked the population into supporting severe and unnecessary measures. Even fundamental rights of personhood are under attack. Some corporations, motivated by profit, and politicians indebted to these corporations and/or motivated to please certain parts of their constituencies sit down and work together at ALEC conferences with dangerous results.

No Sanctuary For Undocumented Workers

Arizona Legislation: [SB 1070](#) - Support Our Law Enforcement and Safe Neighborhoods Act

Sponsors (in bold) and co-sponsors:

5 ALEC Senators, 14 ALEC Representatives

Sen. Russell Pearce (R-18)
Rep. John Kavanagh (R-8)

Rep. David Gowan (R-30)

Sen. Steve Pierce (R-1, *Majority Whip*)
Sen. Pamela Gorman (R-6)
Sen. Jack W. Harper (R-4)
Sen. Sylvia Allen (R-5)
Rep. Debbie Lesko (R-9)
Rep. Cecil Ash (R-18)
Rep. Andy Biggs (R-22)
Rep. Albert Melvin (R-26)

Rep. Judy Burges (R-4)
Rep. Steve Court (R-18)
Rep. Michele Reagan (R-8)
Rep. David Stevens (R-25)
Rep. Steven Yarbrough (R-21, *Speaker Pro Tempore*)
Rep. James Weiers (R-10)
Rep. Nancy McLain (R-3)
Rep. Rick Murphy (R-9)

Last Action: Signed by Governor Brewer, 4/23/10

Legislative Session: 49th Legislature, Second Regular Session

ALEC Model Legislation: [No Sanctuary Cities for Illegal Immigrants Act](#)

Similarities: SB 1070 is a comprehensive bill that criminalizes undocumented workers and those who associate with them. If the provisions of the act are not – in their view – duly enforced, private citizens are given the right to sue the noncompliant sector of government, be it a municipality or statewide entity. The act's provisions include: mandating that employers use the E-verify system and *keep records* of their involvement with the program (E-Verify was instituted in 2008); making it illegal to have an undocumented worker in one's vehicle in some circumstances; and criminalizing, with detailed sentencing mandates, the state of being undocumented on Arizona soil.

Analysis: SB 1070 is arguably the most infamous state law in the country. Its passage in the spring of 2010 sparked protests and boycotts that made headlines in newspapers across the country.¹ Currently, key provisions of the law are on hold pending final judicial review.

Because of the legislation's prominence, news organizations began investigating its origins. The search led to then-Sen. Russell Pearce (R-18), who shared an omnibus anti-immigrant bill that he had outside help in drafting.² The legislation had attracted little support until, as SB 1070, it was embraced by an ALEC task force of corporate representatives and state legislators and then endorsed by ALEC's national board. Representatives from the Corrections Corporation of America (CCA) – the largest private prison company in the country – sat on the ALEC "Public Safety and Elections" Task Force that approved the bill.³ While CCA claims it merely observed the corporations and politicians approving the bill, there's no question the company benefitted from that action and no doubt that ALEC's embrace of the legislation helped get it passed.

National Public Radio investigative reporter Laura Sullivan reported on how legislation typically gets drafted in the ALEC process.⁴

Asked if the private companies usually get to write model bills for the legislators, [an ALEC insider] said, "Yeah, that's the way it's set up. It's a public-private partnership. We believe both sides, businesses and lawmakers should be at the same table, together."

In many ways, SB 1070 is a model for the ALEC process. A quick, side-by-side glance at the ALEC draft and the bill as passed in Arizona shows just how effectively the process works.

<p>ALEC Model Legislation: No Sanctuary for Illegal Immigrants Act</p>	<p>Arizona Legislation: SB 1070 - Support Our Law Enforcement and Safe Neighborhoods Act</p>
<p>(a) No official or agency of this state or county, city, town, or other political subdivision of this state may adopt a policy that limits or restricts the enforcement of federal immigration laws to less than the full extent permitted by federal law.</p>	<p>Article 8. Enforcement of immigration laws 11-1051. Cooperation and assistance in enforcement of immigration laws; indemnification</p> <p>A. No official or agency of this state or a county, city, town or other political subdivision of this state may adopt a policy that limits or restricts the enforcement of federal immigration laws to less than the full extent permitted by federal law.</p>
<p>(b) For any legitimate contact made by an official or agency of this state or County, city, town or other political subdivision of this state where reasonable suspicion exists that the person is an alien who is unlawfully present in the united states, a reasonable attempt shall be made to determine the immigration status of the person. The person's immigration status shall be verified with the federal government pursuant to 8 united States code section 1373 (c).</p>	<p>B. For any lawful contact made by a law enforcement official or agency of this state or a county, city, town or other political subdivision of this state where reasonable suspicion exists that the person is an alien who is unlawfully present in the united states, a reasonable attempt shall be made, when practicable, to determine the immigration status of the person. The person's immigration status shall be verified with the federal government pursuant to 8 united states code section 1373(c).</p>
<p>(c) if an alien who is unlawfully present in the united states is convicted of a violation of state or local law, on discharge from imprisonment or assessment of any fine that is imposed, the alien shall be immediately transferred to the custody of the United States Immigration and Customs Enforcement or the United States Customs and Border Protection.</p>	<p>C. If an alien who is unlawfully present in the United States is convicted of a violation of state or local law, on discharge from imprisonment or assessment of any fine that is imposed, the alien shall be transferred immediately to the custody of the United States Immigration and Customs Enforcement or the United States Customs and Border Protection.</p>
<p>(d) Notwithstanding any other law, a law enforcement agency may securely transport an alien who is unlawfully in the united states and who is in the agency's custody to a federal facility in this state or to any other point of transfer into federal custody that is</p>	<p>D. Notwithstanding any other law, a law enforcement agency may securely transport an alien who is unlawfully present in the United States and who is in the agency's custody to a federal facility in this state or to any other point of transfer into federal</p>

<p>outside the jurisdiction of the law enforcement agency.</p>	<p>custody that is outside the jurisdiction of the law enforcement agency.</p>
<p>(e) except as provided in federal law, officials or agencies of this state and counties, cities, towns and other political subdivisions of this state may not be prohibited or in any way be restricted from sending, receiving or maintaining information relating to the immigration status, lawful or unlawful, of any individual or exchanging that information with any other federal, state or local governmental entity for the following official purposes:</p>	<p>F. Except as provided in federal law, officials or agencies of this state and counties, cities, towns and other political subdivisions of this state may not be prohibited or in any way be restricted from sending, receiving or maintaining information relating to the immigration status of any individual or exchanging that information with any other federal, state or local governmental entity for the following official purposes:</p>
<p>(1) determining eligibility for any federal, state, local or other political subdivision of this state public benefit, service or license.</p> <p>(2) verifying any claim of residence or domicile if determination of residence or domicile is required under the laws of this state or a judicial order issued pursuant to a civil or criminal proceeding in this state.</p> <p>(3) confirming the identity of any person who is detained.</p> <p>(4) if the person is an alien, determining whether the person is in compliance with the federal registration laws prescribed by title ii, Chapter 7 of the federal immigration and nationality act.</p>	<p>1. Determining eligibility for any public benefit, service or license provided by any federal, state, local or other political subdivision of this State.</p> <p>2. Verifying any claim of residence or domicile if determination of residence or domicile is required under the laws of this state or a judicial order issued pursuant to a civil or criminal proceeding in this state.</p> <p>3. Confirming the identity of any person who is detained.</p> <p>4. If the person is an alien, determining whether the person is in compliance with the federal registration laws prescribed by title ii, chapter 7 of the federal immigration and nationality act.</p>
<p>(f) a person may bring an action in superior court to challenge any official or agency of this state or county, city, town or other political subdivision of this state that adopts or implements a policy that limits or restricts the enforcement of federal immigration laws to less than the full extent permitted by federal law. If there is a judicial finding that an entity has violated this section, the court shall order any of the following:</p> <p>(1) That the person who brought the action recovers court costs and attorney fees.</p>	<p>G. A person may bring an action in superior court to challenge any official or agency of this state or a county, city, town or other political subdivision of this state that adopts or implements a policy that limits or restricts the enforcement of federal immigration laws to less than the full extent permitted by federal law. If there is a judicial finding that an entity has violated this section, the court shall order any of the following:</p> <p>1. That the person who brought the action recover court costs and attorney fees.</p>

<p>(2) That the entity pay a civil penalty of not less than an amount equal to one thousand dollars and not more than an amount equal to five thousand dollars for each day that the policy has remained in effect after the filing of an action pursuant to this subsection.</p>	<p>2. That the entity pay a civil penalty of not less than one thousand dollars and not more than five thousand dollars for each day that the policy has remained in effect after the filing of an action pursuant to this subsection.</p>
<p>(g) a court shall collect the penalty prescribed in subsection F of this section and remit the penalty to the Department of Public Safety, which shall establish a special subaccount for the monies in the account established for the Gang and Immigration Intelligence Team Enforcement Mission Appropriation. Monies in the special subaccount are subject to legislative appropriation for distribution for Gang and Immigration Enforcement and for county jail reimbursement costs relating to illegal immigration.</p>	<p>H. A court shall collect the civil penalty prescribed in subsection G and remit the civil penalty to the department of public safety for deposit in the gang and immigration intelligence team enforcement mission fund established by section 41-1724.</p>
<p>(H) A law enforcement officer is indemnified by the law enforcement officer's agency against reasonable costs and expenses, including attorney fees, incurred by the officer in connection with any action, suit, or proceeding brought pursuant to this section to which the officer may be a party by reason of the officer being or having been a member of the law enforcement agency, except in relation to matters in which the officer is adjudged to have acted in bad faith.</p>	<p>I. A law enforcement officer is indemnified by the law enforcement officer's agency against reasonable costs and expenses, including attorney fees, incurred by the officer in connection with any action, suit or proceeding brought pursuant to this section to which the officer may be a party by reason of the officer being or having been a member of the law enforcement agency, except in relation to matters in which the officer is adjudged to have acted in bad faith.</p>
<p>Section 3. {trespassing by illegal aliens; assessment; exception; Classification.}</p> <p>(a) in addition to any violation of federal law, a person is guilty of trespassing if the person is both:</p> <p>(1) present on any public or private land in this state.</p> <p>(2) in violation of 8 united states code section 1304(e) or section 1306(a).</p>	<p>Sec. 3. Title 13, chapter 15, Arizona revised statutes, is amended by adding section 13-1509, to read: 13-1509.</p> <p>Trespassing by illegal aliens; assessment; exception; classification</p> <p>A. In addition to any violation of federal law, a person is guilty of trespassing if the person is both:</p> <p>1. Present on any public or private land in this state.</p> <p>2. In violation of 8 united states code section</p>

	1304(e) or 1306(a).
<p>(b) in the enforcement of this section, the final determination of an alien's immigration status shall be determined by either:</p> <p>(1) a law enforcement officer who is authorized to verify or ascertain an alien's immigration status.</p> <p>(2) a law enforcement officer or agency communicating with the United States immigration and customs enforcement or the United States border protection pursuant to 8 United States code section 1373(c).</p> <p>(c) a person who is sentenced pursuant to this section is not eligible for suspension or commutation of sentence or releases on any basis until the sentence imposed is served.</p>	<p>B. In the enforcement of this section, the final determination of an alien's immigration status shall be determined by either:</p> <p>1. A law enforcement officer who is authorized by the federal government to verify or ascertain an alien's immigration status.</p> <p>2. A law enforcement officer or agency communicating with the United States Immigration and Customs Enforcement or the United States border protection pursuant to United States code section 1373(c).</p> <p>C. A person who is sentenced pursuant to this section is not eligible for suspension or commutation of sentence or release on any basis until the sentence imposed is served.</p>
<p>(d) in addition to any other penalty prescribed by law, the court shall order the person to pay jail costs and an additional assessment in the following amounts:</p> <p>(1) at least five hundred dollars for a first violation.</p> <p>(2) twice the amount specified in paragraph 1 of this subsection if the person was previously subject to an assessment pursuant to this subsection.</p>	<p>D. In addition to any other penalty prescribed by law, the court shall order the person to pay jail costs and an additional assessment in the following amounts:</p> <p>1. At least five hundred dollars for a first violation.</p> <p>2. Twice the amount specified in paragraph 1 of this subsection if the person was previously subject to an assessment pursuant to this subsection.</p>
<p>(e) a court shall collect the assessments prescribed in subsection d of this section and remit the assessments to the department of public safety, which shall establish a special subaccount for the monies in the account established for the gang and immigration intelligence team enforcement mission appropriation. Monies in the special subaccount are subject to legislative appropriation for distribution for gang and immigration enforcement and for county jail reimbursement costs relating to illegal immigration.</p>	<p>E. A court shall collect the assessments prescribed in subsection d of this section and remit the assessments to the department of public safety, which shall establish a special subaccount for the monies in the account established for the gang and immigration intelligence team enforcement mission appropriation. Monies in the special subaccount are subject to legislative appropriation for distribution for gang and immigration enforcement and for county jail reimbursement costs relating to illegal immigration.</p>

<p>(f) this section does not apply to a person who maintains authorization from the federal government to remain in the united states.</p> <p>(g) a violation of this section is a class 1 misdemeanor, except that a violation of this section is:</p> <p>(1) a class 2 felony if the person violates this section while in possession of any of the following:</p> <p>(a) a dangerous drug as defined by the state.</p> <p>(b) precursor chemicals that are used in the Manufacturing of methamphetamine in violation of state law.</p> <p>(c) a deadly weapon or a dangerous instrument, as defined by the state.</p> <p>(d) property that is used for the purpose of committing an act of terrorism as prescribed by the state.</p>	<p>F. This section does not apply to a person who maintains authorization from the federal government to remain in the United States.</p> <p>G. A violation of this section is a class 1 misdemeanor, except that a violation of this section is:</p> <p>1. A class 3 felony if the person violates this section while in possession of any of the following:</p> <p>(a) a dangerous drug as defined in section 13-3401.</p> <p>(b) precursor chemicals that are used in the manufacturing of methamphetamine in violation of section 13-3404.01.</p> <p>(c) a deadly weapon or a dangerous instrument, as defined in section 13-105.</p> <p>(d) property that is used for the purpose of committing an act of terrorism as prescribed in section 13-2308.01.</p>
<p>(2) a class 4 felony if the person either:</p> <p>(a) is convicted of a second or subsequent violation of this section.</p> <p>(b) within sixty months before the violation, has been removed from the united states pursuant to United states code section 1229(a) or has accepted a voluntary removal from the united states pursuant to United States code section 1229(c).</p>	<p>2. A class 4 felony if the person either:</p> <p>(a) is convicted of a second or subsequent violation of this section.</p> <p>(b) within sixty months before the violation, has been removed from the united states pursuant to united states code section 1229a or has accepted a voluntary removal from the united states pursuant to united states code section 1229c.</p>
<p>Section 4. {unlawful application; solicitation or employment; certificate requirement; classification; definitions.}</p> <p>(a) it is unlawful for a person who is unlawfully present in the United States and who is an authorized alien to knowingly apply for work, solicit work in a public place or perform work as an employee or independent contractor in this state.</p>	<p>Sec. 4. Section 13-2319, Arizona Revised Statutes, is amended to read 13-2319. smuggling; classification; definitions</p> <p>A. It is unlawful for a person to intentionally engage in the smuggling of human beings for profit or commercial purpose.</p> <p>B. A violation of this section is a class 4 felony.</p>

<p>(b) a violation of this section is a Class 1 Misdemeanor</p> <p>(c) for the purposes of this section:</p> <p>(1) "solicit" means verbal or nonverbal communication by a gesture or a nod that would indicate to a reasonable person that a person is willing to be employed.</p> <p>(2) "unauthorized alien" means an alien who does not have the legal right or authorization under federal law to work in the United States as described in 8 United States Code Section 1324a(h)(3).</p>	<p>C. Notwithstanding subsection B of this section, a violation of this section:</p> <p>1. Is a class 2 felony if the human being who is smuggled is under eighteen years of age and is not accompanied by a family member over eighteen years of age or the offense involved the use of a deadly weapon or dangerous instrument.</p> <p>2. Is a class 3 felony if the offense involves the use or threatened use of deadly physical force and the person is not eligible for suspension of sentence, probation, pardon or release from confinement on any other basis except pursuant to section 31-233, subsection A or B until the sentence imposed by the court is served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.</p>
<p>Section 6. {knowingly employing unauthorized aliens; prohibition; false and frivolous complaints; violation; classification; license suspension and revocation; affirmative defense.}</p> <p>(a) an employer shall not knowingly employ an unauthorized alien. If, in the case when an employer uses a contract, subcontract or other independent contractor agreement to obtain the labor of an alien in this state, the employer knowingly contracts with an unauthorized alien or with a person who employs or contracts with an unauthorized alien to perform the labor, the employer violates this subsection.</p>	<p>Sec. 6. Section 23-212, Arizona Revised Statutes, is amended to read: 23-212. knowingly employing unauthorized aliens; prohibition; false and frivolous complaints; violation; classification; license suspension and revocation; affirmative defense</p> <p>A. An employer shall not knowingly employ an unauthorized alien. If, in the case when an employer uses a contract, subcontract or other independent contractor agreement to obtain the labor of an alien in this state, the employer knowingly contracts with an unauthorized alien or with a 15 person who employs or contracts with an unauthorized alien to perform the 16 labor, the employer violates this subsection.</p>
<p>(b) the attorney general shall prescribe a complaint form for a person to allege a violation of subsection A of this section. The complainant shall not be required to list the complainant's social security number on the complaint form or to have the complaint form notarized. On receipt of a complaint on a prescribed complaint form that an employer allegedly knowingly employs an unauthorized alien, the attorney general or county attorney</p>	<p>17 B. The attorney general shall prescribe a complaint form for a person to allege a violation of subsection A of this section. The complainant shall not be required to list the complainant's social security number on the complaint form or to have the complaint form notarized. On receipt of a complaint on a prescribed complaint form that an employer allegedly knowingly employs an unauthorized alien, the attorney general or county attorney</p>

shall investigate whether the employer has violated subsection A of this section. If a complaint is received but is not submitted on a prescribed complaint form, the attorney general or county attorney may investigate whether the employer has violated subsection A of this section. This subsection shall not be construed to prohibit the filing of anonymous complaints that are not submitted on a prescribed complaint form. The attorney general or county attorney shall not investigate complaints that are based solely on race, color or national origin. A complaint that is submitted to a county attorney shall be submitted to the county attorney in the county in which the alleged unauthorized alien is or was employed by the employer. The county sheriff or any other local law enforcement agency may assist in investigating a complaint.

When investigating a complaint, the attorney general or county attorney shall verify the work authorization of the alleged unauthorized alien with the 276 federal government pursuant to 8 United States Code section 1373(c). A state, county or local official shall not attempt to independently make a final determination on whether an alien is authorized to work in the United States. An alien's immigration status or work authorization status shall be verified with the federal government pursuant to 8 United States Code section 1373(c). A person who knowingly files a false and frivolous complaint under this subsection is guilty of a class 3 misdemeanor.

(c) if, after an investigation, the attorney general or county attorney determines that the complaint is not false and frivolous:

(1) The attorney general or county attorney shall notify the United States immigration and customs enforcement of the unauthorized alien.

(2) The attorney general or county attorney shall notify the local law enforcement agency of the unauthorized alien.

shall investigate whether the employer has violated subsection A of this section. If a complaint is received but is not submitted on a prescribed complaint form, the attorney general or county attorney may investigate whether the employer has violated subsection A of this section. This subsection shall not be construed to prohibit the filing of anonymous complaints that are not submitted on a prescribed complaint form. The attorney general or county attorney shall not investigate complaints that are based solely on race, color or national origin. A complaint that is submitted to a county attorney shall be submitted to the county attorney in the county in which the alleged unauthorized alien is or was employed by the employer. The county sheriff or any other local law enforcement agency may assist in investigating a complaint.

When investigating a complaint, the attorney general or county attorney shall verify the work authorization of the alleged unauthorized alien with the federal government pursuant to 8 United States Code section 1373(c). A state, county or local official shall not attempt to independently make a final determination on whether an alien is authorized to work in the United States. An alien's immigration status or work authorization status shall be verified with the federal government pursuant to 8 United States Code section 1373(c). A person who knowingly files a false and frivolous complaint under this subsection is guilty of a class 3 misdemeanor.

C. If, after an investigation, the attorney general or county attorney determines that the complaint is not false and frivolous:

1. The attorney general or county attorney shall notify the United States immigration and customs enforcement of the unauthorized alien.

2. The attorney general or county attorney shall notify the local law enforcement agency of the unauthorized alien.

<p>(3) The attorney general shall notify the appropriate county attorney to bring an action pursuant to subsection D of this section if the complaint was originally filed with the attorney general.</p>	<p>3. The attorney general shall notify the appropriate county attorney to bring an action pursuant to subsection D of this section if the complaint was originally filed with the attorney general.</p>
<p>(d) an action for a violation of subsection A of this section shall be brought against the employer by the county attorney in the county where the unauthorized alien employee is or was employed by the employer. The county attorney shall not bring an action against any employer for any violation of subsection A of this section that occurs before January 1, 2008. A second violation of this section shall be based only on an unauthorized alien who is or was employed by the employer after an action has been brought for a violation of subsection A of this section or other state law.</p>	<p>D. An action for a violation of subsection A of this section shall be brought against the employer by the county attorney in the county where the unauthorized alien employee is or was employed by the employer. The county attorney shall not bring an action against any employer for any violation of subsection A of this section that occurs before January 1, 2008. A second violation of this section shall be based only on an unauthorized alien who is or was employed by the employer after an action has been brought for a violation of subsection A of this section or section 23-212.01, subsection A.</p>
<p>(e) for any action in superior court under this section, the court shall expedite the action, including assigning the hearing at the earliest practicable date.</p>	<p>E. For any action in superior court under this section, the court shall expedite the action, including assigning the hearing at the earliest practicable date.</p>
<p>(f) on a finding of a violation of subsection A of this section:</p> <p>(1) For a first violation, as described in paragraph 3 of this subsection, the court:</p> <p>(a) Shall order the employer to terminate the employment of all unauthorized aliens.</p> <p>(b) Shall order the employer to be subject to a three year probationary period for the business location where the unauthorized alien performed work. During the probationary period the employer shall file quarterly reports in the form provided in state law with the county attorney of each new employee who is hired by the employer at the business location where the unauthorized alien performed work.</p>	<p>F. On a finding of a violation of subsection A of this section:</p> <p>1. For a first violation, as described in paragraph 3 of this subsection, the court:</p> <p>(a) Shall order the employer to terminate the employment of all unauthorized aliens.</p> <p>(b) Shall order the employer to be subject to a three year probationary period for the business location where the unauthorized alien performed work. During the probationary period the employer shall file quarterly reports in the form provided in section 23-722.01 with the county attorney of each new employee who is hired by the employer at the business location where the unauthorized alien performed work.</p>

