



A Reporter's Guide to the
GOLDWATER
INSTITUTE

**What Citizens, Policymakers,
and Reporters Should Know**



**Center for
Media and
Democracy**

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Executive Summary

The Goldwater Institute is a special interest group in Arizona that also influences law outside the Grand Canyon State. This tax-exempt group -- registered as 501(c)(3) non-profit -- says its mission is “to advance freedom and protect the Constitution.”

This report outlines the following key findings on the Institute:

- **Goldwater & ALEC’s Shared Agenda:** The Goldwater Institute is a member of the American Legislative Exchange Council (ALEC), a corporate-funded bill mill. Over the years, Goldwater staffers have proposed numerous bills at ALEC task force meetings, where elected officials and private sector members (like corporate lobbyists and special interest groups) vote as equals behind closed doors on templates to change the law. Under ALEC’s public bylaws, its state legislative leaders are tasked with a “duty” to get those bill introduced into law. The coordinated agenda that ALEC and the Goldwater Institute press for would:
 - Block Arizonans from receiving healthcare benefits made possible by federal health insurance reforms by attempting to stop implementation of the Affordable Care Act
 - Redirect funds from Arizona’s public schools via private school vouchers to other private or for-profit businesses
 - Attack Arizona workers’ collective bargaining rights
 - Protect corporations by changing tort law to make it harder for the families of Arizonans killed or injured by defective drugs or medical devices, or by corporate neglect or malfeasance, to hold corporations fully accountable
 - Promote the corporate polluters’ agenda by ignoring the science showing climate changes underway, in addition to promoting measures that would undermine the power of federal or local governments to regulate water and air pollution, and numerous other bills with far-reaching effects if passed

- **Goldwater Executives Get Bonuses while Arizona’s Middle Class Gets Less:** The Goldwater Institute has routinely attacked unions and the compensation of government workers, yet the income of Goldwater's top two executives skyrocketed by more than 185% despite the Wall Street crash. Meanwhile, the average Arizonans’ wages have gone down by 13% since 2007.
- **Attacks Government Spending, But Takes Taxpayer Dollars:** While the Goldwater Institute has attacked government spending, the institute has taken in over a million in Arizona taxpayer dollars for its “public interest” lawsuits, and amassed what it has described as “excess cash.” In 2011, the Goldwater Institute received \$1M from taxpayers for attorney fees from a lawsuit challenging Arizona clean election law. That same year, the Goldwater Institute paid huge bonuses to its top two attorneys.
- **Its Tax Forms Reveal Murky Internal Financial Dealings: up to \$1.9M in Cash Was Loaned to a Board Member’s Company:** The Goldwater Institute’s internal finances as a nonprofit include a loan of up to \$1.9M to “Shamrock Farm Co Investing,” a private company led by Goldwater board member Norman McClelland.
- **Funded by Special Interests and Out-of-State Right-Wing Ideologues:** Unlike many public policy nonprofits, the Goldwater Institute does not publicly disclose its biggest donors. The Institute claims to be funded “solely” by “individual donations,” but a review of IRS filings and other documents from foundations shows that many of Goldwater's largest donors are out-of-state foundations tied to special interests and ideological agendas, including the Koch-connected Donors Capital Fund, the Bradley Foundation, the Roe Foundation, the Charles G. Koch Charitable Foundation, and the Walton Family Foundation.
- **A Powerful Influence in the Arizona Statehouse that Reports Very Little Lobbying:** The Goldwater Institute has registered lobbyists in the state of Arizona, and it urges the adoption of numerous bills in various ways, but it told the IRS it spent less than \$20,000 on lobbying in 2011 and that it spent “0,” “none,” or n/a on lobbying in all of 2007, 2008, 2009, and 2010. And, Goldwater staffers also had numerous contacts with legislators through ALEC where they pushed specific bills to be adopted.

Re-introducing the Goldwater Institute

“[W]hat he didn’t like was seeing it turn into a special-interest, big-business lobbying group.”

- Susan Goldwater on Barry Goldwater’s Concerns about the Goldwater Institute

The Goldwater Institute was founded in Phoenix 25 years ago with the blessing of its namesake, Senator Barry Goldwater. Since 1988, its annual budget of expenses has grown to over \$3.7 million.¹

It uses that money to influence state and national policies. In 2011 alone, the Institute says it produced over 130 analyses of bills and policies, submitted testimony on legislative matters more than a dozen times, prepared three Supreme Court briefs, and had “1,196 stories or appearances on television, radio and news outlets.”²

It says its work advances the late Senator’s values: limited government, economic freedom, and individual responsibility.

But, as documented in Tony Ortega’s ground breaking investigative report for the *Phoenix New Times*, “Think Tank Warfare,” the late Senator disliked parts of what the Institute had grown to represent, and he reportedly wanted to implement “checks and balances” upon the institution to protect his name – before suffering a stroke and being unable to address the personal concerns he had raised.³

What was it, exactly, that the conservative icon had grown to dislike about the Goldwater Institute? In the words of his widow, Susan Goldwater, “what he didn’t like was seeing it turn into a special-interest, big-business lobbying group.”⁴ Yet, despite these concerns, his son, Barry Goldwater, Jr., sits on the Institute’s board.

As detailed below, the Goldwater Institute routinely urges major legal changes that benefit big businesses, while publicizing a few cases where it represents small businesses. It even pays its top non-profit leaders big business-level salaries, while peddling policies that limit the economic rights of ordinary working people.

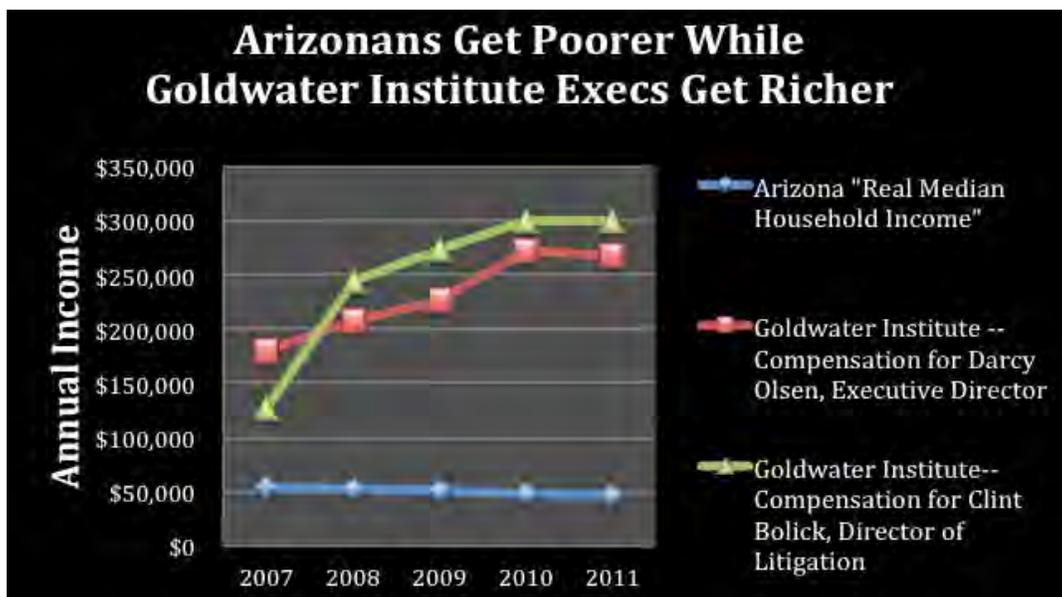
Finances

Their compensation increased by 10 times more than Goldwater's revenues did. It increased despite the organization's budget shortfalls or "losses" for two years...

