



**The Voice Of Corporate Special Interests In
The Halls Of Arizona's Legislature**

UPDATED FOR THE FIFTIETH LEGISLATURE, SECOND REGULAR SESSION



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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 lobbyists draft, lobby for, and secure passage of a wide array of ALEC-approved bills designed to promote corporate interests. Numerous ALEC legislators vote as equals with corporate lobbyists on these “model” bills behind closed doors at ALEC task force meetings at fancy resorts, and then work in statehouses to get the ALEC agenda made into binding state law.

After decades of functioning in relative obscurity, ALEC has been stripped of its anonymity by the Center for Media and Democracy’s ALECexposed.org and the work of other public interest groups. Civil rights groups and good government organizations have also helped shine a light on ALEC’s secretive manipulation of public policy. Corporations like Coca-Cola, Pepsi, Intuit and Kraft Foods are renouncing their membership; legislators are distancing themselves from the organization; and the American people across the country are removing ALEC leaders, like former Arizona State Senate President Russell Pearce, from office in recall elections. Yet despite this increasing awareness, ALEC is still working behind the scenes to implement its extreme and dangerous agenda.

Arizona has one of the highest concentrations of ALEC legislators of any state in the United States – at least 49 of the 90 legislators now serving are ALEC members. Two-thirds of the Republican leadership in the Arizona House and Senate serve alongside corporate lobbyists on ALEC “task forces” that literally vote for “model” legislation—outside of the view of the press and public. These bills are then introduced in the legislature, cleansed of any reference to the fact that it was pre-voted on by corporations and special interests. The last eight Arizona Senate Presidents have all been affiliated with ALEC: Senator Robert L. Burns, Senator Russell Pearce, Senator Steve Pierce, Senator Timothy S. Bee, Senator Kenneth R. Bennet, Senator Randall E. Gnant, Senator Brenda Burns, and Senator John A. Greene.

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

This report updates and expands on a [report](#) about ALEC’s influence in Arizona released in November 2011. That initial report included some of the ALEC-inspired bills that had been introduced in years past, revealing 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 American citizens in the state of Arizona;
- Attacks on workers, their unions, and collective bargaining, along with the elimination of many public jobs through outsourcing and privatizing of traditional governmental functions;
- Attacks on public education through private school voucher programs
- Measures to prevent implementation of healthcare reforms; and
- Attacks on federal environmental regulation by attempting to deny the federal government the ability to supersede weak state environmental legislation.

The updated report focuses on key bills that echo the ALEC agenda and were introduced in 2012 (in the 50th Legislature, 2nd Regular Session). These include:

- Attacks on workers and collective bargaining rights;
- Attacks on the rights of Arizonans killed or injured by corporations; and
- Attacks on Arizona’s public schools.

WHAT IS ALEC?

ALEC, the American Legislative Exchange Council, is a one-stop shop for corporations looking to cultivate state legislators and get special-interest legislation introduced and passed. Founded in 1973 by Paul Weyrich and others from the far right who helped build a nationwide corporate political infrastructure following the re-election of Richard Nixon, ALEC serves as a key vehicle for 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 Americans, privatize public education or restrict voting rights, the odds are good that such legislation was written by corporate lobbyists working through ALEC. Every year, ALEC legislators introduce 800 to 1,000 model bills in the 50 state legislatures, of which 20% are enacted into law.¹

ALEC’s major funders have included Exxon Mobil, the Scaife family, the Coors family, the Koch brothers, 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, PhRMA, Wal-Mart, Peabody Energy and State Farm insurance. According to the Center for Media and Democracy, over 98% of ALEC’s \$7 million in revenue a year comes from corporations, special interests, and sources other than legislative dues (which run \$50 per year for legislators).²

By paying hefty dues and sponsorship fees, corporations are able to participate in ALEC conferences and seminars, where their lobbyists and executives vote alongside the elected officials they are paid to influence. ALEC task forces are comprised of two equal contingents: representatives of corporations and special interests, and elected representatives. Together they vote on “model legislation” that is often drafted by

corporate lawyers. Each task force is co-chaired by both elected officials and “private sector” members.

Furthermore, by giving monetary gifts to the ALEC “Scholarship Fund,” these for-profit corporations enable many of ALEC’s legislators to travel to ALEC conferences at lavish resorts where their spouses and kids can vacation alongside other legislators, lobbyists and their families.^{3 4 5 6}

ALEC is more than a bill factory for corporate wish lists. ALEC’s magazine states that members are “encouraged to contact ALEC’s public affairs department for assistance with drafting press releases, booking radio and television appearances, building media lists, and participating in media training.” They also provide “background research, talking points, sample press releases, and other media resources” related to their model legislation and resolutions.⁷

This report details ALEC’s heavy influence in Arizona. It names the 49 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 – this year 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) attacks on worker rights, (2) limiting the rights of Arizonans killed or injured by corporations and (3) the privatization of public education.

ALEC LEGISLATORS IN ARIZONA

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), 49 have been documented as members of ALEC. The actual total of members is likely higher, as no “official list” of ALEC members is available. We have focused on the Arizona legislators who, through their ability to vote on ALEC task forces, hold a leadership role in ALEC. Two-thirds of the legislature’s Republican leadership serves on ALEC task forces, and the last eight Arizona Senate Presidents have all been affiliated with ALEC: Senator Robert L. Burns, Senator Russell Pearce, Senator Steve Pierce, Senator Timothy S. Bee, Senator Kenneth R. Bennet, Senator Randall E. Gnant, Senator Brenda Burns, and Senator John A. Greene.

All of the ALEC members we have identified are Republicans, although ALEC describes itself as non-partisan and bipartisan. This is consistent with CMD’s in-depth review in 2011 that 103 of the 104 ALEC legislative leaders, 99% were Republicans. Among Arizona Republican senators, 16 of 21 are in ALEC, as are 33 of 40 Republicans from the House. 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.

The headings below refer to the names of ALEC task forces:

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 19
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 (<i>Majority Whip</i>)	(R) District 9

Public Safety and Elections

Senator Steve M. Smith	(R) District 23
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 10

Task force memberships are correct as of 2011.
Other ALEC members from Arizona are 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 ExxonMobil, and foreign corporations with a US presence like GlaxoSmithKline and Reed Elsevier (known for its Lexis/Nexis site), who are all currently represented on ALEC’s “Private Enterprise Board.” Below are the major corporations based in Arizona that are known to have been affiliated with ALEC in recent years:



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 reactionary 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."⁸

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 cutting government services and programs, giving tax breaks and loopholes, and limiting regulations intended to protect Americans health and safety as well as our precious natural resources. They consistently oppose electoral reform, protections for workers, 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 make environmental policy) and *Arizona Advocacy Network Foundation v. Bennett* (attempting 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 “non-lethal personal defense weapons” that are, in fact, sometimes lethal. Tasers are sold to military and law enforcement officials around the world, as well as numerous 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.

LEGISLATION WITH ALEC DNA IN ARIZONA

The following examination of legislation that has been introduced in the Arizona legislature over the last few months bears the imprint of ALEC's agenda. Among the bills sponsored by ALEC-connected legislators that contain remarkably similar – if not identical – provisions to ALEC “model” bills are:

- Attacks on workers' rights and collective bargaining;
- Attacks on the rights of Arizonans killed or injured by corporations; and
- Attacks on Arizona's public schools.

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. After a generation of lowering taxes on the richest corporations and individuals and thereby starving government at all levels of vital resources for public services, ALEC's legislative allies are spreading the false message that “We're broke.” After a generation of stagnating real wages and diminished benefits in the private workplace due to the weakening of unions and the outsourcing of American jobs, anti-worker right-wingers are trying to focus the blame not on Wall Street policies but on working Americans, especially those in public sector unions who have benefits often negotiated in lieu of higher private sector salaries. Taking advantage of an artificially created crisis of their own making, politicians allied with Wall Street interests are falsely blaming the state's public workers for the budget crisis in order to promote an extreme, ALEC-inspired agenda. ALEC has advanced a range of anti-union laws that obstruct a union's ability to collect dues, retain members, or advocate for public workers.

ALEC's fingerprints on Arizona's anti-worker agenda are hard to miss. Even Gov. Scott Walker, ALEC's most powerful ally in Wisconsin, has played a role. Walker's infamous assault on workers provoked a backlash that prompted last year's recall of two of his Republican supporters in the Senate. Walker is facing his own recall election this summer, and as an ALEC alum, Walker has come to represent ALEC's extremist agenda. Last fall, a few weeks before the current Arizona legislative session began, Walker even traveled to Phoenix to urge legislators to enact similar proposals during a speech sponsored by the [Goldwater Institute](#). Soon afterward, Arizona Governor Jan Brewer spoke at ALEC's annual States & Nation Policy Summit in Scottsdale, where she pledged her support to ALEC's reactionary corporate agenda. Then, her allies in the Arizona Senate went to work on a host of anti-worker legislation, including SB 1485 – a bill that went far beyond even ALEC's baseline hostility to public employees by barring the state from recognizing public sector unions *whatsoever*. That bill was like the ALEC anti-union agenda on steroids.

In addition to the anti-worker measures introduced in the legislature [last year](#), Arizona's ALEC legislators' newest anti-worker measures include bills to frustrate the

collection of public employees' union dues, impede employees' efforts to engage in legitimate union business, and permit the firing of workers without cause.