<p>(c) shall order the employer to file a signed sworn affidavit with the county attorney within three business days after the order is issued. The affidavit shall state that the employer has terminated the employment of all unauthorized aliens in this state and that the employer will not intentionally or knowingly employ an unauthorized alien in this state. The court shall order the appropriate agencies to suspend all licenses subject to this subdivision that are held by the employer if the employer fails to file a signed sworn affidavit with the county attorney within three business days after the order is issued. All licenses that are suspended under this subdivision shall remain suspended until the employer files a signed sworn affidavit with the county attorney. Notwithstanding any other law, on filing of the affidavit the suspended licenses shall be reinstated immediately by the appropriate agencies. For the purposes of this subdivision, the licenses that are subject to suspension under this subdivision are all licenses that are held by the employer specific to the business location where the unauthorized alien performed work. If the employer does not hold a license specific to the business location where the unauthorized alien performed work, but a license is necessary to operate the employer's business in general, the licenses that are subject to suspension under this subdivision are all licenses that are held by the employer at the employer's primary place of business. On receipt of the court's order and notwithstanding any other law, the appropriate agencies shall suspend the licenses according to the court's order. The court shall send a copy of the court's order to the attorney general and the attorney general shall maintain the copy pursuant to subsection G of this section.</p>	<p>(c) Shall order the employer to file a signed sworn affidavit with the county attorney within three business days after the order is issued. The affidavit shall state that the employer has terminated the employment of all unauthorized aliens in this state and that the employer will not intentionally or knowingly employ an unauthorized alien in this state. The court shall order the appropriate agencies to suspend all licenses subject to this subdivision that are held by the employer if the employer fails to file a signed sworn affidavit with the county attorney within three business days after the order is issued. All licenses that are suspended under this subdivision shall remain suspended until the employer files a signed sworn affidavit with the county attorney. Notwithstanding any other law, on filing of the affidavit the suspended licenses shall be reinstated immediately by the appropriate agencies. For the purposes of this subdivision, the licenses that are subject to suspension under this subdivision are all licenses that are held by the employer specific to the business location where the unauthorized alien performed work. If the employer does not hold a license specific to the business location where the unauthorized alien performed work, but a license is necessary to operate the employer's business in general, the licenses that are subject to suspension under this subdivision are all licenses that are held by the employer at the employer's primary place of business. On receipt of the court's order and notwithstanding any other law, the appropriate agencies shall suspend the licenses according to the court's order. The court shall send a copy of the court's order to the attorney general and the attorney general shall maintain the copy pursuant to subsection G of this section.</p>
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<p>(d) may order the appropriate agencies to suspend all licenses described in subdivision (c) of this paragraph that are held by the employer for not to exceed ten business days. The court shall base its decision to suspend under this subdivision on any evidence or information submitted to it during the action for a violation of this subsection and shall consider the following factors, if relevant:</p> <p>(i) The number of unauthorized aliens employed by the employer.</p> <p>(ii) Any prior misconduct by the employer.</p> <p>(iii) The degree of harm resulting from the violation.</p> <p>(iv) Whether the employer made good faith efforts to comply with any applicable requirements.</p> <p>(v) The duration of the violation.</p> <p>(vi) The role of the directors, officers or principals of the employer in the violation.</p> <p>(vii) Any other factors the court deems appropriate.</p>	<p>(d) May order the appropriate agencies to suspend all licenses described in subdivision (c) of this paragraph that are held by the employer for not to exceed ten business days. The court shall base its decision to suspend under this subdivision on any evidence or information submitted to it during the action for a violation of this subsection and shall consider the following factors, if relevant:</p> <p>(i) The number of unauthorized aliens employed by the employer.</p> <p>(ii) Any prior misconduct by the employer.</p> <p>(iii) The degree of harm resulting from the violation.</p> <p>(iv) Whether the employer made good faith efforts to comply with any applicable requirements.</p> <p>(v) The duration of the violation.</p> <p>(vi) The role of the directors, officers or principals of the employer in the violation.</p> <p>(vii) Any other factors the court deems appropriate.</p>
<p>(2) for a second violation, as described in paragraph 3 of this subsection, the court shall order the appropriate agencies to permanently revoke all licenses that are held by the employer specific to the business location where the unauthorized alien performed work. If the employer does not hold a license specific to the business location where the unauthorized alien performed work, but a license is necessary to operate the employer's business in general, the court shall order the appropriate agencies to permanently revoke all licenses that are held by the employer at the employer's primary place of business. On receipt of the order and notwithstanding any other law, the appropriate agencies shall immediately revoke the licenses.</p>	<p>2. For a second violation, as described in paragraph 3 of this subsection, the court shall order the appropriate agencies to permanently revoke all licenses that are held by the employer specific to the business location where the unauthorized alien performed work. If the employer does not hold a license specific to the business location where the unauthorized alien performed work, but a license is necessary to operate the employer's business in general, the court shall order the appropriate agencies to permanently revoke all licenses that are held by the employer at the employer's primary place of business. On receipt of the order and notwithstanding any other law, the appropriate agencies shall immediately revoke the licenses.</p>

<p>(3) the violation shall be considered:</p> <p>(a) A first violation by an employer at a business location if the violation did not occur during a probationary period ordered by the court under this subsection or other state law, for that employer's business location.</p> <p>(b) A second violation by an employer at a business location if the violation occurred during a probationary period ordered by the court under this subsection or other state law, for that employer's b business location.</p>	<p>3. The violation shall be considered:</p> <p>(a) A first violation by an employer at a business location if the violation did not occur during a probationary period ordered by the court under this subsection or section 23-212.01, subsection for that employer's business location.</p> <p>(b) A second violation by an employer at a business location if the violation occurred during a probationary period ordered by the court under this subsection or section 23-212.01, subsection F for that employer's business location.</p>
<p>(g) the attorney general shall maintain copies of court orders that are received pursuant to subsection f of this section and shall maintain a database of the employers and business locations that have a first violation of subsection a of this section and make the court orders available on the attorney general's website.</p> <p>(h) on determining whether an employee is an unauthorized alien, the court shall consider only the federal government's determination pursuant to United states code section 1373(c). The federal government's determination creates a rebuttable presumption of the employee's lawful status. The court may take judicial notice of the federal government's determination and may request the federal government to provide automated or testimonial verification pursuant to 8 united states code Section 1373(c).</p>	<p>G. The attorney general shall maintain copies of court orders that are received pursuant to subsection f of this section and shall maintain a database of the employers and business locations that have a first violation of subsection a of this section and make the court orders available on the attorney general's website.</p> <p>H. On determining whether an employee is an unauthorized alien, the court shall consider only the federal government's determination pursuant to United States code section 1373(c). The federal government's determination creates a rebuttable presumption of the employee's lawful status. The court may take judicial notice of the federal government's determination and may request the federal government to provide automated or testimonial verification pursuant to United States code section 1373(c).</p>
<p>(i) for the purposes of this section, proof of verifying the employment authorization of an employee through the e-verify program creates a rebuttable presumption that an employer did not knowingly employ an unauthorized alien.</p>	<p>I. For the purposes of this section, proof of verifying the employment authorization of an employee through the e-verify program creates a rebuttable presumption that an employer did not knowingly employ an unauthorized alien.</p>
<p>(j) for the purposes of this section, an employer that establishes that it has</p>	<p>J. For the purposes of this section, an employer that establishes that it has</p>

<p>complied in good faith with the requirements of 8 united states code Section 1324a(b) establishes an affirmative defense that the employer did not knowingly employ an unauthorized alien. An employer is considered to have complied with the requirements of 8 united states code section 1324a(b), notwithstanding an isolated, sporadic or accidental technical or procedural failure to meet the requirements, if there is a good faith attempt to comply with the requirements.</p>	<p>complied in good faith with the requirements of 8 united states code section 1324a(b) establishes an affirmative defense that the employer did not knowingly employ an unauthorized alien. An employer is considered to have complied with the requirements of 8 united states code section 1324a(b), notwithstanding an isolated, sporadic or accidental technical or procedural failure to meet the requirements, if there is a good faith attempt to comply with the requirements.</p>
<p>(k) an employer is not entrapped under this section if the employer was predisposed to violate subsection a of this section and law enforcement officers or their agents merely provided the employer with an opportunity to violate subsection a of this section. It is not entrapment for law enforcement officers or their agents merely to use a ruse or to conceal their identity.</p>	<p>L. An employer does not establish entrapment if the employer was predisposed to violate subsection a of this section and the law enforcement officers or their agents merely provided the employer with an opportunity to commit the violation. It is not entrapment for law enforcement officers or their agents merely to use a ruse or to conceal their identity. The conduct of law enforcement officers and their agents may be considered in determining if an employer has proven entrapment.</p>
<p>section 7. {Intentionally employing unauthorized aliens; prohibition; false and frivolous complaints; violation; classification; license suspension and Revocation; affirmative defense.}</p> <p>(A) An employer shall not intentionally employ an unauthorized alien. If, in the case when an employer uses a contract, subcontract or other independent contractor agreement to obtain the labor of an alien in this state, the employer intentionally contracts with an unauthorized alien or with a person who employs or contracts with an unauthorized alien to perform the labor, the employer violates this subsection.</p>	<p>Sec. 7. Section 23-212.01, Arizona Revised Statutes, is amended to read: 23-212.01. Intentionally employing unauthorized aliens; prohibition; false and frivolous complaints; violation; classification; license suspension and revocation; affirmative defense</p> <p>A. An employer shall not intentionally employ an unauthorized alien. If, in the case when an employer uses a contract, subcontract or other independent contractor agreement to obtain the labor of an alien in this state, the employer intentionally contracts with an unauthorized alien or with a person who employs or contracts with an unauthorized alien to perform the labor, the employer violates this subsection.</p>
<p>(b) the attorney general shall prescribe a complaint form for a person to allege a violation of subsection a of this section. The complainant shall not be required to list the</p>	<p>B. The attorney general shall prescribe a complaint form for a person to allege a violation of subsection a of this section. The complainant shall not be required to list the</p>

complainant's social security number on the complaint form or to have the complaint form notarized. On receipt of a complaint on a prescribed complaint form that an employer allegedly intentionally employs an unauthorized alien, the attorney general or county attorney shall investigate whether the employer has violated subsection a of this section. If a complaint is received but is not submitted on a prescribed complaint form, the attorney general or county attorney may investigate whether the employer has violated subsection a of this section. This subsection shall not be construed to prohibit the filing of anonymous complaints that are not submitted on a prescribed complaint form. The attorney general or county attorney shall not investigate complaints that are based solely on race, color or national origin. A complaint that is submitted to a county attorney shall be submitted to the county attorney in the county in which the alleged unauthorized alien is or was employed by the employer. The county sheriff or any other local law enforcement agency may assist in investigating a complaint. When investigating a complaint, the attorney general or county attorney shall verify the work authorization of the alleged unauthorized alien with the federal government pursuant to 8 united states code section 1373(c). A state, county or local official shall not attempt to independently make a final determination on whether an alien is authorized to work in the United States. An alien's immigration status or work authorization status shall be verified with the federal government pursuant to 8 United States code section 1373(c). A person who knowingly files a false and frivolous complaint under this subsection is guilty of a class 3 misdemeanor.

complainant's social security number on the complaint form or to have the complaint form notarized. On receipt of a complaint on a prescribed complaint form that an employer allegedly intentionally employs an unauthorized alien, the attorney general or county attorney shall investigate whether the employer has violated subsection a of this section. If a complaint is received but is not submitted on a prescribed complaint form, the attorney general or county attorney may investigate whether the employer has violated subsection a of this section. This subsection shall not be construed to prohibit the filing of anonymous complaints that are not submitted on a prescribed complaint form. The attorney general or county attorney shall not investigate complaints that are based solely on race, color or national origin. A complaint that is submitted to a county attorney shall be submitted to the county attorney in the county in which the alleged unauthorized alien is or was employed by the employer. The county sheriff or any other local law enforcement agency may assist in investigating a complaint. When investigating a complaint, the attorney general or county attorney shall verify the work authorization of the alleged unauthorized alien with the federal government pursuant to United States code section 1373(c). A state, county or local official shall not attempt to independently make a final determination on whether an alien is authorized to work in the united states. An alien's immigration status or work authorization status shall be verified with the federal government pursuant to 8 united states code section 1373(c). A person who knowingly files a false and frivolous complaint under this subsection is guilty of a class 3 misdemeanor.

(c) if, after an investigation, the attorney general or county attorney determines that the complaint is not false and frivolous:

(1) the attorney general or county attorney shall notify the United States immigration and customs enforcement of the

C. If, after an investigation, the attorney general or county attorney determines that the complaint is not false and frivolous:

1. The attorney general or county attorney shall notify the United States immigration and customs enforcement of the

<p>unauthorized alien.</p> <p>(2) the attorney general or county attorney shall notify the local law enforcement agency of the unauthorized alien.</p> <p>(3) the attorney general shall notify the appropriate county attorney to bring an action pursuant to subsection d of this section if the complaint was originally filed with the attorney general.</p> <p>(d) an action for a violation of subsection a of this section shall be brought against the employer by the county attorney in the county where the unauthorized alien employee is or was employed by the employer. The county attorney shall not bring an action against any employer for any violation of subsection (a) of this section that occurs before January 1, 2008. A second violation of this section shall be based only on an unauthorized alien who is or was employed by the employer after an action has been brought for a violation of subsection a of this section or other State law.</p>	<p>unauthorized alien.</p> <p>2. The attorney general or county attorney shall notify the local law enforcement agency of the unauthorized alien.</p> <p>3. The attorney general shall notify the appropriate county attorney to bring an action pursuant to subsection d of this section if the complaint was originally filed with the attorney general.</p> <p>D. An action for a violation of subsection a of this section shall be brought against the employer by the county attorney in the county where the unauthorized alien employee is or was employed by the employer. The county attorney shall not bring an action against any employer for any violation of subsection (a) of this section that occurs before January 1, 2008. A second violation of this section shall be based only on an unauthorized alien who is or was employed by the employer after an action has been brought for a violation of subsection (a) of this section or section 23-212, subsection (a).</p>
<p>(e) for any action in superior court under this section, the court shall expedite the action, including assigning the hearing at the earliest practicable date.</p> <p>(f) on a finding of a violation of subsection A of this section:</p> <p>(1) For a first violation, as described in paragraph of this subsection, the court shall:</p> <p>(a) Order the employer to terminate the employment of all unauthorized aliens.</p> <p>(b) Order the employer to be subject to a five year probationary period for the business location where the unauthorized alien performed work. During the probationary period the employer shall file quarterly reports in the</p>	<p>E. For any action in superior court under this section, the court shall expedite the action, including assigning the hearing at the earliest practicable date.</p> <p>F. On a finding of a violation of subsection A of this section:</p> <p>1. For a first violation, as described in paragraph of this subsection, the court shall:</p> <p>(a) Order the employer to terminate the employment of all unauthorized aliens.</p> <p>(b) Order the employer to be subject to a five year probationary period for the business location where the unauthorized alien performed work. During the probationary period the employer shall file quarterly reports in the form provided in section 23-</p>

<p>form provided in state law with the county attorney of each new employee who is hired by the employer at the business location where the unauthorized alien performed work.</p>	<p>722.01 with the county attorney of each new employee who is hired by the employer at the business location where the unauthorized alien performed work.</p>
<p>(c) Order the appropriate agencies to suspend all licenses described in subdivision (d) of this paragraph that are held by the employer for a minimum of ten days. The court shall base its decision on the length of the suspension under this subdivision on any evidence or information submitted to it during the action for a violation of this subsection and shall consider the following factors, if relevant:</p> <p>(i) The number of unauthorized aliens employed by the employer.</p> <p>(ii) Any prior misconduct by the employer.</p> <p>(iii) The degree of harm resulting from the violation.</p> <p>(iv) Whether the employer made good faith efforts to comply with any applicable requirements.</p> <p>(v) The duration of the violation.</p> <p>(vi) The role of the directors, officers or principals of the employer in the violation.</p> <p>(vii) Any other factors the court deems appropriate.</p>	<p>(c) Order the appropriate agencies to suspend all licenses described in subdivision (d) of this paragraph that are held by the employer for a minimum of ten days. The court shall base its decision on the length of the suspension under this subdivision on any evidence or information submitted to it during the action for a violation of this subsection and shall consider the following factors, if relevant:</p> <p>(i) The number of unauthorized aliens employed by the employer.</p> <p>(ii) Any prior misconduct by the employer.</p> <p>(iii) The degree of harm resulting from the violation.</p> <p>(iv) Whether the employer made good faith efforts to comply with any applicable requirements.</p> <p>(v) The duration of the violation.</p> <p>(vi) The role of the directors, officers or principals of the employer in the violation.</p> <p>(vii) Any other factors the court deems appropriate.</p>
<p>(d) Order the employer to file a signed sworn affidavit with the county attorney. The affidavit shall state that the employer has terminated the employment of all unauthorized aliens in this state and that the employer will not intentionally or knowingly employ an unauthorized alien in this state. The court shall order the appropriate agencies to suspend all licenses subject to this subdivision that are held by the employer if the employer fails to file a signed sworn affidavit with the county attorney within three business days after the order is issued. All licenses that are</p>	<p>(d) Order the employer to file a signed sworn affidavit with the county attorney. The affidavit shall state that the employer has terminated the employment of all unauthorized aliens in this state and that the employer will not intentionally or knowingly employ an unauthorized alien in this state. The court shall order the appropriate agencies to suspend all licenses subject to this subdivision that are held by the employer if the employer fails to file a signed sworn affidavit with the county attorney within three business days after the order is issued. All licenses that are suspended under</p>

<p>suspended under this subdivision for failing to file a signed sworn affidavit shall remain suspended until the employer files a signed sworn affidavit with the county attorney. For the purposes of this subdivision, the licenses that are subject to suspension under this subdivision are all licenses that are held by the employer specific to the business location where the unauthorized alien performed work. If the employer does not hold a license specific to the business location where the unauthorized alien performed work, but a license is necessary to operate the employer's business in general, the licenses that are subject to suspension under this subdivision are all licenses that are held by the employer at the employer's primary place of business. On receipt of the court's order and notwithstanding any other law, the appropriate agencies shall suspend the licenses according to the court's order. The court shall send a copy of the court's order to the attorney general and the attorney general shall maintain the copy pursuant to subsection G of this section.</p>	<p>this subdivision for failing to file a signed sworn affidavit shall remain suspended until the employer files a signed sworn affidavit with the county attorney. For the purposes of this subdivision, the licenses that are subject to suspension under this subdivision are all licenses that are held by the employer specific to the business location where the unauthorized alien performed work. If the employer does not hold a license specific to the business location where the unauthorized alien performed work, but a license is necessary to operate the employer's business in general, the licenses that are subject to suspension under this subdivision are all licenses that are held by the employer at the employer's primary place of business. On receipt of the court's order and notwithstanding any other law, the appropriate agencies shall suspend the licenses according to the court's order. The court shall send a copy of the court's order to the attorney general and the attorney general shall maintain the copy pursuant to subsection G of this section.</p>
<p>(2) For a second violation, as described in paragraph 3 of this subsection, the court shall order the appropriate agencies to permanently revoke all licenses that are held by the employer specific to the business location where the unauthorized alien performed work. If the employer does not hold a license specific to the business location where the unauthorized alien performed work, but a license is necessary to operate the employer's business in general, the court shall order the appropriate agencies to permanently revoke all licenses that are held by the employer at the employer's primary place of business. On receipt of the order and notwithstanding any other law, the appropriate agencies shall immediately revoke the licenses.</p>	<p>2. For a second violation, as described in paragraph 3 of this subsection, the court shall order the appropriate agencies to permanently revoke all licenses that are held by the employer specific to the business location where the unauthorized alien performed work. If the employer does not hold a license specific to the business location where the unauthorized alien performed work, but a license is necessary to operate the employer's business in general, the court shall order the appropriate agencies to permanently revoke all licenses that are held by the employer at the employer's primary place of business. On receipt of the order and notwithstanding any other law, the appropriate agencies shall immediately revoke the licenses.</p>
<p>(3) The violation shall be considered: (a) A first violation by an employer at a</p>	<p>3. The violation shall be considered: (a) A first violation by an employer at a</p>

<p>business location if the violation did not occur during a probationary period ordered by the court under this subsection or other state law, for that employer's business location.</p> <p>(b) A second violation by an employer at a business location if the violation occurred during a probationary period ordered by the court under this subsection or other state law, for that employer's business location.</p>	<p>business location if the violation did not occur during a probationary period ordered by the court under this subsection or section 23-212, subsection F for that employer's business location.</p> <p>(b) A second violation by an employer at a business location if the violation occurred during a probationary period ordered by the court under this subsection or section 23-212, subsection F for that employer's business location.</p>
<p>(G) The attorney general shall maintain copies of court orders that are received pursuant to subsection F of this section and shall maintain a database of the employers and business locations that have a first violation of subsection A of this section and make the court orders available on the attorney general's website.</p> <p>(H) On determining whether an employee is an unauthorized alien, the court shall consider only the federal government's determination pursuant to United States Code section 1373(c). The federal government's determination creates a rebuttable presumption of the employee's lawful status. The court may take judicial notice of the federal government's determination and may request the federal government to provide automated or testimonial verification pursuant to United States Code section 1373(c).</p> <p>(I) For the purposes of this section, proof of verifying the employment authorization of an employee through the e-verify program creates a rebuttable presumption that an employer did not intentionally employ an unauthorized alien.</p> <p>(J) For the purposes of this section, an employer that establishes 549 that it has complied in good faith with the requirements of 8 United States Code section 1324a(b) establishes an affirmative defense that the</p>	<p>G. The attorney general shall maintain copies of court orders that are received pursuant to subsection F of this section and shall maintain a database of the employers and business locations that have a first violation of subsection A of this section and make the court orders available on the attorney general's website.</p> <p>H. On determining whether an employee is an unauthorized alien, the court shall consider only the federal government's determination pursuant to United States Code section 1373(c). The federal government's determination creates a rebuttable presumption of the employee's lawful status. The court may take judicial notice of the federal government's determination and may request the federal government to provide automated or testimonial verification pursuant to United States Code section 1373(c).</p> <p>I. For the purposes of this section, proof of verifying the employment authorization of an employee through the e-verify program creates a rebuttable presumption that an employer did not intentionally employ an unauthorized alien.</p> <p>J. For the purposes of this section, an employer that establishes that it has complied in good faith with the requirements of 8 United States Code section 1324a(b) establishes an affirmative defense that the employer did not</p>

<p>employer did not intentionally employ an unauthorized alien. An employer is considered to have complied with the requirements of 8 United States Code section 1324a(b), notwithstanding an isolated, sporadic or accidental technical or procedural failure to meet the requirements, if there is a good faith attempt to comply with the requirements.</p>	<p>intentionally employ an unauthorized alien. An employer is considered to have complied with the requirements of 8 United States Code section 1324a(b), notwithstanding an isolated, sporadic or accidental technical or procedural failure to meet the requirements, if there is a good faith attempt to comply with the requirements.</p>
<p>Section 8. {Verification of employment eligibility; e-verify program; economic development incentives; list of registered employers; violation.}</p> <p>(A) After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the e-verify program AND SHALL KEEP A RECORD OF THE VERIFICATION.</p> <p>(B) In addition to any other requirement for an employer to receive an economic development incentive from a government entity, the employer shall register with and participate in the e-verify program. Before receiving the economic development incentive, the employer shall provide proof to the government entity that the employer is registered with and is participating in the e-verify program. If the government entity determines that the employer is not complying with this subsection, the government entity shall notify the employer by certified mail of the government entity's determination of noncompliance and the employer's right to appeal the determination. On a final determination of noncompliance, the employer shall repay all monies received as an economic development incentive to the government entity within thirty days of the final determination. For the purposes of this subsection:</p> <p>(1) "Economic development incentive" means any grant, loan or performance based incentive from any government entity that is awarded after September 30, 2008.</p>	<p>Sec. 8. Section 23-214, Arizona Revised Statutes, is amended to read: 23-214. Verification of employment eligibility; e-verify program; economic development incentives; list of registered employers</p> <p>A. After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the e-verify program AND SHALL KEEP A RECORD OF THE VERIFICATION FOR THE DURATION OF THE 44 EMPLOYEE'S EMPLOYMENT OR AT LEAST THREE YEARS, WHICHEVER IS LONGER.</p> <p>B. In addition to any other requirement for an employer to receive an economic development incentive from a government entity, the employer shall register with and participate in the e-verify program. Before receiving the economic development incentive, the employer shall provide proof to the government entity that the employer is registered with and is participating in the e-verify program. If the government entity determines that the employer is not complying with this subsection, the government entity shall notify the employer by certified mail of the government entity's determination of noncompliance and the employer's right to appeal the determination. On a final determination of noncompliance, the employer shall repay all monies received as an economic development incentive to the government entity within thirty days of the final determination. For the purposes of this subsection:</p> <p>1. "Economic development incentive" means</p>

<p>(2) "Government entity" means this state and any political subdivision of this state that receives and uses tax revenues.</p> <p>(C) Every three months the attorney general shall request from the United States Department of Homeland Security a list of employers from this state that are registered with the e-verify program. On receipt of the list of employers, the attorney general shall make the list available on the attorney general's website.</p>	<p>any grant, loan or performance-based incentive from any government entity that is awarded after September 30, 2008. Economic development incentive does not include any tax provision under title 42 or 43.</p> <p>2. "Government entity" means this state and any political subdivision of this state that receives and uses tax revenues.</p> <p>C. Every three months the attorney general shall request from the United States department of homeland security a list of employers from this state that are registered with the e-verify program. On receipt of the list of employers, the attorney general shall make the list available on the attorney general's website.</p>
<p>Section 9. {Severability, implementation and construction.}</p> <p>(A) If a provision of this act or its application to any person or 594 circumstance is held invalid, the invalidity does not affect other provisions circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.</p> <p>(B) The terms of this act regarding immigration shall be construed to have the meanings given to them under federal immigration law.</p> <p>(C) This act shall be implemented in a manner consistent with federal laws regulating immigration, protecting the civil rights of all persons and respecting the privileges and immunities of United States citizens.</p>	<p>Sec. 11. Severability, implementation and construction</p> <p>A. If a provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.</p> <p>B. The terms of this act regarding immigration shall be construed to have the meanings given to them under federal immigration law.</p> <p>C. This act shall be implemented in a manner consistent with federal laws regulating immigration, protecting the civil rights of all persons and respecting the privileges and immunities of United States citizens.</p> <p>Sec. 12. Short title This act may be cited as the "Support Our Law Enforcement and Safe Neighborhoods Act".</p>

Immigration Law on Trespassing

Arizona Legislation: [SB 1159](#) - Trespassing; Illegal Aliens

Sponsors (in bold) and co-sponsors:

3 ALEC Senators, 3 ALEC Representatives

Sen. Russell Pearce (R-18)

Sen. Pamela Gorman (R-6)

Rep. Judy Burges (R-4)

Sen. Jack Harper (R-4)

Rep. John Kavanagh (R-8)

Rep. Debbie Lesko (R-9)

Last Action: Held in Committees, 6/4/09

Legislative Session: 49th Legislature, First Regular Session

ALEC Model Legislation: [Immigration Law Enforcement Act](#)

Similarities/Analysis: SB 1159 is a verbatim copy of Section 3 of ALEC’s Immigration Law Enforcement Act. That act was adopted by ALEC’s board in June of 2008, and would later be included in ALEC’s ‘No Sanctuary Cities for Illegal Immigrants Act,’ which was introduced in full as SB 1070.