CRONY CAPITALISM? BIG PAY, DESPITE BIG "SHORTFALLS"

The Goldwater Institute has routinely attacked Arizona workers, claiming for example that state employees are paid too much – while this charity has been paying its top employees high salaries (relative to cost of living in the Phoenix area) and giving huge bonuses, for a nonprofit with the tax benefits given to charities.

The compensation of the Goldwater Institute's Executive Director, **Darcy Olsen**, jumped from \$180,000 in 2007 to \$268,182 for 2011, (the most recent year in which Goldwater's tax forms are available). The compensation of the Goldwater Institute's Director of Litigation, **Clint Bolick**, jumped even higher in this five-year period, from \$126,875 to \$300,624. Meanwhile, the real median wages of Arizona households dropped from \$54,116 to \$46,709 in this time.



Individual Responsibility? This tax-exempt organization has given its top two executives raises in compensation of 185% since 2007 (based on a combined average). But, the charity's revenue did not increase by anywhere near that percent in the same period. It grew by only 18% in those five years. That is, their compensation increased by 10 times more than Goldwater's revenues did. And, it increased despite the organization having budget shortfalls, or "losses," in two of those five years, when the charity actually spent more than it raised (in 2009 and 2010, by -\$140,351 and -\$207,210, respectively).

The \$20K bonus to Olsen and \$35K bonus to Bolick were dwarfed by what the Goldwater Institute gave Nick Dranias: a \$50,000 bonus.

But, that's not all. The Goldwater Institute's compensation for its top executives has included enormous bonuses. In 2011, **Olsen** received a bonus from the charity in the amount of \$20,000, and **Bolick** received a bonus of \$35,000. (These bonuses are counted as part of their total compensation, noted above.)



The \$20K bonus to **Olsen** and \$35K bonus to **Bolick** were dwarfed by what the Goldwater Institute gave **Nick Dranias**: a \$50,000 bonus in 2011. His bonus alone was more than Arizona's real median household income that year. His total compensation, as the Goldwater Institute's Director of Policy Development, with the title of "Director of Constitutional Government," was \$176,228 that year – more than three times the earnings of the average Arizona household.

These bonuses and salaries make the Goldwater Institute’s top directors some of the highest paid 501(c)(3) non-profit employees in the state. As a charity, the organization pays no taxes on its donation revenues, and its donors can take a tax write-off for underwriting the Institute’s operations, which includes paying huge bonuses.

BUT IT SURE PAYS WELL TO ATTACK STATE EMPLOYEES

Despite the Institute’s rhetoric, a comprehensive investigation showed that “the City of Phoenix’s current pay ranges are competitive with the public sector, and are below the private sector.”

The Goldwater Institute routinely hypes the claim that state employees make 44% more than private sector workers, but that old federal statistic has been roundly criticized as distorting the facts.⁵ The Institute sticks to this national figure even though the City of Phoenix conducted an in-depth examination of whether that claim was true for Arizona’s biggest city, and found the stat to be false.

Specifically, despite the Goldwater Institute’s repeated rhetoric, a comprehensive and independent investigation in 2011-2012 showed that “the City of Phoenix’s current pay ranges are competitive with the public sector, and are below the private sector.”⁶

While the Goldwater Institute claims it is not beholden to special interests, it acts as though it is by peddling statistics that mislead Arizonans about local public sector/private sector compensation differentials – and ignores the most detailed study ever conducted in the state and city it is located in. And the Goldwater Institute renewed its “Reforming Arizona” effort in February 2013 with a new infographic pushing anti-union policies using the 44% figure to call for “reforms” specifically in Arizona,⁷ while ignoring evidence that government worker pay ranges “are below the private sector” locally.

It is particularly curious that a “free market” nonprofit would itself give bonuses that dwarf the salary increases for private sector executives in the state that were surveyed. Specifically, the City of Phoenix’s study shows that in the same period when the Goldwater Institute was giving its top executives bonuses of between \$20,000 and \$50,000 (12%, 13%, and 43% for **Olsen**, **Bolick**, and **Dranias**), the private sector firms that were surveyed gave salary increases ranging from 0% to 4% for executives. And, the State of Arizona, with its many union workers, gave a 0% salary increase that year.⁸

GOLDWATER: RECIPIENT OF TAXPAYER DOLLARS

BIG BONUSES AT THE GOLDWATER INSTITUTE IN 2011 COINCIDE WITH A MILLION DOLLAR PAYOUT FROM ARIZONA TAXPAYERS -- FOR KILLING STATE CLEAN ELECTION RULES

It is possible that the Goldwater Institute’s board believed the big bonuses to its top staffers were warranted based on their performances in 2011. After all, between the end of 2010 and the end of 2011, the Goldwater Institute had a total increase in revenue of \$891,098, which helped move the organization from a budget deficit of \$207,210 to net revenue of \$425,614. That increase was largely due to a big jump in what the nonprofit categorizes as “program revenue,” amounting to about \$1.3 million dollars.

The surge in income that made it possible for the Goldwater Institute’s top three highest paid executives to receive a total of **\$105,000 in bonus pay** in 2011? ***Attorney’s fees paid by Arizona taxpayers!***

Back in 1998, a majority of Arizona citizens voted for “Prop 200” to create the “Clean Elections Act,” which allowed the state to set limits on contributions and spending by candidates and also established a public finance system for state elections.⁹ Over a decade later, the Goldwater Institute sued. It sued to stop state “matching funds” that provided that, if a candidate participates in the public financing system and is outspent by a non-participating

opponent, the candidate will receive matching funds to help level the playing field. The federal district court struck down the law, the Ninth Circuit reversed, and then in a narrowly split (5-4) decision the U.S. Supreme Court declared the match rule unconstitutional in 2011. (Goldwater's suit was initiated after President George W. Bush put two judges on the U.S. Supreme Court who would later, in 2010, issue one of the most discredited rulings in history, *Citizens United*, striking down McCain-Feingold fair election rules.)