HB 2571 – State Personnel System

Arizona Legislation: [HB 2571](#) – State Personnel System

Sponsors (in bold) and co-sponsors:

1 ALEC Representative

Rep. Justin Olson (R-19)

Last Action: Passed Senate Appropriations Committee, 3/20/12

Legislative Session: 50th Legislature, Second Regular Session

ALEC Model Legislation: [At-Will Employment Act](#)

Similarities/Analysis:

On November 30, 2011, Governor Jan Brewer announced her plans to 'reform' the state's personnel system at the ALEC State and Nation Policy Summit in Scottsdale. In her speech, Brewer praised the implementation of a similar plan in Georgia, put forth in 1996 by former Governor Zell Miller who has been lauded at ALEC conferences. She claimed, "Our current system would not be tolerated by any business in this country."⁹ Left aside was the notion that private and public entities have entirely different purposes and interests at stake; and that, in the words of a study issued in 2007 by the University of Georgia and the University of Texas at Dallas, "there is no evidence to date that at-will employment is improving state operations."¹⁰

Brewer's propositions were introduced in the state house less than two months after her ALEC speech. The legislation, HB 2571, applies ALEC's 'At-Will Employment Act' to an astounding number of state statutes (one example of which is below), and redefines the manner in which the state manages the 25,000 public servants it employs.¹¹ The bill would replace the current Merit Based system with an At Will program that would make it easier for state employers to fire their employees by weakening worker protections such as rights to object to working conditions or to appeal unwarranted termination. The bill would also give the Governor, and Governor-appointed committees, substantially more control over the appointee process for agency directors, all allegedly in the name of 'government efficiency.'

Opponents of the law view it as a power grab from the elected officials who currently control Arizona's political landscape, and concomitantly support the ALEC-privatization agenda. As Pima County Sherriff Clarence Dupnik has stated, Brewer's legislation will "replac[e] the fairness of a merit system with favoritism and politics," which "will result in the loss of loyal, dependable public servants subject to replacement by political lackeys."¹² The merit system helps ensure that Arizona's

public institutions are staffed with career professionals rather than inexperienced political appointees getting payback for campaign work.

<p>ALEC Model Legislation: At-Will Employment Act</p>	<p>Arizona Legislation: HB 2571</p>
	<p>15-2002. Powers and duties; executive director; staffing; report</p> <p>...</p> <p>C. The governor shall appoint an executive director of the school facilities board pursuant to section 38-211. The executive director is eligible to receive compensation as determined pursuant to section 38-611 and may hire and fire necessary staff subject to Title 41, Chapter 4, Article 4 and as approved by the legislature in the budget.</p>
<p>Section 3. {Definitions.}</p> <p>(A) "At-will employment" means employment terminable at the will of the employer or the employee, without notice, at any time for any reason that is not prohibited by law.</p>	<p>Sec. 112. Title 41, Chapter 4, Arizona Revised Statutes, is amended by adding article 4, to read:</p> <p>Article 4. State Personnel System 41-741. Definitions ...</p> <p>2. "At will" means an employment relationship where either party to the relationship may sever the relationship at any time for any reason other than an unlawful reason.</p> <p>...</p> <p>18. "Uncovered Employee" means an employee in uncovered service.</p> <p>19. "Uncovered service" means employment at will and includes all state employees except those in covered service.</p>
<p>Section 1. {Short Title.} This Act shall be known as the At-Will Employment Act.</p> <p>Section 2. {Legislative Declarations.} This legislature finds and declares that:</p>	<p>41-742. State personnel system; covered and uncovered employees; application; exemptions</p> <p>A. Beginning September 29, 2012, unless otherwise prescribed in this article:</p>

<p>(A) At-will employment is the traditional relationship between employer and employee that allows either party to abandon the relationship at any time in a manner not inconsistent with applicable state, local or federal laws.</p> <p>(B) "Employer" means an individual, partnership, corporation, association, government entity, or other legal entity that has supervision and control over the labor of one or more employees.</p> <p>(C) "Modification" means transformation of an at-will employment contract to any other form of employment contract.</p>	<ol style="list-style-type: none"> 1. All new hires are at will uncovered employees. 2. Any employee who meets any of the following criteria is an at will uncovered employee: <ol style="list-style-type: none"> (a) Is employed as an attorney in a position assigned to the attorney salary schedule. (b) A supervisor. (c) Is at a pay grade of nineteen or above or, if a successor compensation system is established, in an equivalent pay range as determined by the director. (d) Is in a position assigned to the information technology salary schedule, in a position assigned to an information technology classification or, if a successor compensation system is established, in an equivalent pay range as determined by the director. 3. Any covered employee who voluntarily accepts a change in assignment to a position in the uncovered service, regardless of whether the voluntary change in assignment is a promotion, demotion or lateral transfer, is an at will uncovered employee on the start date of the voluntary change in assignment. 4. A covered employee may voluntarily elect to become an at will uncovered employee without a change in assignment on approval by the state agency head and the director. If approved, the change from covered to uncovered status is immediate. 5. Once a covered employee becomes an at will uncovered employee, the change is irrevocable.
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HB 2848 – Senate Amendment – Public Employees; Unions; Compensation

Arizona Legislation: [HB 2848](#) – Public Employees; Unions; Compensation

Sponsors (in bold) and co-sponsors:

1 ALEC Senator

Sen. Rick Murphy (R-9)

Last Action: Passed Senate Rules Committee, 3/26/12

Legislative Session: 50th Legislature, Second Regular Session

ALEC Model Legislation: [Public Employee Freedom Act](#), [Open Contracting Act](#)

Similarities/Analysis:

HB 2848 was amended to include anti-worker provisions found in many of ALEC’s related model bills. Specifically, the Arizona bill, like ALEC’s ‘Public Employee Freedom Act,’ bars unions that hold contracts with the state from striking or even threatening to strike. This prohibition fundamentally alters the relationship between state employers and state employees, and removes a key tool for collective bargaining – the potential for collective action.

Furthermore, HB 2848 incorporates provisions of ALEC’s ‘Open Contracting Act’ to undercut unionization by precluding states from requiring contractors they do business with to be represented by unions. The legislation protects workers’ “freedom” in the same way that the *Lochner*-era Supreme Court protected workers’ “freedom” to be forced by employers to work in dangerous conditions for limitless hours at starvation wages.

ALEC Model Legislation: Public Employee Freedom Act	Arizona Legislation: HB 2848
<p>Section 6. {Agreements in violation, and actions to induce such agreements, declared illegal.}</p> <p>... Any strike, picketing, boycott, or other action by an employee organization for the purpose of inducing or attempting to induce an employer to enter into any agreement prohibited by this chapter is hereby declared to be for an illegal purpose and is a violation of the provisions of this chapter.</p>	<p>“Section 1. title 23, chapter 2, article 1, Arizona revised statutes, is amended by adding section 23-204, to read:</p> <p>A. A union that represents employees who contract with a public employer to provide services to the public shall not strike or threaten to strike against the public employer.</p> <p>B. For the purposes of this section, “public employer” and “union” have the same meanings prescribed in section 23-</p>

	1421.
ALEC Model Legislation: Open Contracting Act	Arizona Legislation: HB 2848
<p>Section 3. {Prohibited activities.} The State and political subdivisions, agencies and instrumentalities thereof, when engaged in procuring products or services or letting contracts for manufacture of public works, or overseeing such procurement, construction or manufacture, shall ensure that bid specifications, project agreements and other controlling documents, entered into, required or subject to approval by the subdivision, agency or instrumentality, do not:</p> <p>...</p> <p>(C) require any bidder, offeror, contractor or subcontractor to enter into, adhere to or enforce any agreement that requires its employees as a condition of employment to:</p> <p>...</p> <p>(2) pay dues or fees to a labor organization, over an employee's objection, in excess of the employee's share of labor organization costs relating to collective bargaining, contract administration or grievance adjustment.</p>	<p>23-1422. Public employee compensation; enforcement</p> <p>A. A public employer shall not enter into any employment bargain with any public employee or union to compensate any public employee or third party for union activities. Any employment bargain that includes compensation to public employees or third parties for union activities is declared to be against the public policy of this state and is void.</p> <p>...</p> <p>23-1423. State preemption of inconsistent local laws the regulation of public sector union employment bargains is a matter of statewide concern and is not subject to further inconsistent regulation by a county, city, town or other political subdivision of this state. This article preempts all inconsistent rules, regulations, codes, ordinances and other laws adopted by a county, city, town or other political subdivision of this state regarding public sector union employment bargains.</p>

HB 2103 – Public Employees; Paycheck Deductions

Arizona Legislation: [HB 2103](#) – Public Employees; Paycheck Deductions

Sponsors (in bold) and co-sponsors:

1 ALEC Representative

Rep. Judy Burges (R-4)

Last Action: Passed Senate, Transmitted to House, 3/26/12, Concurrence Recommended, 3/27/12

Legislative Session: 50th Legislature, Second Regular Session

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

Similarities/Analysis:

HB 2103 is based on ALEC’s model bill, “Prohibition of Negative Check Act,” which bars public unions from collecting dues via payroll deductions without written consent from employees. This proposal weakens worker rights by making it more difficult for unions to collect dues. In addition, this legislation goes further than the ALEC model legislation with the imposition of a \$10,000 fine per occurrence if the public entity is found to take dues from a person who has not annually reauthorized. This has the chilling effect of any public entity choosing to continue payroll deduction as legal council will likely advise not putting the public entity into potentially legal trouble due to the \$10,000 fine in the bill’s provisions.