Under the guise of enhancing public safety, SB 1159 proposes that law enforcement respond to undocumented immigrants punitively, with large fines and long jail sentences that profit the private prison industry. The bill codifies a new class of immigration offense and sets mandatory punishments for those convicted.

<p>ALEC Model Legislation: Immigration Law Enforcement Act</p>	<p>Arizona Legislation: SB 1159 – trespassing; illegal aliens</p>
<p>Section 3. {Trespassing By Illegal Aliens; Fingerprinting; Civil Penalty; Classification.}</p> <p>(A) In addition to any violation of federal law, it is unlawful for a person who is a citizen of any country other than the United States to enter into or be on any public or private land in this state if, at the time of the commission of the offense, the person is in violation of United States Code: Title 8 section 1325 (C).</p>	<p>A. In addition to any violation of federal law, it is unlawful for a person who is a citizen of any country other than the united states to enter into or be on any public or private land in this state if, at the time of the commission of the offense, the person is in violation of 8 united states code section 1325.</p>

<p>(D) A violation of this section is a class 1 misdemeanor, except that a second or subsequent violation is a class 4 felony. The court shall sentence a person who is convicted of a violation of this section to imprisonment for not less than the presumptive sentence authorized by law. The person is not eligible for suspension or commutation of sentence or release on any basis until the sentence imposed is served. The sentence shall run consecutively to any other sentence imposed on the person and to any undischarged term of imprisonment of the person.</p>	<p>C. A violation of this section is a class 1 misdemeanor, except that a second or subsequent violation is a class 4 felony. The court shall sentence a person who is convicted of a violation of this section to imprisonment for not less than the maximum sentence authorized by law. The person is not eligible for suspension or commutation of sentence or release on any basis until the sentence imposed is served. The sentence shall run consecutively to any other sentence imposed on the person and to any undischarged term of imprisonment of the person.</p>
<p>(E) In addition to any other penalty prescribed by law, the court shall order the person to pay jail costs and an additional assessment in the following amounts:</p> <p>(1) At least five hundred dollars for a first violation.</p> <p>(2) Twice the amount specified in paragraph 1 of this subsection if the person was previously subject to an assessment pursuant to this subsection.</p>	<p>D. In addition to any other penalty prescribed by law, the court shall order the person to pay jail costs and an additional assessment in the following amounts:</p> <p>1. At least five hundred dollars for a first violation.</p> <p>2. Twice the amount specified in paragraph 1 of this subsection if the person was previously subject to an assessment pursuant to this subsection.</p>
<p>(F) A court shall collect the assessments prescribed in subsection E of this section and remit the assessments to the Department of Public Safety, which shall establish a special sub-account for the monies in the account established for the gang and immigration intelligence team enforcement mission appropriation. Monies in the special sub-account are subject to legislative appropriation for distribution to counties for county jail reimbursement costs relating to illegal immigration.</p>	<p>E. A court shall collect the assessments prescribed in subsection D of this section and remit the assessments to the department of public safety, which shall establish a special subaccount for the monies in the account established for the gang and immigration intelligence team enforcement mission appropriation. Monies in the special subaccount are subject to legislative appropriation for distribution for gang and immigration enforcement and for county jail reimbursement costs relating to illegal immigration.</p>
<p>(G) Notwithstanding subsection D of this section, if the person violates this section while</p>	<p>F. notwithstanding subsection c of this section, if the person violates this section while in possession of any of the following,</p>

<p>in possession of any of the following, the violation is a class 2 felony:</p> <p>(1) A dangerous drug.</p> <p>(2) Precursor chemicals that are used in the manufacturing of methamphetamine.</p> <p>(3) A deadly weapon or a dangerous instrument.</p> <p>(4) Property that is used for the purpose of committing an act of terrorism.</p>	<p>the violation is a class 2 felony:</p> <p>1. A dangerous drug as defined in section 13-3401.</p> <p>2. Precursor chemicals that are used in the manufacturing of methamphetamine in violation of section 13-3404.01.</p> <p>3. A deadly weapon or a dangerous instrument, as defined in section 13-105.</p> <p>4. Property that is used for the purpose of committing an act of terrorism as prescribed in section 13-2308.01.</p>
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14th Amendment and Citizenship Status for Undocumented Workers

Arizona Legislation: [SB 1309](#) - Arizona citizenship

Sponsors (in bold) and co-sponsors:

8 ALEC Senators, 2 ALEC Representatives

Sen. Russell Pearce (R-18)

Sen. Steve Smith (R-23)

Sen. Ron Gould (R-3)

Sen. Albert Melvin (R-26)

Sen. Rick Murphy (R-9)

Sen. Scott Bundgaard (R-4)

Sen. Lori Klein (R-6)

Sen. Don Shooter (R-24)

Rep. Jack Harper (R-4)

Rep. Andy Biggs (R-22, Majority Leader)

Last action: Failed in Senate on Third Reading, 3/17/11

Legislative Session: 50th Legislature, First Regular Session

ALEC model legislation: [Resolution on Fourteenth Amendment](#)

Similarities/analysis: SB 1309 and ALEC’s Resolution on the Fourteenth Amendment attempt to circumvent the Naturalization Clause of the U.S. Constitution. Although SB 1309 is largely symbolic – the bill would certainly have been struck down by the courts – the movement behind it is growing, and similar legislation has been introduced in Montana, South Dakota,⁵ and even in the U.S. Congress.⁶

Circumventing the Naturalization Clause would exacerbate income inequality, disenfranchise future voters (generally of color), and strike a fundamental blow to American pluralism.

ALEC model legislation: Resolution on Fourteenth Amendment	Arizona Legislation: SB 1309
<p>Resolution on fourteenth amendment <i>Summary</i> Requests that the United States (US) Congress clarify the Fourteenth Amendment regarding citizen status for children of illegal aliens.</p> <p><i>Model resolution</i> Whereas, the fourteenth amendment of the United States constitution states in part "all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside"; and</p> <p>Whereas, this clause clearly establishes two criteria that must be met before a child born in the United States can be considered a citizen: being born in the United states, and being subject to the jurisdiction of the united states; and</p> <p>Whereas, illegal aliens are not subject to the jurisdiction of the United States and, consequently, neither are their children; and</p> <p>Whereas, to eliminate the present problem of granting citizenship to infants who due to their parents' illegal status are not subject to the jurisdiction of the United States, congress needs to clarify that children of illegal aliens inherit the status of their parents and must be recognized as illegal aliens; and</p> <p>Whereas, the current practice of granting citizenship to children of illegal aliens rewards them for violating American law and provides them with a means to avoid the consequences of their unethical and illegal activities.</p> <p>Therefore be it resolved that the American Legislative Exchange Council that the congress of the United States enact</p>	<p>Article 1. General provisions 1-701. Arizona citizenship</p> <p>a. A person is a citizen of the state of Arizona if:</p> <ol style="list-style-type: none"> 1. The person is born in the united states and subject to the jurisdiction thereof, and 2. The person is lawfully domiciled in the state of Arizona. <p>b. For the purposes of this section, subject to the jurisdiction of the United States has the meaning that it bears in section 1 of the fourteenth amendment to the united states constitution, namely that the person is a child of at least one parent who owes no allegiance to any foreign sovereignty, or a child without citizenship or nationality in any foreign country. For the purposes of this section, a person who owes no allegiance to any foreign sovereignty is a United States citizen or +national, or an immigrant accorded the privilege of residing permanently in the united states, or a person without citizenship or nationality in any foreign country.</p> <p>c. In addition to the criteria of citizenship described in subsections a and b, a person is a citizen of the state of Arizona if:</p> <ol style="list-style-type: none"> 1. The person is naturalized in the united states. 2. The person is lawfully domiciled in the state of Arizona. <p>d. Citizenship of the state of Arizona shall not confer upon the holder thereof any right, privilege, immunity or benefit under law.</p>

legislation clarifying the Fourteenth Amendment of the United States constitution as denying citizenship status to children of illegal aliens simply by virtue of their being born in the United States.	
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E-Verify Program

Arizona Legislation: [HB 2745](#) (Substitute Bill - [SB 1374](#)) - Employer sanctions

Sponsors (in bold) and co-sponsors:

1 ALEC Senator, 13 ALEC Representatives

Sen. Russell Pearce (R-18)

Rep. Stephen Yarbrough (R-21)

Rep. Eddie Farnsworth (R-22)

Rep. John Kavanagh (R-8)

Rep. Nancy K. Barto (R-7)

Rep. Andy Biggs (R-22)

Rep. Judy Burges (R-4)

Rep. Rick Murphy (R-9)

Rep. Bob Robson (R-20, *Speaker Pro Tempore*)

Rep. Robert Burnes (R-9)

Rep. Andrew Tobin (R-1)

Rep. Jim Weiers (R-10, *Speaker*)

Rep. Steven Yarbrough (R-21)

Rep. Rich Crandall (R-19)

Last action: Signed Governor Napolitano, 5/1/08

Legislative Session: 48th Legislature, Second Regular Session

ALEC model legislation: [Fair and Legal Employment Act](#)

Similarities/analysis: These acts require employers to prove the identities of their employees through the E-Verify system.

The Arizona bill was introduced in February 2008. ALEC formally adopted the Fair and Legal Employment Act in June 2008. It is unclear whether ALEC adopted Arizona's bill as a template or whether ALEC wrote the legislation and later adopted it once its format proved effective in Arizona. In either case, it's clear that in key respects the two acts are nearly identical.

A significant difference between HB 2745 and the model bill involves the punishment/incentive for an employer's participation in the program. In Arizona, the attorney general may fine an employer "as prescribed by subsection (A) ... or five thousand dollars for each employee for whom a violation was committed, whichever is greater," while the model legislation incentivizes participation through loans and grants.

However, as of 2010, only a third of Arizona’s estimated 100,000 employers had signed up for the E-Verify program.⁷ Provisions in SB 1070 aimed to increase employer participation.

HB 2745 was amended in the legislative process. The original legislation appears below.

<p>ALEC model legislation: Fair and Legal Employment Act</p>	<p>Arizona Legislation: HB 2745 (Substitute Bill - SB 1374) – employer sanctions</p>
<p>Section 2. { Taking or Knowingly Accepting Identity of Another Person or Entity; Classification }</p> <p>(A) A person commits taking the identity of another person or entity if the person knowingly takes, purchases, manufactures, records, possesses or uses any personal identifying information or entity identifying information of another person or entity, including a real or fictitious person or entity, without the consent of that other person or entity, with the intent to obtain or use the other person's or entity's identity for any unlawful purpose or to cause loss to a person or entity whether or not the person or entity actually suffers any economic loss as a result of the offense, or with the intent to obtain or continue employment.</p>	<p>Section 1. Section 13-2008, Arizona revised statutes, is amended to read: 13-2008. Taking identity of another person or entity; classification; definition</p> <p>A. A person commits taking the identity of another person or entity if the person knowingly takes, purchases, manufactures, records, possesses or uses any personal identifying information or entity identifying information of another person or entity, including a real or fictitious person or entity, without the consent of that other person or entity, with the intent to obtain or use the other person's or entity's identity for any unlawful purpose or to cause loss to a person or entity whether or not the person or entity actually suffers any economic loss as a result of the offense, or with the intent to obtain or continue employment.</p>
<p>(B) A person commits knowingly accepting the identity of another person if the person, in hiring an employee, knowingly does both of the following:</p> <p>(1) Accepts any personal identifying information of another person from an individual and knows that the individual is not the actual person identified by that information.</p> <p>(2) Uses that identity information for the purpose of determining whether the individual who presented that identity information has the legal right or authorization under federal law to work</p>	<p>B. Except as provided in subsection e, a person commits taking the identity of another person if the person knowingly possesses or uses for any purpose identification that purports to have been issued by a government agency and the person knew or should have known that the government agency did not or would not have authorized the issuance of the identification.</p>

<p>in the United States as described and determined under the processes and procedures under 8 United States code section 1324a.</p>	
<p>(C) On the request of a person or entity, a peace officer in any jurisdiction in which an element of an offense under this section is committed, a result of an offense under this section occurs or the person or entity whose identity is taken or accepted resides or is located shall take a report. The peace officer may provide a copy of the report to any other law enforcement agency that is located in a jurisdiction in which a violation of this section occurred.</p>	<p>C. On the request of a person or entity, a peace officer in any jurisdiction in which an element of the offense is committed, a result of the offense occurs or the person or entity whose identity is taken resides or is located shall take a report. The peace officer may provide a copy of the report to any other law enforcement agency that is located in a jurisdiction in which a violation of this section occurred.</p>
<p>(D) If a defendant is alleged to have committed multiple violations of this section within the same county, the prosecutor may file a complaint charging all of the violations and any related charges under other sections that have not been previously filed in any precinct in which a violation is alleged to have occurred. If a defendant is alleged to have committed multiple violations of this section within the state, the prosecutor may file a complaint charging all of the violations and any related charges under other sections that have not been previously filed in any county in which a violation is alleged to have occurred.</p> <p>(E) Taking the identity of another person or entity or knowingly accepting the identity of another person is a class 4 felony.</p>	<p>D. If a defendant is alleged to have committed multiple violations of this section within the same county, the prosecutor may file a complaint charging all of the violations and any related charges under other sections that have not been previously filed in any precinct in which a violation is alleged to have occurred. If a defendant is alleged to have committed multiple violations of this section within the state, the prosecutor may file a complaint charging all of the violations and any related charges under other sections that have not been previously filed in any county in which a violation is alleged to have occurred.</p> <p>F. Taking the identity of another person or entity or knowingly accepting the identity of another person is a class 4 felony.</p>
<p>Section 4. { Definitions.}</p> <p>(A) In this article, unless the context otherwise requires:</p> <p>(1) "Agency" means any agency, department, board or commission of this state or a county, city or town that issues a license for purposes of operating a</p>	<p>Sec. 2. Section 13-2010, Arizona revised statutes, is amended to read:</p> <p>1. "agency" means any agency, department, board or commission of this state or a county, city or town that issues a license for purposes of operating a business in this state.</p>

<p>business in this state.</p> <p>(2) "Employ" means hiring an employee after [Insert Date].</p> <p>(3) "Employee":</p> <p>(i) Means any person who provides services or labor for an employer in this state for wages or other remuneration.</p> <p>(ii) Does not include an independent contractor</p>	<p>2. "employee":</p> <p>(a) means any person who provides services or labor for an employer in this state for wages or other remuneration.</p> <p>(b) does not include an independent contractor.</p>
<p>(B) "Employer" means any individual or type of organization that transacts business in this state that has a license issued by an agency in this state, and that employs one or more employees in this state. Employer includes this state, any political subdivision of this state and self-employed persons. In the case of an independent contractor, employer means the independent contractor and does not mean the person or organization that uses the contract labor.</p>	<p>3. "employer" means any individual or type of organization that transacts business in this state, whether or not the individual or organization has a license issued by an agency in this state, and that employs one or more employees in this state. Employer includes this state, any political subdivision of this state and self-employed persons. In the case of an independent contractor, employer means the independent contractor and does not mean the person or organization that uses the contract labor.</p>
<p>(C) "E-verify program" means the employment verification pilot program as jointly administered by the United States department of homeland security and the social security administration or any of its successor programs.</p> <p>(D) "Independent contractor" means any individual or entity that carries on an independent business, that contracts to do a piece of work according to the individual's or entity's own means and methods and that is subject to control only as to results. Whether an individual or entity is an independent contractor is determined on a case-by-case basis through various factors, including whether the individual or entity:</p>	<p>4. "E-verify program" means the employment verification pilot program as jointly administered by the united states department of homeland security and the social security administration or any of its successor program programs.</p> <p>5. "independent contractor" means any individual or entity that carries on an independent business, that contracts to do a piece of work according to the individual's or entity's own means and methods and that is subject to control only as to results. Whether an individual or entity is an independent contractor is determined on a case-by-case basis through various factors, including whether the individual or entity:</p>

<p>(a) supplies the tools or materials. (b) makes services available to the general public. (c) works for a number of clients at the same time. (d) has an opportunity for profit or loss as a result of labor or service provided. (e) invests in the facilities for work. (f) directs the order or sequence in which the work is completed. (g) determines the hours when the work is completed.</p>	<p>(1) Supplies the tools or materials. (2) Makes services available to the general public. (3) Works or may work for a number of clients at the same time. (4) Has an opportunity for profit or loss as a result of labor or service provided. (5) Invests in the facilities for work. (6) Directs the order or sequence in which the work is completed. (7) Determines the hours when the work is completed.</p>
<p>6. "intentionally" has the same meaning prescribed in section 13-105.</p> <p>7. "knowingly employ an unauthorized alien" means the actions described in United States code section 1324a. This term shall be interpreted consistently with 8 united states code section 1324a and any applicable federal rules and regulations.</p>	<p>(E) "Knowingly employ an unauthorized alien" means the actions described in United States Code section 1324a. This term shall be interpreted consistently with United States Code section 1324a and any applicable federal rules and regulations.</p>
<p>8. "license": (a) means any agency permit, certificate, approval, registration, charter or similar form of authorization that is required by law and that is issued by any agency for the purposes of operating a business in this state.</p> <p>9. "unauthorized alien" means an alien who does not have the legal right or authorization under federal law to work in the united states as described in 8 united states code section 1324a(h)(3).</p>	<p>(F) "License": (1) Means any agency permit, certificate, approval, registration, charter or similar form of authorization that is required by law and that is issued by any agency for the purposes of operating a business in this state.</p> <p>(H) "Unauthorized alien" means an alien who does not have the legal right or authorization under federal law to work in the United States as described in 8 United States Code section 1324a(h)(3).</p>
<p>Section 5. {Knowingly Employing Unauthorized Aliens; Prohibition; False and Frivolous Complaints; Violation; Classification; License Suspension and Revocation; Affirmative Defense.}</p> <p>(A) An employer shall not knowingly employ an unauthorized alien. If, in the case when an employer uses a contract, subcontract or other independent contractor agreement to obtain the labor</p>	<p>34 sec. 4. Section 23-212, Arizona revised statutes, is amended to read: 23-212. Employment of unauthorized aliens; prohibition; false and frivolous complaints; violation; classification; license suspension and revocation; affirmative defense</p> <p>a. An employer shall not intentionally employ an unauthorized alien or knowingly employ an unauthorized alien.</p>

of an alien in this state, the employer knowingly contracts with an unauthorized alien or with a person who employs or contracts with an unauthorized alien to perform the labor, the employer violates this subsection.

(B) The attorney general shall prescribe a complaint form for a person to allege a violation of subsection A. of this section. The complainant shall not be required to list the complainant's social security number on the complaint form or to have the complaint form notarized. On receipt of a complaint on a prescribed complaint form that an employer allegedly knowingly employs an unauthorized alien, the attorney general or county attorney shall investigate whether the employer has violated subsection A of this section. If a complaint is received but is not submitted on a prescribed complaint form, the attorney general or county attorney may investigate whether the employer has violated subsection A of this section. This subsection shall not be construed to prohibit the filing of anonymous complaints that are not submitted on a prescribed complaint form. The attorney general or county attorney shall not investigate complaints that are based solely on race, color or national origin. A complaint that is submitted to a county attorney shall be submitted to the county attorney in the county in which the alleged unauthorized alien is or was employed by the employer. The county sheriff or any other local law enforcement agency may assist in investigating a complaint. When investigating a complaint, the attorney general or county attorney shall verify the work authorization of the alleged unauthorized alien with the federal government pursuant to 8 United States Code section 1373(c). A state, county or local official shall not attempt to independently make a final determination on whether an alien is authorized to work in the United States. An alien's

An employer violates this subsection if the employer uses a contract or subcontract to obtain the labor of an alien in this state knowing that the alien is an unauthorized alien with respect to performing the labor.

b. The attorney general shall prescribe a complaint form for a person to allege a violation of subsection a. The complainant shall not be required to list the complainant's social security number on the complaint form or to have the complaint form notarized. On receipt of a complaint on a prescribed complaint form that an employer allegedly intentionally employs an unauthorized alien or knowingly employs an unauthorized alien, the attorney general or county attorney shall investigate whether the employer has violated subsection a. If a complaint is received but is not submitted on a prescribed complaint form, the attorney general or county attorney may investigate whether the employer has violated subsection a. This subsection shall not be construed to prohibit the filing of anonymous complaints that are not submitted on a prescribed complaint form. The attorney general or county attorney shall not investigate complaints that are based solely on race, color or national origin. A complaint that is submitted to a county attorney shall be submitted to the county attorney in the county in which the alleged unauthorized alien is or was employed. The county sheriff or any other local law enforcement agency may assist in investigating a complaint. When investigating a complaint, the attorney general or county attorney shall verify the work authorization of the alleged unauthorized alien with the federal government pursuant to 8 United States Code section 1373(c). A state, county or local official shall not attempt to independently make a final determination on whether an alien is authorized to work in the United States. An alien's

<p>immigration status or work authorization status shall be verified with the federal government pursuant to 8 United States Code section 1373(c). A person who knowingly files a false and frivolous complaint under this subsection is guilty of a class 3 misdemeanor.</p>	<p>immigration status or work authorization status shall be verified with the federal government pursuant to 8 united states code section 1373(c). A person who knowingly files a false and frivolous complaint under this subsection is guilty of a class 3 misdemeanor</p>
<p>(C) If, after an investigation, the attorney general or county attorney determines that the complaint is not false and frivolous:</p> <p>(1) The attorney general or county attorney shall notify the United States immigration and customs enforcement of the unauthorized alien.</p> <p>(2) The attorney general or county attorney shall notify the local law enforcement agency of the unauthorized alien.</p> <p>(3) The attorney general shall notify the appropriate county attorney to bring an action pursuant to subsection D of this section if the complaint was originally filed with the attorney general.</p> <p>(D) An action for a violation of subsection A of this section shall be brought against the employer by the county attorney in the county where the unauthorized alien employee is or was employed by the employer. The county attorney shall not bring an action against any employer for any violation of subsection A of this section that occurs before [Insert Date]. A second violation of this section shall be based only on an unauthorized alien who is or was employed by the employer after an action has been brought for a violation of subsection A or state law.</p>	<p>c. If, after an investigation, the attorney general or county attorney determines that the complaint is not frivolous and false:</p> <p>1. The attorney general or county attorney shall notify the United States immigration and customs enforcement of the unauthorized alien.</p> <p>2. The attorney general or county attorney shall notify the local law enforcement agency of the unauthorized alien.</p> <p>3. The attorney general shall notify the appropriate county attorney to bring an action pursuant to subsection d if the complaint was originally filed with the attorney general.</p> <p>d. An action for a violation of subsection a shall be brought against the employer by the county attorney in the county where the unauthorized alien employee is or was employed by the employer. The county attorney shall not bring an action against any employer for any violation of subsection a that occurs before January 1, 2008. A second violation of this section shall be based only on an unauthorized alien who is or was employed by the employer after an action has been brought for a violation of subsection a.</p>
<p>(E) For any action in superior court under this section, the court shall expedite the action, including assigning the hearing at the earliest practicable date.</p>	<p>e. For any action in superior court under this section, the court shall expedite the action, including assigning the hearing at the earliest practicable date.</p>