That paved the way for an award of one million dollars from the state of Arizona in claimed attorneys' fees for the prevailing party, the Goldwater Institute. Goldwater's key litigators? **Dranias** and **Bolick**, who received bonuses of \$35,000 and \$50,000 that year. Goldwater told the IRS it spent \$1.1M for its litigation that year and also won fees of over \$300,000 from other cases.

LOAN TO A BOARD MEMBER'S COMPANY

With its 'excess cash,' the Goldwater Institute has made unusual loans totaling up to \$1.9M...

THE GOLDWATER INSTITUTE HAS USED ITS "EXCESS CASH" TO LOAN NEARLY \$2M TO A BOARD MEMBER'S CORPORATION

Flush enough to pay more than \$100,000 in bonuses to its nonprofit executives, in 2011 the Goldwater Institute increased by \$700,000 a credit line it had extended through promissory notes -- investing what it calls "excess cash" that allowed it to lend up to \$1.9M to the company of its co-founder, donor and board member.

Specifically, in 2011, according to its IRS 990 form, the Goldwater Institute board approved an increase in the amount provided from its cash reserves of \$1.7 million to Shamrock Foods Company, which is helmed by Norman McClelland, the CEO of the family business he inherited and grew into a dairy and foodservice

distribution company with annual sales of over \$1 billion a year.¹⁰ On Goldwater's 990 form, it describes the corporation as "Shamrock Farms Co. Investing" and mentions McClelland.

Prior to 2011 -- before the Goldwater Institute's annual revenue surged by about \$800,000 on the back of taxpayer-funded attorney fee awards -- its board approved a promissory note arrangement allowing \$1.2 million to be given to Shamrock in exchange for interest payments and the ability to access the funds earlier than the term of two notes. In 2011, the board approved an increase in that arrangement in the amount of up to \$700,000. (The whole arrangement dates back to 2002, when the board approved an unsecured \$200,000 promissory note with 10% per annum interest. In 2005, a second note was signed with a maximum of \$1 million. It is the second note that was increased to \$1.7M in 2011).

That is, the arrangement allows the for-profit Shamrock corporation to have access to up to \$1.7M at a cost of 2.25% interest (in 2011), (plus \$200,000 at 10%) for a maximum of \$1.9M in extra liquidity.

There is no publicly disclosed limit on how Shamrock chooses to invest or spend that nearly two million in cash, and no public information on the rate of return Shamrock is itself getting on the nonprofit Goldwater Institute's "excess cash."

WHAT'S MILK MONEY GOT TO DO WITH IT?

The Goldwater Institute is not required to disclose the identities of its major donors under US tax law, although many public policy groups do, so that the public can assess whether their advocacy may be biased by those interests. Therefore, it is not clear how much money McClelland has given -- or his dairy conglomerate gives, if any -- to the Institute and thus how much of a tax benefit either receives for any charitable gifts to the Goldwater Institute.

It is simply not publicly known, for example, how much money either McClelland or his company gave to Goldwater the year the cash loan was increased by \$700,000 or in the prior 10 years since the promissory note arrangement began, or before that. The

Goldwater Institute does not disclose the amounts of donations from McClelland in his personal capacity or his privately held company (if any). Neither McClelland nor Shamrock has any mandatory public disclosure of the checks they write to charities.

McClelland has donated an untold sum of his personal fortune from his business endeavors to help the Goldwater Institute. He helped found the Institute in 1988, and he served as the chairman of its Board of Directors from 1992 to 1994. He is also one of the officers of the Goldwater Institute's subsidiary, the Goldwater Institute Holding Co., LLC. And, his friends have endowed the Robert P. McClelland Distinguished Fellowship to ensure that his "legacy will continue in the next generation of young conservative leaders."



Funding

Records show that, from 2008 to 2010, the Koch-connected 'Donors Capital Fund' gave almost \$1.6M to the Goldwater Institute.

SO WHO -- BESIDES ARIZONA TAXPAYERS FORCED TO PAY FEES -- FUNDS THE REST OF GOLDWATER'S OPERATIONS?

The Goldwater Institute boasts that it is “funded solely by individual donations” and that “no single contributor provides more than five percent of revenue.”¹¹ On its website and Facebook, such claims convey a grassroots-type image to the general public and press.¹²

But, in 2011, Arizona taxpayers contributed 1/3 of the revenue that funded the Goldwater Institute, unbeknownst to most Arizona residents. Numerous Arizonans paid taxes to fund government services but ended up cumulatively forking over more than \$1.3M in attorneys' fees to aid Goldwater's agenda, including its fight against clean election law.

Moreover, Goldwater's general claim that it is funded “solely” by “individual donations” is refuted by its own annual report, which shows that \$890,400 of its 2011 revenue was from foundations.¹³

DONORS CAPITAL FUND

Records show that, from 2008 to 2010, the Koch-connected “Donors Capital Fund” gave almost \$1,597,462 to the Goldwater Institute, a substantial portion of revenue.¹⁴ In 2010, it gave \$562,000 to the Goldwater Institute, which constituted more than 17% of revenues that year.¹⁵ In 2009, the Donors Capital Fund gift of \$665,462 constituted 26% of the Institute's revenues.¹⁶ In 2008, it donated \$360,000, or 12% of the Goldwater Institute's revenues that year.¹⁷

According to the former director of the IRS Exempt Organizations Division Marcus Owens, such funds act as a pass-through: “it obscures the source of the money.”¹⁸

The “personalized philanthropic services” of the Donors Capital Fund, do not come cheap; it accepts “clients . . . if they expect to open donor-advised funds of over \$1,000,000.”¹⁹ According to the Center for Public Integrity, the Donors Capital Fund and its affiliate organization, Donors Trust – both are past contributors to the Goldwater Institute – distributed nearly half a billion dollars (\$400 million) to right-wing organizations across the country since 1999.