ALEC Model Legislation: Prohibition of Negative Check-off Act	Arizona Legislation: HB 2103
<p>Section 1. {Short Title.} This Act shall be known as the Prohibition of Negative Check-Off Act</p> <p>Section 2. {Legislative Declaration.}</p> <p>Section 3. {Definitions.}</p> <p>(A) "negative check-off plan" means a plan whereby a payer, by his or her inaction is deemed to have agreed to a payment or series of payments.</p> <p>(B) "voluntary" means an action or choice given freely, as evidenced by some affirmative act on the part of the payer. A charitable contribution made by a payer pursuant to authorization given by such payer is deemed to be voluntary.</p> <p>Section 4. {Negative check-off plans prohibited.}</p> <p>(A) It shall be a deceptive trade practice to, in the course of one's business, vocation, or occupation, receive funds from an individual whereby such funds are not given on a voluntary basis, unless such an arrangement is required</p>	<p>Section 1. Section 23-361.02, Arizona Revised Statutes, is amended to read:</p> <p>A. For deductions after October 1, 2011, a public employer in this state shall not deduct any third party payment from an employee's paycheck unless the employee annually provides express written or electronic authorization to the employer for the deduction.</p> <p>...</p> <p>C. If A public employer knowingly deducts payments in violation of subsection A of this section, the employer is subject to a civil penalty of at least ten thousand dollars for each violation. The attorney general shall impose and collect the civil penalties under this subsection and shall deposit, pursuant to sections 35-146 and 35-147, all civil penalties collected pursuant to this section in the state general fund.</p> <p>...</p> <p>G. For the purposes of this section, "public employer" means any entity that</p>

<p>pursuant to a court order. Such involuntary payments are void as against public policy. A payment made pursuant to a negative check-off plan shall not be considered to have been made on a voluntary basis.</p> <p>(B) Nothing in any other state law shall affect the validity or application of this section as it applies to any employee, including, but not limited to, persons employed by the state or a local government or any governmental subdivision or agency thereof, without exception.</p>	<p>primarily relies on tax revenues.</p> <p>Sec. 2. Severability</p> <p>If any provision of this act, either facially or as applied to any person or circumstance, is held invalid or causes this act to be held invalid substantially on the grounds that the provision or this act singles out any union or class of unions or employee association for unequal treatment, the provision causing such unequal treatment shall be severed and the remainder of this act shall be construed as encompassing all unions and all classes of unions.</p>
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SB 1484 – Protect Arizona Employees’ Paychecks Act

Arizona Legislation: [SB 1484](#) – Paycheck Deductions; Employee Authorization

Sponsors (in bold) and co-sponsors:

11 ALEC Senators, 2 ALEC Representatives

Sen. Andy Biggs (R-22) (Majority Leader) (Mbr Exp 12/31/10)
Sen. Sylvia Allen (R-5) (President Pro Tempore) (Mbr Exp 12/31/10)
Sen. Judy Burges (R-4)
Sen. Lori Klein (R-6)
Sen. Rick Murphy (R-9)
Sen. Steve Smith (R-23)

Sen. Steve Yarbrough (R-21)
 Sen. Gail Griffin (R-25)
 Sen. Al Melvin (R-26) (Mbr Exp 12/31/10)
 Sen. Michele Reagan (R-8)
 Sen. Don Shooter (R-24)
 Rep. David Gowan (R-30)
 Rep. Terri Proud (R-2)

Last Action: Passed Senate, Transmitted to House, 2/16/12

Legislative Session: 50th Legislature, Second Regular Session

ALEC Model Legislation: [Paycheck Protection Act](#)

Similarities/Analysis:

Arizona bill SB 1484 amends state law to make it harder to collect union dues by requiring that public employees wishing to make contributions to any third party via automatic payroll deductions to regularly re-authorize those contributions or they will cease automatically. The ALEC model bill refers specifically to employee contributions to labor organizations or to organizations that are political in nature, while the Arizona bill makes it more difficult for public employees to contribute paycheck deductions to *any* organization by expanding the existing restrictions against contributing funds for political purposes to include contributions to any third party without written authorization from the employee. Despite this superficial neutrality, the bill is plainly designed to reduce the number of employees paying union dues through payroll deductions and impose red-tape on unions.

The provisions of this bill have now been included in HB2103 public employees; paycheck deductions.

ALEC Model Legislation: Paycheck Protection Act	Arizona Legislation: SB 1484
<p>Section 6. {Assignments to labor unions - Effect}</p> <p>(A) (1 .) Except as provided in subsection (D.), an employee of any person, firm, school district, or private or municipal corporation within the State/Commonwealth of [insert state] may sign and deliver to his employer a written instrument directing the employer to:</p> <p>(a.) deduct a specified sum from his monthly wages; and</p> <p>(b.) pay the deduction to a labor organization or union or any other organization of employees as assignee.</p> <p>(2.) An employee's right to revoke or modify a written instrument authorized under this subsection shall not be abridged.</p> <p>(B.) An employer who receives a written instrument assigning a specified sum from the employee's wages shall: (1.) keep the instrument on file;</p> <p>(2.) deduct the specified sum from the employee's salary; and</p> <p>(3.) pay the deducted amount to the organization or union designated by the employee.</p> <p>(C.) The employer shall continue to make and pay the deduction as directed by the employee until the employee revokes or modifies the deduction in writing.</p> <p>(D.) (1.) Notwithstanding subsection (A.) . an employee may not direct an employer</p>	<p>(A) for deductions after October 1, 2011, a public employer in this state shall not deduct any third party payment from an employee's paycheck unless the employee annually provides express written or electronic authorization to the employer for the deduction. The attorney general shall adopt rules that describe the acceptable forms of employee authorization and entity statements under this section.</p> <p>...</p> <p>(C) If an public employer knowingly deducts payments in violation of subsection a of this section, the employer is subject to a civil penalty of at least ten thousand dollars for each violation. The attorney general shall impose and collect the civil penalties under this subsection and shall deposit, pursuant to sections 35-146 and 35-147, all civil penalties collected pursuant to this section in the state general fund.</p> <p>...</p> <p>(E) If an employee has authorized a deduction from the employee's paycheck under this section and the employee resigns membership in the association or organization for which the deduction was authorized, the employee's authorization for</p>

<p>to deduct monies from his wages and pay them to:</p> <p>(a.) a registered political action committee;</p> <p>(b.) a political fund defined by section 3;</p> <p>or</p> <p>(c.) any intermediary that contributes to a regional political committee or fund as defined by section 3.</p> <p>(2.) Nothing in this section prohibits an individual from making personal contributions to a registered political action committee or to a fund as defined by Section 1.</p>	<p>the deduction is rescinded upon the employer's receipt from the employee of written notice of the resignation. The employer shall have one pay period to process the rescission.</p> <p>...</p> <p>(G) For the purposes of this section, "public employer" means any entity that primarily relies on tax revenues.</p>
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SB 1486 – No Compensation for Union Activities

Arizona Legislation: [SB 1486](#) – Public Employees; Activities; Unions; Compensation

Sponsors (in bold) and co-sponsors:

10 ALEC Senators, 1 ALEC Representative

Sen. Rick Murphy (R-9)

Sen. Nancy Barto (R-7)

Sen. Judy Burges (R-4)

Sen. Gail Griffin (R-25)

Sen. Lori Klein (R-6)

Sen. Michele Reagan (R-8)

Sen. Steve Smith (R-23)

Sen. Al Melvin (R-26) (Mbr Exp 12/31/10)

Sen. Steve Pierce (R-1) (President) (Mbr Exp 12/31/10)

Sen. Don Shooter (R-24)

Rep. Terri Proud (R-26)

Last Action: Passed Senate, Transmitted to House, 2/28/12

Legislative Session: 50th Legislature, Second Regular Session

ALEC Model Legislation: [Resolution on Release Time for Union Business](#)

Similarities/Analysis: This bill is the enactment of an ALEC resolution attacking employees' ability to undertake legitimate union business by declaring that public employees should not be compensated for union activities. The Arizona law prohibits public employers from entering into any employment agreement which would result in public employees being compensated, including through paid leave, for their participation in union activities. This reverses decades of negotiated protections for work that helps employees, such as assisting in employee appeals.

The provisions of this bill have now been included in HB2848 public employees; unions; compensation.

<p>ALEC Model Legislation: Resolution on Release Time for Union Business</p>	<p>Arizona Legislation: SB 1486</p>
<p>WHEREAS, many public agencies, including school districts, regularly provide release time for union leaders and negotiating team members to conduct union business; and WHEREAS, such time should be recorded in order to determine how much time an employee spends on union activity as opposed to performing his/her job duties; and</p> <p>WHEREAS, such union leaders are often senior level employees at the top of the salary schedule; and</p> <p>WHEREAS, drawing out the negotiating process often causes substantial costs to accrue, especially when an impasse results in prolonged negotiations lasting as long as 6-12 months; and</p> <p>WHEREAS, the individual agencies or school districts are still responsible for paying the salaries of their employees, even when they are not performing their job functions, but are involved in union business; and</p> <p>WHEREAS, most agencies and school districts would benefit from requiring unions to pay for the time their representatives work on union business;</p> <p>NOW THEREFORE LET IT BE RESOLVED, that the State/Commonwealth of (insert state) urges legislatures to revise any policy that allows release time for public employees to conduct union business, and to acknowledge and preserve the role of the states and federal agencies in the interpretation and enforcement of such laws.</p>	<p>a. A public employer shall not enter into any employment bargain with any public employee or union to compensate any public employee or third party for union activities. Any employment bargain that includes compensation to public employees or third parties for union activities is declared to be against the public policy of this state and is void.</p> <p>b. This section does not prohibit a public employee from receiving compensated leave time for any personal purpose if the leave time is not knowingly taken or given to compensate for union activities.</p> <p>c. This section does not apply to any existing non executory contracts in effect before the effective date of this section but an existing contract shall not be renewed if the contract has any terms that conflict with this section.</p> <p>d. The attorney general shall enforce this section. Any taxpayer of the jurisdiction in which a violation of this section occurs has standing in any court of record to bring a special action against any agent or agency of this state or its political subdivisions to remedy any violation of any provision of this section. 23-1423. State preemption of inconsistent local laws the prohibition of public sector union employment bargains is a matter of statewide concern. The regulation of public sector union employment bargains pursuant to this article is not subject to further inconsistent regulation by a county, city, town or other political subdivision of this sb 1486</p>

SB 1487 – Withholding Wages for Union Purposes

Arizona Legislation: [SB 1487](#) – Government Employees; Union Dues; Withholding

Sponsors (in bold) and co-sponsors:

9 ALEC Senators

Sen. Rick Murphy (R-9)	Sen. Steve Pierce (R-1) (President) (Mbr
Sen. Judy Burges (R-4)	Exp 12/31/10)
Sen. Gail Griffin (R-25)	Sen. Michele Reagan (R-8)
Sen. Lori Klein (R-6)	Sen. Don Shooter (R-24)
Sen. Al Melvin (R-26) (Mbr Exp 12/31/10)	Sen. Steve Smith (R-23)

Last Action: Passed Senate Rules Committee, 2/6/12

Legislative Session: 50th Legislature, Second Regular Session

ALEC Model Legislation: [Right to Work Act](#), [Public Employee Freedom Act](#)

Similarities/Analysis: This bill incorporates ALEC model legislation that bars the automatic deduction of an employee’s wages to pay for union dues. These laws weaken public employee unions and thus worker rights by placing a making it inconvenient to pay dues to unions and by increasing costs on unions to collect dues, since automatic deductions is the most efficient way to handle this and has worked well for years.