<p>(F) On a finding of a violation of subsection A of this section:</p> <p>(1) For a first violation, as described in subsection 3 of this section, the court:</p> <p>(1)(a) Shall order the employer to terminate the employment of all unauthorized aliens.</p> <p>(1)(b) Shall order the employer to be subject to a three year probationary period for the business location where the unauthorized alien performed work. During the probationary period the employer shall file quarterly reports in the form provided in section 3 with the county attorney of each new employee who is hired by the employer at the business location where the unauthorized alien performed work.</p>	<p>f. On a finding of a violation of subsection a:</p> <p>1. For a first violation that is a knowing violation of subsection a, the court:</p> <p>(a) shall order the employer to terminate the employment of all unauthorized aliens.</p> <p>(b) shall order the employer to be subject to a three year probationary period for the business location where the unauthorized alien performed work. During the probationary period the employer shall file quarterly reports in the form provided in section 23-722.01 with the county attorney of each new employee who is hired by the employer at the specific business location where the unauthorized alien performed work.</p>
<p>(1)(c) Shall order the employer to file a signed sworn affidavit with the county attorney within three business days after the order is issued. The affidavit shall state that the employer has terminated the employment of all unauthorized aliens in this state and that the employer will not intentionally or knowingly employ an unauthorized alien in this state. The court shall order the appropriate agencies to suspend all licenses subject to this subdivision that are held by the employer if the employer fails to file a signed sworn affidavit with the county attorney within three business days after the order is issued. All licenses that are suspended under this subdivision shall remain suspended until the employer files a signed sworn affidavit with the county attorney. Notwithstanding any other law, on filing of the affidavit the suspended licenses shall be reinstated immediately by the appropriate agencies. For the purposes of this subdivision, the licenses that are subject to suspension under this subdivision are all licenses that are held by the employer specific to the business location where the unauthorized alien</p>	<p>(c) shall order the employer to file a signed sworn affidavit with the county attorney within three business days after the order is issued. The affidavit shall state that the employer has terminated the employment of all unauthorized aliens in this state and that the employer will not intentionally or knowingly employ an unauthorized alien in this state. The court shall order the appropriate agencies to suspend all licenses subject to this subdivision that are held by the employer if the employer fails to file a signed sworn affidavit with the county attorney within three business days after the order is issued. All licenses that are suspended under this subdivision shall remain suspended until the employer files a signed sworn affidavit with the county attorney. Notwithstanding any other law, on filing of the affidavit the suspended licenses shall be reinstated immediately by the appropriate agencies. For the purposes of this subdivision, the licenses that are subject to suspension under this subdivision are all licenses that are held by the employer specific to the business location where the unauthorized alien</p>

<p>performed work. If the employer does not hold a license specific to the business location where the unauthorized alien performed work, but a license is necessary to operate the employer's business in general, the licenses that are subject to suspension under this subdivision are all licenses that are held by the employer at the employer's primary place of business. On receipt of the court's order and notwithstanding any other law, the appropriate agencies shall suspend the licenses according to the court's order. The court shall send a copy of the court's order to the attorney general and the attorney general shall maintain the copy pursuant to subsection G of this section.</p>	<p>performed work. If the employer does not hold a license specific to the business location where the unauthorized alien performed work, but a license is necessary to operate the employer's business in general, the licenses that are subject to suspension under this subdivision are all licenses that are held by the employer at the employer's primary place of business. On receipt of the court's order and notwithstanding any other law, the appropriate agencies shall suspend the licenses according to the court's order. The court shall send a copy of the court's order to the attorney general and the attorney general shall maintain the copy pursuant to subsection g.</p>
<p>1)(d) May order the appropriate agencies to suspend all licenses described in subdivision (c) of this paragraph that are held by the employer for not to exceed ten business days. The court shall base its decision to suspend under this subdivision on any evidence or information submitted to it during the action for a violation of this subsection and shall consider the following factors, if relevant:</p> <ul style="list-style-type: none"> (i) The number of unauthorized aliens employed by the employer. (ii) Any prior misconduct by the employer. (iii) The degree of harm resulting from the violation. (iv) Whether the employer made good faith efforts to comply with any applicable requirements. (v) The duration of the violation. (vi) The role of the directors, officers or principals of the employer in the violation. (vii) Any other factors the court deems appropriate. <p>(2) For a second violation, as described in subsection 3 of this section, the court shall order the appropriate agencies to permanently revoke all licenses that are</p>	<p>(d) May order the appropriate agencies to suspend all licenses described in subdivision (c) of this paragraph that are held by the employer for not to exceed ten business days. The court shall base its decision to suspend under this subdivision on any evidence or information submitted to it during the action for a violation of this subsection and shall consider the following factors, if relevant:</p> <ul style="list-style-type: none"> (i) the number of unauthorized aliens employed by the employer. (ii) any prior misconduct by the employer. (iii) the degree of harm resulting from the violation. (iv) whether the employer made good faith efforts to comply with any applicable requirements. (v) the duration of the violation. (vi) the role of the directors, officers or principals of the employer in the violation. (vii) any other factors the court deems appropriate. <p>3. For a second violation of subsection a, the court shall order the appropriate agencies to permanently revoke all licenses that are held by the employer</p>

<p>held by the employer specific to the business location where the unauthorized alien performed work. The employer does not hold a license specific to the business location where the unauthorized alien performed work, but a license is necessary to operate the employer's business in general, the court shall order the appropriate agencies to permanently revoke all licenses that are held by the employer at the employer's primary place of business. On receipt of the order and notwithstanding any other law, the appropriate agencies shall immediately revoke the licenses.</p>	<p>specific to the business location where the unauthorized alien performed work. If the employer does not hold a license specific to the business location where the unauthorized alien performed work, but a license is necessary to operate the employer's business in general, the court shall order the appropriate agencies to permanently revoke all licenses that are held by the employer at the employer's primary place of business. On receipt of the order and notwithstanding any other law, the appropriate agencies shall immediately revoke the licenses.</p>
<p>(3) The violation shall be considered:</p> <p>(a) A first violation by an employer at a business location if the violation did not occur during a probationary period ordered by the court under state law for that employer's business location.</p> <p>(b) A second violation by an employer at a business location if the violation occurred during a probationary period ordered by the court under state law for that employer's business location.</p> <p>(G) The attorney general shall maintain copies of court orders that are received pursuant to subsection f of this section and shall maintain a database of the employers and business locations that have a first violation of subsection A of this section and make the court orders available on the attorney general's website.</p> <p>(H) On determining whether an employee is an unauthorized alien, the court shall consider only the federal government's determination pursuant to 8 United States Code section 1373(c). The federal government's determination creates a rebuttable presumption of the employee's lawful status. The court may take judicial notice of the federal government's determination</p>	<p>4. The violation shall be considered:</p> <p>(a) a first violation by an employer at a business location if the violation did not occur during a probationary period ordered by the court under this subsection for that employer's business location.</p> <p>(b) a second violation by an employer at a business location if the violation occurred during a probationary period ordered by the court under this subsection for that employer's business location.</p> <p>g. The attorney general shall maintain copies of court orders that are received pursuant to subsection f and shall maintain a database of the employers and business locations who have a first violation of subsection a and make the court orders available on the attorney general's website.</p> <p>h. On determining whether an employee is an unauthorized alien, the court shall consider only the federal government's determination pursuant to 8 United States Code section 1373(c). The federal government's determination creates a rebuttable presumption of the employee's lawful status. The court may take judicial notice of the federal government's determination and may request the federal government to provide automated</p>

<p>and may request the federal government to provide automated or testimonial verification pursuant to 8 United States Code section 1373(c).</p>	<p>or testimonial verification pursuant to 8 united states code section 1373(c).</p>
<p>(I) For the purposes of this section, proof of verifying the employment authorization of an employee through the e-verify program creates a rebuttable presumption that an employer did knowingly employ an unauthorized alien.</p> <p>(J) for the purposes of this section, an employer that establishes that it has complied in good faith with the requirements of 8 United States code section 1324a(b) establishes an affirmative defense that the employer did not knowingly employ an unauthorized alien. an employer is considered to have complied with the requirements of 8 United States code section 1324a(b), notwithstanding an isolated, sporadic or accidental technical or procedural failure to meet the requirements, if there is a good faith attempt to comply with the requirements.</p>	<p>i. For the purposes of this section, proof of verifying the employment authorization of an employee through the E-verify program creates a rebuttable presumption that an employer did not intentionally employ an unauthorized alien or knowingly employ an unauthorized alien.</p> <p>j. For the purposes of this section, an employer who establishes that it has complied in good faith with the requirements of 8 united states code section 1324b 1324a(b) establishes an affirmative defense that the employer did not intentionally or knowingly employ an unauthorized alien. An employer is considered to have complied with the requirements of 8 united states code section 1324a(b), notwithstanding an isolated, sporadic or accidental technical or procedural failure to meet the requirements, if there is a good faith attempt to comply with the requirements.</p>
<p>Section 7. {Verification of employment eligibility; E-verify program; economic development incentives; list of registered employers.}</p> <p>(A) After [insert date], every employer, after hiring an employee, shall verify the employment eligibility of the employee through the e verify program.</p> <p>(B) In addition to any other requirement for an employer to receive an economic development incentive from a government entity, the employer shall register with and participate in the e-verify program.</p>	<p>7 sec. 5. Section 23-214, Arizona revised statutes, is amended to read: 8 23-214. Verification of employment eligibility; e-verify program after December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the basic pilot e-verify program.</p>
<p>Section 9. {Employer Requirements; Cash Payments; Unlawful Practices; Civil Penalty.}</p>	<p>Sec. 6. Title 23, chapter 2, article 2, Arizona revised statutes, is amended by adding section 23-215, to read: 23-215.</p>

(A) An employer that has two or more employees and pays hourly wages or salary by cash to any employee shall comply with all of the following:

(1) The income tax withholding laws prescribed in state law.

(2) The employer reporting laws prescribed in state law.

(3) The employment security laws prescribed in state law.

(4) The workers' compensation laws prescribed in state law.

(B) For a violation of subsection A of this section, the attorney general may bring an action in superior court against an employer. On a finding of a violation of subsection A of this section, the court shall order the employer to pay a civil penalty that is equal to treble the amount of all withholdings, payments, contributions or premiums that the employer failed to remit as prescribed by subsection A of this section or five thousand dollars for each employee for whom a violation was committed, whichever is greater.

(C) The court shall transmit the monies collected pursuant to subsection B of this section to the state treasurer, and the state treasurer shall deposit the monies in the state general fund. Monies deposited in the state general fund pursuant to this subsection shall be equally appropriated to the department of education and the department of health services for the purposes of offsetting increased costs to this state by unauthorized aliens.

(D) The civil penalty under this section is in addition to any other penalties that may be imposed by law.

Employer requirements; cash payments; unlawful
16 practices; civil penalty

a. An employer that has two or more employees and pays hourly wages or salary by cash to any employee shall comply with all of the following:

1. The income tax withholding laws prescribed in title 43, chapter 4.

2. The employer reporting laws prescribed in section 23-722.01.

3. The employment security laws prescribed in chapter 4 of this title.

4. The workers' compensation laws prescribed in chapter 6 of this title.

b. For a violation of subsection a of this section, the attorney general may bring an action in superior court against an employer. On a finding of a violation of subsection a of this section, the court shall order the employer to pay a civil penalty that is equal to treble the amount of all withholdings, payments, contributions or premiums that the employer failed to remit as prescribed by subsection a of this section or five thousand dollars for each employee for whom a violation was committed, whichever is greater.

c. The court shall transmit the monies collected pursuant to subsection b of this section to the state treasurer, and the state treasurer shall deposit the monies in the state general fund. Monies deposited in the state general fund pursuant to this subsection shall be equally appropriated to the department of education and the department of health services for the purposes of offsetting increased costs to this state by unauthorized aliens.

d. The civil penalty under this section is

	in addition to any other penalties that may be imposed by law.
<p>Section 10. {Licensing Eligibility; Authorized Presence; Documentation; Applicability; Definitions.}</p> <p>(A) After [insert date], an agency or political subdivision of this state shall not issue a license to an individual if the individual does not present any of the following documents to the agency or political subdivision indicating that the individual's presence in the United States is authorized under federal law:</p> <p>...</p> <p>(C) For the purposes of this section:</p> <p>(1) "Agency" means any agency, department, board or commission of this state or any political subdivision of this state that issues a license for the purposes of operating a business in this state.</p> <p>(2) "License" means any agency permit, certificate, approval, registration, charter or similar form of authorization that is required by law and that is issued by any agency for the purposes of operating a business in this state.</p>	<p>39 sec. 7. Title 41, chapter 6, Arizona revised statutes, is amended by adding article 7.2, to read:</p> <p>Article 7.2. Licensing eligibility 41-1080. Licensing eligibility; lawful presence; verification; definitions</p> <p>a. An agency shall not issue a license to any applicant who is unlawfully present or unlawfully residing in the united states. Before issuing or renewing a license, the agency shall verify that the applicant is lawfully present in the united states.</p> <p>b. For the purposes of this section:</p> <p>1. "agency" means any agency, department, board or commission of this state or a county, city or town that issues a license for the purposes of operating a business in this state.</p> <p>2. "license" means any agency permit, certificate, approval, registration, charter or similar form of authorization that is required by law and that is issued by any agency for the purposes of operating a business in this state.</p>
<p>Section 12. { Severability.}</p> <p>If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.</p>	<p>Sec. 8. Severability</p> <p>If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.</p>

Government Publications in English Only

Arizona Legislation: [SB 1409](#) - Government publications; English only

Sponsors (in bold) and co-sponsors:

9 ALEC Senators, 3 ALEC Representatives

Sen. Lori Klein (R-6)

Rep. Steve Smith (R-23)

Sen. Russell Pearce (R-18, *President*)

Sen. Steven Yarbrough (R-21)

Sen. Gail Griffin (R-25)

Sen. Steve Pierce (R-1, *Majority Whip*)

Sen. Andy Biggs (R-22, *Majority Leader*)

Sen. Albert Melvin (R-26)

Sen. Don Shooter (R-24)

Sen. Nancy Barto (R-7)

Rep. John Fillmore (R-23)

Rep. Sylvia Allen (R-5, *President Pro Tempore*)

Last Action: Held in House, 3/23/11

Legislative Session: 50th Legislature, First Regular Session

ALEC Model Legislation: [Omnibus Common Language Act](#)

Similarities/Analysis: The two versions of the legislation require all publications to be written only in English. ALEC Senator Barto and several others sponsored [SCR 1035](#), a similar bill that requires all government publications to be written in English unless there is a specific request for translation. It is also important to note that the Arizona legislation SB 1409 specifically requires that voting materials be published in English; that could disenfranchise U.S. voters who speak English as a second language, potentially in violation of the [Voting Rights Act](#).

ALEC Model Legislation: Omnibus Common Language Act	Arizona Legislation: SB 1409
(A) The common language is recognized to be English; and the common language is designated as the language of official public documents and records and official public meetings.	Article 4. A. Any publication, document or material, including voting materials that are issued or disseminated to the public by an agency of this state shall be written in English. B. Any voting material, except the official ballot for an election, that is issued or disseminated to the public by a political subdivision of this state shall be written in English

Privatization of Prisons

Prison Statutes

After lobbying Arizona representatives for over a decade, the private prison industry finally cracked the Arizona market in 1993 when the state awarded its first contract to Management and Training Company.⁸ Since then, Arizona has become one of the leading “emerging markets” for private prisons, and has been on the forefront of “innovative” legislation targeting undocumented workers.

The original push to privatize Arizona’s prisons was spearheaded by then-Rep. Bob Burns (R-9), an ALEC leader in the state.⁹ The framework of the current system was set in the early 1990’s. A comparison of the revised statutes and relevant ALEC model legislation follows:

<p>ALEC Model Legislation: Prison Industries Act</p>	<p>Arizona Legislation: 31-254. Compensation for labor performed; price of prison made articles; distribution of earnings; workers' compensation</p>
<p>Sec. _____. Labor; Pay. (1) The board may develop by rule and the department may administer an incentive pay scale for work program participants consistent with rules adopted by the Private Sector Prison Industries Oversight Authority under Subchapter D. Prison industries may be financed through contributions donated for this purpose by private businesses contracting with the department. The department shall apportion pay earned by a work program participant in the same manner as is required by rules adopted by the Private Sector Prison Industries Oversight Authority under Subchapter D. (2) In assigning work program participants to available job training positions in factories, the department shall consider each participant's classification and availability for work. The department shall give priority to work program participants closest to release from imprisonment or supervision in making assignment to those job training positions that provide the most marketable skills.</p>	<p>A. Each prisoner who is engaged in productive work in any state prison or institution under the jurisdiction of the department or a private prison under contract with the department as a part of the prison industries program shall receive for the prisoner's work the compensation that the director determines. The compensation shall be in accordance with a graduated schedule based on quantity and quality of work performed and skill required for its performance but shall not exceed fifty cents per hour unless the prisoner is employed in an Arizona correctional industries program pursuant to title 41, chapter 11, article 3. If the director enters into a contract pursuant to section 41-1624.01 with a private person, firm, corporation or association the director shall prescribe prisoner compensation of at least two dollars per hour. Compensation shall not be paid to prisoners for attendance at educational training or treatment programs, but compensation may be paid for work training programs.</p>

	<p>J. This section is not intended to restore, in whole or in part, the civil rights of any prisoner. No prisoner who is compensated under this section shall be considered to be an employee of or employed by this state, the department or any private person, firm, corporation or association engaged in a contract pursuant to section 41-1624.01, and the prisoner does not come within any of the provisions of the workers' compensation provided in title 23, chapter 6 and is not entitled to any benefits under title 23, chapter 6 whether on behalf of the prisoner or of any other person. This subsection does not apply to prisoners who are employed pursuant to a federally certified prison industry enhancement program established pursuant to section 41-1674.</p>
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<p>ALEC Model Legislation: Prison Industries Act</p>	<p>Arizona Legislation: SB 1621</p>
<p>Sec. _____. Contracts With Private Business. To encourage the development and expansion of prison industries, the division may enter into necessary contracts related to the prison industries program. With the approval of the board, the division may enter into a contract with a private business to conduct a program on or off property operated by the department. A contract entered into under this section must comply with the Private Sector/Prison Industry Enhancement Certification Program operated by the Bureau of Justice Assistance and authorized by 18 U.S.C. Section 1761.</p>	<p>Sec. 15. The department may establish and maintain an inmate store at any prison, institution or facility. The department shall enter into a contract or contracts with a private entity or entities to establish and maintain inmate stores. The department or Arizona correctional industries may also be considered as an entity eligible for award. Such inmate stores shall offer for sale, at prices that are fixed by the contractor with direction from the director and that are no higher than prices of similar retail products, toilet articles, candy, tobacco products, notions and other sundries to the persons confined. The department may provide the facilities necessary to operate such inmate stores. All profit derived from the state's</p>

	<p>portion of privatization of such inmate stores shall be deposited in an inmate store proceeds fund. The director shall transfer five hundred thousand dollars from the inmate store proceeds fund annually to the department of corrections building renewal fund established by section 41-797. Any remaining monies in the fund may be used at the director's discretion for inmate activities, incentive pay increases for corrections officers, equipment to enhance safety for both department personnel and inmates or other official needs as required.</p>
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<p>ALEC Model Legislation: PRIVATE CORRECTIONAL FACILITIES ACT</p>	<p>Arizona Legislation: 41-1682. Private prisons; prohibitions; liability for services; financial responsibility</p>
<p>Section 10. {Liability and sovereign immunity.}</p> <p>(A) The contractor shall assume all liability arising under a contract entered into pursuant to Section 3.</p> <p>(B) Neither the sovereign immunity of the state nor the sovereign immunity applicable to any local government shall extend to the contractor. Neither the contractor nor the insurer of the contractor may plead the defense of sovereign immunity in any action arising out of the performance of the contract.</p> <p>(C) Nothing in this Act shall be construed to accord to any inmate in any facility or to a member of the public third party beneficiary status. -</p> <p>Section 11. {Insurance.}</p> <p>(A) The contractor shall provide an adequate plan of insurance, specifically including insurance for civil rights claims, as determined by an independent risk management or actuarial firm with demonstrated experience in public</p>	<p>A. No private prison may operate in this state unless the private contractor complies with this section.</p> <p>B. A private prison shall provide the department of administration with financial responsibility to cover this state's potential liability in the amount of ten million dollars. The monies shall be used by the state if the state is held liable for civil damages resulting from the escape of a prisoner from the private prison. The private prison may file proof of financial responsibility by filing one of the following:</p> <ol style="list-style-type: none"> 1. Proof that ten million dollars is deposited in the private prison escapee fund established by section 41-1830.31. 2. An insurance policy that is in a form approved by the department of administration that provides civil liability and civil rights liability coverage in the amount of ten million dollars and listing the state as an insured.

<p>liability for state governments. In determining the adequacy of the plan, the firm shall determine whether the insurance is adequate to:</p> <p>(1) fully indemnify the contracting governmental entity and the state from actions by third parties against the contractor, the contracting governmental entity, or the state as a result of the contract;</p> <p>(2) assure the contractor's ability to fulfill its contract with the contracting governmental entity in all respects and to assure that the contractor is not limited in this ability due to financial liability that results from judgments;</p> <p>(3) protect the local government and the state against claims arising as the result of any occurrence during the term of the contract on an occurrence basis; and</p> <p>(4) satisfy other requirements specified by the independent risk management or actuarial firm.</p>	<p>3. A surety bond with the principal sum of ten million dollars.</p> <p>4. A certified financial statement that is not more than ninety days old and that shows a net worth of more than fifteen million dollars. Every ninety days the private prison shall submit a certified financial statement to the department of administration signed under oath by the chief financial officer of the prison. If the financial statement indicates a net worth of less than fifteen million dollars, the private prison shall comply with paragraphs 1, 2 or 3 of this subsection.</p> <p>C. An insurance company or surety company duly authorized to transact business in this state shall execute the insurance policy or bond prescribed in subsection B of this section.</p> <p>D. The insurance policy or surety bond shall continue in effect until ninety days after the private prison is sold or closed. Any monies deposited in the private prison escapee fund by the private prison shall be refunded to the private prison within ninety days after submission of evidence to the director of the department of administration that the private prison is either sold or closed and there are no remaining liabilities for which the state might be required to assume responsibility.</p> <p>E. On receipt by the director of the department of administration of notice to cancel an insurance policy or bond by an insurance company or surety, the director shall immediately notify the private prison on the insurance policy or the surety bond of the effective date of cancellation of the insurance policy or the surety bond. The private prison shall furnish a like insurance policy or surety bond within thirty days after mailing of the notice by the director. Unless a replacement insurance policy or surety bond is filed with the director, the right of the private prisons to operate in this state</p>
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	<p>shall be suspended by operation of law on the date the bond is canceled.</p> <p>F. If any of the monies required by subsection B, paragraph 1 of this section are used to satisfy civil damage claims or civil rights claims, the private prison shall reestablish the full amount of those monies within thirty days after notification by the director of the department of administration.</p> <p>G. A security officer employed by a private prison contractor shall be at least twenty-one years of age and have no felony convictions.</p>
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<p>ALEC Model Legislation: Private Correctional Facilities Act</p>	<p>Arizona Legislation: 41-1609.01. Adult incarceration contracts; criteria</p>
<p>Section 13. {Restrictions.}</p> <p>(A) No contract for private correctional services under this Act shall authorize, allow, or imply a delegation to a private contractor of authority or responsibility to:</p> <p>(1) classify inmates or place inmates in less restrictive custody or more restrictive custody;</p> <p>(2) transfer an inmate, although the contractor may recommend in writing that the state or the local government transfer a particular inmate;</p> <p>(3) formulate rules of inmate behavior, violations of which may subject inmates to sanctions, except to the extent that the rules are accepted or modified by the state or the local government;</p> <p>(4) take any disciplinary action against an inmate except as authorized by contracting government agency;</p>	<p>O. The sovereign immunity of this state does not apply to the contractor. Neither the contractor nor the insurer of the contractor may plead the defense of sovereign immunity in any action arising out of the performance of the contract.</p> <p>P. A contract for correctional services shall not authorize, allow or imply a delegation of authority or responsibility to a prison contractor for any of the following:</p> <ol style="list-style-type: none"> 1. Developing and implementing procedures for calculating inmate release dates. 2. Developing and implementing procedures for calculating and awarding sentence credits. 3. Approving the type of work inmates may perform and the wages or sentence credits which may be given to inmates engaging in the work.

