

# INSIDE *A*LEC

A PUBLICATION OF THE AMERICAN LEGISLATIVE EXCHANGE COUNCIL

 FOCUS ON  
BUDGETS

## **BANKRUPT?**

**State Budgets**  
Back to Basics

**Pension Liabilities**

**ALEC's New Chairman**  
Rep. Tom Craddick (TX)

**New Model Legislation**

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JAN/FEB 2010

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A PUBLICATION OF THE AMERICAN LEGISLATIVE EXCHANGE COUNCIL

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Education, Health and Human Services.  
International Relations, Natural Resources.  
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**Correction:** In the Nov/Dec Issue of Inside ALEC Iowa Representative Dolores Mertz was misidentified as the "Ranking Member of the Agricultural Committee of the Iowa General Assembly." She is in fact the Chairman of that committee and the first woman to hold that position.

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Legislators and private sector members serving on the following Task Forces will meet for intensive discussions on the critical issues facing the states and to debate and approve model legislation and solutions:

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- Health and Human Services
- Natural Resources
- Tax and Fiscal Policy
- Telecommunications and Information Technology

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## MEET ALEC'S 2010 NATIONAL CHAIRMAN

# Texas State Rep. Tom Craddick (R-Midland)

**R**epresentative Tom Craddick officially took office as ALEC's 2010 National Chairman this past December at our States and Nation Policy Summit in Washington, D.C. Craddick is a long-time member of ALEC and has served as the first vice chairman and the national secretary of the executive board of directors. Since becoming a member of the executive board of directors in 2004, he has crafted model legislation, much of which has gone on to influence laws in Texas. ALEC has seen a dramatic rise in membership recruitment in Texas, due in large part to Craddick's efforts, making it one of ALEC's strongest states.

In 2008, Craddick received the ALEC's William J. Raggio Excellence in Leadership and Outstanding Service Award. The award is given to a leader who demonstrates a long-term commitment to serving others, while showing strong, small-government, Jeffersonian principles.

Representative Craddick's amazing four decade tenure in the state legislature began when he was 25 years old and decided to seek office in the Texas House of Representatives as a Republican from his hometown of Midland. At the time, Texas was a one-party state, and many thought him foolhardy. His father, R. F. Craddick, warned the young Ph.D. student at Texas Tech University against it. "Texas is run by Democrats," he told him. "You can't win." But Craddick proved his father and many others wrong, and was elected as one of only nine Republicans in the 150-seat House.

His tenure has been characterized by landmark events. His initial years at the Capitol were focused on revitalizing the Texas GOP, but in 1971 he gained respect from both sides when he joined a bipartisan group of reformists dubbed "The Dirty 30" that was pushing for changes in House Ethics. In 1975, Speaker Bill Clayton appointed Craddick as the first Republican committee chairman in 100 years, and he continued to hold chairmanships under Clayton's successors, Gib Lewis and Pete Laney.

On Jan. 11, 2003, he made state history when, subsequent to his 34-year tenure in the Texas House of Representatives, he became the first Republican Speaker—after helping gain the Republican Majority in the House—for the first time in more than 130 years.

Craddick served as speaker from January 2003 to January 2009. During that time, Texas went from a \$10 billion budget shortfall to a \$10 billion budget surplus. The legislature passed landmark tort reform which reduced frivolous lawsuits and reversed skyrocketing medical liability insurance costs, resulting in more doctors moving to Texas and expanding access to care. The legislature also passed the largest property tax cut in Texas history under Craddick's watch, and reformed a school finance system that had been ruled unconstitutional by the Texas Supreme Court.

As Speaker, Craddick demonstrated an appreciation for diversity and bipartisanship by appointing a record number of women and minorities—including 12 Democrats—as chairmen.

Craddick is also a successful businessman. He is a sales representative for Mustang Mud/Newpark Resources, an oilfield supply company; owns Craddick Properties, a Midland investment business; and is president of Craddick, Inc.

Craddick holds both a Bachelor of Business Administration and a Master of Business Administration from Texas



Tech University. Craddick married the former Nadine Nayfa, a native of Sweetwater, in 1969. They have two children, Christi and Thomas Russell, Jr. Their son, Tommy, married the former Laura Parker in 2004. Craddick and Nadine have a grandson, Tripp, and a granddaughter, Claire.

"I am honored by the members of ALEC naming me as the national chairman and will do my best to uphold ALEC's mission and vision of limited government, free markets, federalism, and individual liberty," Craddick said. "Speaker Howell has done a tremendous job and is to be commended for his leadership and service as ALEC's national chairman. Like him, I will work to unite public and private sector members in our common goals and continue to promote conservative policies through research, model legislation, and informative programs." ■

**“We are a big, huge, energy-consuming economy, and it’s going to take multiple solutions to feed that.”**



Venita McCellon-Allen is a lot like the other people who help provide the electricity that powers our daily lives. She feels an incredible responsibility to provide electricity that is reliable, affordable and produced in a way that protects the environment. But for Venita, that commitment has translated into action.

She has been instrumental in the vision to build a new state-of-the-art coal plant in Hempsted County, Arkansas, that will be more efficient, reduce emissions and provide much-needed jobs to people in that community. Her company is also the first to install carbon-capture and storage technology on a commercial scale at a coal-based power plant in West Virginia. She's confident carbon-capture technology will also be an option for the Arkansas plant in the near future.

When it comes to balancing reliability and affordability with the commitment to reduce the environmental footprint of energy production ... electricity from coal makes great sense as a key and expanding part of a diverse energy portfolio to meet America's growing energy demand.

To learn more about Venita and the clean-coal future, visit [americaspower.org](http://americaspower.org).