MAJOR DONORS WITH OUTSIDE INTERESTS

Arizona Republic columnist **E.J. Montini** has noted that the **Goldwater Institute’s leadership has evaded answering questions about out of state influence**,²⁰ but many big donors are not from Arizona, as shown by the partial data compiled below:²¹

Donors	Funding	Years	HQ
Donors Capital Fund	\$1,597,462	08-10	Alexandria, VA
Charles G. Koch Charitable Foundation	\$75,000	04-06	Wichita, KS
Earhart Foundation	\$20,000	95-96	Portland, OR
JM Foundation	\$145,000	96, 98-99, 01, 04-05, 07, 09	New York
Jaquelin Hume Foundation	\$414,971	99, 01-10	San Francisco, CA
John M. Olin Foundation	\$75,000	94-96	New York
Lynde and Harry Bradley Foundation	\$140,000	06-10	Milwaukee, WI
Rodney Fund	\$186,050	98, 01-11	Michigan
Thomas Roe’s Foundation	\$277,500	98-01, 03-06, 09-11	South Carolina

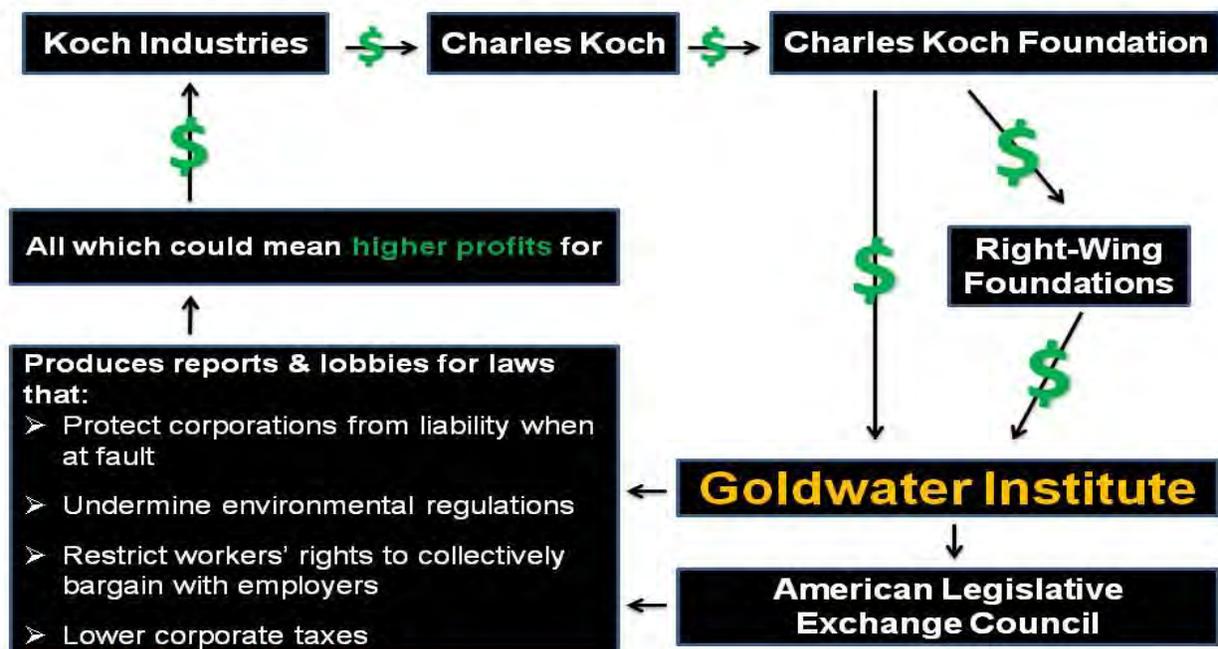
Ruth and Lovett Peters Foundation	\$232,473	99-00, 04-06	Cincinnati, OH
State Policy Network	\$31,549	07-08	Arlington, VA
Walton Family Foundation	\$205,000	98, 00, 10	Georgia
William H. Donner Foundation	\$100,000	1998	New York

(Source: American Bridge Project and Donors Capital Fund IRS 990s)

THE KOCHS IN ARIZONA

Charles Koch, one of the richest and most controversial billionaires in the world, is among those who have used the “Donor” groups. In 2012, Koch’s estimated net worth was \$34 billion²² and his company, Koch Industries, had an estimated \$115 billion in revenues.²³ That’s more than all the revenues of the local and state governments of Arizona, which combined had revenues of roughly \$42.7 billion²⁴ and which has a population of 6.8 million people. Koch’s family foundation has provided funds to support Goldwater.

GOLDWATER & THE KOCHS: Follow The Money



Lobbying & Influence

Goldwater, ALEC, and SPN are less like a network and more like levers in a well-funded operation to change the laws in all the states.

WHAT DOES ALL THAT GOLDWATER MONEY BUY? INFLUENCE

Donors Capital Fund does not just give money to the Goldwater Institute to spend on its general operations, it also gives money that is designated for particular things designed to help change US laws. For example, the Fund gave Goldwater \$22,000 “for participation at [a] American Legislative Exchange Council meeting” in 2011. It also gave \$40,000 that year for an alliance Goldwater is part of, the “State Policy Network” (SPN), so it too could participate in an ALEC meeting. SPN was created by the Roe Foundation, which has also funded the Goldwater Institute; SPN has also funded the Institute.



But the money flowing between these organizations only tells part of the story. It is not simply that Goldwater and SPN have been listed in ALEC conference brochures as sponsoring ALEC meetings. Given all the money sloshing between these groups (Goldwater, SPN, and ALEC), it is like less of a network than levers in a well-funded operation to change the laws in ways that help corporate America at the expense of average working families in numerous areas of state law.



And those are not the only levers being pressed. The Goldwater Institute is also affiliated with the “Franklin Center for Government and Public Integrity,” which is funding right-wing press in the states, and Goldwater itself has recently advertised an opening for an investigative reporter to join its operations.

GOLDWATER & ALEC’S AGENDA IN ARIZONA

Through ALEC, the Goldwater Institute sits behind closed doors with state legislators where lawmakers and private sector lobbyists and representatives have an equal vote on templates to change the law.

What they are attempting to do is nothing less than make revolutionary changes to American law that expand corporate power and profits, often at the public’s expense and to the detriment of hardworking Americans. As Bill Moyers explained as part of his documentary, the “United States of ALEC” --

“ALEC is a nationwide consortium of elected state legislators working side by side with some of America's most powerful corporations. They have an agenda you should know about, a mission to remake America, changing the country by, changing its laws, one state at a time. ALEC creates what it calls “model legislation,” pro-corporate laws its members push in statehouses across the nation. ALEC says close to a thousand bills, based at least in part on its models, are introduced each year. And an average of 200 pass.”

In the past twelve months, 42 major corporations -- including General Electric, Wal-Mart, Coca-Cola, General Motors -- have announced that they have left ALEC, since its policies and operations have been subjected to greater scrutiny following the launch of the “ALECExposed.org” investigation and increased public concerns about ALEC.²⁵

The Goldwater Institute has played an instrumental role in ALEC’s legislative agenda to change numerous areas of the law. Although Goldwater does not reveal whether it has any direct corporate donors, it is supported by the family foundations of numerous CEOs, and it advances numerous bills consistent with a big corporate agenda²⁶ that is routinely re-packaged as “conservative.”

Over more than a decade, Goldwater has urged the adoption of key parts of the ALEC education agenda and has helped drive it.

Has its education policy “only helped [poor families] more than moderate and wealthy families?” asked Goldwater’s Darcy Olsen. ‘Probably not. If it was sold that way, it’s only an angle.’”