<p>(5) grant, deny, or revoke good time credits;</p> <p>(6) recommend that the parole board either deny or grant parole, provided the contractor may submit written reports that have been prepared in the ordinary course of business unless otherwise requested by the parole board;</p> <p>(7) develop procedures for calculating good time credits or inmate release and parole eligibility dates;</p> <p>(8) determine inmate eligibility for furlough, compassionate leave, participation in community corrections, or work release;</p> <p>(9) require an inmate to work, except as directed or authorized by the state or the local government. In connection with work required by the state or the local government, the private contractor shall not have authority to:</p> <p>(a) approve the type of work that inmates may perform; or</p> <p>(b) award or withhold wages or good time credits based on the manner in which individual inmates perform such work.</p>	<p>4. Granting, denying or revoking sentence credits, placing an inmate under less restrictive custody or more restrictive custody or taking any disciplinary actions.</p>
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<p>ALEC Model Legislation: Prison Industries Act</p>	<p>Arizona Legislation: 41-1622. <u>Arizona correctional industries; establishment; purpose</u></p>
<p>Sec. _____. Contracts With Private Business. To encourage the development and expansion of prison industries, the division may enter into necessary contracts related to the prison industries program. With the approval of the board, the division may enter into a contract with a private business to</p>	<p>A. Arizona correctional industries may purchase raw materials, components and supplies for use in the manufacture of products for sale or provide services. In support of its retail operation, Arizona correctional industries may purchase or consign items for sale to the public that are produced by other state correctional industries or by inmates who are incarcerated in facilities that are located</p>

<p>conduct a program on or off property operated by the department. A contract entered into under this section must comply with the Private Sector/Prison Industry Enhancement Certification Program operated by the Bureau of Justice Assistance and authorized by 18 U.S.C. Section 1761.</p>	<p>in this state but that are outside the custodial responsibility of the state department of corrections.</p> <p>B. Arizona correctional industries shall pay all obligations in accordance with section 41-1624 at any location under the control of Arizona correctional industries. The industries or enterprises shall be conducted for the employment of prisoners for the purposes of manufacturing or producing such articles or products or providing services as may be needed for the construction, operation, maintenance or use of any office, department, institution or agency supported in whole or in part by a state or its political subdivisions or for sale to the public.</p>
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Private Correctional Facilities Act

Arizona [Amendment](#) to [HB 2177](#)

Sponsored by ALEC Rep. John Kavanagh (R-8)

Last action: 2/22/10

Legislative Session: 49th Legislature, Second Regular Session

ALEC model legislation: [Private Correctional Facilities Act](#), [Government Services Competition Act](#)

Similarities/analysis: This bill, proposed by ALEC member John Kavanagh, exposes every state prison eligible for fiscal evaluation to privatization. Rep. Kavanagh serves on ALEC's Safety and Elections Task Force, is the chair of Arizona's House Appropriations Committee, and was the chair of the Joint Legislative Budget Committee, which in 2011 approved a request for proposal to add 5,000 new private prison beds in Arizona.¹⁰

<p>ALEC Model Legislation: Private Correctional Facilities Act</p>	<p>Arizona Legislation: Amendment to HB 2177</p>
<p>B) No contract shall be entered into or renewed unless the contracting governmental entity, with the concurrence of the five state elected officials, determines that the contract offers</p>	<p>Strike everything after the enacting clause and insert:</p> <p>"Section 1. State department of corrections; contracts; determination of</p>

<p>demonstrable benefits to the contracting governmental entity and at least the same quality of services provided by the state or by similar local governments.</p> <p>Section 4. {Incarceration of inmates in privately operated facilities.} At the direction of the state, in the case of a person sentenced to imprisonment in the state penitentiary or the state women’s correctional facility, or of a person sentenced to the state penitentiary and serving a sentence at any penitentiary farm or camp, or at the direction of the local government in the case of a person sentenced to imprisonment in a city or county jail, the person sentenced to imprisonment may be incarcerated in a facility constructed or operated by a private entity pursuant to a contract under this Act.</p>	<p>least expensive beds; applicability; definitions.</p> <p>A. Through June 30, 2012, the director of the state department of corrections shall not take any action that awards or cancels a contract with a private prison contractor or activates a new public institution if that action results in increased prison bed costs or increased per diem rates.</p> <p>B. Through June 30, 2012, before awarding or canceling a contract with a private contractor or activating a new public institution, the director of the state department of corrections shall determine that the action will not result in increased prison bed costs for inmates at public or private institutions that are located in this state or outside of this state. The director shall provide the determination, in writing, to the joint legislative budget committee at least five business days before the action occurs.</p>
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Privatizing Prison Facilities

Arizona [Amendments to SB 1028](#)

Arizona Legislation: [Senate Amendments to SB 1028](#)

Sponsored by Senate Appropriations Committee, Chaired by ALEC Sen. Russell Pearce (R-18)

Last action: Vetoed by Governor Brewer, 7/1/09

Legislative Session: 49th Legislature, First Regular Session

ALEC model legislation: [Private Correctional Facilities Act](#)

Similarities/analysis: Under the guise of adding an amendment to a generally benign piece of legislation, ALEC member Russell Pearce won the approval of the Arizona legislature to privatize some of the state’s largest prison facilities. The introduced legislation involved the disposition of private funds and was two pages long; Pearce’s amendment was 35 pages and extremely broad. In an atypical move against prison privatization, Gov. Jan Brewer vetoed the law the day it arrived on her desk.¹¹

<p>ALEC model legislation: Private Correctional Facilities Act</p>	<p>Arizona Legislation: Amendments to SB 1028 Arizona Legislation: Senate Amendments to SB 1028</p>
<p>B) No contract shall be entered into or renewed unless the contracting governmental entity, with the concurrence of the five state elected officials, determines that the contract offers demonstrable benefits to the contracting governmental entity and at least the same quality of services provided by the state or by similar local governments.</p> <p>...</p> <p>Section 4. {Incarceration of inmates in privately operated facilities.} At the direction of the state, in the case of a person sentenced to imprisonment in the state penitentiary or the state women’s correctional facility, or of a person sentenced to the state penitentiary and serving a sentence at any penitentiary farm or camp, or at the direction of the local government in the case of a person sentenced to imprisonment in a city or county jail, the person sentenced to imprisonment may be incarcerated in a facility constructed or operated by a private entity pursuant to a contract under this Act</p>	<p>Sec. 33. Prison operations; private vendor; concession agreement</p> <p>A. In consultation with the state department of corrections, the department of administration shall issue a request for proposals for a concession agreement allowing private vendors to operate the Arizona state prison complex at Yuma, the Arizona state prison complex at Perryville and the Arizona state prison complex at Eyman. A private vendor may operate one or more prison complexes. A concession agreement shall be for a fixed term of fifty years. A concession agreement shall require an annual cost efficiency savings to this state. The annual cost efficiency savings shall be equally divided between this state and the private vendor. Not later than October 1, 2009 and before issuance, the request for proposals shall be submitted for review to the joint committee on capital review. Not later than March 1, 34 2010, a proposed concession agreement shall be submitted for review to the joint committee on capital review.</p> <p>B. It is the intent of the legislature that the privatization of prison operations pursuant to subsection A of this section generate at least \$100,000,000 from private vendors at the beginning of the fifty year term.</p> <p>C. Section 41-1609.01, subsections C, I and J, Arizona Revised Statutes, and section 41-2546, Arizona Revised Statutes, do not apply to any concession agreement pursuant to subsection A of this section.</p>

Voter Suppression

“ALEC and its sponsors have an enduring mission to pass voter suppression laws that would impose barriers on direct democracy.” veteran journalist John Nichols wrote in *The Nation* magazine earlier this year. He noted that Sean Parnell, an ALEC Public Safety and Elections Task Force member and the president of the Center for Competitive Politics, began to “highlight voter ID efforts in 2006, shortly after Karl Rove encouraged conservatives to take up voter fraud as an issue.” In the summer of 2009, ALEC’s Public Safety and Elections Task Force adopted voter ID model legislation.

When midterm elections put conservative Republicans in charge of both chambers of the legislature in 26 states, GOP legislators began to write – and pass - bills in the mold of ALEC bills.¹²

The most obvious and recent voter suppression bills are laws requiring voters to show a photo ID. People for the American Way Foundation’s recent [report](#), “The Right to Vote under Attack: The Campaign to Keep Millions of Americans from the Ballot Box,” frames the scope of the problem. While proponents of new voter identification requirements claim that voter fraud exists, they lack concrete evidence to show that this is a problem of significant magnitude to justify [potentially disenfranchising 3.2 million voters](#)¹³ just from restrictive photo ID laws alone.

Voter ID Act

Arizona Legislation: [Proposition 200 \(2004\)](#)

Author: ALEC Sen. Russell Pearce (R-18)

Last Action: Passed with 56% of the vote, 11/2/04

Legislative Session: Ballot Measure

ALEC Model Legislation: [Taxpayer and Citizen Protection Act \(ALEC\)](#)

Similarities/analysis: Prop 200 was placed on the ballot in Arizona in 2004. Bipartisan opposition to the bill included prominent figures such as Republican US Senator John McCain.¹⁴ The act passed with 56% of the vote and requires that citizens present either photo ID or two approved written forms of identification in order to register to vote or receive funds from public programs. The resolution’s purported author was [Russell Pearce](#), the recently-recalled ALEC-supported state senator who also was the primary sponsor of SB 1070.

Like the E-Verify system, Prop 200 calls for the upkeep of large databases. Countless data errors already have prevented citizens from voting. According to Nina Perales of the Mexican American Legal Defense and Educational Fund, as of 2008, Prop 200 barred 30,000 citizens from registering.¹⁵

ALEC Model Legislation: Taxpayer and Citizen Protection Act (ALEC)	Arizona Legislation: Proposition 200 (2004)
<p>Section 2. {Findings and Declaration}</p> <p>Government has evidence demonstrating illegal immigration is causing economic hardship to states and that illegal immigration is encouraged by public agencies within states that provide public benefits without verifying immigration status. Evidence further suggests that illegal immigrants have been given a safe haven in states with the aid of identification cards that are issued without verifying immigration status, and that this conduct contradicts federal immigration policy, undermines the security of our borders and demeans the value of citizenship. Therefore, the people of this state declare that the public interest of this state requires all public agencies within this state to cooperate with federal immigration authorities to discourage illegal immigration.</p>	<p>Sec. 2. <i>Findings and declaration</i></p> <p>This state finds that illegal immigration is causing economic hardship to this state and that illegal immigration is encouraged by public agencies within this state that provide public benefits without verifying immigration status. This state further finds that illegal immigrants have been given a safe haven in this state with the aid of identification cards that are issued without verifying immigration status, and that this conduct contradicts federal immigration policy, undermines the security of our borders and demeans the value of citizenship. Therefore, the people of this state declare that the public interest of this state requires all public agencies within this state to cooperate with federal immigration authorities to discourage illegal immigration.</p>
<p>Section 3. {Registration form}</p> <p>(A) The form used for the registration of electors shall contain:</p> <ol style="list-style-type: none"> (1) The date the registrant signed the form. (2) The given name of the registrant, middle name, if any, and surname. (3) Complete address of actual place of residence, including street name and number, apartment or space number, city or town and zip code, or such description of the location of the residence that it can be readily ascertained or identified. (4) Complete mailing address, if different from residence address, including post office address, city or town, zip code or other designation used by the registrant for receiving mail. (5) Party preference. (6) Telephone number, unless unlisted. 	<p>Sec. 3. Section 16-152, Arizona Revised Statutes, is amended to read:</p> <p>16-152. <i>Registration form</i></p> <p>A. The form used for the registration of electors shall contain:</p> <ol style="list-style-type: none"> 1. The date the registrant signed the form. 2. The given name of the registrant, middle name, if any, and surname. 3. Complete address of actual place of residence, including street name and number, apartment or space number, city or town and zip code, or such description of the location of the residence that it can be readily ascertained or identified. 4. Complete mailing address, if different from residence address, including post office address, city or town, zip code or other designation used by the registrant for receiving mail. 5. Party preference. 6. Telephone number, unless unlisted. 7. State or country of birth. 8. Date of birth.

<p>(7) State or country of birth.</p> <p>(8) Date of birth.</p> <p>(9) Occupation.</p> <p>(10) Indian census number (optional to registrant)</p> <p>(11) Father's name or mother's maiden name.</p> <p>(12) The last four digits of the registrant's social security number (optional to registrant).</p> <p>(13) A statement as to whether or not the registrant is currently registered in another state, county or precinct, and if so, the name, address, county and state of previous registration.</p> <p>(14) A statement that the registrant is a citizen of the United States.</p> <p>(15) A statement that the registrant will be eighteen years of age on or before the date of the next general election.</p> <p>(16) A statement that the registrant has not been convicted of treason or a felony, or if so, that the registrant's civil rights have been restored.</p> <p>(17) A statement that the registrant is a resident of this state and of the county in which the registrant is registering.</p> <p>(18) A statement that executing a false registration is a class 6 felony.</p> <p>(19) The signature of the registrant.</p>	<p>9. Occupation.</p> <p>10. Indian census number (optional to registrant).</p> <p>11. Father's name or mother's maiden name.</p> <p>12. The last four digits of the registrant's social security number (optional to registrant).</p> <p>13. A statement as to whether or not the registrant is currently registered in another state, county or precinct, and if so, the name, address, county and state of previous registration.</p> <p>14. A statement that the registrant is a citizen of the United States.</p> <p>15. A statement that the registrant will be eighteen years of age on or before the date of the next general election.</p> <p>16. A statement that the registrant has not been convicted of treason or a felony, or if so, that the registrant's civil rights have been restored.</p> <p>17. A statement that the registrant is a resident of this state and of the county in which the registrant is registering.</p> <p>18. A statement that executing a false registration is a class 6 felony.</p> <p>19. The signature of the registrant.</p>
<p>(20) If the registrant is unable to sign the form, a statement that the affidavit was completed according to the registrant's direction.</p> <p>(21) A statement that if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter</p>	<p>20. If the registrant is unable to sign the form, a statement that the affidavit was completed according to the registrant's direction.</p> <p>21. A statement that if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes.</p> <p>22. A statement that if an applicant does</p>

<p>registration purposes.</p> <p>(22) A statement that if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes.</p> <p>(23) A statement that the applicant shall submit evidence of United States citizenship with the application and that the registrar shall reject the application if no evidence of citizenship is attached.</p> <p>(B) A duplicate voter receipt shall be provided with the form that provides space for the name, street address and city of residence of the applicant, party preference and the date of signing. The voter receipt is evidence of valid registration for the purpose of casting a ballot to be verified as prescribed in this act.</p> <p>(C) The state voter registration form shall be printed in a form prescribed by the secretary of state.</p> <p>(D) The county recorder may establish procedures to verify whether a registrant has successfully petitioned the court for an injunction against harassment or an order of protection and, if verified, to protect the registrant's residence address, telephone number or voting precinct number, if appropriate, from public disclosure.</p>	<p>register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes.</p> <p>23. A statement that the applicant shall submit evidence of united states citizenship with the application and that the registrar shall reject the application if no evidence of citizenship is attached.</p> <p>B. A duplicate voter receipt shall be provided with the form that provides space for the name, street address and city of residence of the applicant, party preference and the date of signing. The voter receipt is evidence of valid registration for the purpose of casting a ballot to be verified as prescribed in section 16-584, subsection B.</p> <p>C. The state voter registration form shall be printed in a form prescribed by the secretary of state.</p> <p>D. The county recorder may establish procedures to verify whether a registrant has successfully petitioned the court for an injunction against harassment pursuant to section 12-1809 or an order of protection pursuant to section 12-1810 or 13-3602 and, if verified, to protect the registrant's residence address, telephone number or voting precinct number, if appropriate, from public disclosure.</p>
<p>(A) Except for the mailing of sample ballots, a county recorder who mails an item to any elector shall send the mailing by non-forwardable first class mail marked with the statement required by the postmaster to receive an address correction notification. If the item is returned undelivered, the county recorder shall send a follow-up notice to that elector within three weeks of receipt of the returned notice. The county recorder shall send the follow-up notice to the address that appears on the general county register or to the forwarding address provided by the United States postal service. The follow-up notice shall include a registration form and the information and shall state that if the elector</p>	<p>16-166. <i>Verification of registration</i></p> <p>A. Except for the mailing of sample ballots, a county recorder who mails an item to any elector shall send the mailing by non-forwardable first class mail marked with the statement required by the postmaster to receive an address correction notification. If the item is returned undelivered, the county recorder shall send a follow-up notice to that elector within three weeks of receipt of the returned notice. The county recorder shall send the follow-up notice to the address that appears on the general county register or to the forwarding address provided by the United States postal service. The follow-up notice</p>

<p>does not complete and return a new registration form with current information to the county recorder within thirty-five days, the name of the elector will be removed from the general register and transferred to the inactive voter list.</p>	<p>shall include a registration form and the information prescribed by section 16-131, subsection C and shall state that if the elector does not complete and return a new registration form with current information to the county recorder within thirty-five days, the name of the elector will be removed from the general register and transferred to the inactive voter list.</p>
<p>(B) If the elector provides the county recorder with a new registration form, the county recorder shall change the general register to reflect the changes indicated on the new registration. If the elector indicates a new residence address outside that county, the county recorder shall forward the voter registration form to the county recorder of the county in which the elector's address is located. If the elector provides a new residence address that is located outside this state, the county recorder shall cancel the elector's registration.</p>	<p>B. If the elector provides the county recorder with a new registration form, the county recorder shall change the general register to reflect the changes indicated on the new registration. If the elector indicates a new residence address outside that county, the county recorder shall forward the voter registration form to the county recorder of the county in which the elector's address is located. If the elector provides a new residence address that is located outside this state, the county recorder shall cancel the elector's registration.</p>
<p>(C) The county recorder shall maintain on the inactive voter list the names of electors who have been removed from the general register pursuant to subsection A or E of this section for a period of four years or through the date of the second general election for federal office following the date of the notice from the county recorder that is sent pursuant to subsection E of this section.</p>	<p>C. The county recorder shall maintain on the inactive voter list the names of electors who have been removed from the general register pursuant to subsection A or E of this section for a period of four years or through the date of the second general election for federal office following the date of the notice from the county recorder that is sent pursuant to subsection E of this section.</p>
<p>(D) On notice that a government agency has changed the name of any street, route number, post office box number or other address designation, the county recorder shall revise the registration records and shall send a new verification of registration notice to the electors whose records were changed.</p>	<p>D. On notice that a government agency has changed the name of any street, route number, post office box number or other address designation, the county recorder shall revise the registration records and shall send a new verification of registration notice to the electors whose records were changed.</p>
<p>(E) The county recorder on or before May 1 of each year preceding a state primary and general election or more frequently as the recorder deems necessary may use the change of address information supplied by the postal service through its licensees to identify registrants whose addresses may have</p>	<p>E. The county recorder on or before May 1 of each year preceding a state primary and general election or more frequently as the recorder deems necessary may use the change of address information supplied by the postal service through its licensees to identify registrants whose addresses may have</p>

<p>changed. If it appears from information provided by the postal service that a registrant has moved to a different residence address in the same county, the county recorder shall change the registration records to reflect the new address and shall send the registrant a notice of the change by forwardable mail and a postage prepaid preaddressed return form by which the registrant may verify or correct the registration information. If the registrant fails to return the form postmarked not later than twenty-nine days before the next election, the elector shall be removed from the general register and transferred to the inactive voter list. If the notice sent by the recorder is not returned, the registrant may be required to provide affirmation or confirmation of the registrant's address in order to vote. If the registrant does not vote in an election during the period after the date of the notice from the recorder through the date of the second general election for federal office following the date of that notice, the registrant's name shall be removed from the list of inactive voters. If the registrant has changed residence to a new county, the county recorder shall provide information on how the registrant can continue to be eligible to vote.</p>	<p>changed. If it appears from information provided by the postal service that a registrant has moved to a different residence address in the same county, the county recorder shall change the registration records to reflect the new address and shall send the registrant a notice of the change by forwardable mail and a postage prepaid preaddressed return form by which the registrant may verify or correct the registration information. If the registrant fails to return the form postmarked not later than twenty-nine days before the next election, the elector shall be removed from the general register and transferred to the inactive voter list. If the notice sent by the recorder is not returned, the registrant may be required to provide affirmation or confirmation of the registrant's address in order to vote. If the registrant does not vote in an election during the period after the date of the notice from the recorder through the date of the second general election for federal office following the date of that notice, the registrant's name shall be removed from the list of inactive voters. If the registrant has changed residence to a new county, the county recorder shall provide information on how the registrant can continue to be eligible to vote.</p>
<p>(F) The county recorder shall reject any application for registration that is not accompanied by satisfactory evidence of United States citizenship. Satisfactory evidence of citizenship shall include any of the Following:</p>	<p>F. The county recorder shall reject any application for registration that is not accompanied by satisfactory evidence of united states citizenship. Satisfactory evidence of citizenship shall include any of the following:</p>
<p>(1) The number of the applicant's driver License or nonoperating identification license issued after October 1, 1996 by the Department of Transportation or the equivalent Governmental agency of another state within the United States if the agency indicates on the applicant's driver license or nonoperating identification license that the person has provided satisfactory proof of United States citizenship.</p>	<p>1. The number of the applicant's driver license or nonoperating identification license issued after October 1, 1996 by the department of transportation or the equivalent governmental agency of another state within the united states if the agency indicates on the applicant's driver license or nonoperating identification license that the person has provided satisfactory proof of united states citizenship.</p>
<p>(2) A legible photocopy of the applicant's birth</p>	<p>2. A legible photocopy of the applicant's birth</p>

certificate that verifies citizenship to the satisfaction of the county recorder.	certificate that verifies citizenship to the satisfaction of the county recorder.
(3) A legible photocopy of pertinent pages of the applicant's united states passport identifying the applicant and the applicant's passport number or presentation to the county recorder of the applicant's united states passport.	3. A legible photocopy of pertinent pages of the applicant's united states passport identifying the applicant and the applicant's passport number or presentation to the county recorder of the applicant's united states passport.
(4) A presentation to the county recorder of the applicant's United States naturalization documents or the number of the certificate of naturalization. If only the number of the certificate of naturalization is provided, the applicant shall not be included in the registration rolls until the number of the certificate of naturalization is verified with the United States immigration and naturalization service by the county recorder.	4. A presentation to the county recorder of the applicant's united states naturalization documents or the number of the certificate of naturalization. If only the number of the certificate of naturalization is provided, the applicant shall not be included in the registration rolls until the number of the certificate of naturalization is verified with the united states immigration and naturalization service by the county recorder.
(5) Other documents or methods of proof that are established pursuant to the immigration reform and control act of 1986.	5. Other documents or methods of proof that are established pursuant to the immigration reform and control act of 1986.
(6) The applicant's Bureau of Indian Affairs card number, tribal treaty card number or tribal enrollment number.	6. The applicant's Bureau of Indian Affairs card number, tribal treaty card number or tribal enrollment number.
(G) Notwithstanding subsection f of this section, any person who is registered in this State on the effective date of this amendment to this section is deemed to have provided satisfactory evidence of citizenship and shall not be required to resubmit evidence of citizenship unless the person is changing voter registration from one county to another.	G. Notwithstanding subsection f of this section, any person who is registered in this state on the effective date of this amendment to this section is deemed to have provided satisfactory evidence of citizenship and shall not be required to resubmit evidence of citizenship unless the person is changing voter registration from one county to another.
(H) For the purposes of this section, proof of voter registration from another state or county is not satisfactory evidence of citizenship.	H. For the purposes of this section, proof of voter registration from another state or county is not satisfactory evidence of citizenship.
(I) A person who modifies voter registration records with a new residence ballot shall not be required to submit evidence of citizenship. After citizenship has been demonstrated to the county recorder, the person is not required to resubmit satisfactory evidence of citizenship in that county.	I. A person who modifies voter registration records with a new residence ballot shall not be required to submit evidence of citizenship. After citizenship has been demonstrated to the county recorder, the person is not required to resubmit satisfactory evidence of citizenship in that county.