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## BUDGET SOLUTIONS IN OREGON

# State Rep. Kim Thatcher Announces Core Functions Legislation

With the special legislative session just around the corner, State Representative Kim Thatcher (R-Keizer, Newberg, St. Paul), is prepared to face Oregon's budget deficit with legislation to prioritize funding for Core Functions of State Government. "Our current system of budgeting isn't working," explained Thatcher at the monthly meeting of the Taxpayer Association of Oregon. "Instead of agencies pestering lawmakers for more and more money, we first need to establish what the Core Functions of Government are and then decide how to divvy up the pie."

"We are faced with a huge budget shortfall once the federal stimulus dollars go away. Now is the time for us to be looking at doing less with less," said Thatcher. Her legislation calls for a bi-partisan task force to develop the list of Core Functions and then implement a new system of performance based budgeting.

Jason Williams with the Taxpayer Association said, "Oregonians are frustrated about the current tax measures going on the ballot in January. They deserve to know that their tax dollars are being spent on priority services."

"Government cannot and should not do everything," said Steve Buckstein, Senior Policy Analyst at Cascade Policy Institute. "Determining Core Functions is a positive step toward more accountability in state government."

In addition to establishing the Core Functions, Thatcher told the audience, "several other states have successfully used this type of legislation in their budgeting process." She added, "it would also call for measurable outcomes and setting priorities requiring each agency to have a mission and objectives to accomplish that mission." Earlier this

year, Thatcher was able to pass landmark legislation to bring more transparency to state government.

Representative Thatcher has come up with a preliminary list of Core Functions. They include:

1. Protecting people and communities through law enforcement, courts and corrections.
2. Providing for an educated citizenry ensuring all children receive an equal opportunity to achieve academic success.
3. Encouraging job creation and entrepreneurship by removing regulatory barriers to job production.
4. Helping those who can't help themselves using a safety net of social services.
5. Building and maintaining the infrastructure to accommodate transportation and utilities.
6. Managing public property and nat-



Rep. Thatcher's legislation calls for a bi-partisan task force to develop a list of core government functions, and implementation of a new system of performance and budgeting.

ural resources including protections for air, water, and soil while protecting the rights of private property owners.

7. Requiring state agencies to conduct the public's business in an efficient, transparent and accountable manner.

Each member of the House of Representative is allowed to introduce one bill for the special legislative session in February 2010. The Core Functions of government measure will be Representative Thatcher's priority bill. ■

# Climate Accountability in a Down Economy

BY MATT WARNER



U.S. negotiators met to discuss an international climate treaty in Copenhagen, Denmark in December 2009.

**The Climategate scandal has confirmed what many scientists have been warning: climate change is too political and the integrity of the science has suffered for it. While investigations into the manipulated science continue, proponents of climate change mitigation have not slowed their push for greenhouse gas emissions reduction schemes.**

The latest effort on the international stage took place in Copenhagen last December during which U.S. negotiators agreed to support a UN fund to pay developing nations like China and India to help them cope with climate change at a shared cost of \$30 billion a year and scheduled to reach \$100 billion a year by 2020. This is a high price to pay on the premise of questionable science. Keeping up with the anticipated costs of new and evolving proposals is critical, but we may not be paying enough attention to the costs of current laws that impact our economy today.

One week before the Copenhagen kickoff, ALEC's Natural Resources Task

Force adopted new model legislation, the *Climate Accountability Act*. This legislation brings some fiscal discipline to climate change efforts by requiring cost per ton estimates for carbon dioxide for any current or proposed climate change programs and to evaluate results. While this measure has been crafted for states, it sends the message to governments everywhere to get serious about the costs and true benefits of climate change plans.

Getting serious about spending should be the mantra for states in 2010. State budgets are expected to fall short again this year by a combined \$125 billion even after a \$68 billion infusion of

federal aid from the *Recovery Act*. States' economies are suffering, too. Unemployment is as high as 15 percent in some places. Thanks to Congress, the New Year is no celebration for those who managed to keep their jobs in 2009. According to the *Wall Street Journal*, a swath of new taxes on the middle class were unleashed January 1, promising to impact roughly 25 million families to the tune of \$63 billion. No doubt this insensitivity to Americans' wallets is born from desperation to pay for unprecedented federal spending and debt. We spent \$383 billion in fiscal year 2009 in interest payments alone on our \$12.3 trillion credit card balance.

Matt Warner is the director of ALEC's Natural Resources Task Force.



Acclaimed environmentalist and statistician Bjorn Lomborg, author of *The Skeptical Environmentalist* and, more recently, *Cool It*, founded the Copenhagen Consensus Center to research the best ways to combat the biggest challenges facing the world using sound economics and common sense. For example, in *Cool It* Lomborg lists global challenges according to how far our dollars would go in saving and improving lives. Topping the list are things like controlling the spread of disease, preventing malnutrition and liberalizing trade. These efforts carry bang for your buck in helping real people escape suffering and death. At the bottom of the list under a category he labels “bad opportunities” are three well-known efforts to combat climate change: carbon taxes, international treaties and cap-and-trade. Lomborg questions whether “hysteria and head-long spending on extravagant CO<sub>2</sub>-cutting programs” is the best course to take “in a world where billions of people live in poverty, where millions die of curable diseases, and where these lives could be saved, societies strengthened, and environments improved at a fraction of the cost.”

At the state level, we should be considering what things cost in relation to alternatives. The states have nearly 600 climate change laws and programs designed to reduce greenhouse gases in some way. What is the economic cost of these programs? Are some more effective than others? By requiring a cost per ton estimate as well as a total emissions reduction estimate, the *Climate Accountability Act* provides a way to think about and compare new proposals that promise to reduce our carbon footprint. Not only that, the Act holds contractors accountable so promises aren't made and then forgotten. This will bring discipline to proposals on the front end before they are adopted. Lawmakers will have more confidence that what is being proposed is, in fact, achievable.