Education. The Goldwater Institute’s staff has been the primary author of ALEC’s annual state-by-state education report card. Dr. Clifton Matthew Ladner was Goldwater’s Vice President of Research

before he left to become the Senior Advisor for Policy and Research at Jeb Bush's "Foundation of Excellence in Education" (FEE). The Center for Media and Democracy has exposed the taxpayer-enriched companies that back FEE, ALEC, and their so-called "reforms," which help redistribute tax dollars away from public schools.²⁷ Ladner had a seat on ALEC's Education Task Force and a vote on behalf of the Goldwater Institute alongside ALEC legislators and for-profit corporations like K12 and Connections Academy.

Ladner also wrote ALEC's annual education report card with Goldwater's Dan Lips.²⁸ As the Center for Media and Democracy has documented, the report card ranks policy, not performance:

"States where students score well on tests but where ALEC's legislative agenda around school choice, charters, merit pay, de-unionization and alternative certification have not yet taken hold get low grades. States where elected officials are gung-ho for ALEC's agenda but the students are not faring so well are still graded generously."²⁹

As People for the American Way Foundation noted in a report on ALEC-Goldwater Institute tuition tax credit bills, "Misplaying the Angles," some advocates of these proposals have used misleading rhetoric to promote them. PFAWF noted that when "confronted with data showing that low-income families in Arizona were receiving little, if any, benefit from her state's law, a spokesperson . . . was surprisingly candid. 'Has it only helped [poor families] more than moderate and wealthy families?' asked Goldwater's Darcy Olsen. 'Probably not. If it was sold that way, it's only an angle.'"

Other ALEC-Goldwater bills include:

- The controversial "Special Needs Scholarship Act" as well as efforts to circumvent time-tested teacher training standards, ALEC's "Alternative Teacher Certification Act." This is another end-run around teachers' unions.
- The Goldwater Institute also penned "A Comprehensive Legislative Package Opposing Common Core State Standards

Initiative.” According to notes of the ALEC Education Task Force meeting. This bill was approved to become an ALEC model by a vote of 14-6 among legislators and 9-4 by ALEC’s private sector members.³⁰

- Just a few months ago, at ALEC’s post-election summit in Washington, D.C., the Education Director of the Goldwater Institute, Jonathan Butcher, presented the Goldwater model bill, the “School Choice Directory Act” to the Education Task Force.³¹

This bill would mandate that taxpayers pay an untold sum for the creation, printing, and mailing of a guide to private schools and home schooling to every resident in a state, to help enable more taxpayer dollars to be redirected from public schools to private interests or profits. Its real cost to taxpayers is unknown.

Although it is unclear if this bill was adopted by ALEC’s board, earlier this year a nearly identical version of the Goldwater-ALEC bill was introduced and sponsored by ALEC legislators, such as Rep. Debbie Lesko, who has been ALEC’s Arizona state public sector co-chair.³² Under ALEC’s public bylaws, ALEC leaders like Rep. Lesko have a “duty” to get ALEC bills introduced into law. (On the next page is an image of ALEC state co-chair Lesko’s bill next to the ALEC one.)

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

SB 1285

Introduced by
Senator Ward; Representatives Kwamen, Lesko; Senators Crandell, Melvin,
Murphy; Representative Boyer

AN ACT

AMENDING TITLE 15, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-249.04; RELATING TO THE DEPARTMENT OF EDUCATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 15, chapter 2, article 2, Arizona Revised Statutes, is amended by adding section 15-249.04, to read:

15-249.04. Handbook of educational options

A. THE DEPARTMENT SHALL PRODUCE AND ANNUALLY UPDATE A HANDBOOK OF EDUCATIONAL OPTIONS THAT IS AVAILABLE FOR PARENTS OF PUPILS IN SCHOOL DISTRICTS AND CHARTER SCHOOLS. THE DEPARTMENT SHALL ANNUALLY MAIL A COPY OF THE HANDBOOK TO THE PARENTS OR GUARDIANS OF ALL PUBLIC SCHOOL PUPILS IN THIS STATE.

B. THE HANDBOOK SHALL DESCRIBE THE EDUCATIONAL CHOICES AVAILABLE TO PUPILS, INCLUDING OPEN ENROLLMENT, CHARTER SCHOOLS, PRIVATE SCHOOLS, HOMESCHOOLING, TUITION TAX CREDIT SCHOLARSHIPS AND EMPOWERMENT SCHOLARSHIP ACCOUNTS. THE HANDBOOK SHALL PROVIDE INSTRUCTIONS ON HOW PARENTS CAN ACCESS EACH OF THESE DIFFERENT OPTIONS. THE DESCRIPTION IN THE HANDBOOK OF EACH EDUCATION CHOICE OPTION SHALL INCLUDE CONTACT INFORMATION FOR THE STATE AGENCY THAT ADMINISTERS THAT PARTICULAR CHOICE OPTION.

C. THE DEPARTMENT SHALL POST A COPY OF THE HANDBOOK ON THE DEPARTMENT'S WEBSITE.

D. THE DEPARTMENT SHALL USE MONIES ALLOCATED TO THE DEPARTMENT PURSUANT TO TITLE 1 OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 TO PAY THE COSTS OF PRODUCING AND UPDATING THE HANDBOOK AND THE POSTAGE COSTS OF MAILING THE HANDBOOK AS PRESCRIBED IN SUBSECTION A OF THIS SECTION.

School Choice Directory Act

Summary

This legislation requires the state department of education to produce a catalogue of educational options available in the state. The catalogue will provide a brief description of all educational choices for students in K-12 as they apply to the state, including (as applicable) open enrollment, charter schools, vouchers, education savings accounts, homeschooling, and tax credit scholarships.

Model Legislation

{Title, enacting clause, etc.}

Section 1. (Definitions)

In this chapter, unless the context otherwise requires:

(A) "Department" means the department of education.

(B) "Parent" means a resident of this state who is the parent or legal guardian of a qualified student.

Section 2. (Be it enacted by the Legislature of the State of XXXX:)

(A) Notwithstanding any other law, the department shall produce a handbook of educational options available for parents of K-12 students and provide copies via regular mail to all state residents.

(1) The catalogue shall describe the educational choices available to students in the state, including but not limited to (as applicable) open enrollment, charter schools, private schools, homeschooling, tuition tax credit scholarships, vouchers, and education savings accounts. The handbook's content shall provide instructions on how parents can access each of the different options.

(2) The description of each education choice shall include contact information for the state office that administers each program.

(B) The department shall make these directories available at all public offices, including the Post Office, public libraries, and at all public schools.

(C) The department shall post the catalogue on the World Wide Web.