<p>(I) After a person has submitted satisfactory evidence of citizenship, the county recorder shall indicate this information in the person's permanent voter file. After two years, the county recorder may destroy all documents that were submitted as evidence of citizenship.</p>	<p>J. After a person has submitted satisfactory evidence of citizenship, the county recorder shall indicate this information in the person's permanent voter file. After two years the county recorder may destroy all documents that were submitted as evidence of citizenship.</p>
<p>Section 5. {Procedure For Obtaining Ballot By Elector.}</p> <p>(A) Every qualified elector, before receiving his ballot, shall announce his name and place of residence in a clear, audible tone of voice to the election official in charge of the signature roster or present his name and residence in writing and shall present one form of identification that bears the name, address and photograph of the elector or two different forms of identification that bear the name and address of the elector. If the name is found upon the precinct register by the election officer having charge thereof, or the qualified elector presents a certificate from the county recorder showing that he is entitled by law to vote in the precinct, the election official in charge of the signature roster shall repeat the name and the qualified elector shall be allowed within the voting area.</p>	<p>Sec. 5. Section 16-579, Arizona revised statutes, is amended to read: 16-579. <u>Procedure for obtaining ballot by elector</u> A. Every qualified elector, before receiving his ballot, shall announce his name and place of residence in a clear, audible tone of voice to the election official in charge of the signature roster or present his name and residence in writing and shall present one form of identification that bears the name, address and photograph of the elector or two different forms of identification that bear the name and address of the elector. If the name is found upon the precinct register by the election officer having charge thereof, or the qualified elector presents a certificate from the county recorder showing that he is entitled by law to vote in the precinct, the election official in charge of the signature roster shall repeat the name and the qualified elector shall be allowed within the voting area.</p>
<p>(B) Any qualified elector who is listed as having applied for an early ballot but who states that he has not voted and will not vote an early ballot for this election or surrenders the early ballot to the precinct inspector on election day shall be allowed to vote.</p>	<p>B. Any qualified elector who is listed as having applied for an early ballot but who states that he has not voted and will not vote an early ballot for this election or surrenders the early ballot to the precinct inspector on election day shall be allowed to vote pursuant to the procedure set forth in section 16-584.</p>
<p>(C) Each qualified elector's name shall be numbered consecutively by the clerks, with the number upon the stub of the ballot delivered to him, and in the order of applications for ballots. The election judge having charge of the ballots shall also write his initials upon the stub and the number of the qualified elector as it appears upon the precinct register. The judge shall give the</p>	<p>C. Each qualified elector's name shall be numbered consecutively by the clerks, with the number upon the stub of the ballot delivered to him, and in the order of applications for ballots. The election judge having charge of the ballots shall also write his initials upon the stub and the number of the qualified elector as it appears upon the precinct register. The judge shall give the</p>

<p>qualified elector only one ballot, and his name shall be immediately checked on the precinct register.</p>	<p>qualified elector only one ballot, and his name shall be immediately checked on the precinct register.</p>
<p>(D) Each qualified elector shall sign his name in the signature roster prior to receiving his ballot, but an inspector or judge may sign the roster for an elector who is unable to sign because of physical disability, and in that event the name of the elector shall be written with red ink, and no attestation or other proof shall be necessary. The provisions of this subsection relating to signing the signature roster shall not apply to electors casting a ballot using early voting procedures.</p>	<p>D. Each qualified elector shall sign his name in the signature roster prior to receiving his ballot, but an inspector or judge may sign the roster for an elector who is unable to sign because of physical disability, and in that event the name of the elector shall be written with red ink, and no attestation or other proof shall be necessary. The provisions of this subsection relating to signing the signature roster shall not apply to electors casting a ballot using early voting procedures.</p>
<p>(E) A person offering to vote at a special district election for which no special district register has been supplied shall sign an affidavit stating his address and that he resides within the district boundaries or proposed district boundaries and swearing that he is a qualified elector and has not already voted at the election being held.</p>	<p>E. A person offering to vote at a special district election for which no special district register has been supplied shall sign an affidavit stating his address and that he resides within the district boundaries or proposed district boundaries and swearing that he is a qualified elector and has not already voted at the election being held.</p>
<p>Section 6. {Verifying Applicants For Public Benefits; Violation; Classification; Citizen Suits.}</p> <p>(A) An agency of this state and all of its political subdivisions, including local governments, that are responsible for the administration of federal, state and local public benefits that are not federally mandated shall do all of the following:</p>	<p>Sec. 6. Title 46, chapter 1, article 3, Arizona revised statutes, is amended by adding section 46-140.01, to read: 46-140.01. <u>Verifying applicants for public benefits; violation; classification; citizen suits</u> A. An agency of this state and all of its political subdivisions, including local governments, that are responsible for the administration of state and local public benefits that are not federally mandated shall do all of the following:</p>
<p>(1) Verify the identity of each applicant for those benefits and verify that the applicant is eligible for benefits as prescribed by this section.</p>	<p>1. Verify the identity of each applicant for those benefits and verify that the applicant is eligible for benefits as prescribed by this section.</p>
<p>(2) Provide any other employee of this state or any of its political subdivisions with information to verify the immigration status of any applicant for those benefits and assist the employee in obtaining that information from federal immigration authorities.</p>	<p>2. Provide any other employee of this state or any of its political subdivisions with information to verify the immigration status of any applicant for those benefits and assist the employee in obtaining that information from federal immigration authorities.</p>

<p>(3) Refuse to accept any identification card issued by the state or any political subdivision of this state, including a driver license, to establish identity or determine eligibility for those benefits unless the issuing authority has verified the immigration status of the applicant.</p>	<p>3. Refuse to accept any identification card issued by the state or any political subdivision of this state, including a driver license, to establish identity or determine eligibility for those benefits unless the issuing authority has verified the immigration status of the applicant.</p>
<p>(4) Require all employees of the state and its political subdivisions to make a written report to federal immigration authorities for any violation of federal immigration law by any applicant for benefits and that is discovered by the employee.</p>	<p>4. Require all employees of the state and its political subdivisions to make a written report to federal immigration authorities for any violation of federal immigration law by any applicant for benefits and that is discovered by the employee.</p>
<p>(B) Failure to report discovered violations of federal immigration law by an employee is a class 2 misdemeanor. If that employee's supervisor knew of the failure to report and failed to direct the employee to make the report, the supervisor is guilty of a class 2 misdemeanor.</p>	<p>B. Failure to report discovered violations of federal immigration law by an employee is a class 2 misdemeanor. If that employee's supervisor knew of the failure to report and failed to direct the employee to make the report, the supervisor is guilty of a class 2 misdemeanor.</p>
<p>(C) This section shall be enforced without regard to race, religion, gender, ethnicity or national origin. Any person who is a resident of this state shall have standing in any court of record to bring suit against any agent or agency of this state or its political subdivisions to remedy any violation of any provision of this section, including an action for mandamus. Courts shall give preference to actions brought under this section over other civil actions or proceeding pending in the court.</p>	<p>C. This section shall be enforced without regard to race, religion, gender, ethnicity or national origin. Any person who is a resident of this state shall have standing in any court of record to bring suit against any agent or agency of this state or its political subdivisions to remedy any violation of any provision of this section, including an action for mandamus. Courts shall give preference to actions brought under this section over other civil actions or proceeding pending in the court.</p>

Early Voting ID Act

Arizona Legislation: [HB 2649](#)- Early ballots; voter rolls; enforcement

Sponsors (in bold) and co-sponsors

1 ALEC Senator, 10 ALEC Representatives

Rep. Judy Burges (R-4)

Rep. David Smith (R-7)

Rep. David Stevens (R-25)

Sen. Gail Griffin (R-25)

Rep. Brenda Barton (R-5)

Rep. Chester Crandell (R-5)

Rep. Jeff Dial (R-20)

Rep. Doris Goodale (R-3)

Rep. Rick Gray (R-9)

Rep. Justin Olson (R-19)

Rep. Steve Urie (R-22)

Last Action: Held in Committees, 2/15/11

Legislative Session: 50th Legislature, First Regular Session

ALEC Model Legislation: [Voter ID Act](#)

Similarities/Analysis: The two versions of this legislation require voters to have photo identification for early voting. The ALEC model bill is more comprehensive and includes a longer list of acceptable photo identifications and steps for provisional voting, while the Arizona bill focuses exclusively on early voting.

ALEC Model Legislation: Voter ID Act	Arizona Legislation: HB 2649
Section 2. (b) Any person desiring to vote in this state shall present proof of identity to the election official when appearing to vote in person either early or at the polls on Election Day.	Sec. 2. A. The early voter shall make and sign the affidavit and shall then mark his ballot in such a manner that his vote cannot be seen. The early voter shall fold the ballot, if a paper ballot, so as to conceal the vote and deposit the voted ballot in the envelope provided for that purpose. The early voter shall also include in the envelope a legible photocopy of identification that complies with section 16-579.
Section 1. (a) "Proof of identity" means a document or identification card that: (1) Shows the name of the person to whom the document was issued (2) Shows a photograph of the person to whom the document was issued; (3) Contains an expiration date, and is not expired. (4) Is issued by the United States or the State of Arkansas.	<u>Section 16-579.</u> 1. The elector shall present any of the following: (a) A valid form of identification that bears the photograph, name, and address in the precinct register, including an Arizona license, an Arizona nonoperating identification license, a tribal enrollment card or other form of tribal identification or a United States federal, state, or local government issued identification. Identification is deemed valid unless it can be determined on its face that it has expired.

Resolution Opposing Taxpayer Financed Political Campaigns

Arizona Legislation: [HCR 2024 clean elections act; repeal](#) - Clean elections act

Sponsors (in bold) and co-sponsors:

4 ALEC Representatives

Rep. David Smith (R-7)

Rep. Cecil Ash (R-18)

Rep. David Stevens (R-25)

Rep. Jack Harper (R-4)

Last action: Held awaiting First Reading

Legislative Session: 50th Legislature, First Regular Session

ALEC model legislation: [Resolution Opposing Taxpayer Financed Political Campaigns](#)

Similarities/analysis: HCR 2024 closely mirrors ALEC’s model bill, Resolution Opposing Taxpayer Financed Political Campaigns.

In response to the 1991 AzScam scandal and Governor Symington’s resignation amid charges of extortion and bank fraud, the state passed the Clean Elections Act, calling for the public financing of election campaigns. HCR 2024 called for repeal of the Clean Elections Law. In June of 2011, the Supreme Court, in an opinion written by Chief Justice John Roberts, [struck down](#) the “matching funds” provisions of the Clean Elections Act, which had provided additional public funds to candidates to equalize spending by privately financed candidates and independent spending by third parties on behalf of those candidates.

ALEC model legislation: Resolution Opposing Taxpayer Financed Political Campaigns	Arizona Legislation: HCR 2024 clean elections; repeal
Whereas, most public financing regimes provide additional taxpayer matching funds to qualifying candidates whose opponent chooses not to take public funds, thereby penalizing privately-funded candidates, campaigns, and their donors for exercising their rights of free speech and association; and, Whereas, public financing regimes that restrict campaign contributions do not reduce the average expenditures of	Be it resolved by the house of representatives of the state of Arizona, the Senate concurring: 1. Under the power of the referendum, as vested in the legislature, the following measure, relating to the repeal of the citizens clean elections act, is enacted to become valid as a law if approved by the voters and on proclamation of the governor: An act repealing title 16, chapter 6, article

<p>candidates and their campaigns, but do discourage or prevent independent citizen groups from speaking out; and,</p> <p>Whereas, studies have shown that campaign contributions have no effect upon legislative behavior; and,</p> <p>Whereas, research has shown that state public financing regimes have not removed the influence of special interest money; and,</p> <p>Whereas, the incumbency rate has remained unaffected in states that have instituted public financing regimes;</p> <p>Therefore, be it resolved that the American legislative exchange council (ALEC) opposes taxpayer financed Political campaigns.</p>	<p>2, Arizona revised statutes; relating to the citizens clean elections act. Be it enacted by the legislature of the state of Arizona: section</p> <p>1. Repeal title 16, chapter 6, article 2, Arizona revised statutes, is repealed. Sec. 2. Conforming legislation the legislative council staff shall prepare proposed legislation conforming the Arizona revised statutes to the provisions of this act in the fifty-first legislature, first regular session.</p> <p>2. The secretary of state shall submit this proposition to the voters at the next general election as provided by article iv, part 1, section 1, constitution of Arizona.</p>
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Anti-Worker Rights

One of the key strategies advanced by ALEC and its corporate members is the promotion of legislation that undermines the rights of workers and unions. In an article from [The Nation](#), Laura Dresser, associate director of the Center on Wisconsin Strategy and Joel Rogers, a *Nation* contributing editor, note that GOP eaders have pushed a message of “We’re broke” and “Public sector workers are to blame” and deployed “legislative tools inspired by ALEC to enact their vision”.¹⁶ The authors point out that ALEC has advanced a range of anti-union laws that make it harder “to be a union and easier for workers not to pay the costs of collective bargaining or union political activity. [The Right to Work Act](#) eliminates employee obligation to pay the costs of collective bargaining, the [Public Employee Freedom Act](#) bars almost any action to induce it, the [Public Employer Payroll Deduction Act](#) bars automatic dues collection; and the [Voluntary Contribution Act](#) bars the use of dues for political activity.”¹⁷

In Arizona, legislative attacks on workers have taken the form of bills to promote privatization of public employees’ jobs and prohibitions on deducting contributions to political committees from employees’ pay.

Council on Efficient Government Act

Arizona Legislation: [SB 1466 The Council on Efficient Government Act](#)

Sponsors:

1 ALEC Senator and 1 ALEC Representative

Sen. Pamela Gorman (R-6, *former Majority Whip*)

Rep. Jack Harper (R-4)

Last Action: Failed in House on Third Reading on Reconsideration, 6/30/09

Legislative Session: 49th Legislature, First Regular Session

ALEC Model Legislation: [Council on Efficient Government Act](#)

Similarities/Analysis: The two versions of the legislation encourage the privatization of public services by establishing a council, made up of members from the state and private sectors, that will consider whether a private outside vendor can provide a product or service at lower cost than would be available through the public agency. The legislation builds an accounting framework and a set of institutions to make it easier for private entities to pursue and win contracts to provide services. It would promote greater outsourcing of services traditionally provided by public workers, frequently placing corporate economic interests above the public interest and undermining the strength of the public employee sector and the unions that represent this sector. The two bills are nearly identical.

ALEC Model Legislation: Council on Efficient Government Act	Arizona Legislation: SB 1466 The Council on Efficient Government Act
<p>Section 2. {council on efficient government; members; terms; Vacancies.}</p> <p>(a) the council on efficient government is established consisting of the following Members:</p> <p>(1) the chief executive or administrative officer of a state agency who is appointed by the governor.</p> <p>(2) two members who are engaged in private enterprise and who are appointed by the governor.</p> <p>(3) two members who are engaged in private enterprise and who are appointed by the president of the senate.</p> <p>(4) two members who are engaged in</p>	<p>A. The council on efficient government is established consisting of the following members:</p> <p>1. The chief executive or administrative officer of a state agency who is appointed by the governor.</p> <p>2. Two members who are engaged in private enterprise and who are appointed by the governor.</p> <p>3. Two members who are engaged in private enterprise and who are appointed by the president of the senate.</p> <p>4. Two members who are engaged in private enterprise and who are appointed by the speaker of the house of representatives.</p>

<p>private enterprise and who are appointed by the speaker of the house of representatives.</p>	
<p>(b) the terms of appointment to the council are for two years unless the chief executive or administrative officer of a state agency ceases to hold office. The governor shall appoint a replacement member for the remainder of the unexpired term.</p>	<p>B. The terms of appointment to the council are for two years unless the chief executive or administrative officer of a state agency ceases to hold office. The governor shall appoint a replacement member for the remainder of the unexpired term.</p>
<p>(c) a member of the council who is engaged in private enterprise is not eligible to Receive compensation but is eligible for reimbursement of expenses, pursuant to State statute.</p>	<p>C. A member of the council who is engaged in private enterprise is not eligible to receive compensation but is eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.</p>
<p>(d) a member of the council may not participate in a council review of a business case to outsource if the state agency is conducting the proposed outsourcing or, in the case of a member engaged in private enterprise, if the member has a business relationship with an entity that is involved or potentially could be involved in the proposed outsourcing.</p>	<p>D. A member of the council may not participate in a council review of a business case to outsource if the state agency is conducting the proposed outsourcing or, in the case of a member engaged in private enterprise, if the member has a business relationship with an entity that is involved or potentially could be involved in the proposed outsourcing.</p>
<p>(e) a member of the council who is engaged in private enterprise may not delegate The membership to a designee.</p>	<p>E. A member of the council who is engaged in private enterprise may not delegate the membership to a designee.</p>
<p>(f) a quorum shall consist of at least four members of the council. (g) any vacancy on the council shall be filled in the same manner as the original appointment, and any member appointed to fill a vacancy occurring for a reason other than the expiration of a term serves only for the unexpired term of the member's predecessor. (h) the council shall select a chairperson from among its members.</p>	<p>F. A quorum shall consist of at least three members of the council. g. Any vacancy on the council shall be filled in the same manner as the original appointment, and any member appointed to fill a vacancy occurring for a reason other than the expiration of a term serves only for the unexpired term of the member's predecessor. h. The council shall select a chairperson from among its members.</p>
<p>Section 3. {powers and duties of the council; annual report.} (a) the council shall: (1) review whether or not a good or service</p>	<p>41-2782. Powers and duties of the council; annual report a. The council shall: 1. Review whether or not a good or service</p>

<p>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.</p> <p>(2) review privatization of a good or service at the request of a state agency or a private enterprise.</p> <p>(3) review issues concerning agency competition with one or more private enterprises to determine ways to eliminate any unfair competition with a private enterprise.</p> <p>(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> <p>(5) comply with sections 4 and 5 of this bill.</p> <p>(6) employ a standard process for reviewing business cases to outsource.</p> <p>(7) review and evaluate business cases to outsource as requested by the governor or the state agency head whose agency is proposing to outsource.</p>	<p>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.</p> <p>2. Review privatization of a good or service at the request of a state agency or a private enterprise.</p> <p>3. Review issues concerning agency competition with one or more private enterprises to determine ways to eliminate any unfair competition with a private enterprise.</p> <p>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> <p>5. Comply with sections 41-2783 and 42-2784.</p> <p>6. Employ a standard process for reviewing business cases to outsource.</p> <p>7. Review and evaluate business cases to outsource as requested by the governor or the state agency head whose agency is proposing to outsource.</p>
<p>(11) incorporate any lessons learned from outsourcing services and activities into council standards, procedures and guidelines, as appropriate, and identify and disseminate to agencies information regarding best practices in outsourcing efforts.</p> <p>(12) develop guidelines for assisting state employees whose jobs are eliminated as a result of outsourcing.</p> <p>(13) receive complaints of violations of this article.</p> <p>(14) transmit complaints received under this section to the state agency alleged to be in violation.</p> <p>(15) hold public hearings on complaints and determine whether the agency is in violation of this article.</p> <p>(16) issue a written report of its findings to</p>	<p>11. Incorporate any lessons learned from outsourcing services and activities into council standards, procedures and guidelines, as appropriate, and identify and disseminate to agencies information regarding best practices in outsourcing efforts.</p> <p>12. Develop guidelines for assisting state employees whose jobs are eliminated as a result of outsourcing.</p> <p>13. Receive complaints of violations of this article.</p> <p>14. Transmit complaints received under this section to the state agency alleged to be in violation.</p> <p>15. Hold public hearings on complaints and determine whether the agency is in violation of this article.</p> <p>16. Issue a written report of its findings to</p>

<p>the complainant within ninety days after receiving the state agency's response.</p> <p>(17) transmit to the governor, the president of the senate and the speaker of the house of representatives a complete report of each meeting, including recommendations to correct violations of prohibitions on competition with private enterprise and findings on necessary exceptions to the prohibitions.</p> <p>(18) solicit petitions of interest from private sector service providers as the council considers appropriate. The council may evaluate and review the petitions and may hold public hearings as part of the evaluation process. The council may recommend some or all of the petitions to the governor's office for further review pursuant to state statute. A person does not have a cause of action based on the failure of the council to consider a petition of interest or make a recommendation.</p>	<p>the complainant within ninety days after receiving the state agency's response.</p> <p>17. Transmit to the governor, the president of the senate and the speaker of the house of representatives a complete report of each meeting, including recommendations to correct violations of prohibitions on competition with private enterprise and findings on necessary exceptions to the prohibitions.</p> <p>18. Solicit petitions of interest from private sector service providers as the council considers appropriate. The council may evaluate and review</p> <p>1 the petitions and may hold public hearings as part of the evaluation process.</p> <p>2 the council may recommend some or all of the petitions to the governor's</p> <p>3 office of strategic planning and budgeting for further review pursuant to</p> <p>4 section 41-2773. A person does not</p> <p>5 have a cause of action based on the</p> <p>6 failure of the council to consider a</p> <p>7 petition of interest or make a</p> <p>8 recommendation.</p>
<p>(b) the council may evaluate and review all state agency exemptions and exemptions to the restrictions on competition with private enterprise in this article and may determine that any function or functions of state agency are in violation of this article. The council shall report its findings and recommendations to the Governor, the president of the senate and the speaker of the house of representatives.</p>	<p>B. The council may evaluate and review all state agency exemptions and exemptions to the restrictions on competition with private enterprise in this article and may determine that any function or functions of state agency are in violation of this article. The council shall report its findings and recommendations to the governor, the president of the senate and the speaker of the house of representatives.</p>
<p>(c) the council shall prepare an annual report on:</p> <p>(1) recommendations on innovative methods of delivering government services that would improve the efficiency, effectiveness or competition in the delivery of government services, including enterprise-wide proposals.</p> <p>(2) outsourcing efforts of each state agency, including the number of</p>	<p>C. The council shall prepare an annual report on:</p> <p>1. Recommendations on innovative methods of delivering government services that would improve the efficiency, effectiveness or competition in the delivery of government services, including enterprise-wide proposals.</p> <p>2. Outsourcing efforts of each state agency, including the number of</p>

<p>outsourcing business cases and solicitations, the number and dollar value of outsourcing contracts, descriptions of performance results as applicable, any contract violations or project slippages and the status of extensions, renewals and amendments of outsourcing contracts.</p> <p>(3) information about the council's activities.</p> <p>(4) the status of the inventory created under section 4 of this bill.</p>	<p>outsourcing business cases and solicitations, the number and dollar value of outsourcing contracts, descriptions of performance results as applicable, any contract violations or project slippages and the status of extensions, renewals and amendments of outsourcing contracts.</p> <p>3. Information about the council's activities.</p> <p>4. The status of the inventory created under section 41-2783.</p>
<p>(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.</p> <p>(e) the auditor general shall employ an adequate number of staff who collectively possess significant expertise and experience as required to carry out the responsibilities of this article.</p> <p>(f) each state agency shall submit to the council all information, documents and other materials required by the council pursuant to this article.</p> <p>(g) at the request of the council and on approval of the joint legislative audit Committee, the auditor general shall provide performance audit and other required information relating to state agency budgets and functions. The auditor general may assist in the development and review of the agency inventory of commercial activities prescribed in section 4.</p> <p>(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</p>	<p>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.</p> <p>e. The auditor general shall employ an adequate number of staff who collectively possess significant expertise and experience as required to carry out the responsibilities of this article.</p> <p>f. Each state agency shall submit to the council all information, documents and other materials required by the council pursuant to this article.</p> <p>g. At the request of the council and on approval of the joint legislative audit committee, the auditor general shall provide performance audit and other required information relating to state agency budgets and functions. The auditor general may assist in the development and review of the agency inventory of commercial activities prescribed in section 41-2783.</p> <p>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</p>

<p>of strategic planning and budgeting for submission to the relevant legislative appropriation subcommittee.</p> <p>(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.</p> <p>(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.</p> <p>(k) except as provided by section state statute, any aggrieved person may elect to directly seek judicial relief.</p>	<p>the governor's office of strategic planning and budgeting for submission to the relevant legislative appropriation subcommittee.</p> <p>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.</p> <p>j. Subject to section 41-2784, subsection b, this article does not preclude a state agency from privatizing the provision of a good or service independent of the council.</p> <p>k. Except as provided by section 41-2752, subsection d, any aggrieved person may elect to directly seek judicial relief, including relief under 10 title 12, chapter 11, article 2.</p>
<p>Section 4. {commercial activities inventory and review.}</p> <p>(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:</p> <p>(1) a commercial activity that can be obtained in whole or in part from a private enterprise.</p> <p>(2) an inherently governmental activity.</p> <p>(b) the council shall update the inventory created under this section at least every two years.</p> <p>(c) the council shall make the inventory available to the public through electronic means.</p> <p>(d) state agencies shall cooperate with inventory requests made by the council.</p>	<p>41-2783. Commercial activities inventory and review</p> <p>a. On or before June 30, 2010, the council shall create an inventory of activities of state agencies to classify whether each activity or elements of the activity are:</p> <p>1. A commercial activity that can be obtained in whole or in part from a private enterprise.</p> <p>2. An inherently governmental activity.</p> <p>b. The council shall update the inventory created under this section at least every two years.</p> <p>c. The council shall make the inventory available to the public through electronic means.</p> <p>d. State agencies shall cooperate with inventory requests made by the council.</p>
<p>Section 5. {business cases to outsource; review and analysis; requirements.}</p> <p>(a) a proposal to outsource having a projected cost of more than ten million dollars in any fiscal year shall require:</p> <p>(1) an initial business case analysis conducted by the state agency and</p>	<p>41-2784. Business cases to outsource; review and analysis; requirements</p> <p>a. A proposal to outsource having a projected cost of more than ten million dollars in any fiscal year shall require:</p> <p>1. An initial business case analysis conducted by the state agency and</p>

<p>submitted to the council, the governor, the president of the Senate and the speaker of the house of representatives at least sixty days before a solicitation is issued. The council shall evaluate the business case analysis and submit an advisory report to the state agency, the governor, the president of the senate and the speaker of the house of representatives when the advisory report is completed, but at least thirty days before the agency issues the solicitation.</p> <p>(2) a final business case analysis conducted by the state agency and submitted after the conclusion of any negotiations, at least thirty days before execution of a contract, to the council, the governor, the president of the senate and the speaker of the house of representatives.</p> <p>(b) a proposal to outsource having a projected cost of at least one million dollars but not more than ten million dollars in any fiscal year shall require:</p> <p>(1) an initial business case analysis conducted by the state agency and submission of the business case, at least thirty days before issuing a solicitation, to the council, the governor, the president of the senate and the speaker of the house of representatives.</p> <p>(2) a final business case analysis conducted by the state agency and submitted after the conclusion of any negotiations, at least thirty days before execution of a contract, to the council, the governor, the president of the senate and the speaker of the house of representatives.</p> <p>(c) a business case to outsource having a projected cost of less than one million dollars in any fiscal year shall require a final business case analysis conducted by the state agency after the conclusion of any negotiations and provided to the council at least thirty days before execution of a contract. The council shall provide the business cases in its annual report to the president of the senate and the speaker of the house of</p>	<p>submitted to the council, the governor, the president of the senate and the speaker of the house of representatives at least sixty days before a solicitation is issued. The council shall evaluate the business case analysis and submit an advisory report to the state agency, the governor, the president of the senate and the speaker of the house of representatives when the advisory report is completed, but at least thirty days before the agency issues the solicitation.</p> <p>2. A final business case analysis conducted by the state agency and submitted after the conclusion of any negotiations, at least thirty days before execution of a contract, to the council, the governor, the president of the senate and the speaker of the house of representatives.</p> <p>b. A proposal to outsource having a projected cost of at least one million dollars but not more than ten million dollars in any fiscal year shall require:</p> <p>1. An initial business case analysis conducted by the state agency and submission of the business case, at least thirty days before issuing a solicitation, to the council, the governor, the president of the senate and the speaker of the house of representatives.</p> <p>2. A final business case analysis conducted by the state agency and submitted after the conclusion of any negotiations, at least thirty days before execution of a contract, to the council, the governor, the president of the senate and the speaker of the house of representatives.</p> <p>c. A business case to outsource having a projected cost of less than one million dollars in any fiscal year shall require a final business case analysis conducted by the state agency after the conclusion of any negotiations and provided to the council at least thirty days before execution of a contract. The council shall provide the business cases in its annual report to the president of the senate and</p>
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representatives.