Natural Resources Task Force member Todd Myers of the Washington Policy Center in Seattle has worked closely with the Copenhagen Consensus to develop tools for states. A former member of the state's Department of Natural Resources, Myers knows not all environmental proposals are worth doing, no matter how well-intentioned. “Politicians like to claim they are serious about reducing carbon emissions and improving energy efficiency, but their proposals are often more about fad than

reality. By requiring businesses who take taxpayer dollars to put in writing the energy they project will be saved, we can hold them accountable if they fall short. The likely outcome is that the exaggerated claims about the benefits of government spending programs will be scaled back and policymakers will have more honest information about costs and benefits. This helps ensure that climate projects are about more than making politicians sound good on the environment.” ■

### STATES PUSH BACK ON EPA'S GREENHOUSE GAS RULE

When California is telling the Environmental Protection Agency (EPA) to slow down, the rest of us should be very concerned. While cap and trade appears to be stalled in the Senate, the EPA is moving aggressively to regulate greenhouse gas emissions under the *Clean Air Act* by proposing what is being referred to as the “Tailoring Rule”—so called because it adjusts the letter of the law in an attempt to delay the widespread and costly impact of the rule over time.

The outcry against this move is loud and diverse and includes state regulators who will be saddled with the rule's implementation, something they say they are ill-equipped to handle. Facing significant budget shortfalls and high unemployment, states are asking EPA for a time-out on the rule, proposing to delay it for a year or two. Even the National Association for Clean Air Agencies, an organization fully supportive of the rule's goals, has said that, in effect, this is all happening too quickly.

It's not clear whether President Obama's EPA is getting the message. The EPA hopes to calm fears by promising the rule will only impact large emitters. But analysis from the Environmental Council of the States shows that small emitters would still be affected in at least 36 states. This means businesses large and small would be responsible for meeting new requirements that would likely delay economic growth and job creation. With national unemployment at ten percent, the EPA's timing could not be worse.

The rule is scheduled to take effect in March. However, state legislators and governors can continue to play an important role in shaping the future of EPA's plans both in their written communication to Washington and in educating their constituents before the March deadline. To learn more about this issue or to find out what your state is doing, email Matt Warner at [mwarner@alec.org](mailto:mwarner@alec.org).

# Net Neutrality

Don't subject the Internet to politicians, bureaucracies

BY CARL GIPSON

Four years ago, the Federal Communications Commission (FCC) issued an advisory statement that laid out four principles of government regulation of the Internet. The principles—which have no statutory authority—include the right of consumers to access lawful Internet content of their choice; the right to run applications and services of their choice; the right to connect legal devices that do not harm networks; and competition among network, application, service and content providers.

New FCC Chairman Julius Genachowski, with strong backing from the Obama Administration, is pushing for this “statement of principles” to become enforceable regulations, along with two other rules that would regulate how Internet Service Providers (ISPs) manage their own networks, whether wired or wireless, and require ISPs to be “transparent” about their network management practices.

Supporters of the concept of Net Neutrality tout their desire for openness and competition while guaranteeing consumer access to data and content.

However, as innocuous as the proposed FCC rules might sound—who could be against network management transparency and access to legal content?—subjecting the Internet and

ISPs to an entire new regulatory structure threatens to curtail the explosive growth of the Internet. This is ironic, given that one of the Obama Administration's goals is to accelerate broadband deployment to Americans—a goal which will cost ISPs tens of billion of dollars.

Since the beginning of the commercial Internet in the early 1990s, most consumers accessed it via an all-you-can-eat data subscription plan; e.g., everyone pays the same subscription price per month for as much data as you want. As technology advanced consumers began using more data. This culminated in such services as Napster and BitTorrent, peer-2-peer services (P2P) that allowed direct sharing of large files between two consumers. Often, the P2P connections resulted in sharing pirated copyright material such as movies and music (but that is a whole other conversation).

Internet Service Providers, in order to lessen the disproportionate impact that the P2Pers were having on the network, began looking into ways of protecting other consumers whose connections were being slowed down by the P2P bandwidth hogs. Some of the ideas floated or adopted include usage caps, and tiered pricing—the ability to pay more for faster, better service. Some of the scare tactics Net Neutrality sup-

porters use have never, in actuality, occurred. There have been no instances in the United States where consumers cannot access legal content, control of the Internet has not been wrested away from the people into the hands of greedy corporations. No one controls the Internet, and no one, including the government, should.

Need proof that the Internet has not suffered from a lack of strong regulatory oversight? Look at the immense growth rate of both users and data since the turn of the century. In the year 2000, only 5.1 million Americans subscribed to broadband connections. At that time broadband often meant a 1Mbps download connection for cable subscribers, or a paltry 500Kbps connection for DSL users.

In 2000 there was no YouTube, no Facebook or Twitter, no Netflix or Amazon.com streaming video services, no Blackberry or iPhone. These types of innovations simply would not have worked. The capacity to carry that kind of data did not exist, nor did the demand.