In addition to Goldwater's extensive role in ALEC's Education Task Force, documents obtained by the Center for Media and Democracy and Common Cause illustrate that the Goldwater Institute has been active in at least eight ALEC committees or subcommittees: the Natural Resources Task Force, the Commerce, Insurance and Economic Development Task Force, the Education Task Force, the Health and Human Services Task Force, the International Relations Task Force, the Federal Relations Task Force, the Tax and Fiscal Policy Task Force, and Energy, Environment, and Agriculture.³³

American Legislative Exchange Council		<i>ENVIR</i>
<i>Natural Resources Task Force</i>		as of July 1st, 2010 Page 2
Nick Dranias Private Sector Member (M1) Goldwater Institute 500 East Coronado Road Phoenix, AZ 85004 Phone: (602) 462-5000 FAX: (602) 256-7045	Henry Dixon Private Sector Member (M1) Shell Oil Company 1050 K Street, NW Suite 700 Washington, DC 20001 Phone: (202) 466-1473 FAX: (202) 466-1498	

At ALEC conventions, Goldwater Institute staffers introduce “model” legislation that is voted on in ALEC task forces behind closed doors where corporations and legislators have equal voting rights. They sometimes speak on panels, and schmooze alongside corporate lobbyists and ALEC politicians at evening parties. Here are some quick snapshots of other areas of Goldwater-ALEC convergence and reinforcement of their mutual objectives:

Health Care. The Goldwater Institute's proposals to stop the implementation of the Affordable Care Act (ACA) by amending state laws to thwart national health care reform have been promoted as part of ALEC's “State Legislators Guide to Repealing Obamacare.”

Goldwater's Diane Cohen has also addressed ALEC legislators about blocking the ACA, for example, at a panel called “Rationing by Any Other Name.” Among other things, she claimed that the ACA's Independent Payment Advisory Board (IPAB) – which Goldwater sued over – threatened constitutional democracy by creating an unelected “a junior varsity legislature.” In that respect,

she cited Justice Scalia, without any apparent irony of this critique at a conference where unelected lobbyists vote with legislators.

In addition, Goldwater Senior Fellow Randy Barnett, a professor at Georgetown Law Center, has spoken out at length against the ACA.

Anti-Worker and Austerity Policies. As noted above, the Goldwater Institute has been extensively involved in undermining worker rights. Dr. Byron Schlomach, the Director of its Center for Economic Prosperity, has been a key proponent of such efforts, and has been part of ALEC task force meetings on these issues. Schlomach has also promoted efforts to invoke a constitutional convention and change the Constitution to “Require State Approval for Increases in Federal Debt.”

Land Use and Pollution. Nick Dranias has represented Goldwater on ALEC’s Federal Relations Task Force where he pushed for adoption of a package of bills to limit the ability to regulate land use. Meanwhile, both Goldwater and ALEC have fought efforts to regulate greenhouse gas emissions. Goldwater senior fellow Robert Balling wrote an article in 2010 entitled “Some Like It Hot,” which argued that increased levels of carbon dioxide would make trees grow faster and that ecosystems would adapt to warming.

International Trade. The Goldwater Institute’s Steve Slivinski has been at ALEC’s trade task force on issues like subsidies.

GOLDWATER’S LOBBYING OPERATIONS

*This “bill is a very high priority for us.”
--Goldwater’s Dranias to a legislator*

THE GOLDWATER INSTITUTE AND THE ARIZONA CAPITOL

One of the ways the Goldwater Institute advances the ALEC agenda and other legislation is through regular contact with members of

the Arizona legislature. Goldwater has two registered lobbyists in Arizona, its Executive Vice President Starlee Rhoades and Communications' Director Lucy Caldwell. The Phoenix-based Gallagher & Kennedy Public Affairs firm has also held an active lobbyist status to represent Goldwater in Arizona since at least January 2013. Although Nick Dranias is not registered as a lobbyist to represent Goldwater, some of his communications would strike a layperson as lobbying, but Arizona law has loopholes for providing “technical” advice about legislation, defining that not as lobbying.

The Goldwater Institute sends up dozens of “policy papers” each year supporting changes in state law; some come from Dranias’ email account. At other times, Dranias praises a particular bill by number and then offers “[i]f you have any other technical questions” about the bill to call him. However, documents provided by legislators in response to open records request do not show that there was an initial email request for technical assistance on the bill and do not reference any phone call from the legislator in advance. At other times, Rhoades will send along an email expressly supporting passage of a specific bill along with a Goldwater memo.

And, open records requests reveal that Dranias has e-mailed lawmakers to rebut opponents’ criticisms of Goldwater Institute-backed bills. Some of his communications say things like “[t]his bill is a very high priority for us.” In that example, Dranias wrote to Arizona Speaker of the House Andy Tobin supporting SCR1005, which was introduced last year, to advance Goldwater’s bill that would help invoke a constitutional convention (which was discussed briefly above). He also expressed concerns about which committee the bill would be assigned to, saying he was worried that “there is a great risk the bill will die.” In that example, Rhoades called Rep. John Kavanaugh’s office to follow-up and left a message requesting a call back about the “national debt relief amend – get on approps comm w/ Nick Dranias – process of amending const.”

At other times, Dranias sends along a policy paper on a matter like the “regulatory tax credit,” which he says “is a key component of HB 2815,” which Goldwater is pushing as “innovative policy.” Also sent along are ALEC agenda items via the “Goldwater Institute Daily.”

Despite a steady stream of communication with Arizona state legislators about bills, referenced by number or popular name, that it wants to become law, the Goldwater Institute told the IRS that it spent only \$184 on grassroots lobbying and \$17,445 on direct lobbying, for a total of \$17,669 in lobbying expenses in 2011, well below its permissible ceiling for such expenses as a 501(c)(3). In 2010, it told the IRS it spent \$0 on either grassroots or direct lobbying, and made similar claims in 2009, 2008, and 2007.

For 2011, the Goldwater Institute employed two senior staffers, Dranias and Rhoades, whose combined compensation was over \$277,000 and whose jobs included regular communications with legislators, plus an unknown number of junior or support staff to help. But Arizona's lobbying laws and definitions are admittedly weak. Even if they had spent all of their time on activities that met the specific definition of lobbying in the state, Goldwater would be below the permissible amount allotted for their lobbying budget via the IRS. In addition, even though Goldwater claimed a miniscule amount was spent on "grassroots" lobbying, open records request responses showed that numerous citizens wrote legislators referencing Goldwater policy papers and urging their representatives to support "Goldwater bills." And, it is clear some of its campaigns – as with its anti-worker infographic referenced earlier – aim to change state legal rules.

Goldwater's legislative agenda is certainly advanced through ALEC, with ALEC legislators supporting bills it has proposed via ALEC, which is also a 501(c)(3). ALEC's tax-exempt status has been challenged by Common Cause and other groups, which dispute ALEC's claim that it does no lobbying.