<p>ALEC Model Legislation: Right to Work Act, Public Employee Freedom Act</p>	<p>Arizona Legislation: SB 1487</p>
<p><u>Right to Work Act:</u> Section 5. {Voluntary deductions protected.} It shall be unlawful to deduct from the wages, earnings, or compensation of an employee any union dues, fees, assessments, or other charges to be held for, transferred to, or paid over to a labor organization, unless the employee has first presented, and the employer has received, a signed written authorization of such deductions, which authorization may be revoked by the employee at any time by giving written notice of such revocation to the employer.</p>	<p>23-352. Withholding of wages A. No employer may withhold or divert any portion of an employee's wages unless one of the following applies: 1. The employer is required or empowered to do so by state or federal law. 2. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, the employer has prior written authorization from the employee. An employer shall not withhold wages under a written authorization from the employee past the date specified by the employee in a written revocation of the authorization, unless the withholding is to resolve a debt or obligation to the employer or a court orders otherwise. 3. There is a reasonable good faith dispute as to the amount of wages due, including</p>

	<p>the amount of any counterclaim or any claim of debt, reimbursement, recoupment or set-off asserted by the employer against the employee.</p> <p>B. this state and any county, municipality, school district or other political subdivision of this state may not withhold or divert any portion of an employee's wages to pay for labor organization dues.</p>
<p>Public Employee Freedom Act</p> <p>Section 5. {Prohibition of automatic payroll deductions} No dues, fees, assessments or any other automatic payroll deductions by public employers from public employee payroll compensation shall be allowed for transmission to any public employee organization, any intermediary, or private individual, other than for primary and supplemental pension plans, life, health and other employee benefits, or contributions made to 501C(3) charitable organizations through a workplace givings program.</p>	<p>Sec. 2. Section 38-612, Arizona Revised Statutes, is amended to read:</p> <p>38-612. Administration of payroll salary deductions</p> <p>A. There shall be no payroll salary deductions from the compensation of state officers or employees except as specifically authorized by federal law or regulation or by a statute of this state. No administrative agency of this state may authorize any other deduction.</p> <p>B. In addition to those payroll salary deductions required by federal law or regulation or by statute, state officers or employees may authorize deductions to be made from their salaries or wages for the payment of:</p> <ol style="list-style-type: none"> 1. Premiums on any health benefits, disability plans or group life plans provided for by statute and any existing insurance programs already provided by payroll deduction. 2. Shares or obligations to any state or federally chartered credit union established primarily for the purpose of serving state officers and employees and their families.
	<ol style="list-style-type: none"> 3. Deferred compensation or tax sheltered annuity salary reductions when made under approved plans. 4. Federal savings bond plans. 5. Recurrent fees, charges or other payments payable to a state agency under a collection plan approved by the director of the department of administration. 6. Contributions made to a charitable organization: <ol style="list-style-type: none"> (a) Organized and operated exclusively for

	<p>charitable purposes and selected by the presidents of the state universities. Employees of the state universities shall be advised by form of the charitable organizations to which they may contribute through payroll salary deductions. The advisory provided under this subdivision shall be substantially similar to the following and prominently printed: "You may contribute to any charitable organization registered under internal revenue code section 501(c)(3), tax exempt status.</p>
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REDUCING PROTECTIONS FOR AMERICANS KILLED OR INJURED BY CORPORATIONS OR OTHER DEFENDANTS

The American courts were designed to give Americans access to justice and fair compensation if a loved one is killed or injured by the careless or greedy acts of another. The right of a jury trial in civil cases is protected in the Bill of Rights, in the Seventh Amendment, as part of the rights of the people in our democracy to have a jury of our peers hear all the evidence and decide how to hold even a powerful defendant accountable for all of the damages their actions caused and to punish egregious and deadly misconduct. In a properly functioning judiciary, the 99% and the 1% stand as equals, and even the richest corporation can be held accountable for injuring or killing Americans through unsafe products or practices. However, the ability of ordinary working Americans to get full redress through the state courts is under attack through laws that would game the system against them and make it easier for corporations to get away with harming others and even profit from doing so.

SB 1336 – Product Liability Actions; Punitive Damages

Arizona Legislation: [SB 1336](#) – Product Liability Actions; Punitive Damages

Sponsors (in bold) and co-sponsors:

5 ALEC Senators, 6 ALEC Representatives

- Sen. Al Melvin (R-26) (Mbr Exp 12/31/10)**
- Sen. Michele Reagan (R-8)**
- Rep. Kimberly Yee (R-10)**
- Sen. Sylvia Allen (R-5) (President Pro Tempore) (Mbr Exp 12/31/10)
- Sen. John McComish (R-20)

- Sen. Don Shooter (R-24)
- Rep. Kate Brophy McGee (R-11)
- Rep. Chester Crandell (R-5)
- Rep. Jack Harper (R-4)
- Rep. Nancy McLain (R-3)
- Rep. Steve Urie (R-22)

Last Action: Held by House Judiciary Committee, 3/15/12

Legislative Session: 50th Legislature, Second Regular Session

ALEC Model Legislation: [Regulatory Compliance Congruity With Liability Act](#)

Similarities/Analysis: SB 1336 copies almost verbatim “option 3” of ALEC’s Regulatory Compliance Congruity With Liability Act. That act was adopted by ALEC’s board in August of 2007. SB 1336 would relieve companies of all liability for punitive damages when their product or service was made, sold, labeled, etc. consistent with any relevant government agency regulations.

While the bill is presented as relieving businesses from liability if they have followed the law, in fact, as introduced, the bill would protect even companies that knowingly endanger the public, as long as they were under no specific regulatory obligation to inform regulatory agencies of known or suspected safety problems. This is especially problematic in an age when most Americans recognize how so many of the government’s regulatory agencies have been captured by special interests, with the revolving door between lobbyists and government, and the amount of financial influence wielded by the corporations that are supposed to be regulated in order to protect the health and safety of the American family. Just look at how many drugs have been recalled in recent years even though they were approved by a flawed FDA process and the use of these pharmaceuticals as directed resulted in the deaths or serious injury of young and older Americans.

The bill does not eliminate compensatory damages, so the law would still recognize the company was at fault. But juries would no longer be able to impose punitive damages, which generally exist to punish wrongdoing and – as importantly – to discourage the defendant from acting in ways in the future that could irreparably harm other American families. That is, the bill would make it impossible for the fact-finder in the legal case to punish the wrongdoer and help protect other potential future victims from the product or misconduct that caused harm in this case.

During committee testimony, the details of the bill were actually explained by outside business lobbyists rather than by the bill’s sponsor. Lead sponsor (and committee member) Sen. Al Melvin deferred to one of these witnesses when he could not answer a question about the bill [listen to the exchange at the 48:40 mark into the [meeting](#)].

ALEC Model Legislation: Regulatory Compliance Congruity With Liability Act	Arizona Legislation: SB 1336
Sec. 3. Definitions B. “Government agency” means this State or the United States, or any agency of thereof, or any entity vested with the authority of this State or of the United States to issue rules, regulations, orders, or standards concerning the design,	Sec. D. For the purposes of this section: 2. "Government agency" means this State or the United States or any agency of this state or the United States or any entity vested with the authority of this State or the United States to issue rules, regulations, orders or standards

<p>manufacture, packaging, labeling, or advertising of a product or provision of a service.</p>	<p>concerning the design, manufacture, packaging, labeling or advertising of a product or activity or the provision of a service.</p>
<p>C. "Manufacturer" means any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who:</p> <p>(1) designs, manufactures, or formulates the product (or component part of the product); or</p> <p>(2) has engaged another person to design, manufacture, or formulate the product (or component part of the product).</p>	<p>3. "Manufacturer" means any person who is engaged in a business to produce, create, make or construct any product or component part of a product and who does either of the following:</p> <p>(a) Designs, manufactures or formulates the product or component part of the product.</p> <p>(b) Engages another person to design, manufacture or formulate the product or component part of the product.</p>
<p>D. "Product" means any object possessing intrinsic value, capable of delivery either as an assembled whole or as a component part or parts, and produced for introduction into trade or commerce.</p>	<p>4. "Product" means any object possessing intrinsic value, capable of delivery either as an assembled whole or as a component part or parts and produced for introduction into trade or commerce.</p>
<p>E. "Seller" means a person who in the course of a business conducted for that purpose:</p> <p>(1) sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product or service in the stream of commerce; or</p> <p>(2) installs, repairs, refurbishes, reconditions, or maintains a product.</p>	<p>5. "Seller" means a person who in the course of a business conducted for that purpose does either of the following:</p> <p>(a) Sells, distributes, rents, leases, prepares, blends, packages, labels or otherwise is involved in placing a product, activity or service in the stream of commerce.</p> <p>(b) Installs, repairs, refurbishes, reconditions or maintains a product.</p>
<p>F. "Service" means all activities engaged in for other persons for a consideration, which activities involve predominantly the performance of a service as distinguished from manufacture or sale of a product and that are regulated, approved, or licensed by a government agency. Services include, but are not limited to financial services and the provision of insurance.</p>	<p>6. "Service" means all actions that are engaged in for other persons for a consideration, which actions involve predominantly the performance of a service as distinguished from manufacture or sale of a product and that are regulated, approved or licensed by a government agency. Service includes financial services and the provision of insurance.</p>