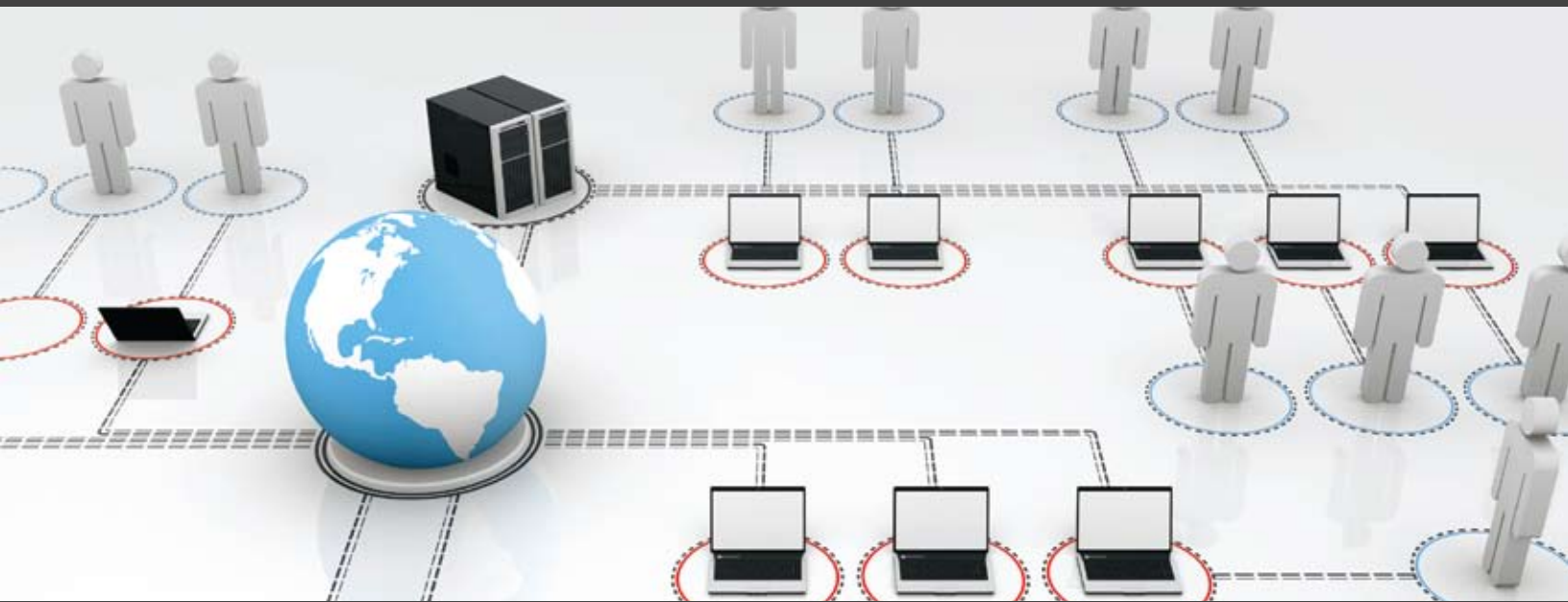
Contrast that with 2008 after broadband usage, both wired and wireless (wireless data connections were barely a thought in 2000) had experienced a 500-fold increase in just eight years. Today there are over 80 million households subscribing to broadband.

Looking forward there will be a leveling off in the rate in increase of broadband users, but data demands will continue to skyrocket, particularly in the mobile broadband arena. Cisco Systems estimates that the Internet in 2012 will



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[www.washingtonpolicy.org](http://www.washingtonpolicy.org)  
206.937.9691



### AN ALEC LETTER TO THE FCC

In January, ALEC delivered a letter to the Federal Communications Commission opposing proposed network neutrality regulation. The state lawmakers expressed serious concerns that the unintended consequences of the proposed federal regulatory expansion into the Internet will harm states' economies. ALEC's letter was signed by 91 legislators from 36 states.

The ALEC letter described the proposed network neutrality regulation as "an unprecedented foray into government control of broadband private networks and the Internet" that could result in economic slowdown and setback in the states. "If adopted, extensive regulatory control and uncertainties will harm innovation, stifle investment, and curtail job growth. We believe that unintended consequences stemming from the draft rules will be detrimental to our states' economies and forestall marketplace recovery."

be 75 times larger than it was in 2002—and that Internet traffic will generate the equivalent of seven billion DVDs each month. Cisco also estimates that Internet video in 2012 will be nearly 400 times the size of the entire U.S. Internet backbone in 2000.

Given this spectacular growth, a new regulatory structure like that pushed by Net Neutrality proponents makes no economic sense. When a powerful third party, such as a federal agency, regulates a limited resource, such as broadband capacity, the market itself becomes subject to political whims and special-interest carve-outs, which will only harm

consumers.

Unfortunately, several state and city officials around the nation have also tried to get in on the act of regulating the Internet in their small jurisdiction. It seems regulatory proliferation in this area knows no bounds. Fortunately, courts have time and again rebuffed efforts at anything less than federal regulatory authority. As a result, some states and cities are petitioning the FCC to move forward with Net Neutrality.

No one would disagree that the growth of the Internet has been anything less than transformative for our society and economy, which has hap-

pened with minimal government interference. It will continue to grow if we leave it alone. Regulating an industry to achieve peace of mind comes at a price—most often that price is paid in missed opportunities and lost innovations and therefore cannot be measured.

With new restrictions in place, innovators will have to overcome artificial barriers and find success despite regulatory obstacles, not because of them.

The federal government should protect intellectual property rights and continue to encourage long-term investment in our online network by keeping the regulatory barrier low. ■



# A child shouldn't have to fail ...to see.

Undiagnosed and untreated vision problems are holding back millions of school kids just when learning and healthy development are the most important.

Two-thirds of children do not receive preventative vision care before starting school.

Let's help our schools work better for them.

Please support mandatory comprehensive eye exams for all children entering school.

Most children are covered by private insurance or existing public programs. A small cost for a parent today . . . a large impact on a child for a lifetime.



ALEC is unique in welcoming the private sector as an equal partner in crafting model legislation.