(d) for any proposed outsourcing, the state agency shall develop a business case that justifies the proposal to outsource. The business case is not subject to challenge or protest. The business case must include:

- (1) a detailed description of the service or activity for which the outsourcing is proposed.
- (2) a description and analysis of the state agency's current performance based on existing performance measures if the state agency is currently performing the service or activity.
- (3) the goals desired to be achieved through the proposed outsourcing and the rationale for the goals.
- (4) a citation to the existing or proposed legal authority for outsourcing the service or activity.
- (5) a description of available options for achieving the goals. If state employees are currently performing the service or activity, at least one option involving maintaining state provision of the service or activity shall be included.
- (6) an analysis of the advantages and disadvantages of each option, including, at a minimum, potential performance improvements and risks.
- (7) a description of the current market for the contractual services that are under consideration for outsourcing.
- (8) a cost benefit analysis documenting the direct and indirect specific baseline costs, savings and qualitative and quantitative benefits involved in or resulting from the implementation of the recommended option or options. The analysis must specify the schedule that, at a minimum, must be adhered to in order to achieve the estimated savings. All elements of cost must be clearly identified in the cost benefit analysis, described in the business case and supported by applicable records and reports. The state agency head shall attest that based on the data and

the speaker of the house of representatives.

d. For any proposed outsourcing, the state agency shall develop a business case that justifies the proposal to outsource. The business case is not subject to challenge or protest. The business case must include:

1. A detailed description of the service or activity for which the outsourcing is proposed.
2. A description and analysis of the state agency's current performance based on existing performance measures if the state agency is currently performing the service or activity.
3. The goals desired to be achieved through the proposed outsourcing and the rationale for the goals.
4. A citation to the existing or proposed legal authority for outsourcing the service or activity.
5. A description of available options for achieving the goals. If state employees are currently performing the service or activity, at least one option involving maintaining state provision of the service or activity shall be included.
6. An analysis of the advantages and disadvantages of each option, including, at a minimum, potential performance improvements and risks.
7. A description of the current market for the contractual services that are under consideration for outsourcing.
8. A cost benefit analysis documenting the direct and indirect specific baseline costs, savings and qualitative and quantitative benefits involved in or resulting from the implementation of the recommended option or options. The analysis must specify the schedule that, at a minimum, must be adhered to in order to achieve the estimated savings. All elements of cost must be clearly identified in the cost benefit analysis, described in the business case and supported by applicable records and reports. The state agency head shall attest that based on the data and information underlying the

information underlying the business case and to the best of the state agency head's knowledge all projected costs, savings and benefits are valid and achievable. For the purposes of this paragraph:

(a) "cost" means the reasonable, relevant and verifiable cost, which may include elements such as personnel, materials and supplies, services, equipment, capital depreciation, rent, maintenance and repairs, utilities, insurance, personnel travel, overhead and interim and final payments. The appropriate elements shall depend on the nature of the specific initiative.

(b) "savings" means the difference between the direct and indirect actual annual baseline costs compared to the projected annual cost for the contracted functions or responsibilities in any succeeding state fiscal year during the term of the contract.

(9) a description of differences among current state agency policies and processes and, as appropriate, a discussion of options for or a plan to standardize, consolidate or revise current policies and processes, if any, to

reduce the customization of any proposed Solution that would otherwise be required.

(10a) a description of the specific performance standards that must, at a minimum, be met to ensure adequate performance.

(11) the projected time frame for key events from the beginning of the procurement process through the expiration of a contract.

(12) a plan to ensure compliance with the public records law.

(13) a specific and feasible contingency plan addressing contractor nonperformance and a description of the tasks involved in and costs required for its implementation.

(14) a state agency's transition plan for addressing changes in the number of agency personnel, affected business processes, employee transition issues and communication with affected stakeholders, such as agency clients and the public. The

business case and to the best of the state agency head's knowledge all projected costs, savings and benefits are valid and achievable. For the purposes of this paragraph:

(a) "cost" means the reasonable, relevant and verifiable cost, which may include elements such as personnel, materials and supplies, services, equipment, capital depreciation, rent, maintenance and repairs, utilities, insurance, personnel travel, overhead and interim and final payments. The appropriate elements shall depend on the nature of the specific initiative.

(b) "savings" means the difference between the direct and indirect actual annual baseline costs compared to the projected annual cost for the contracted functions or responsibilities in any succeeding state fiscal year during the term of the contract.

9. A description of differences among current state agency policies and processes and, as appropriate, a discussion of options for or a plan to standardize, consolidate or revise current policies and processes, if any, to reduce the customization of any proposed solution that would otherwise be required.

10. A description of the specific performance standards that must, at a minimum, be met to ensure adequate performance.

11. The projected time frame for key events from the beginning of the procurement process through the expiration of a contract.

12. A plan to ensure compliance with the public records law.

13. A specific and feasible contingency plan addressing contractor nonperformance and a description of the tasks involved in and costs required for its implementation.

14. A state agency's transition plan for addressing changes in the number of agency personnel, affected business processes, employee transition issues and

<p>transition plan must contain a reemployment and retraining assistance plan for employees who are not retained by the state agency or employed by the contractor.</p> <p>(15) a plan for ensuring access by persons with disabilities in compliance with applicable state and federal law.</p> <p>(16) a description of legislative and budgetary actions necessary to accomplish the proposed outsourcing.</p>	<p>communication with affected stakeholders, such as agency clients and the public. The transition plan must contain a reemployment and retraining assistance plan for employees who are not retained by the state agency or employed by the contractor.</p> <p>15. A plan for ensuring access by persons with disabilities in compliance with applicable state and federal law.</p> <p>16. A description of legislative and budgetary actions necessary to accomplish the proposed outsourcing.</p>
<p>(e) each contract for a proposed outsourcing pursuant to this section shall include</p> <p>The following:</p> <p>(1) a scope-of-work provision that clearly specifies each service or deliverable to be provided, including a description of each deliverable or activity that is quantifiable, measurable and verifiable. This provision must include a clause stating that if a particular service or deliverable is inadvertently omitted or not clearly specified but determined to be operationally necessary and verified to have been performed by the agency within the twelve months before the execution of the contract, the service or deliverable will be provided by the contractor through the identified contract amendment process.</p> <p>(2) a service level agreement provision describing all services to be provided under the terms of the agreement, the state agency's service requirements and performance objectives, specific responsibilities of the state agency and the contractor and the process for amending any portion of the service level agreement. Each service level agreement must contain an exclusivity clause that allows the state agency to retain the right to perform the service or activity, directly or with another contractor, if service levels are not being achieved.</p> <p>(3) a provision that identifies all associated costs, specific payment terms and payment schedules, including provisions governing</p>	<p>E. Each contract for a proposed outsourcing pursuant to this section shall include the following:</p> <p>1. A scope-of-work provision that clearly specifies each service or deliverable to be provided, including a description of each deliverable or activity that is quantifiable, measurable and verifiable. This provision must include a clause stating that if a particular service or deliverable is inadvertently omitted or not clearly specified but determined to be operationally necessary and verified to have been performed by the agency within the twelve months before the execution of the contract, the service or deliverable will be provided by the contractor through the identified contract amendment process.</p> <p>2. A service level agreement provision describing all services to be provided under the terms of the agreement, the state agency's service requirements and performance objectives, specific responsibilities of the state agency and the contractor and the process for amending any portion of the service level agreement. Each service level agreement must contain an exclusivity clause that allows the state agency to retain the right to perform the service or activity, directly or with another contractor, if service levels are not being achieved.</p> <p>3. A provision that identifies all associated costs, specific payment terms and payment schedules, including provisions governing incentives and</p>

<p>incentives and financial disincentives and criteria governing payment.</p> <p>(4) a provision that identifies a clear and specific transition plan that will be implemented in order to complete all required activities needed to transfer the service or activity from the state agency to the contractor and operate the service or activity successfully.</p> <p>(5) a performance standards provision that identifies all required performance standards, which must include at a minimum:</p> <p>(a) detailed and measurable acceptance criteria for each deliverable and service to be provided to the state agency under the terms of the contract that document the required performance level.</p> <p>(b) a method for monitoring and reporting progress in achieving specified performance standards and levels.</p> <p>(c) the sanctions or disincentives that will be imposed for nonperformance by the contractor or state agency.</p> <p>(6) a provision that requires the contractor and its subcontractors to maintain adequate accounting records that comply with all applicable federal and state laws and generally accepted accounting principles.</p> <p>(7) a provision that authorizes the state agency to have access to and audit all records related to the contract and subcontracts, or any responsibilities or functions under the contract and subcontracts, for purposes of legislative oversight and a requirement for audits by a Service organization pursuant to professional auditing standards, if appropriate.</p> <p>(8) a provision that requires the contractor to interview and consider for employment with the contractor each displaced state employee who is interested in such employment.</p> <p>(9) a contingency plan provision that describes the mechanism for continuing the operation of the service or activity, including transferring the service or activity back to the state agency or</p>	<p>financial disincentives and criteria governing payment.</p> <p>4. A provision that identifies a clear and specific transition plan that will be implemented in order to complete all required activities needed to transfer the service or activity from the state agency to the contractor and operate the service or activity successfully.</p> <p>5. A performance standards provision that identifies all required performance standards, which must include at a minimum:</p> <p>(a) detailed and measurable acceptance criteria for each deliverable and service to be provided to the state agency under the terms of the contract that document the required performance level.</p> <p>(b) a method for monitoring and reporting progress in achieving specified performance standards and levels.</p> <p>(c) the sanctions or disincentives that will be imposed for nonperformance by the contractor or state agency.</p> <p>6. A provision that requires the contractor and its subcontractors to maintain adequate accounting records that comply with all applicable federal and state laws and generally accepted accounting principles.</p> <p>7. A provision that authorizes the state agency to have access to and audit all records related to the contract and subcontracts, or any responsibilities or functions under the contract and subcontracts, for purposes of legislative oversight and a requirement for audits by a service organization pursuant to professional auditing standards, if appropriate.</p> <p>8. A provision that requires the contractor to interview and consider for employment with the contractor each displaced state employee who is interested in such employment.</p> <p>9. A contingency plan provision that describes the mechanism for continuing the operation of the service or activity, including transferring the service or activity back to the state</p>
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<p>successor contractor, if the contractor fails to perform and comply with the performance standards and levels of the contract and the contract is terminated.</p> <p>(10) a provision that requires the contractor and its subcontractors to comply with public records laws specifically to:</p> <p>(a) keep and maintain the public records that ordinarily and necessarily would be required by the state agency in order to perform the service or activity.</p> <p>(b) provide the public with access to the public records on the same terms and conditions that the state agency would provide the records.</p> <p>(c) ensure that records that are exempt or records that are confidential and exempt are not disclosed except as authorized by law.</p> <p>(d) meet all requirements for retaining records and transfer to the state agency, at no cost, all public records in possession of the contractor on termination of the contract and destroy any duplicate public records that are exempt or confidential. All records stored electronically must be provided to the state agency in a format that is compatible with the information technology systems of the state agency.</p> <p>(11) a provision that addresses ownership of intellectual property. This paragraph does not provide the specific authority needed by a date agency to obtain a copyright or trademark.</p> <p>(12) if applicable, a provision that allows the state agency to purchase from the contractor, at its depreciated value, assets used by the contractor in the performance of the contract. If assets have not depreciated, the state agency shall retain the right to negotiate to purchase at an agreed on cost.</p>	<p>agency or successor contractor, if the contractor fails to perform and comply with the performance standards and levels of the contract and the contract is terminated.</p> <p>10. A provision that requires the contractor and its subcontractors to comply with public records laws specifically to:</p> <p>(a) keep and maintain the public records that ordinarily and necessarily would be required by the state agency in order to perform the service or activity.</p> <p>(b) provide the public with access to the public records on the same terms and conditions that the state agency would provide the records.</p> <p>(c) ensure that records that are exempt or records that are confidential and exempt are not disclosed except as authorized by law.</p> <p>(d) meet all requirements for retaining records and transfer to the state agency, at no cost, all public records in possession of the contractor on termination of the contract and destroy any duplicate public records that are exempt or confidential. All records stored electronically must be provided to the state agency in a format that is compatible with the information technology systems of the state agency.</p> <p>11. A provision that addresses ownership of intellectual property. This paragraph does not provide the specific authority needed by a state agency to obtain a copyright or trademark.</p> <p>12. If applicable, a provision that allows the state agency to purchase from the contractor, at its depreciated value, assets used by the contractor in the performance of the contract. If assets have not depreciated, the state agency shall retain the right to negotiate to purchase at an agreed on cost.</p>
<p>Section 6. {council accounting method.} The council, by rule, shall establish an accounting method that:</p>	<p>41-2785. Council accounting method the council, by rule, shall establish an accounting method that:</p>

<p>(1) is similar to generally accepted accounting principles used by a private enterprise.</p> <p>(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:</p> <p>(a) labor expenses, such as compensation and benefits, costs of training, costs of paying overtime, costs of supervising labor or other personnel expenses.</p> <p>(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> <p>(c) contract management costs.</p> <p>(d) other costs particular to a person supplying the good or service.</p> <p>(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>1. Is similar to generally accepted accounting principles used by a private enterprise.</p> <p>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:</p> <p>(a) labor expenses, such as compensation and benefits, costs of training, costs of paying overtime, costs of supervising labor or other personnel expenses.</p> <p>(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> <p>(c) contract management costs.</p> <p>(d) other costs particular to a person supplying the good or service.</p> <p>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>Section 7. {governor; required review of commercial activities.}</p> <p>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>Section 8. {duties of the governor's office of strategic planning and budgeting.}</p> <p>(a) the governor's office of strategic planning and budgeting shall:</p> <p>(1) determine the amount of an appropriation that is no longer needed by an executive branch agency because all or</p>	<p>41-2786. Governor; required review of commercial activities beginning with fiscal year 2009-2010, 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. 41-2787. Duties of the governor's office of strategic planning and budgeting</p> <p>a. The governor's office of strategic planning and budgeting shall:</p> <p>1. Determine the amount of an appropriation that is no longer needed by an executive branch agency because all or</p>

<p>a portion of the agency's provision of a good or service is privatized.</p> <p>(2) adjust the governor's budget recommendations to reflect the amount that is determined under paragraph 1.</p> <p>(3) report its findings to the president of the senate and the speaker of the house of representatives.</p> <p>(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>a portion of the agency's provision of a good or service is privatized.</p> <p>2. Adjust the governor's budget recommendations to reflect the amount that is determined under paragraph 1.</p> <p>3. Report its findings to the president of the senate and the speaker of the house of representatives.</p> <p>b. This section does not prevent the governor 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>Section 9. {applicability.}</p> <p>This article does not apply to contracts in support of the planning, development, implementation, operation or maintenance of the road, bridge and public transportation construction program of the department of transportation.</p> <p>Section 10. {initial terms of members of the council on efficient government.}</p> <p>Notwithstanding section 2 of this bill, the initial members of the council on efficient government who are engaged in private enterprise shall assign themselves by lot to terms of one or two years in office. The appointing authority shall make all subsequent appointments as prescribed by statute.</p> <p>Section 11. {severability clause.}</p> <p>Section 12. {repealer clause.}</p> <p>Section 13. {effective date.}</p>	<p>41-2788. Applicability</p> <p>This article does not apply to contracts in support of the planning, development, implementation, operation or maintenance of the road, bridge and public transportation construction program of the department of transportation pursuant to title 28. sec. 2. Title 41, chapter 27, article 2, Arizona revised statutes, is amended by adding section 41-3019.01, to read: 13 41-3019.01. Council on efficient government; termination July 1, 2019</p> <p>a. The council on efficient government terminates on July 1, 2019.</p> <p>b. Title 41, chapter 25, article 3 is repealed on January 1, 2020. sec. 3. Initial terms of members of the council on efficient government notwithstanding section 41-2781, Arizona revised statutes, as added by this act, the initial members of the council on efficient government who are engaged in private enterprise shall assign themselves by lot to terms of one or two years in office. The appointing authority shall make all subsequent appointments as prescribed by statute.</p> <p>sec. 4. Purpose pursuant to section 41-2955, subsection e, Arizona revised statutes, the purposes of the council on efficient government are to:</p> <p>1. Ensure that each state agency focuses on its core mission and delivers goods and services effectively and efficiently by</p>

	<p>leveraging resources and contracting with private sector vendors if these vendors can more effectively and efficiently provide these goods or services and reduce the cost of government.</p> <p>2. Evaluate for feasibility, cost effectiveness and efficiency business cases to be outsourced before a state agency proceeds with any outsourcing of goods or services.</p>
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Prohibition on Employee Compensation Deductions

Arizona Legislation: [SCR 1028](#)

Sponsors (in bold) and co-sponsors:

14 ALEC Senators, 23 ALEC Representatives

Sen. Gail Griffin (R-25)	Sen. Adam Driggs (R-11)
Sen. Scott Bundgaard (R-4)	Sen. John McComish (R-20)
Sen. Lori Klein (R-6)	Sen. Don Shooter (R-24)
Sen. Steve Smith (R-23)	Rep. Steve Court (R-18, <i>Majority Leader</i>)
Sen. Rick Murphy (R-9)	Rep. Debbie Lesko (R-9, <i>Majority Whip</i>)
Sen. Steven Yarbrough (R-21)	Rep. Rick Gray (R-9)
Sen. Sylvia Tenney Allen (R-5) <i>(President Pro Tempore)</i>	Rep. Kate Brophy McGee (R-11)
Rep. Thomas Forese (R-21)	Rep. John Fillmore (R-23)
Rep. Cecil Ash (R-18)	Rep. Justin Olson (R-19)
Rep. David Gowan, Sr. (R-30)	Rep. Amanda Reeve (R-6)
Rep. J. Ted Vogt (R-30)	Rep. Nancy McLain (R-3)
Rep. Judy Burges (R-4)	Rep. Frank Pratt (R-23)
Rep. Jack Harper (R)	Rep. Brenda Barton (R-5)
Rep. Nancy Barto (R-7)	Rep. Eddie Farnsworth (R-22)
Rep. Kimberly Yee (R-10)	Rep. Peggy Judd (R-25)
Rep. David Stevens (R-25)	Rep. Rep. Terri Proud (R-26)
Sen. Michele Reagan (R-8)	Rep. David Smith (R-7)
Sen. Andy Biggs (R-22, <i>Majority Leader</i>)	
Sen. Steve Pierce (R-1, <i>Majority Whip</i>)	
Sen. Albert Anthony Melvin (R-26)	

Last Action: Held in House, 4/5/11

Legislative Session: 50th Legislature, First Regular Session

ALEC Model Legislation: [Prohibition on Compensation Deductions Act](#)

Similarities/Analysis: The two versions of this legislation prohibits deducting contributions to a political committee from employees’ pay. The Arizona legislation applies to “any employer,” while the ALEC legislation focuses on state agencies and political subdivisions. ALEC Exposed analyzed the negative impact of such legislation on labor unions, pointing out that the bill “will limit funding for public employee unions by prohibiting public employers from deducting union dues from worker paychecks. Unions will have to collect dues directly from workers, reducing total dues that unions will collect and distracting from other workplace or union member issues by requiring unions to focus energy on the task of collecting dues.”¹⁸ ALEC Rep. Judy Burges was a sponsor of [HCR2032](#), a companion bill that also prohibited any employer from “deducting or facilitating deduction of a payment from an employee’s paycheck for political purposes.”¹⁹

ALEC Model Legislation: Prohibition on Compensation Deductions Act	Arizona Legislation: SCR 1028
<p>Section 4.</p> <p>(A) No agency, department, board, division, bureau, commission, or council of the state or any political subdivision thereof shall deduct from the compensation of any employee:</p> <p>(1) Any money from which a contribution is made directly to a political committee or through an intermediary;</p> <p>(2) Any dues, fees, or assessments from which any amount is given, transferred, or donated to a political committee for any reason or from which a contribution is made to a political committee for any reason</p>	<p>Section 11.</p> <p>A. An employee in this state shall be free from any employer deducting or facilitating the deduction of payment from an employee’s paycheck for political purposes, unless the employee annual provides express written permission to make the donation.</p> <p>B. This section does not apply to deductions for employee benefit, pension, savings or health plans or to charitable contribution</p> <p>C. For the purposes of this section, “Political Purposes” means a direct or independent expenditure:</p> <p>1. In support of or in opposition to a candidate, a slate of candidates, a political party, pending or potential legislation, a referendum or an initiative.</p> <p>2. To a political action committee, a corporation or any other group for the purpose of making an expenditure described in paragraph 1.</p>

Privatization of Public Education

ALEC’s ideological agenda includes the defunding and redesign of public education. As early as 1985, according to [an article](#) by Julie Underwood, a professor at the University of Wisconsin, ALEC wrote in the *Education Source Book* that public schools “meet all of the needs of all of the people without pleasing anyone.”²⁰ They use claims about “fostering education freedom and quality” as a cover for promoting privatization of public education.²¹ In Arizona, ALEC has supported providing taxpayer-funded vouchers for students to attend private schools and similar publicly-financed voucher programs for students with disabilities to attend private schools. It also has backed establishment of online learning centers – so-called “virtual schools” – as a substitute for in-classroom teaching. The result is a loss of accountability for serving students’ needs.

The Parental Educational Choice for Grants

Arizona Legislation: [HB 2068](#)

Co-Sponsors: ALEC Rep. Judy Burges (R-4) and ALEC Rep. Andy Biggs (R-22)

Last Action: Held in committee, 1/15/09

Legislative Session: 49th Legislature, First Regular Session

ALEC Model Legislation: [The Parental Choice Scholarship Program Act \(Means-Tested Eligibility\)](#)

Similarities/Analysis: The two versions of the legislation create a voucher program that transfers taxpayer funds from public schools to subsidize families whose children attend private, for-profit primary and secondary schools. The ALEC model bill targets families eligible for reduced price school lunches and families making 250% more than the qualifying income limit. HB 2068 contains no qualifying income limits.