<p>Section 4 (Option 3): No Punitive or Exemplary Damages When Compliant</p> <p>A. A manufacturer or seller shall not be liable for exemplary or punitive damages if:</p> <ol style="list-style-type: none"> 1. The product alleged to have caused the harm was designed, manufactured, packaged, labeled, sold, or represented in relevant and material respects in accordance with the terms of an approval, license or similar determination of a government agency; or 2. The product was in compliance with a statute of this State or the United States, or a standard, rule, regulation, order, or other action of a government agency pursuant to statutory authority, where such statute or agency action is relevant to the event or risk allegedly causing the harm and the product was in compliance at the time the product left the control of the manufacturer or seller. 3. The act or transaction forming the basis of the claim involves terms of service, contract provisions, representations, or other practices authorized by, or in compliance with, the rules, regulations, standards, or orders of, or a statute administered by, a government agency. 	<p>Exemption from punitive or exemplary damages</p> <p>A. A manufacturer, service provider or seller is not liable for exemplary or punitive damages if any of the following applies:</p> <ol style="list-style-type: none"> 1. The product alleged to have caused the harm was designed, manufactured, packaged, labeled, sold or represented in relevant and material respects according to the terms of an approval, license or similar determination of a government agency. 2. The product, activity or service was in compliance with a statute of this State or the United States or a standard, rule, regulation, order or other action of a government agency pursuant to statutory authority, if the statute or agency action is relevant to the event or risk allegedly causing the harm and the product, activity or service was in compliance at the time the product left the control of the manufacturer or seller. 3. The act or transaction forming the basis of the claim involves terms of service, contract provisions, representations or other practices authorized by, or in compliance with, the rules, regulations, standards or orders of, or a statute administered by, a government agency.
<p>B. This section shall not apply if the claimant establishes that the manufacturer or seller at any time before the event that allegedly caused the harm did any of the following:</p> <ol style="list-style-type: none"> 1. Sold the product or service after the effective date of an order of a government agency to remove the product from the market, to withdraw its approval of the product or service, or to substantially alter its terms of approval of the product or service in a manner that would have 	<p>B. This section does not apply if the claimant establishes that the manufacturer, service provider or seller, at any time before the activity or event that allegedly caused the harm, did any of the following:</p> <ol style="list-style-type: none"> 1. Sold the product or service or engaged in any activity after the effective date of a final order of a government agency to remove the product from the market, to withdraw its approval of the product, activity or service or to substantially alter

<p>avoided in the claimant's alleged injury; or</p> <p>2. Intentionally, and in violation of applicable regulations, withheld from or misrepresented to the government agency information material to the approval or maintaining of approval of the product or service, and such information is relevant to the harm which the claimant allegedly suffered; or</p> <p>3. Made an illegal payment to an official or employee of a government agency for the purpose of securing or maintaining approval of the product or service</p>	<p>its terms of approval of the product or service in a manner that would have avoided the claimant's alleged injury.</p> <p>2. Intentionally, and in violation of applicable regulations, withheld from or misrepresented to the government agency information material to the approval or maintaining of approval of the product, activity or service, and the information is relevant to the harm that the claimant allegedly suffered.</p> <p>3. Made an illegal payment to an official or employee of a government agency for the purpose of securing or maintaining approval of the product, activity or service.</p>
<p>Section 4 – Rules of Construction. Nothing in this Act shall be construed to:</p> <p>A. Expand the authority of any state agency or state agent to adopt or promulgate standards or regulations where no such authority previously existed; or</p> <p>B. Reduce the scope of any limitation on liability based on compliance with the rules or regulations of a government agency applicable to a specific act, transaction, person, or industry.</p> <p>C. Affect the liability of a service provider based on rates filed with and reviewed or approved by a government agency.</p>	<p>C. This section shall not be construed to do any of the following:</p> <p>1. Expand the authority of any state agency or state agent to adopt or promulgate standards or regulations where no such authority previously existed.</p> <p>2. Reduce the scope of any limitation on liability based on compliance with the rules or regulations of a government agency applicable to a specific act, transaction, person or industry.</p> <p>3. Affect the liability of a service provider based on rates filed with and reviewed or approved by a government agency.</p>

HB 2545 – Civil Actions; Comparative Negligence

Arizona Legislation: [HB 2545](#) – Civil Actions; Comparative Negligence

Sponsors (in bold) and co-sponsors:

1 ALEC Senator, 3 ALEC Representatives

Rep. Ted Vogt (R-30)
Rep. Rick Gray (R-9)

Rep. Terri Proud (R-26)
Sen. Adam Driggs (R-11)

Last Action: Discussed and Held by House Judiciary Committee, 2/16/12

Legislative Session: 50th Legislature, Second Regular Session

ALEC Model Legislation: [Comparative Fault Act](#)

Similarities/Analysis:

HB 2545 closely parallels ALEC’s model Comparative Fault Act, as it appeared in the organization’s Sourcebook of American State Legislation 1995. Under existing Arizona law, when an injured person bears some fault toward causing his injuries, his damages are reduced in proportion to the extent that his fault was a proximate cause of his own injury; a company being sued is still liable for its share of the injury. HB 2445 would allow a jury to withhold damages completely in cases of personal injury, property damage, or wrongful death if it finds the plaintiff is more than 50% at fault, no matter how egregious the company’s conduct was. (The ALEC model bill would *require* juries to withhold all damages.) If the plaintiff is 50% or less at fault, his damages would be reduced by that percentage. That is, for example, if a corporation were 45% responsible for the damages caused to an American, it would pay nothing to the injured person or his family for his loss or lifelong care expenses.

In addition, current Arizona law allows a proportional reduction in damages based on a plaintiff’s fault that was the *proximate cause* of his injuries, which covers only those actions by the plaintiff that could foreseeably have led to the injury. In contrast, HB 2545 eliminates the “proximate cause” aspect and allows for a reduction based on the level of fault – apparently any type of fault without establishing this long-standing and traditional tenet of legal liability. This could potentially be used to argue that a plaintiff bears even more responsibility for his own injuries than he would under current law, even if he had no idea that he was somehow contributing to those injuries.

ALEC Model Legislation: Comparative Fault Act	Arizona Legislation: HB 2545
<p>Section 3.</p> <p>In any action for personal injury, property damage, or wrongful death, recovery shall be predicated upon principles of comparative fault and the liability of each person who caused the injury shall be allocated to each person in direct proportion to that person's percentage of fault.</p> <p>Where the percentage of fault chargeable to the plaintiff is less than the aggregate</p>	<p>Sec. 12-2505 (A)</p> <p>In an action for personal injury, property damage or wrongful death, the liability of the person who caused the injury shall be allocated to each person in direct proportion to that person's percentage of fault.</p> <p>If the percentage of fault that is chargeable to the claimant exceeds the aggregate fault of all of the defendants and nonparties, the claimant may be</p>

<p>fault of all defendants and nonparties, the plaintiff may recover damages, but the plaintiff's recovery of damages will be diminished in proportion to the percentage of fault chargeable to the plaintiff. Where the plaintiff's percentage of fault is equal to or exceeds the aggregate fault of all defendants and nonparties, the plaintiff shall be barred from any recovery.</p>	<p>barred by the finder of fact from recovering any damages. If the percentage of fault that is chargeable to the claimant is equal to or less than the aggregate fault of all of the defendants and nonparties, the claimant may recover damages, except that the claimant's recovery of damages will be reduced in proportion to the percentage of fault that was charged to the claimant.</p>
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HB 2386 – Asbestos Related Liability; Successor Corporations

Arizona Legislation: [HB 2386](#) – Asbestos Related Liability; Successor Corporations

Sponsors (in bold) and co-sponsors:

10 ALEC Representatives

Rep. Eddie Farnsworth (R-22)

Rep. Frank Antenori (R-30, Majority Whip)

Rep. David W. Stevens (R-25)

Rep. Don Shooter (R-24)

Rep. Debbie Lesko (R-9, Majority Whip)

Rep. Terri Proud (R-26)

Rep. David Gowan (R-30)

Rep. Karen Fann (R-1)

Rep. Ron Gould (R-3)

Rep. Lori Klein (R-6)

Last Action: Signed into law by Governor 03/28/2012

Legislative Session: Fiftieth Legislature, Second Regular Session

ALEC Model Legislation: [Successor Asbestos-Related Liability Fairness Act](#)

Similarities/Analysis: HB 2386 tracks almost verbatim the ALEC model legislation that is designed to prevent victims of asbestos exposure from being fully compensated for illness or death resulting from exposure by limiting the liability of corporations that merged with asbestos-related companies before 1972 (as well as successors to those companies) which have claims or litigation against them. This legislation covers those who have developed physical, mental, or emotional sickness or have died due to exposure to asbestos, a deadly substance that can cause painful death through damaging a person's lungs through the disease asbestosis and related illnesses.

The bills cover liabilities against corporations on the day of passage, after passage, and even pending lawsuits against successors to corporations that exposed workers to asbestos. They attempt to limit the liability for asbestos based on a fair market value of assets determined by the corporation at the time of the merger or consolidation. Any pending claim by severely injured victims – or the surviving family members of the deceased victims – can be cut off if the successor company has already paid out more

in damages than the original company was worth. Victims of asbestos exposure who have not had an opportunity to recover damages should not be tossed aside so that corporations can avoid accountability for past behavior.