## New Model Legislation

Approved at ALEC's States & Nation Policy Summit in December 2009

### COMMERCE, INSURANCE & ECONOMIC DEVELOPMENT TASK FORCE

Michael Hough, Task Force Director

#### *Free Market Constitutional Amendment*

This state constitutional amendment affirms that the free enterprise system shall govern trade and commerce and promotes the dispersion of economic and political power.

#### *Resolution on Criminal Background Checks*

This resolution supports the implementation of state laws that incentivize employers to voluntarily adopt criminal background check programs.

#### *Prohibition Against Regulation of Nutritional Information Dissemination*

Establishes a prohibition on menu labeling by local governments.

### EDUCATION TASK FORCE

Jeff W. Reed, Task Force Director

#### *Resolution Supporting Quality Higher Education*

Expresses the sense of a state's legislature regarding the importance and value of academic excellence in higher education.

#### *The Student-Centered Funding Act*

This act would create a student-centered finance model based on a weighted student formula in which money "follows" a child to his or her school. Student-centered funding is based on a weighted student formula that helps ensure more funding is allocated to students with more expensive educational needs.

### HEALTH AND HUMAN SERVICES TASK FORCE

Christie Herrera, Task Force Director

#### *Optional Medicaid Benefits Evaluation Act*

Creates rules for expanding Medicaid benefits for a state, and sets requirements that any expansion would have to create clear and measurable net economic benefits and not necessitate a tax increase, among other requirements.

#### LEARN MORE

For full text of these, and other model bills, please visit [www.alec.org](http://www.alec.org)

**INTERNATIONAL RELATIONS TASK FORCE**

Karla Jones, Task Force Director

***Resolution Urging the Obama Administration to Launch Negotiations for a Free Trade Agreement with Taiwan***

Whereas Taiwan is a robust democracy, significant trading partner and important strategic U.S. ally, ALEC urges the President to initiate negotiations for a Free Trade Agreement with Taiwan.

***Resolution Urging the European Union to Repeal Its Ban on the Sale of Smokeless Tobacco (Snus)***

The European Union's current ban on the sale of snus is in direct violation of one of its own governing principles—that of promoting the free movement of goods within the Union. Further, the European Commission concedes that cigarettes, whose sale is not banned, have far greater health consequences than snus. Therefore ALEC urges the European Commission to conduct the agreed-upon review of the issue and to lift the ban on the sale of snus in the European Union.

***Resolution on Open and Reciprocal Trade With Canada***

The United States and Canada are the largest trading partners in the world, and have long enjoyed excellent trade and strategic relations. However, issues such as the *Buy American Provision of the American Recovery and Reinvestment Act* could possibly damage this special relationship. For this reason,

ALEC wants to reaffirm its support for open and reciprocal trade with Canada.

***Resolution Establishing An American Legislative Exchange Council Democracy and Governance Program***

The number of young democracies has increased dramatically, but these immature governments can easily backslide into authoritarianism without proper support and governance education. Several members of the International Relations Task Force have expertise in this area and pledge to develop good governance programs for local legislatures abroad that ALEC members can run in at-risk countries.

***Federal Relations Working Group Resolution on Article V of the U.S. Constitution***

This Resolution states, “Therefore be it resolved that the American Legislative Exchange Council (ALEC) support and facilitate the education of state legislators about how an Article V Convention called by state legislatures could be reliably limited to an up or down vote on the text of a single amendment to the U.S. Constitution, including the possibility of an amendment that would give two-thirds of the states the explicit right to propose amendments without having to obtain the consent of Congress; Therefore be it further resolved that ALEC facilitate times for legislators interested in working on this issue in more detail to meet during future ALEC meetings and events.”

**NATURAL RESOURCES TASK FORCE**

Matt Warner, Task Force Director

***Resolution to Repeal Section 526***

Section 526 of the *Energy Independence and Security Act of 2007* attempts to prohibit agencies of the United States government from purchasing fuels derived from alternative or synthetic fuels, including nonconventional petroleum sources such as fuels derived from coal-to-liquid, oil shale and oil sands. This fuel prohibition is impractical and expensive for government agencies such as the U.S. military that rely on abundant and trusted energy supply sources.

***Resolution to Retain State Authority Over Hydraulic Fracturing***

Hydraulic fracturing is a proven technology with a record of environmentally safe use in oil and gas wells. Federal regulation of hydraulic fracturing under the purview of the *Safe*

*Drinking Water Act* would add unnecessary regulations and cost to producing domestic natural gas resources. State regulatory agencies are the appropriate governing bodies to provide oversight for hydraulic fracturing due to the unique geological and geographical circumstances of each state.

***Climate Accountability Act***

Requires the inclusion of cost-benefit analysis in state contracts that aim to reduce greenhouse gas emissions. Climate expenditures must include how many tons of carbon dioxide will be reduced by a climate action, the total cost of the action, and the cost per ton of the carbon dioxide reduction action. State agencies will regularly audit and report on climate expenditure contracts to ensure performance standards are upheld. Funding will be suspended until requirements are met. If contractors have not reduced emissions stipulated in the contract, they will have to provide certified carbon offsets or refund a portion of the funds.

**PUBLIC SAFETY AND ELECTIONS TASK FORCE**

Michael Hough, Task Force Director

***ALEC Resolution on McDonald vs. Chicago***

Affirms that the Second Amendment and the fundamental right of self-defense applies to Americans throughout the United States, regardless of where they live, against state and local governments so as to prohibit their infringement of the right to keep and bear arms.

***Resolution to Enforce Our Immigration Laws and Secure Our Borders***

Calls on states to enforce immigration laws and end sanctuary policies. Calls on law enforcement officers to execute their authority to arrest any person guilty of hiring, harboring, or transporting illegal immigrants and to turn over illegal immigrants to federal authorities for removal from the United States.