<p>ALEC Model Legislation: The Parental Choice Scholarship Program Act (Means-Tested Eligibility)</p>	<p>Arizona Legislation: HB 2068</p>
<p>Section 3.</p> <p>(A) Any parent of an eligible student shall qualify for a scholarship from the state for their child to enroll in and attend a participating school.</p>	<p>Parental educational choice grant program; nature of grants</p> <p>A. The parental educational choice grant program is established under which each custodian of a qualifying pupil who completes an application for a grant under this article shall receive a grant that is to be redeemed at the grant school in which the qualifying pupil enrolls and applied toward payment of the tuition</p>

	<p>and fees payable for the educational and related services provided to the qualifying pupil by that grant school</p> <p>Custodian is defined as “a resident of this state who is a parent or the legal guardian of a qualifying pupil.</p>
<p>Section 3.</p> <p>(B) Any eligible student may attend a participating school until his or her graduation from high school or his or her 21st birthday, whichever comes first</p>	<p>Grant Eligibility</p> <p>A. A pupil is eligible to receive a grant under this article if both:</p> <p>1. During the school year in which the grant is to be effective, the pupil meets all of the following conditions:</p> <p>(b) Is under twenty two years of age and has not graduated from high school or obtained a general equivalency diploma.</p>
<p>Section 3.</p> <p>(D) The scholarship is the entitlement of the eligible student under the supervision of the student’s parent and not that of any school.</p>	<p>Parental educational choice grant program; nature of grants</p> <p>B. A grant provided under this article constitutes a grant of aid to a qualifying pupil through the qualifying pupil’s respective custodian and not to the grant school in which the qualifying pupil’s respective custodian and not to the grant school in which the qualifying pupil is enrolled. The grant does not constitute taxable income to the custodian or the qualifying pupil.</p>

The Special Needs Scholarship Program

Arizona Legislation: [HB 2074](#)

Sponsors (in bold) and co-sponsors:

1 ALEC Senator, 4 ALEC Representatives

Sen. Pamela Gorman (R-6, former Majority Whip)

Rep. Andy Biggs (R-22, Majority Leader)

Rep. Nancy Barto (R-7)

Rep. Judy M. Burges (R-4)

Rep. Nancy McLain (R-3)

Last Action: Held in committee, 1/15/09

Legislative Session: 49th Legislature, First Regular Session

ALEC Model Legislation: [The Special Needs Scholarship Program Act](#)

Similarities/Analysis: The two versions of the legislation create a voucher program that uses public funds to subsidize private school attendance by students with disabilities. As *ALEC Exposed* explains, the voucher program in these bills targets a specific subset of students who are Individuals with Disabilities Education Act (IDEA) eligible.²² The premise behind IDEA is that education systems placing students with special needs with non-disabled students are superior to systems that segregate students with special needs. Special education vouchers, however, can be used to support schools that serve only students with a particular disability. Moreover, students enrolled in private schools do not have the accountability protections provided in IDEA. This is particularly problematic because private schools frequently have little experience with special needs students. Indeed, some question whether these private schools actively discourage special education students from applying. *ALEC Exposed* confirms that most disability organizations are strongly opposed to special education vouchers.²³

ALEC Model Legislation: The Special Needs Scholarship Program Act	Arizona Legislation: HB 2074
<p>Summary</p> <p>The Special Needs Scholarship Program creates a scholarship program that provides students with special needs the option to attend the public or private elementary or secondary school of their parents' choice.</p>	<p>Sec. 3.</p> <p>A. The Arizona Scholarships for pupils with disabilities program is established to provide pupils with disabilities with the option of attending any public school of the pupil's choice or receiving a scholarship to any qualified school of the pupil's choice</p>
<p>Section 3.</p> <p>(A) Any parent of an eligible student shall qualify for a scholarship from the state for their child to enroll in and attend a participating, private school:</p> <p>(1) the student with special needs has had an Individualized Education Plan written in accordance with the rules of the Department;</p> <p>(2) the student has been accepted for admission at a participating school; and</p> <p>(3) the parent has requested a scholarship from the state before the deadline established by the Department</p>	<p>Sec. 3.</p> <p>B. The parent of a public school pupil with a disability who is dissatisfied with the pupil's progress may request and receive from the state a scholarship for the child to enroll in and attend any qualified school in accordance with this section if both of the following apply:</p> <ol style="list-style-type: none"> 1. The child has spent the prior school year in attendance at a public school in this state 2. The parent has obtained acceptance for admission of the pupil to a qualified school that is eligible for the program under this article and has notified the school district of the request for a scholarship at least sixty days before the date of the first scholarship payment. The

	parental notification must be through a communication directly to the school district or through the department of education to the school district in a manner that creates a written or electronic record of the notification and the date of receipt of the notification.
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Virtual Public Schools Act

Arizona Legislation: [SB 1452](#)

Sponsors: ALEC Sen. Rich Crandall (R-19)

Last Action: Held in House, 3/21/11

Legislative Session: 50th Legislature, First Regular Session

ALEC Model Legislation: [Virtual Public Schools Act](#)

Similarities/Analysis: The two versions of the legislation establish online learning schools – called “virtual schools” in the ALEC bill and “digital learning centers” in the Arizona bill – as a part of the public school system. The Arizona bill establishes a “hybrid e-learning” program, which is defined as a teaching program that includes the use of web resources. This program requires the development of a “digital learning center” where teachers can instruct students by using web resources. Significantly, the Arizona bill provides that the student need not be “physically present” during instruction. The language and some of the provisions of the two bills are different but they share the goal of developing a new way of privatizing public schools through the creation of “virtual” classrooms.

ALEC Model Legislation: Virtual Public Schools Act	Arizona Legislation: SB 1452
<p>Declaration. The General Assembly hereby finds and declares that:</p> <p>(c) Providing a broader range of educational options to parents and utilizing existing resources, along with technology, may help students in our state improve their academic achievement</p>	<p>14. (a) Allow a variety of alternative teacher and administrator preparation programs, with variations in program sequence and design, to apply for program approval.</p> <p>The state board shall adopt rules pursuant to this subdivision designed to allow for a variety of formats and shall not require a prescribed answer or design from the program provider in order to obtain approval from the state board. The state shall evaluate each program provider based on the program’s ability to prepare teachers and administrators and</p>

	<p>to recruit teachers and administrators with a variety of experiences and talents.</p> <p>The state board shall permit universities under the jurisdiction of the Arizona board of regents, community colleges in this state, private postsecondary institutions licensed by this state, school districts, charter schools and professional organizations to apply for program approval and shall create application procedures and certification criteria that are less restrictive than those for traditional preparation programs.</p>
<p>(2) The General Assembly further finds and declares that virtual schools established in this article:</p> <p>(a) Provide [STATE] families with an alternative choice to access additional educational resources in an effort to improve academic achievement;</p> <p>(b) Must be recognized as public schools and provide equitable treatment and resources as any other public school in the state.</p> <p>Virtual Schools are defined as an “independent public school in which the school uses technology in order to deliver a significant portion of instruction its students via the internet in a virtual or remote setting.</p>	<p>Sec. 3.</p> <p>A. The State Board of Education shall establish a digital learning center. The State Board of Education shall issue a request for proposals and select and enter into a seven-year agreement with a private organization to operate and administer the digital learning center.</p>
<p>Section 2.</p> <p>iv. For each family with a student enrolled, the virtual shall:</p> <p>(a) provide instructional materials;</p> <p>(b) ensure access to necessary technology such as a computer and printer; and</p> <p>(c) ensure access to an Internet connection used for schoolwork</p>	<p>Sec. 3.</p> <p>C. The private organization selected by the state board of education pursuant to subsection A shall:</p> <ol style="list-style-type: none"> 1. Develop a plan to advance innovative educational models that use hybrid e-learning and web-based educational content delivery 2. Identify and contract with public and private entities to advance hybrid e-learning and to integrate professional development training for teachers who provide instruction in hybrid e-learning

	<p>3. In cooperation with the superintendent of public instruction and the state board of education, solicit monies from all lawful private and public sources, including federal monies to offset the costs of developing the digital learning center.</p>
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Healthcare Reform

ALEC and its state legislators write legislation designed to ensure that any healthcare reform implemented at the state level would benefit insurance companies far more than their policyholders. In an article from *The Nation*, CMD senior fellow Wendell Potter analyzed ALEC’s use of state legislatures to stop a federal single-payer proposal. He wrote: “By declaring that Congressional attempts to regulate health insurance at the federal level would be unconstitutional, [these measures] would effectively ban not only a federal single-payer proposal but also a federally created health insurance exchange and a federally operated public insurance option.”²⁴

Potter’s review of ALEC’s healthcare-related bills and resolutions makes clear that insurers “realized early on that the best way to block profit-threatening provisions of any federal reform would be to attack them at the state level through ALEC. In Arizona, legislators attempted to pass a version of the ALEC model bill, The Health Care Choice Act for States. This bill would permit the sale of individual health insurance policies across state lines which would not be subject to the mandated benefits required by in-state policies. The effect, as Potter argues, would be to make comprehensive polices “significantly more expensive than they already are.”²⁵

Health Care Choice Act for States

Arizona Legislation: [HB 2689](#)

Sponsors (in bold) and co-sponsors:

9 ALEC Representatives

- Rep. Cecil Ash (R-18)**
- Rep. Russell Jones (R-24)**
- Rep. Kate Brophy McGee (R-11)**
- Rep. David Stevens (R-25)**
- Rep. Debbie Lesko (R-9, *Majority Whip*)

- Rep. Karen Fann (R-1)
- Rep. Doris Goodale (R-3)
- Rep. Justin Olson (R-19)
- Rep. Bob Robson (R-20)

Last Action: Held in committee, 2/10/11

Legislative Session: 50th Legislature, First Regular Session

ALEC Model Legislation: [Health Care Choice Act for States](#)

Similarities/Analysis: The two versions of the legislation permit the purchase of health insurance across state lines, from insurers not licensed in the state of the purchaser. Such policies are not subject to the mandated benefits required in all health insurance policies sold in the state of the purchaser. ALEC exposed argues that “such legislation would permit the sale of sub-standard health insurance policies, probably for a price lower than policies sold by in- state insurers, thereby crowding out more comprehensive polices that cover necessary care.”²⁶

ALEC Model Legislation: Health Care Choice Act for States	Arizona Legislation: HB 2689
<p>A. The {insert state legislative body} recognizes the need for individuals, employers, and other purchasers of health insurance coverage in this state to have the opportunity to choose health insurance plans that are more affordable and flexible than existing market policies offering accident and sickness insurance coverage. Therefore, the {insert state legislative body} seeks to increase the availability of health insurance coverage by allowing insurers authorized to engage in the business of insurance in selected states to issue accident and sickness policies in {insert state}.</p>	<p>Section 1.</p> <p>A. Notwithstanding any other law, insurers of the same type as those subject to section 20-826, 20-1057, 20-1342, 20-1402 or 20-1404 that issue policies, contracts, plans, coverage’s or evidences of coverage and that are domiciled outside of this state may transact health or sickness insurance in this state if the insurer provides evidence to the director that while providing health or sickness insurance the insurer is subject to the jurisdiction of another state’s insurance department and that the insurer’s state of domicile requires the insurer to maintain financial reserves of not less than the amount required in this state.</p>
<p>C. Each written application for participation in an out-of-state health benefit plan shall contain the following language in boldface type at the beginning of the document:</p> <p>1. “This policy is primarily governed by the laws of {insert state where the master policy is filed}; therefore, all of the rating laws applicable to policies filed in this state do not apply to this policy, which may result in increases in your premium at renewal that would not permissible in a {insert state} approved policy. Any purchase of individual health insurance should be considered carefully since future medical conditions may make it impossible to qualify for another</p>	<p>Section 1.</p> <p>D. Each written application for a policy, contract, plan, coverage or evidence of coverage for health or sickness coverage issued under this section shall contain the following notice at the beginning of the document printed in at least twelve point boldface type:</p> <p>Notice: This policy is issued by (name of insurer) and is governed by the laws and rules of the state of (insurer’s domicile state) and the policy has met the requirements of that state as determined by that state’s department of insurance. This policy may be less expensive than others because it is not subject to all of</p>

<p>individual health policy. For information concerning individual health cover under a {insert state}p approved policy, please consult your insurance agent or the {insert state Department of Insurance or similar agency}”</p>	<p>the insurance laws and rules of the state of Arizona, including coverage of some services or benefits mandated by law in Arizona. Additionally, this policy is subject to all of the consumer protection laws or restrictions on rate changes of the state of (insurer’s domicile state), and not the state of Arizona. As with all insurance products, before purchasing this policy, you should carefully review the policy and determine what health care services the policy covers and what benefits it provides, including any exclusions, limitations or conditions for such services or benefits.</p>
<p>E. The {insert title of state insurance commissioner} shall be authorized to conduct market conduct and solvency examinations of all out-of-state companies seeking to offer health benefit plans in this state or who have been given approval to offer health benefit plans in this state. Such examinations shall be conducted in the same manner and under the same terms and conditions as for companies located in this state.</p>	<p>F. Residents of this state who obtain a policy from a company whose primary state is not this state have the right to an independent external review in this state, and the decision by the independent external review board to authorize the treatment or care is binding on the insurer.</p>
<p>F. The {insert title of state insurance commissioner} shall adopt rules and regulations necessary to implement this chapter, including, but not limited to, determining which health insurance companies located in other states shall be authorized to offer plans to {insert state} residents and determining the manner of approving the health benefit plans offered by such companies.</p>	<p>G. The director shall adopt rules to implement this section, including standard forms for the disclosure of benefits.</p>

Health Care Sharing Ministries Freedom to Share Act

Arizona Legislation: [SB 1122](#)

Sponsor: ALEC Rep. Nancy Barto (R-7)

Last Action: Signed into law by the governor, 4/19/11

Legislative Session: 50th Legislature, First Regular Session

ALEC Model Legislation: [Health Care Sharing Ministries Freedom to Share Act](#)

Similarities/Analysis: The two versions of the legislation exempt faith based nonprofit, tax-exempt organizations from regulation under the Department of Insurance and require a monthly statement and written disclaimer be provided to all members. Both bills have almost the exact same content and language.

Because these “Health Care Sharing Ministries” are not regulated by the Department of Insurance, they do not have to follow the usual regulations for insurance programs. An [MSNBC article](#) highlighted the “more than 100,000 people in the United States whose care is compensated not through guaranteed insurance payments, but through faith that fellow believers will foot the bills.” The article further comments that “Christians who regularly attend church usually sign up as individuals, but they’re part of a larger community that pays for ailments from broken legs to brain tumors, so long as they meet ministry guidelines.”²⁷

ALEC Model Legislation: Health Care Sharing Ministries Freedom to Share Act	Arizona Legislation: SB 1122
<p>Section 2. {Exemption of Health Care Sharing Ministries from the Insurance Code}</p> <p>A health care sharing ministry shall not be considered to be engaging in the business of insurance for purposes of this [insert code, title, chapter, or appropriate description that describes the state’s regulation of health insurance statutes</p>	<p>Section 1. Health care sharing ministries: exemption from regulation: definition</p> <p>A. A health care sharing ministry’s practices do not constitute the transaction of insurance business in this state for the purposes of regulation under this title.</p>
<p>Section 3. {Definitions}</p> <p>A. “Health Care Sharing Ministry” means a faith-based, non-profit organization that is tax-exempt under the Internal Revenue Code which:</p> <ol style="list-style-type: none">1. Limits its membership to those who are of a similar faith;2. Acts as an organizational clearing house for information about members/subscribers who have financial, physical, or medical needs,	<p>Section 1.</p> <p>B. For the purposes of this section, “Health Care Sharing Ministry” means a faith-based, non-profit organization that is exempt from Federal income tax under section 501 of the internal revenue code and that:</p> <ol style="list-style-type: none">1. Limits its participants to those who are of a similar faith;2. Acts as a facilitator among participants who have financial or medical needs and

matching them with members/subscribers with the present ability to assist those with financial or medical needs, all in accordance with the organization's criteria;

3. Provides for the financial or medical needs of a member/subscriber through payments directly from one member/subscriber to another. The requirements of this Subsection can be satisfied by a trust established solely for the benefit of member/subscribers, which is audited annually by an independent auditing firm;

4. Provides amounts that members/subscribers may contribute with no assumption of risk or promise to pay among the members/subscribers and not assumption of the risk or promise to pay by such organization to the members/subscribers;

5. Provides a written monthly statement to all members/subscribers, listing the total dollar amount of qualified needs submitted to such organization, as well as the amount actually published or assigned to members/subscribers for their contribution; and

6. Provides in substance the following written disclaimer on or accompanying all promotional documents distributed by or on behalf of the organization, including applications, and guideline materials: "Notice: This publication is not an insurance company nor is it offered through an insurance company. Whether anyone chooses to assist you with your medical bills will be totally voluntary, as no other subscriber or member will be compelled by law to contribute toward your medical bills. As such, this publication should never be considered to be insurance. Whether you receive any payments for medical expenses and whether or not this publication continues to operate, you are always personally responsible for the payment of your own medical bills."

matches those participants with other participants who have the ability to assist those with financial or medical needs consistent with the criteria established by the health care sharing ministry.

3. Provides for the financial or medical needs of a participant through contributions from one participant to another.

4. Suggests amounts that participants may contribute with no assumption of risk or promise to pay among the participants and not assumption of risk or promise to pay by the health care sharing ministry to the participants;

5. Provides a written monthly statement to all participants, listing the total dollar amount of qualified needs submitted to the health care sharing ministry and the amount actually published or assigned to participants for their contribution.

6. Provides a written disclaimer on or accompanying all applications and guideline materials distributed by or on behalf of the ministry that reads, in substance:

"Notice: the organization facilitating the sharing of medical expenses is not an insurance company and the ministry's guidelines and plan of operation are not an insurance policy. Whether anyone chooses to assist you with your medical bills will be completely voluntary because participants are not compelled by law to contribute toward your medical bills. Therefore, participation in the ministry or a subscription to any of its documents should not be considered to be insurance. Regardless of whether you receive any payment for medical expenses or whether this ministry continues to operate, you are always personally responsible for the payment of your own medical bills."

Anti-Environmental Protection and Energy

ALEC serves the interests of fossil fuel-producing corporations like ExxonMobil, Peabody Energy and Koch industries, and has a long history of advancing legislation aimed at dismantling EPA regulations. In an [article](#) by Jill Richardson, The Center for Media and Democracy explained the history of ALEC and their state legislators' mission to dismantle EPA regulations. She wrote that ALEC's campaign "against any regulation of greenhouse gases began long ago, when the U.S. was in the midst of debating the Kyoto Protocol, an international effort to rein in greenhouse gas emissions to control the climate crisis." ²⁸ In 1998, ALEC ratified a [model resolution](#) for states to pass calling on the U.S. to reject the Kyoto Protocol and "ban states from regulating greenhouse gases in any way."²⁹

In addition to individual state laws regulating carbon, regional initiatives like the Greenhouse Gas Initiative formed throughout the United States. ALEC, in response, drew up a model resolution for state legislatures, urging governors to pull their states out of these regional initiatives. In Arizona, they convinced Governor and ALEC alum Jan Brewer to pull her state [out of the initiative](#) in early 2010. Currently, ALEC is trying to influence state legislation that will weaken and eventually dismantle the federal powers of the EPA.

State Sovereignty On Environmental Regulations

Arizona Legislation: [SB 1393](#)

Sponsor (in bold) and co-sponsors:

8 ALEC Senators, 2 ALEC Representatives

**Sen. Sylvia Tenney Allen (R-5,
President Pro Tempore)**

Sen. Lori Klein (R-6)

Sen. Michele Reagan (R-8)

Sen. Steven Yarbrough (R-21)

Sen. Steve Smith (R-23)

Sen. Don Shooter (R-24)

Sen. Gail Griffin (R-25)

Sen. Albert Anthony Melvin (R-26)

Rep. Jack W. Harper (R-4)

Rep. Brenda Barton (R-5)

Last Action: Held in House, 3/2/11

Legislative Session: 50th Legislature, First Regular Session

ALEC Model Legislation: [State Regulatory Responsibility Act](#)

Similarities/Analysis: The two versions of this legislation weaken the federal government's ability to supersede less effective state regulation. Both bills use a narrow reading of the 10th Amendment to argue for limiting the Federal government's power over the states. The ALEC model bill allows states to invalidate any federal law or directive that conflicts with state law. The bill also requires the federal government to provide funds to the state before implementing any federal program or regulation. Although the ALEC bill does not specifically mention environmental regulation, *ALEC*

Exposed posits that the bill is directed towards such oversight. The Arizona bill leaves no doubt, specifically focusing on state sovereignty over the regulation of the intrastate emission of anthropogenic carbon dioxide or other greenhouse substances produced by “biological, mechanical or chemical processes.”

ALEC Model Legislation: State Regulatory Responsibility Act	Arizona Legislation: SB 1393
<p>The Model State Regulatory Act’s purpose is to ensure the division of governmental responsibilities between the federal government and the states under the principles of “federalism”, so those state agencies are free to implement their powers without unauthorized federal interference. First, the Act prevents a state agency from complying with a federal requirement that is inconsistent with state law unless the requirement is clearly expressed in a federal statute or rule, and is adopted pursuant to the Federal Administrative Procedures Act. This provision prevents a state agency from being forced to follow a federal requirement that has not been promulgated pursuant to notice and comment procedures.</p> <p>Second, the Act precludes a state agency from allowing federal law to preempt state law unless the state Attorney General finds that such preemption is required. This provision provides a mechanism for the state to determine if federal preemption is valid and necessary.</p>	<p>Sec. 3.</p> <p>3. At the time the United States Constitution was ratified on June 21, 1788, the Enumerated Powers were meant and understood not to grant Congress general police powers or the power to regulate the purely internal affairs of the states or their people. This meaning and understanding of the Enumerated Powers, as it pertains to regulation of anthropogenic carbon dioxide or other greenhouse substances produced by biological, mechanical or chemical processes including refuse and agricultural operation has never been modified by any duly ratified amendment to the United States Constitution. Accordingly, the foregoing meaning and understanding of the Enumerated Powers is a matter of compact between the state and people of Arizona and the United States as of the time that Arizona was admitted to statehood on February 14, 1912</p> <p>6. Congress has not expressly preempted state regulation of intrastate commerce pertaining to the regulation of anthropogenic carbon dioxide or other greenhouse substances produced by biological, mechanical, or chemical processes, including refuse and agricultural operations.</p>
<p>Section 5.</p> <p>(a) No state agency or other authority of the state shall comply with any federal mandate that would require state enactment, enforcement, administration,</p>	<p>Sec. 3.</p> <p>8. Under the Tenth Amendment, the people and state of Arizona retain their exclusive power to regulate wholly intrastate commerce, manufacturing or</p>

<p>or implementation of any statute, rule, or other law, or that would require any form of regulation by the state or the performance of any other government function protected against federal compulsion by the Tenth Amendment or any other provision in the Constitution of the United State, unless</p> <p>(1) the state has agreed to take such action as a clear and express condition of receipt of federal funds; or</p> <p>(2) the state has agreed to take such action as a clear and express condition of delegation of a federal program</p>	<p>noneconomic activities, as it pertains to intrastate anthropogenic carbon dioxide or other greenhouse substances produced by biological, mechanical or chemical processes, including refuse and agricultural operations, subject only to the Fourteenth Amendment’s guaranty that the people and state of Arizona shall exercise such sovereign power in accordance with each citizen’s lawful privileges or immunities, and in compliance with the requirements of due process and equal protections of the law</p>
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¹ [“Arizona immigration law sparks huge rallies.”](#) *CBC News*, 1 May 2010.

² Laura Sullivan, “Prison Economics Help Drive Ariz. Immigration Law,” *NPR*, 28 October 2010. <http://www.npr.org/templates/story/story.php?storyId=130833741>

³ Bob Ortega, “Arizona prison businesses are big political contributors,” *The Arizona Republic*, 4 September 2011. <http://www.azcentral.com/arizonarepublic/news/articles/2011/09/04/20110904arizona-prison-business-politics.html>

⁴ Laura Sullivan, [“Prison Economics Help Drive Ariz. Immigration Law,”](#) 28 October 2010.

⁵ Seth Hoy, [“Some States Applying Brakes to Legislation Denying Citizenship to U.S.-Born Children.”](#) 8 February 2011.

⁶ [“House Republicans Introduce Bill to Repeal Birthright Citizenship Amendment.”](#) *Fox News*, 6 January 2011.

⁷ Jahna Berry [“Most Arizona employers aren’t using E-Verify,”](#) 28 July 2010.

⁸ Bob Ortega, [“Arizona prison businesses are big political contributors.”](#) *The Arizona Republic*, 4 September 2011.

⁹ [Ibid.](#)

¹⁰ Cell Out Arizona, [“Arizona’s Private Prison Pay-to-Play Scandal Widens: Chair of the House Appropriations Committee Appropriated by Geo Group.”](#) *Tucson Citizen*, 20 July 2011.

¹¹ CCA Source, [“2009 Reason Foundation Privatization Report Highlights Correction Outsourcing.”](#) *Corrections Corporation of America*, Fall 2009.

¹² John Nichols, [“ALEC Exposed: Rigging Elections.”](#) *The Nation*, 1-8 August 2011.

¹³ Wendy R. Weiser and Lawrence Norden, [“Voting Law Changes in 2012.”](#) *Brennan Center for Justice, NYU Law School*, 2011.

¹⁴ [“Public Service and Voting Rights in Arizona: A Debate on Prop 200 and Immigration.”](#) *Democracy Now*, 29 September 2004.

¹⁵ [“MALDEF Appeals Court Ruling Upholding Arizona Proposition 200 Voter Restrictions.”](#) *Mexican American Legal Defense and Education Fund*, 16 September 2008.

¹⁶ Laura Dress and Joel Rogers, [“ALEC Exposed: Business Domination Inc.”](#) *The Nation*, 12 July 2011.

¹⁷ [Ibid.](#)

¹⁸ [“ALEC Exposed: Prohibition on Compensation Deductions Act”](#) Center for Media and Democracy, 2011.

¹⁹ [HCR 2302](#), Arizona House of Representatives, 2011.

²⁰ Julie Underwood, [“ALEC Exposed: Staring Public Schools,”](#) *The Nation*, 14 July 2011.

²¹ [Ibid.](#)

²² [“ALEC Exposed: The Special Needs Scholarship Program Act,”](#) Center for Media and Democracy, July 2011.

²³ [Ibid.](#)

²⁴ Wendell Potter, [“ALEC Exposed: Sabotaging Healthcare,”](#) *The Nation*, 12 July 2011.

²⁵ [Ibid.](#)

²⁶ [“ALEC Exposed,”](#) Center for Media and Democracy, July 2011.

²⁷ Jonel Aleccia, [“Christian co-ops swap burden of medical bills,”](#) *MSNBC*, 14 April 2010.

²⁸ Jill Richardson, [“ALEC Exposed: Warming Up to Climate Change”](#) Center for Media and Democracy, 27 July 2011.

²⁹ [Ibid.](#)