ALEC Model Legislation: Successor Asbestos-Related Liability Fairness Act	Arizona Legislation: HB 2386 – Asbestos Related Liability; Successor Corporations
<p>Section 1 {Definitions}</p> <p>A.) “Asbestos claim” means any claim, wherever or whenever made, for damages, losses, indemnification, contribution, or other relief arising out of, based on, or in any way related to asbestos, including:</p> <p>(1) the health effects of exposure to asbestos, including any claim for:</p> <ul style="list-style-type: none"> a. personal injury or death; b. mental or emotional injury; c. risk of disease or other injury; or d. the costs of medical monitoring or surveillance, to the extent such claims are recognized under state law; <p>(2) any claim made by or on behalf of any person exposed to asbestos, or a representative, spouse, parent, child, or other relative of the person; and</p> <p>(3) any claim for damage or loss caused by the installation, presence, or removal of asbestos.</p>	<p>Section 1. Title 12, chapter 5, Arizona Revised Statutes, is amended by adding article 4, to read:</p> <p>Article 4. Successor Asbestos-Related Liability</p> <p>12-559. <u>Definitions</u></p> <p>In this article, unless the context otherwise requires:</p> <p>1. "Asbestos claim" means any claim, wherever or whenever made, for damages, losses, indemnification, contribution or other relief arising out of, based on or in any way related to asbestos including:</p> <ul style="list-style-type: none"> (a) The health effects of exposure to asbestos including a claim for: <ul style="list-style-type: none"> (i) Personal injury or death. (ii) Mental or emotional injury. (iii) Risk of disease or other injury. (iv) The costs of medical monitoring or surveillance. (b) Any claim made by or on behalf of any person exposed to asbestos or a representative or a spouse, parent, child or other relative of the person. (c) Any claim for damage or loss caused by the installation, presence, or removal of asbestos.
<p>B.) “Corporation” means a corporation for profit, including a domestic corporation organized under the laws of this state, or a foreign corporation organized under laws other than the laws of this state.</p>	<p>2. "Corporation" means a corporation for profit, including a domestic corporation organized under the laws of this state or a foreign corporation organized under laws other than the laws of this state.</p>

<p>C.) "Successor" means a corporation that assumes or incurs, or has assumed or incurred, successor asbestos-related liabilities.</p>	<p>3. "Successor" means a corporation that assumes or incurs or has assumed or incurred successor asbestos-related liabilities, that is a successor and that became a successor before January 1, 1972 or is any of that successor corporation's successors.</p>
<p>D.) "Successor asbestos-related liabilities" means any liabilities, whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due, that are related in any way to asbestos claims (as defined by this Act, as well as any claims for damage or loss caused by the installation, presence, or removal of asbestos) and that were assumed or incurred by a corporation as a result of or in connection with a merger or consolidation, or the plan of merger or consolidation related to the merger or consolidation, with or into another corporation or that are related in any way to asbestos claims (including property damage claims) based on the exercise of control or the ownership of stock of the corporation before the merger or consolidation. The term includes liabilities that, after the time of the merger or consolidation for which the fair market value of total gross assets is determined under Section 4, were or are paid or otherwise discharged, or committed to be paid or otherwise discharged, by or on behalf of the corporation, or by a successor of the corporation, or by or on behalf of a transferor, in connection with settlements, judgments, or other discharges in this state or another jurisdiction.</p>	<p>4. "Successor asbestos-related liabilities" means any liabilities, whether known or unknown, asserted or unasserted, absolute or contingent, accrued or nonaccrued, liquidated or nonliquidated or due or to become due, that are related in any way to asbestos claims and that were assumed or incurred by a corporation as a result of or in connection with a merger or consolidation, or the plan of merger or consolidation related to the merger or consolidation with or into another corporation, or that are related in any way to asbestos claims based on the exercise of control or the ownership of stock of the corporation before the merger or consolidation. Successor asbestos-related liabilities includes liabilities that, after the time of the merger or consolidation for which the fair market value of total gross assets is determined pursuant to section 12-559.02, were or are paid or otherwise discharged, or committed to be paid or otherwise discharged, by or on behalf of the corporation, by a successor of the corporation or by or on behalf of a transferor, in connection with settlements, judgments or other discharges in this State or another jurisdiction.</p>
<p>E.) "Transferor" means a corporation from which successor asbestos-related liabilities are or were assumed or incurred.</p>	<p>5. "Transferor" means a corporation from which successor asbestos-related liabilities are or were assumed or incurred.</p>

<p>Section 2 {Applicability}</p> <p>B.) The limitations in Section 3 of this Title shall not apply to:</p> <p>(1) workers' compensation benefits paid by or on behalf of an employer to an employee under this State's workers' compensation act or a comparable workers' compensation law of another jurisdiction;</p> <p>(2) any claim against a corporation that does not constitute a successor asbestos-related liability;</p> <p>(4) any obligations under the National Labor Relations Act (29 U.S.C. Section 151 et seq.), as amended, or under any collective bargaining agreement.</p>	<p>12-559.01. Asbestos-related actions; successor corporation liability; applicability</p> <p>C. This section does not apply to any of the following:</p> <p>1. Workers' compensation benefits paid by or on behalf of an employer to an employee pursuant to title 23, chapter 6 or a comparable workers' compensation law of another jurisdiction.</p> <p>2. Any claim against a corporation that does not constitute a successor asbestos-related liability.</p> <p>3. Any obligation under the National Labor Relations Act or under any collective bargaining agreement.</p>
<p>Section 3 {Limitations on Successor Asbestos-Related Liabilities}</p> <p>A.) Except as further limited in Subsection (b), the cumulative successor asbestos-related liabilities of a corporation are limited to the fair market value of the total gross assets of the transferor determined as of the time of the merger or consolidation. The corporation does not have any responsibility for successor asbestos-related liabilities in excess of this limitation.</p>	<p>A. Except as provided in subsection B of this section, the cumulative successor asbestos-related liabilities of a successor corporation are limited to the fair market value of the total gross assets of the transferor determined as of the time of the merger or consolidation. The successor corporation does not have responsibility for successor asbestos-related liabilities in excess of this limitation.</p>
<p>B.) If the transferor had assumed or incurred successor asbestos-related or liabilities in connection with a prior merger or consolidation with a prior transferor, then the fair market value of the total assets of the prior transferor, determined as of the time of such earlier merger or consolidation, shall be substituted for the limitation set forth in Subsection (a) for purposes of determining the limitation of liability of a corporation.</p>	<p>B. If the transferor assumed or incurred successor asbestos-related liabilities in connection with a prior merger or consolidation with a prior transferor, the fair market value of the total assets of the prior transferor determined as of the time of the earlier merger or consolidation shall be substituted for the limitation under subsection A of this section to determine the limitation of liability of a successor corporation.</p>

<p>Section 4 {Establishing Fair Market Value of Total Gross Assets}</p> <p>A.) A corporation may establish the fair market value of total gross assets for the purpose of the limitations under Section 3 through any method reasonable under the circumstances, including:</p> <p>(1) by reference to the going concern value of the assets or to the purchase price attributable to or paid for the assets in an arm's-length transaction; or</p> <p>(2) in the absence of other readily available information from which fair market value can be determined, by reference to the value of the assets recorded on a balance sheet.</p>	<p>12-559.02. <u>Establishing the fair market value of total gross assets</u></p> <p>A. To determine the limitation pursuant to section 12-559.01, A successor corporation may establish the fair market value of total gross assets through any method reasonable under the circumstances, including either of the following:</p> <p>1. By reference to the going concern value of the assets or to the purchase price attributable to or paid for the assets in an arm's length transaction.</p> <p>2. In the absence of other readily available information from which the fair market value can be determined, by reference to the value of the assets recorded on a balance sheet.</p>
<p>B.) Total gross assets include intangible assets.</p>	<p>B. Total gross assets include intangible assets.</p>
<p>C.) Total gross assets include the aggregate coverage under any applicable liability insurance that was issued to the transferor whose assets are being valued for purposes of this Section and which insurance has been collected or is collectable to cover successor asbestos-related liabilities (except compensation for liabilities arising from workers' exposure to asbestos solely during the course of their employment by the transferor). A settlement of a dispute concerning such insurance coverage entered into by a transferor or successor with the insurers of the transferor before the enactment of this title shall be determinative of the aggregate coverage of such liability insurance to be included in the calculation of the transferor's total gross assets.</p>	<p>C. To the extent total gross assets include any liability insurance that was issued to the transferor whose assets are being valued for the purposes of this section, the applicability, terms, conditions and limits of that insurance are not affected by this section, and this section does not affect the rights and obligations of an insurer, transferor or successor under any insurance contract and any related agreements including, preenactment settlements resolving coverage-related disputes, or the rights of an insurer to seek payment for applicable deductibles, retrospective premiums or self-insured retentions or to seek contribution from a successor for uninsured or self-insured periods or periods where insurance is uncollectible or otherwise unavailable. Notwithstanding this subsection, to the extent that total gross assets include liability insurance, a settlement of a dispute concerning that liability insurance coverage that is entered into by a transferor or successor with the insurers of the transferor before the</p>