***Resolution Supporting Creation of Disaster Evacuation Efforts That Assist in Protecting the Most Vulnerable***

Supports the creation of certain information tools to assist in evacuating the most vulnerable in disaster situations.

***No Sanctuary Cities for Illegal Immigrants Act***

The provisions of this act are intended to work together to discourage and deter the unlawful entry and presence of aliens and economic activity by persons unlawfully present in the United States.

***Resolution Opposing Federal Takeover of State Election Procedures***

Opposes federal legislation which would establish a federally mandated, universal, government-run voter registration system. Affirms that states should have the responsibility of managing the election process. Opposes any further federal takeover of local election processes, as well as any unfunded mandates in the administration of elections. Reinforces the importance of photo identification and citizenship requirements.

***Resolution in Opposition to the National Popular Vote Interstate Compact***

Calls on states to oppose the plan popularly known as National Popular Vote, which threatens freedom, representation, and the identity of the United States as a confederation of distinct governing bodies who act according to the wishes of the majority of their citizens. The National Popular Vote scheme would undermine state authority and give some states power over the voice of others. It would render minority groups voiceless and empower densely populated and ideologically homogenous regions as well as radical fringe groups.

**ALEC Task Forces debate, discuss, and vote on Model Legislation for the states.**





Commentator Tucker Carlson received ALEC's Warren Brookes Award for Excellence in Journalism in 2009. Pictured here with ALEC's 2010 National Chairman, Rep. Tom Craddick, Texas (left).

## ALEC'S LEGISLATIVE SCORECARD

# 826

Number of ALEC model bills introduced in the states in 2009

# 115

Number of ALEC model bills enacted by the states in 2009

# 14%

Model bill enactment rate

## TAX AND FISCAL POLICY TASK FORCE

Jonathan Williams, Task Force Director

### *Statement of Principles for Model State Laws to Encourage Philanthropic Creation and Operation*

The fundamental principles presented here provide guidance to promote and facilitate innovation and simplicity in the philanthropic sector and safeguard the freedom of foundations to pursue their diverse and myriad charitable purposes.

### *Model State Administrative Tax Tribunal Act*

To increase public confidence in the fairness of the State tax system, this Act fosters the settlement of tax disputes with the creation of an independent agency with tax expertise to resolve disputes between the [department of revenue] and taxpayers.

### *Amendment to ALEC's Statement of Principles on State and Local Government Pension and Other Post Employment Benefit (OPEB) Plans*

To solve the funding crises in state and local defined benefit pension and other post employment benefit (OPEB) plans for public employees, the American Legislative Exchange Council recommends that defined benefit plans be replaced by defined contribution plans.

### *A Resolution Opposing Discriminatory Food and Beverage Taxes*

This resolution opposes all efforts to impose new taxes on food and beverages which will constitute an additional burden on American families. It is vital that public policy makers help taxpayers retain their tenuous hold on financial security by shielding them from even more burdensome new taxes.

## TELECOMMUNICATIONS & INFORMATION TECHNOLOGY TASK FORCE

Seth Cooper, Task Force Director

### *ALEC Resolution Opposing State and Local Mandates Requiring Warning Labels on Wireless Devices and Packaging*

The resolution opposes all state and local legislation and regulations that would require health-related warning labeling on wireless devices and packaging, or mandate disclosure of any health-related information about wireless devices at the point-of-sale. The resolution supports sound public policy in the area of health effects and wireless devices that is based on the weight of scientific research. ■



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# State Pensions Need Reform

BY JONATHAN WILLIAMS

State employee pension systems are facing severe shortfalls and these growing liabilities threaten to drive many states deeper into the red, according to a new 50 state study, “State Pension Funds Fall Off a Cliff,” co-authored by Dr. Barry Poulson of the University of Colorado and Dr. Arthur P. Hall of the University of Kansas.

As of 2006, states had accumulated nearly \$360 billion in unfunded pension obligations. However, the authors warn the problem is even worse, as investment losses from the recent economic downturn have not been fully realized in many official government pension statistics.

“The underfunding of public pension plans has become the 900 pound gorilla in the area of state budgets,” said Senator Jim Buck of Indiana, Public-Sector Chairman of ALEC’s Tax and Fiscal Policy Task Force. “If legislators do not properly address the crisis in pub-

lic pensions, it will make current budget problems in the states look trivial.”

In fact, a sampling of data from 2008 (*see table*) reveals much trouble ahead. As the table presented here shows, Illinois has the worst funded pension plan in the nation at 46.1 percent. Private defined-benefit pension plans are deemed to be “critical” if the funded portion of the plan is less than 65 percent.

“Defined benefit pension plans are considered ‘safe’ by government standards if they have enough assets to support at least 80 percent of pension benefit obligations,” said Dr. Barry Poulson. “In 2008 only 9 percent of a sample of state and local government pension plans met this standard.”

The report also provides a unique case study of two state pension plans—PERA in Colorado and KPERS in Kansas. These plans have suffered massive losses as a result of the economic down-

turn, and as a result, the unfunded liabilities per capita were the highest in the nation in 2008—at \$3,624 and \$2,962 respectively.

The first step towards real pension reform is for states to increase transparency by meeting the guidelines established by the Governmental Accounting Standards Board (GASB) in a timely manner. These steps will allow elected officials to properly monitor the status of their pension funds and bring more accountability to the process and include:

- Requiring that unfunded liabilities be reported as debt in the financial statements of state and local governments.
- Amortizing unfunded liabilities in pension plans within a 30-year time frame.