Goldwater also provides policy analysis that supports legislation, is sometimes asked to testify about these measures, and has a substantial press operation to pitch and schedule interviews about its legislative and litigation agenda. It also writes for ALEC's publications, like "Inside ALEC," and urges ALEC lawmakers at ALEC meetings to embrace its agenda, including specific bills.

The Goldwater Institute's recent work advancing specific pieces of the ALEC agenda is detailed in the appendix of this report.

HOW CORPORATIONS HELP FACILITATE THE ALEC/ GOLDWATER LEGISLATIVE AGENDA

In Arizona -- where lawmakers received over \$90,000 in trips secretly underwritten by corporations through ALEC in 2010 alone -- open records request revealed that ALEC legislators like Rep. Debbie Lesko eagerly urge colleagues to get thank you notes to the corporate lobbyists who gave to the ALEC "scholarship" fund.

The Center for Media and Democracy has documented the amount of money Arizona lawmakers are raising and spending from special interests -- as part of what ALEC calls its "scholarship" fund -- to underwrite trips by lawmakers to ALEC meetings with ALEC politicians vote behind closed doors with ALEC lobbyists on Goldwater Institute bills and other legislation.³⁴

That report documents tens of thousands of dollars in trips to posh resorts taken by the Arizona legislative delegation of ALEC that has been underwritten by corporations -- solicited by legislators -- based on CMD/DBA open records requests.³⁵

Overall, beyond the scholarship fund, the Center for Media and Democracy analyzed ALEC's tax filings when it launched ALECexposed.org and found that more than 98% of ALEC's revenue comes from corporations, foundations, and sources other than legislative dues. CMD also reviewed ALEC's leadership and found that more than 98% of its legislative leaders were Republicans, in

contrast to the National Conference on State Legislatures, the fully bipartisan body to which ALEC likes to compare itself.

Additionally, as shown in the earlier report “ALEC in Arizona: The Voice of Corporate Special Interests In the Halls of Arizona’s Legislature,” the corporate-funded ALEC holds a lot of influence in Arizona politics and has for decades. As of late 2010, more than half of the legislators serving in the capitol were ALEC “public sector” members.³⁶

Some ALEC members have since lost their seats, like former state Senate President Russell Pearce who previously served on ALEC’s Public Safety and Elections Task Force. He sat alongside corporate lobbyists who had a voice and a vote behind closed doors at ALEC Task Force meetings. He was there, alongside the NRA and the Corrections Corporation of America when ALEC approved the anti-immigrant bill SB1070 before it was introduced in the state Senate. The U.S. Supreme Court later struck parts of it down.

The Goldwater Institute’s legislative agenda over the nearly 25 years since it was founded has succeeded in many ways to become law in the state, although numerous bills remain on its wish list. That’s one of the reasons the *Wall Street Journal*’s editorial board member and ALEC member Jonathan Williams has said he’s a “huge fan.” Williams’ “Rich States, Poor States” has been dubbed “snake oil.”³⁷

The Goldwater Institute’s agenda raises questions in the minds of some. For example:

- Why would the Goldwater Institute fight to weaken public education by increasing transfers of tax dollars to private schools through vouchers when, according to Susan Goldwater, “Barry Goldwater was an absolute believer in public education”?³⁸
- Why would it work to weaken collective bargaining rights for workers, while simultaneously calling for the removal of the capital gains tax and the income tax?³⁹

- What kind of America does the Goldwater Institute truly wish to see, and who would gain – and who would lose – in making it real?

These and other questions should be asked every time the Goldwater Institute advocates for something it calls “reform.”

THE GOLDWATER INSTITUTE: WHOSE INTERESTS ARE ADVANCED?



APPENDIX: The Goldwater Institute **Advancing the ALEC Agenda**

Below are charts of recent and upcoming Arizona bills that demonstrate synergies between the Goldwater Institute and ALEC:

Issue	Arizona Bill	ALEC's Related Bills, As Named	Goldwater Institute's Activity
Stopping the expansion of Medicaid under the Affordable Care Act	Goldwater opposes Gov. Jan Brewer's decision to expand Medicaid	Freedom of Choice in Health Care Act ; Resolution on Preserving States' Rights Regarding Federal Health Insurance Exchanges and a Public Plan	In 2012, the Goldwater Institute produced a 30-second video opposing the establishment of a state health insurance exchange via the Affordable Care Act in Arizona. (It is unclear whether the video ran as an ad on TV or radio).
Paycheck deception	HB 2438, SB 1182, SB 1142, SB 1349, HB 2026	Paycheck Protection Act	In April 2012, the Goldwater Institute released a report supporting such measures, and Goldwater President Darcy Olsen wrote an op-ed in <i>The Arizona Republic</i> supporting the measure. The Institute also created a "fact sheet" on the bill in the 2012 session.

Issue	Arizona Bill	ALEC's Related Bills, As Named	Goldwater Institute's Activity
Opposing union release time	HB 2343	Resolution on Release Time for Union Business	<p>In 2013, the <i>Blog for Arizona</i> reported that the Goldwater Institute had drafted HB 2343.</p> <p>In 2012, the Goldwater Institute challenged the constitutionality of union “release time” in court and released a report on union release time in 2011. The court later ruled in Goldwater’s favor. In 2012, the institute created a “fact sheet” on the union release time, which AFP-AZ republished on its website.</p>
Truth in spending	HB 2285	Truth In Spending Act	<p>In their annual legislative scorecard, the Goldwater Institute rated, in both 2011 and 2012, an Arizona “truth in spending” bill. The institute stated the bills would have a “positive impact.”</p>

Issue	Arizona Bill	ALEC's Related Bills, As Named	Goldwater Institute's Activity
School vouchers & public education privatization	SB 1363, HB 2617, HB 2458, SB 1285	Education Enterprise Zone Act ; Parental Choice Scholarship Accountability Act ; Charter Schools Act ; Resolution Supporting Private Scholarship Tax Credits	<p>Jonathan Butcher, Goldwater's education director, wrote an article titled "Education Savings Accounts: The Next Frontier for School Choice" for the September/October 2011 issue of ALEC's trade publication <i>Inside ALEC</i>.</p> <p>In both 2011 and 2012, the Goldwater Institute rated several Arizona voucher and charter school bills, arguing the bills would have a positive impact in the state.</p> <p>The institute has also published many pro-public school privatization reports on its website.</p>
Pension reform	HCR 2005, HB 2006, HB 2608	Public Employees' Portable Retirement Option (PRO) Act	<p>The Goldwater Institute has published several reports calling for similar changes to Arizona's public pension system as ALEC's model and AFP's identified 2013 Arizona bills.</p>
"Transparency" in collective bargaining	HB 2330	Public Employee Bargaining Transparency Act	<p>In January 2013, the Goldwater Institute published a report supporting HB 2330, calling the bill "terrific."</p>

Issue	Arizona Bill	ALEC's Related Bills, As Named	Goldwater Institute's Activity
Changing tort law to make it harder for Arizonans killed or injured by corporate neglect or malfeasance to hold companies accountable	HB 2322, HB 2321, HB 2319	Joint and Several Liability Act ; Product Liability Act ; Noneconomic Damage Awards Act	The Goldwater Institute has supported changes to tort law that make it harder for the families of Americans killed or injured by corporations to hold companies accountable. Past reports including some from 2004 and 2005 .