	<p>effective date of this section determines the total coverage of that liability insurance to be included in the calculation of the transferor's total gross assets.</p>
<p>Section 5 {Adjustment}</p> <p>A.) Except as provided in Subsections (b), (c), and (d), the fair market value of total gross assets at the time of a merger or consolidation increases annually at a rate equal to the sum of:</p> <p>(1) the prime rate as listed in the first edition of the Wall Street Journal published for each calendar year since the merger or consolidation, unless the prime rate is not published in that edition of the Wall Street Journal, in which case any reasonable determination of the prime rate on the first day of the year may be used; or</p> <p>(2) one percent.</p>	<p>12-559.03. Adjustment of the fair market value of total gross assets</p> <p>A. Except as provided in subsections B, C and D of this section, the fair market value of total gross assets at the time of the merger or consolidation shall increase annually at a rate equal to the sum of the following:</p> <p>1. The prime rate as listed in the first edition of the Wall Street Journal published for each calendar year since the merger or consolidation, unless the prime rate is not published in that edition of the Wall Street Journal, in which case any reasonable determination of the prime rate on the first day of the year may be used.</p> <p>2. One per cent.</p>
<p>B.) The rate in Subsection (a) is not compounded.</p>	<p>B. The rate found in subsection A of this section shall not be compounded.</p>
<p>C.) The adjustment of fair market value of total gross assets continues as provided under Subsection (a) until the date the adjusted value is first exceeded by the cumulative amounts of successor asbestos-related liabilities paid or committed to be paid by or on behalf of the corporation or a predecessor, or by or on behalf of a transferor, after the time of the merger or consolidation for which the fair market value of total gross assets is determined.</p>	<p>C. The adjustment of the fair market value of total gross assets shall continue as provided in subsection A of this section until the date the adjusted value is first exceeded by the cumulative amounts of successor asbestos-related liabilities that are paid or committed to be paid by or on behalf of the successor corporation or a predecessor or by or on behalf of a transferor after the time of the merger or consolidation for which the fair market value of total gross assets is determined.</p>

<p>D.) No adjustment of the fair market value of total gross assets shall be applied to any liability insurance otherwise included in the definition of total gross assets by subsection 4(c).</p>	<p>D. No adjustment of the fair market value of total gross assets shall be applied to any liability insurance that may be included in the total gross assets pursuant to section 12-559.02, subsection C.</p>
<p>Section 6 {Scope of Chapter}</p> <p>The courts in this state shall apply, to the fullest extent permissible under the United States Constitution, this state's substantive law, including the limitation under this chapter, to the issue of successor asbestos-related liabilities.</p>	<p>Sec. 2. Applicability</p> <p>A. The courts of this state shall liberally construe this act with regard to successors.</p>
<p>Section 7 {Effective Date}</p> <p>This Act shall take effect on its date of enactment. The act applies to all asbestos claims filed on or after the effective date. This Act also applies to any pending asbestos claims in which trial has not commenced as of the effective date.</p>	<p>B. This act applies to all asbestos claims that are filed against a successor corporation on or after the effective date of this act and to any pending asbestos claims against a successor corporation in which trial has not commenced as of the effective date of this act, except that any provision of this act that would be unconstitutional if applied retroactively shall be applied prospectively.</p>

ATTACKS ON PUBLIC EDUCATION

ALEC’s ideological agenda includes a multitude of tactics to defund public schools and redirect funds to for-profit school corporations, while also reducing the qualifications needed to teach in schools and limiting oversight over online or other for-profit companies receiving tax dollars to provide instruction to primary and secondary age school students.

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.”¹³ In a variety of ways, ALEC objects to democratic function of schools in providing education for the needs of all students. ALEC uses claims about “fostering education freedom and quality” as a cover for promoting the diversion of tax dollars to private profits through the privatization of public education.¹⁴ In Arizona, ALEC has supported providing taxpayer-funded vouchers for students to attend corporate schools, and it has backed ways to make education into a wedge issue through bills that would have taxpayers finance vouchers for students with disabilities to pay for private schools with less qualified teachers, without following the educational plan for such students developed by state experts. It also has backed establishment of corporate online “schools” – so-called “virtual schools” – as a substitute for in-classroom teaching, casting aside all

the things provided by schools such as social skills, extracurricular activities like student council, and the opportunity for students to help each other and build friendships with other children of different backgrounds, abilities, and talents in the classroom and on the playground.

ALEC's agenda on schools takes needed funding out of public schools and puts it in the hands of corporate CEOs while reducing accountability for meeting the needs of students, parents, and the community.

SB 1259 – Digital Learning; Course Choice

Arizona Legislation: [SB 1259](#) - Digital Learning; Course Choice

Sponsors (in bold) and co-sponsors:

1 ALEC Senator

Sen. Rich Crandall (R-19)

Last Action: Passed House, Transmitted to Senate, 4/2/12

Legislative Session: 50^h Legislature, Second Regular Session

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

Similarities/Analysis:

Under the guise of increasing options in education, SB 1259 proposes a partial privatization of education in which public school funding would be transferred to “online course providers,” who could be virtually any for-profit company or non-profit entity. While they would have to meet certain requirements under the bill, these companies would benefit from a financial windfall largely without having to provide the same services as traditional schools.

SB 1259's ALEC sponsor is Senator Crandall, and while the text itself does not track the specific language of the model bill, it does reflect themes similar to ALEC's “Virtual Public Schools Act,” adopted by the Education Task Force in December 2004 and approved by the ALEC Board in January 2005. In 2011, the task force was co-chaired by the Senior Vice President of Connections Academy, an online for-profit school company.

Subsequent versions further refined the language, but SB 1259 today remains consistent with the original version tracked below and the “Virtual Public Schools Act.” Last session, an even more expansive proposal based on the ALEC model was introduced as SB 1452.

<p>ALEC Model Legislation: Virtual Public Schools Act</p>	<p>Arizona Legislation: SB 1259</p>
<p>Declaration. The General Assembly hereby finds and declares that:</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>...</p> <p>Section 1. {Definition}</p> <p>a. "Virtual school" shall mean an independent public school in which the school uses technology in order to deliver a significant portion of instruction to its students via the Internet in a virtual or remote setting.</p>	<p>Section 1. Title 15, Chapter 8, Article 1, Arizona Revised Statutes, is amended by adding section 15-808.01, to read:</p> <p>15-808.01. Online courses; standards; requirements; funding</p> <p>A. For school years 2012-2013 and 2013-2014, school districts and charter schools shall allow each pupil in grades seven through twelve to enroll in up to two online courses each academic year pursuant to this section. After school year 2013-2014, the state board of education shall determine the maximum number of online courses in which pupils in grades seven through twelve may enroll each academic year. Pupils must be enrolled in a school district or charter school in this state in order to take online courses offered pursuant to this section. The online course provider shall describe the requirements that a pupil must meet in order to satisfactorily complete each course offered by that online course provider.</p>
<p>(b) Must be recognized as public schools and provided equitable treatment and resources as any other public school in the state.</p>	<p>C. The allotted funding for each online course shall be equivalent to the total state and local funding that would otherwise have been allocated to the school district or charter school if that pupil had taken a course in the same subject matter at a physical location in the school district or charter school.</p>
<p>b. "Sponsor" shall mean the public school district, charter school board, or state department having a fiduciary responsibility for the operation of the virtual school.</p> <p>Section 2. {Accountability Requirements}</p> <p>a. Sponsor: A virtual school shall be evaluated annually by its Sponsor based</p>	<p>F. The department of education shall maintain a list of approved online courses, satisfaction ratings and assessment results. Parents may select courses from this approved list. Courses offered from this list shall be funded according to the funding provisions of this section. A school district or charter school shall not prohibit a pupil from enrolling in an online course that is on the list</p>

<p>on the following criteria:</p> <p>i. The extent to which school demonstrates increases in student achievement according to the goals of its authorizing contract and state academic standards.</p> <p>ii. The accountability and viability of the virtual school, as demonstrated by its academic, fiscal, and operational performance.</p>	<p>approved by the department of education. A school district or charter school shall accept all academic credits awarded to pupils who satisfactorily complete an online course that is on the list approved by the department of education.</p>
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HB 2626 – Empowerment Scholarship Accounts; Expansion

Arizona Legislation: [HB 2626](#) - empowerment scholarship accounts; expansion

Sponsors (in bold) and co-sponsors:

<u>3 ALEC Senators, 7 ALEC Representatives</u>	
<p>Sen. Al Melvin (R-26) (Mbr Exp 12/31/10) Sen. Rick Murphy (R-9) Sen. Steve Yarbrough (R-21) Rep. Debbie Lesko (R-9, Majority Whip) Rep. Ron Gould (R-3)</p>	<p>Rep. Lori Klein (R-6) Rep. Brenda Barton (R-5) Rep. Jack Harper (R-4) Rep. Justin Olson (R-19) Rep. Bob Robson (R-20)</p>

Last Action: Vetoed by Governor, 4/4/12

Legislative Session: 50th Legislature, Second Regular Session

ALEC Model Legislation: [Foster Child Scholarship Program Act](#), [Special Needs Scholarship Program Act](#), [Military Family Scholarship Program Act](#)

Similarities/Analysis:

The national voucher movement has deployed the tactic that voucher plans targeted toward "sympathetic" students would give them a foot in the door toward achieving a long-term goal of creating ideological opponents of public education: making all schooling an activity supplied by private (including for-profit and religious) sources.¹⁵ Utilizing the ideas put forth in ALEC model bills 'Foster Child Scholarship Program Act,' 'Special Needs Scholarship Program Act,' and 'Military Family Scholarship Program Act,' HB 2626 expands the scope of Arizona's "Empowerment Scholarship Account." The Scholarship Account, which initially only covered special needs children – and was modeled after the Special Needs Scholarship Program Act¹⁶ – now covers children who have been placed in state residential facilities, gifted children, and the children of

Armed Forces personnel. In this way, these bills also serve as political wedges to divide the electorate.