The authors conclude that the only viable long-term solution is to replace current defined-benefit plans with 401(k) style defined-contribution plans for new employees. This reform would constrain the growth of unfunded liabilities and would establish a portable defined-contribution plan for new employees. Over time, the government’s dependence on expensive and less predictable defined-benefit plans would decrease.

As the crisis in funding state pensions casts a dark shadow over the financial health, business climate and bond ratings of many states, it is essential that reform-minded legislators continue their efforts to make pension systems more transparent, solvent and accountable to elected officials and taxpayers alike. ■

## State Pension Health 2008

State	Funded Ratio (%)	Unfunded Liabilities (\$ Billions)
Delaware	103.1	0.0
Illinois	46.1	12.8
Kentucky	52.5	4.8
Louisiana	67.6	4.4
Maryland	78.6	10.7
Minnesota	73.6	4.7
Mississippi	72.9	7.7
Missouri	85.9	1.3
Montana	90.3	0.4
New Mexico	93.3	0.9
North Dakota	92.6	0.1
Oklahoma	73.0	2.4

Source: “State Pension Funds Fall Off a Cliff,” January 2010.

## ALEC’s Unfunded Liabilities & Public Pensions Working Group

Addressing the problem of unfunded liabilities in public pensions.

Contact [jwilliams@alec.org](mailto:jwilliams@alec.org) for more info.

Jonathan Williams is the director of the Tax and Fiscal Policy Task Force at the American Legislative Exchange Council.

# No Link Between Cell Phones and Health

BY BARTLETT D. CLELAND

The American Cancer Society, World Health Organization, the Food and Drug Administration (FDA) and the International Commission on Non-Ionizing Radiation Protection, and others all agree:

A survey of the recent scientific literature shows there is no clear evidence of any link between mobile devices and health problems. And yet some special interest groups are advocating for action based on only a couple European research reports while ignoring the overwhelming preponderance of the evidence. In the process those special interests are scaring the public.

Scaring people so much that some states and cities are considering imposing regulations to require health-related warning labels despite the lack of evidence, and ignoring the fact that government restrictions are already in place.

The Federal Communications Commission (FCC), in accordance with guidelines established by recognized scientific bodies, has already set the safety standards for handset radiation, so any device at or below the set level is deemed safe for human absorption. In addition, these standards were reviewed and endorsed by the Environmental Protection Agency (EPA), Occupational Safety and Health Administration (OSHA) and FDA.

So why exactly are some politicians considering action? Simply put, they're seeking to gain some credit for "protecting the public" even though such pro-

tections are already in place.

And who is most aggressively seeking gratuitous credit, or perhaps just the most scared? Apparently Mayor Gavin Newsom of San Francisco, who is endorsing a measure to make San Francisco the first city in the country to require radiation labels for mobile phones, specifically requiring mobile phone retailers to post radiation levels next to each phone in a font at least as large as the price and explain what the radiation levels mean to customers. He proposes to put his ideas before the Board of Supervisors in the next few months.

And the only result will be the beginning of consumer confusion and increased costs as various jurisdictions adopt various and varied regulations.

For example, device manufacturers use a national distribution system, yet proposals for local warning labels ignore this fact. So manufacturers would have to adopt the strictest labels for everyone. Anything less would make policing the system in this mobile world impossible. Could someone from a less-restrictive state travel, move to a more-restrictive state, or use wireless communications without violating the law?

H.L. Mencken once said, "The whole aim of practical politics is to keep the

## MODEL LEGISLATION

At ALEC's 2009 States & Nation Policy Summit in Washington, D.C., the Telecommunications & Information Technology Task Force passed ALEC's *Resolution Opposing State and Local Mandates Requiring Warning Labels on Wireless Devices and Packaging*. The Resolution "supports sound public policy in the area of health effects and wireless devices that is based on the weight of scientific research in this area to ensure that consumer confusion is avoided."

populace alarmed (and hence clamorous to be led to safety) by menacing it with an endless series of hobgoblins, all of them imaginary."

Virtually all the scientific literature concludes there are no health risks from mobile devices. In a time when Americans are stressed enough over the economy, the last thing we need is politicians inciting fear driven by political expedience, rather than science.

And in fact, just last week, scientists in Florida discovered that mobile phone use actually guarded against Alzheimer's disease in mice that were otherwise programmed to get the disease.

By the so called scientific standards of the special interest groups, and of Mayor Newsom, perhaps now mobile devices should be recommended as an effective preventative in the fight against Alzheimer's disease? ■



Bartlett D. Cleland is the Director of the Center for Technology Freedom at the Institute for Policy Innovation in Dallas, TX.

# Facing the Challenges of Women's Sexual Health Issues

BY DR. SHERYL KINGSBERG

Several weeks ago, I had the privilege of presenting at the American Legislative Exchange Council's (ALEC) annual States & National Policy Summit in Washington, D.C., on a topic which has sparked several lasting debates in the legislative arena: women's sexual health. Historically, the topic has been given little meaningful attention and has been largely defined by cultural norms.<sup>1</sup> Today, women's sexual health is considered a human rights issue by the World Health Organization (WHO) and is recognized as an integral part of overall health.<sup>2</sup> As we in the medical field continue to make strides in research and our understanding of sexual health issues, it is important that those of us with the ability to impact and shape future legislation remain informed on topics of the utmost importance to a woman's overall health and well-being.