The Goldwater Institute has also published a list of 16 “model” bills on its website that purport to “expand liberty.” Of the 16 bills, 12 are either similar or identical to ALEC templates:

Goldwater's Template	ALEC's Template	Notes
National Debt Relief Amendment	A Constitutional Amendment Requiring State Approval for Increases in Federal Debt	This ALEC template was presented by Goldwater's Byron Schlomach at the December 2010 Tax & Fiscal Policy Task Force meeting in Washington, DC . The bill was adopted as an ALEC model. Both Goldwater's model and ALEC's model contain the same or similar provisions.

Goldwater's Template	ALEC's Template	Notes
Interstate Health Care Freedom Compact	Health Freedom Compact Act	<p>This bill undermines the federal Affordable Care Act regarding “healthcare compacts” between states. ALEC’s “Health Freedom Compact Act” was presented by Goldwater’s Nick Dranias, and then adopted as ALEC model legislation at ALEC’s 2011 Health and Human Services Task Force meeting in Cincinnati. Goldwater’s model and ALEC’s model echo each other.</p>
Health Care Freedom Crime Prevention Act	Freedom of Choice in Health Care Act Health Freedom Compact Act	<p>This Goldwater model attempts to criminalize the enforcement of the individual mandate in the federal Affordable Care Act. The bill shares some of the same (word-for-word) definitions with ALEC & Goldwater’s “(Interstate) Health Freedom Compact Act.” Undermining the individual mandate is also the focus of ALEC’s “Freedom of Choice in Health Care Act.”</p>
Health Care Freedom Act	Freedom of Choice in Health Care Act Health Freedom Compact Act	<p>This Goldwater model is similar (both in language and intent) to ALEC & Goldwater’s “(Interstate) Health Freedom Compact Act.”</p>

Goldwater's Template	ALEC's Template	Notes
<u>Decentralized Land Use Regulation Act</u>	<u>An Act Granting the Authority of Rural Counties to Transition to Decentralized Land Use Regulation</u>	<p>Here the Goldwater connection to ALEC is direct. The hyperlink for their "Decentralized Land Use Regulation Act" shows a webpage containing the bill, with ALEC's heading on it (they are the same bill). This legislation would repeal all land use planning and zoning for "rural" counties by both county and state governments.</p>
<u>State Sovereignty through Local Coordination Act</u>	<u>An Act Granting the Authority of Rural Counties to Transition to Decentralized Land Use Regulation</u>	<p>Here again Goldwater links their bill to a webpage with ALEC's header on it. This bill was approved by the ALEC Board of Directors in September 2010 as ALEC model legislation.</p>

Goldwater's Template	ALEC's Template	Notes
<p>Constitutional Defense Council Legislation</p>	<p>Constitutional Defense Council Legislation</p> <p>Constitutional Defense Council Act</p>	<p>The bills titled the same are same bills, proposed to ALEC by Goldwater's Nick Dranias at the August 2011 International Relations Task Force and Federal Relations Working Group meeting in New Orleans. ALEC then adopted the bill as model legislation. ALEC's "Constitutional Defense Council Act" is also similar in name, intent, and language. ALEC's model is also a model of the Heartland Institute. The bills would establish a state agency to "examine the constitutionally of federal laws."</p>
<p>Sovereign State Interstate Compact</p>	<p>Sovereign State Interstate Compact</p>	<p>These bills are both the same bill, proposed to ALEC by Goldwater's Nick Dranias at the August 2011 International Relations Task Force and Federal Relations Working Group meeting in New Orleans. ALEC then adopted it as model legislation. The bill is an attempt to block federal grants and funding to states.</p>

Goldwater's Template	ALEC's Template	Notes
<p>State Sovereignty Civil Rights Law</p> <p>Taxpayer Civil Rights Law</p>	<p>Model State Sovereignty Civil Rights Law</p>	<p>These bills are both the same bill, proposed to ALEC by Goldwater's Nick Dranias at the August 2011 International Relations Task Force and Federal Relations Working Group meeting in New Orleans. ALEC then adopted it as model legislation. The bill establishes "taxpayer's standing" in a state court challenge to federal laws.</p> <p>Goldwater's "Taxpayer Civil Rights Law" is shares almost all of the same language as the ALEC/Goldwater model above, but instead deals with establishing a "taxpayer's standing" in a state court challenge to federal spending and taxes.</p>

Goldwater's Template	ALEC's Template	Notes
<p>Freedom to Breathe Statute</p> <p>Interstate Freedom to Breathe Compact</p>	<p>Resolution in Opposition of Carbon Dioxide Emission Standards</p> <p>Intrastate Coal and Use Act</p>	<p>These Goldwater bills would not allow for any state law that regulates the emission of carbon dioxide (which the Goldwater Institute calls “harmless”). ALEC has a long history of opposing environmental regulations on carbon dioxide emissions and clean energy.</p> <p>ALEC's “Interstate Coal and Use Act,” proposed and tabled at the August 2011 Energy, Environment, & Agriculture Task Force meeting in New Orleans shares the same first section, word-for-word, with Goldwater’s “Freedom to Breathe Statue”</p>

¹ <http://www.goldwaterinstitute.org/sites/default/files/Form%20990%20-%20Filed%20101012%20wo%20B.pdf>

² Ibid

³ <http://www.phoenixnewtimes.com/1999-05-13/news/think-tank-warfare/>

⁴ Ibid

⁵ <http://goldwaterinstitute.org/azreform>

⁶

http://phoenix.gov/webcms/groups/internet/@inter/@emp/@jobs/documents/web_content/070008.pdf

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⁹http://www.azleg.gov/briefs/Senate/CITIZENS%20CLEAN%20ELECTIONS%20ACT_2012%20UPDATE.pdf

¹⁰ http://webserver.fdreports.com/fd/Suite_of_Services/Foodservice_Sector_Reports.pdf

¹¹ <http://www.goldwaterinstitute.org/institute>

¹² <http://www.facebook.com/GoldwaterInstitute>

¹³ http://www.goldwaterinstitute.org/sites/default/files/2011_Annual_Report.pdf

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26 Ibid
27 <http://www.prwatch.org/news/2012/11/11883/taxpayer-enriched-companies-back-jeb-bushs-foundation-excellence-education-its-bu>
28 *State News Service*, “New Education Report Card Grades Student Success, Arizona Lags Behind,” August 31, 2010
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