<p>ALEC Model Legislation: Foster Child Scholarship Program Act</p>	<p>Arizona Legislation: HB 2626</p>
<p>(A) "Program" means the Foster Child Scholarship Program created in this subchapter.</p>	<p>Section 1. Section 15-802, Arizona Revised Statutes, is amended to read:</p> <p>A. Every child between the ages of six and sixteen years shall attend a school and shall be provided instruction in at least the subjects of reading, grammar, mathematics, social studies and science. The person who has custody of the child shall choose a public, private or charter school or a homeschool as defined in this section to provide instruction or shall sign a contract to participate in an Arizona Empowerment Scholarship Account pursuant to section 15-2402.</p> <p>...</p> <p>Sec. 2. Section 15-1182, Arizona Revised Statutes, is amended to read:</p> <p>A. There is established a special education fund, which shall consist of legislative appropriations made to the fund for purposes of this section and section 15-1202.</p> <p>...</p> <p>C. Each fiscal year the state board of education shall include in its budget request for assistance to schools a separate line item for the fund.</p>
<p>(B) "Eligible Student" means any elementary or secondary student who was eligible to attend a public school in [state] in the preceding semester or is starting school in [state] for the first time and is in foster care and/or is the biological sibling of a foster child.</p>	<p>D. The fund shall provide monies for the education of a child who has been placed in a residential facility by a state placing agency or who requires a residential special education placement as defined in section 15-761.</p> <p>...</p>
<p>(F) "Participating school" means either a public school outside of the resident</p>	<p>E. If a child has been placed in a residential facility by a state placing</p>

<p>school district, a school run by another public entity, or any private school that provides education to elementary and/or secondary students and has notified the Department of its intention to participate in the program and comply with the program's requirements.</p>	<p>agency, the fund shall provide monies for the following types of vouchers:</p> <ol style="list-style-type: none"> 1. Initial residential education vouchers to fund the educational costs for any child, whether or not eligible for special education. This paragraph applies to a child who has been placed in a residential facility ... 2. Continuing residential education vouchers that fund the educational costs for any child, whether or not eligible for special education, who requires placement in a residential facility after the expiration of the initial education voucher and who is not eligible for a residential special education voucher.
<p>ALEC Model Legislation: Special Needs Scholarship Program Act</p>	<p>Arizona Legislation: HB 2626</p>
<p>(B) "Eligible Student" means any elementary or secondary student who was eligible to attend a public school in [state] in the preceding semester or is starting school in [state] for the first time with an Individualized Education Plan, including but not limited to students who are mentally handicapped, speech and language impaired, deaf or hard of hearing, visually impaired, dual sensory impaired, physically impaired, emotionally handicapped, specific learning disabled, autistic, or hospitalized or homebound because of illness or disability.</p> <p>...</p> <p>(D) Participating School Autonomy. A participating, private school is autonomous and not an agent of the state or federal government and therefore:</p> <p>(1) the Department or any other state agency may not in any way regulate the educational program of a participating, private school that accepts a</p>	<p>Sec. 3. Section 15-2401, Arizona Revised Statutes, is amended to read:</p> <p>15-2401. Definitions</p> <p>...</p> <p>6. "Qualified student" means a resident of this state who:</p> <p>(a) Is ANY OF THE FOLLOWING:</p> <p>(i) Identified as having a disability under section 504 of the rehabilitation act of 1973 (29 United States Code section 794).</p> <p>,</p> <p>(ii) Identified by a school district as a child with a disability as defined in section 15-761. or</p> <p>(iii) A child with a disability who is eligible to receive services from a school district under section 15-763.</p> <p>...</p>

Special Needs Scholarship;	
ALEC Model Legislation: Military Family Scholarship Program Act	Arizona Legislation: HB 2626
Section 3. {Basic Elements of the Military Family Scholarship Program} (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 if: (1) the student is the dependent of a veteran or active military personnel that is in good standing with his or her unit or has received an honorable discharge (DD214);	(vi) A child of a parent who is a member of the Armed Forces of the United States. (vii) A child with a guardian who is a member of the Armed Forces of the United States. (viii) A child who has been identified as a gifted pupil as defined in section 15-779.

SB 1204 – Parent Trigger Act

Arizona Legislation: [SB 1204](#) – schools; parental intervention options

Sponsors (in bold) and co-sponsors:

1 ALEC Senator

Rep. Lori Klein (R-6)

Last Action: Held in House Education Committee, 3/2/12

Legislative Session: 50th Legislature, Second Regular Session

ALEC Model Legislation: [Parent Trigger Act](#)

Similarities/Analysis:

SB 1204 is modeled after ALEC’s ‘Parent Trigger Act.’ Both acts provide mechanisms to replace public schools with charter schools, or to shut down those public schools entirely upon the petition of more than 50% of the parents or legal guardians of pupils attending the schools in a particular year. Recent studies of charter schools’ impact on student learning show that they have failed to “move the needle,” as one researcher put it.¹⁷ Nevertheless, they provide an opening for for-profit entities to take over educating our children, at taxpayer expense. The way to solve public schools’ problems is not to abandon them and hand our children’s education over to businesses whose primary motive is increasing profits.

<p>ALEC Model Legislation: Parent Trigger Act</p>	<p>Arizona Legislation: SB 1204</p>
<p>Section 3. {Parent Empowerment}</p> <p>For all public schools where more than one-half of the parents or legal guardians of pupils attending the school, or a combination of more than one-half of the parents or legal guardians of pupils attending the school and the elementary or middle schools that normally matriculate into a middle or high school, as applicable, sign a petition requesting the local educational agency to implement one or more of the three interventions identified pursuant to Section (5), the local educational agency shall implement the option requested by the parents.</p>	<p>Section 1. Title 15, Chapter 1, Article 1, Arizona Revised Statutes, is amended by adding section 15-114, to read:</p> <p>15-114. Schools; parental intervention options; notification</p> <p>A. For any school that has been assigned a letter grade of D or F pursuant to section 15-241, the parents or legal guardians of pupils attending that school and parents or guardians of pupils attending a school that feeds into that school may submit a petition to the school district governing board to request that the governing board take one of the following actions:</p>
<p>Section 5. {School Intervention Models}</p> <p>(B) School closure. School closure occurs when an LEA closes a school and enrolls the students who attended that school in other schools in the LEA that are higher achieving. These other schools should be within reasonable proximity to the closed school and may include, but are not limited to, charter schools or new schools for which achievement data are not yet available. In the event that no such school exists, the district will implement the educational choice model.</p>	<p>1. Close the school.</p>
<p>(A) Restart model. A restart model is one in which an LEA converts a school or closes and reopens a school under a charter school operator, a charter management organization (CMO), or an education management organization (EMO) that has been selected through a rigorous review process. (A CMO is a non-profit organization that operates or manages charter schools by centralizing or sharing certain functions and</p>	<p>2. Convert the school to a charter school.</p> <p>3. Replace the existing school principal with a different principal who shall be allowed sufficient operational flexibility with respect to staffing, calendars and budgeting to implement a fully comprehensive approach in order to improve student achievement outcomes and increase high school graduation rates.</p>

<p>resources among schools. An EMO is a for-profit or non-profit organization that provides “whole-school operation” services to an LEA.) A restart model must enroll, within the grades it serves, any former student who wishes to attend the school.</p>	
<p>Section 3. {Parent Empowerment}</p> <p>For all public schools where more than one-half of the parents or legal guardians of pupils attending the school, or a combination of more than one-half of the parents or legal guardians of pupils attending the school and the elementary or middle schools that normally matriculate into a middle or high school, as applicable, sign a petition requesting the local educational agency to implement one or more of the three interventions identified pursuant to Section (5), the local educational agency shall implement the option requested by the parents.</p>	<p>B. If at least one parent or guardian in more than fifty per cent of the households with children who are enrolled in that school signs the petition, the school district governing board shall take the action requested in the petition within thirty days after verifying the signatures on the petition. The signature of only one parent or guardian from each household shall be counted for the purposes of this subsection.</p>

ENDNOTES

- ¹ [“ALEC Exposed: Decoding ALEC PR,”](#) Center for Media and Democracy, 2012.
- ² Lisa Graves, [“A CMD Special Report on ALEC's Funding and Spending,”](#) Center for Media and Democracy, 13 July 2011.
- ³ Beau Hodai, [“Rep. Farley Proposes Some Strong Arizona Sunshine on ALEC 'Scholarships,’”](#) Center for Media and Democracy, 12 January 2012.
- ⁴ PFAW Foundation, Progress Ohio, Common Cause, and the Center for Media and Democracy; [“ALEC in Ohio: The Corporate Special Interests that Help Write Ohio's Laws,”](#) 2012.
- ⁵ [“CMD Asks Wisconsin Ethics Board to Examine Corporate-funded Gifts to ALEC Legislators,”](#) Center for Media and Democracy, 23 March 2012.
- ⁶ Brendan Fischer, [“Why Did PhRMA Spend \\$356K on ALEC in Wisconsin?”](#) Center for Media and Democracy, 12 March 2012.
- ⁷ [ALEC Exposed Source Documents](#) #1, p. 45
- ⁸ Stephanie Mencimer, [“The Tea Party's Favorite Doctors,”](#) *Mother Jones*, 18 November 2009.
- ⁹ Jeremy Duda, [“Brewer Prepares '12 Push for Personnel Reform,”](#) *AZ Capitol Times*, 30 November 2011.
- ¹⁰ Stephen E. Condrey and R. Paul Battaglio, Jr., [“A Return to Spoils? Revisiting Radical Civil Service Reform in the United States,”](#) *Public Administration Review*, May/June 2007.
- ¹¹ Ed Perkins, [“Gutting State's Merit System: Return of Boss Tweed?”](#) *Tucson Sentinel*, 30 March 2012.
- ¹² Clarence W. Dupnik, [“Loss of Merit System Would Be Big Step Back,”](#) *Nogales International*, 30 March 2012.
- ¹³ Julie Underwood, [“ALEC Exposed: Staring Public Schools,”](#) *The Nation*, 14 July 2011.
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