## Female Sexual Dysfunction (FSD) and Hypoactive Sexual Desire Disorder (HSDD)

Sexual dysfunctions can manifest themselves at any point in a woman's life, regardless of age.<sup>3</sup> Low sexual desire with associated distress is the most commonly reported female sexual complaint. Approximately 1 in 10 women report low sexual desire with associated distress, which may be Hypoactive Sex-

ual Desire Disorder (HSDD).<sup>4</sup> HSDD is a form of female sexual dysfunction (FSD) and is characterized by a decrease or lack of sexual desire that causes distress for the patient, may put a strain on relationships with partners, and is not due to the effects of a substance, including medications, or another medical condition.<sup>5</sup>

While the exact causes of HSDD are unknown, there are a number of potential contributing factors to FSD that have been identified, reflecting a complex interaction of physical, psychological, emotional and relational components.<sup>6</sup> Additionally, recent research suggests the brain plays an important role in female sexual desire.<sup>7</sup> It is hypothesized that neurotransmitters within the brain, which play a role in sexual response, are affected in women with HSDD.

## Lack of Communication

Decreased sexual desire with associated distress may have negative effects on overall well-being, including poor self-image,<sup>8</sup> mood instability including depression, and strained relationships with partners. Unfortunately, communication between women and their physicians and their partners about sexual dysfunctions remains a challenge.<sup>9</sup> Although there are a variety of validated tools which can be used for assessing

FSD, many health care providers are often hesitant to address desire-related sexual health concerns. Many are not confident in their ability to properly diagnose and treat the conditions, and others, quite frankly, are just too uncomfortable to talk about it.<sup>10</sup>

## Having the Option

Keep in mind that 15 years ago, Erectile Dysfunction (ED) was as taboo a topic as they come. Now, both medical professionals and society as a whole are more comfortable addressing men's sexual health issues. Women's sexual health is not more or less important than any other health issue, and it certainly deserves equal consideration.

Sexual health is an important part of overall health, and therefore should be treated as so by women and their health care providers. This means that women need to be their own health advocates—they need to value their sexual health enough to ask questions and seek help when they need it. This also means that when they do get the courage to ask those uncomfortable questions, they deserve meaningful information and counsel from their health care providers.

As an expert in the field, I can say with confidence that we are making significant progress everyday in understanding more about sexual desire and female sexual response. It is my hope that this progress will be met by those in the legislative arena with enthusiasm and an eagerness to engage in efforts to support female sexual health that have been largely ignored until now. ■



Dr. Kingsberg is a clinical psychologist and associate professor in the Departments of Reproductive Biology and Psychiatry at Case Western Reserve University School of Medicine. She is also the chief of the Division of Behavioral Medicine in the Department of Obstetrics/Gynecology at MacDonald Women's Hospital.

# States Should Let the Market Drive Recycling and Reuse

BY STEPHANIE J. LINN

Songwriters Jerry Leiber and Mike Stoller are famous for their nagging reminder to teens to “take out the papers and the trash” in the up-tempo 50’s favorite, “Yakety Yak.” A similar admonition has emerged from the state houses, but this time the warning is directed towards producers of consumer goods, not wily teenagers. The idea, known as extended producer responsibility (EPR), is to make companies—not consumers—responsible for recycling some of their products such as TVs, computers, batteries, and even carpet.

EPR laws hold manufacturers responsible for recycling and discarding the products they make in an effort

tion in search of a problem.

Many industries have ramped up their recycling efforts in recent years due to market demands, not legislation. Almost a decade ago, the members of the carpet industry made a goal to divert waste from landfills and improve the sustainability of their products. The Carpet America Recovery Effort (CARE) was launched in 2002 to facilitate and track recovery efforts for the end-of-life usage of carpet. Because this was a voluntary program, the industry had the freedom to develop and experiment with the technology needed to run a smart and cost-effective program. To date, the carpet industry has diverted one billion pounds of post-consumer

carpet from landfills, and the percentage of carpet diverted doubles every year. Carpet can be used in post-consumer goods, such as automotive parts, septic system pipes, and roof tiles.

The paper industry also has an impressive track record with recycling programs.

International Paper, the largest pulp and paper company in the world, recovers and recycles over six million tons of paper in the United States. They use recycled paper in a variety of products, from retail packaging to shipping containers. The success of recycling programs and the growing demand for post-consumer goods

demonstrates that market-driven solutions can achieve waste-diversion goals and simultaneously create real value for businesses and consumers.

Manufacturing industry representatives maintain that the carpet industry’s level of success could not have been achieved under state mandatory requirements. Some laws burden companies with high costs and unrealistic responsibilities, and in turn companies waste time complying or fighting obstructive laws. In 2008, New York City passed a law requiring electronic manufacturers to offer free door-to-door service for used electronic devices that weighed more than 15 pounds. Electronic manufacturers estimated that this would saddle companies with a price tag of around \$200 million a year. The industry was also concerned that more trucks on the New York City streets would harm the environment, thwarting the goals of the city’s legislation. In July 2009, electronic industry associations sued the city, claiming that the onerous requirements were unconstitutional. Industry representatives were forced to spend time and resources fighting questionable legislation rather than directing their resources towards building a better recycling program.

The situation in New York City demonstrated that complications can arise when manufacturing companies are saddled with 100 percent of the responsibility for recycling their products. State governments should think twice before compelling producers to internalize all of the waste management costs involved in a product’s end-of-life use. Voluntary recycling programs are a cost effective alternative for diverting products from the trash heap and redirecting those resources to more valuable uses. Otherwise, consumers will pay higher prices for all this yakety yak. ■

**The success of recycling programs and the growing demand for post-consumer goods demonstrates that market-driven solutions can achieve waste-diversion goals and simultaneously create real value for businesses and consumers.**

to divert trash from landfills and promote sustainability. But many manufacturing companies already have a long track record of collecting and recycling their products. With over 4,500 post-consumer goods on the market, businesses know that recyclable materials are an important commodity. Extended producer responsibility laws are a solu-

Stephanie J. Linn is the Legislative Assistant for the Civil Justice and Natural Resources Task Forces at the American Legislative Exchange Council.



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