

## ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda-underwritten by global corporations—includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

## ALEC's Corporate Board --in recent past or present

- AT&T Services, Inc.
  - centerpoint360
  - UPS
  - Bayer Corporation
  - GlaxoSmithKline
  - Energy Future Holdings
  - Johnson & Johnson
  - Coca-Cola Company
  - PhRMA
  - Kraft Foods, Inc.
  - Coca-Cola Co.
  - Pfizer Inc.
  - Reed Elsevier, Inc.
  - DIAGEO
  - Peabody Energy
  - Intuit, Inc.
  - Koch Industries, Inc.
  - ExxonMobil
  - Verizon
  - Reynolds American Inc.
  - Wal-Mart Stores, Inc.
  - Salt River Project
  - Altria Client Services, Inc.
  - American Bail Coalition
  - State Farm Insurance
- For more on these corporations, search at [www.SourceWatch.org](http://www.SourceWatch.org).

**DID YOU KNOW?** Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

Home → [Model Legislation](#) → Commerce, Insurance, and Economic Development

### Union Financial Responsibility Act

Did you know that global corporation Kraft Foods was the corporate co-chair in 2011?

#### Summary

The power of workers to make sound decisions concerning their careers, workplace choices, workplace representation, and other areas of importance hinges on a worker's access to useful and relevant information. The legislature finds it is important to ensure public sector workers are provided with useful information concerning their membership in a labor union, through thorough and complete public disclosure of union finances and by protecting a worker's freedom of speech, assembly, and other rights.

The legislature finds today's workforce is more educated, empowered, and familiar with financial data and transactions than at any time in the state's history. Workers are presented with more choices concerning their careers than in the past, in areas such as compensation packages, benefits, and other matters related to their careers. Whether and how to exercise a worker's self-governance rights are among the choices a worker faces.

Sound decision-making depends on sound information, and workers cannot be expected to make decisions in their own best interest without access to unbiased and candid information.

Recent failures involving pension funds and other member accounts maintained by labor unions directly resulted in harm to workers. The legislature intends to ensure members of labor organizations are provided with more complete, timely, and comprehensible information about their union's financial practices, investments, solvency, and expenditures would empower them to protect their personal financial interests and exercise their democratic rights of self-governance.

The legislature recognizes the federal Labor Management Reporting and Disclosure Act (LMRDA) provides for the reporting of financial data for a small segment of labor organizations. The legislature intends for all labor organizations within the jurisdiction of this State not directly subject to the reporting requirements of the LMRDA to provide the relevant financial data to their members are prescribed herein.

The legislature finds transparency in organizational finances central to sound decision-making. Voters are routinely provided with information concerning the finances of candidates and campaign committees, and such transparency serves as a powerful deterrent against corruption.

The legislature intends for increased transparency and financial disclosure to provide union officials with additional incentives to be good stewards of the funds entrusted to them by those financially contributing to the union. The legislature intends for this to serve as a deterrent to corrupt practices.

#### Model Legislation

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

(A). "Person" means one or more individuals, labor organizations, or agencies.

(B). "Employer" means any employer or any group or association of employers which is an employer within the meaning of any law of the State of [insert State] or of the United States, but does not include the United States or any corporation wholly owned by the Government of the United States.

(C). "Employee" means any individual employed by an agency, except where the term is used in reference to an individual employed by a labor organization, and includes any individual whose work has ceased because of any unfair labor practice or because of exclusion or expulsion from a labor organization in any manner or for any reason inconsistent with the requirements of this Act.

(D). "Agency" means every governmental subdivision, every district, every public and quasi-public corporation, every public agency and public service corporation,

and every town, city, county, city and county and municipal corporation, whether incorporated or not and whether chartered or not, of the State of [insert State].

(E). "Trusteeship" means any receivership, trusteeship, or other method of supervision or control whereby a labor organization suspends the autonomy otherwise available to a subordinate body under its constitution or bylaws.

(F). "Labor organization" means an organization in which employees participate, and which exists for the purpose, in whole or in part, of dealing with an agency concerning grievances or conditions of employment.

(G). "Secret ballot" means the expression by ballot, voting machine, or otherwise, but in no event by proxy, of a choice with respect to any election or vote taken upon any matter, which is cast in such a manner that the person expressing such choice cannot be identified with the choice expressed.

(H). "Trust in which a labor organization is interested" means a trust or other fund or organization:

(1). Which was created or established by a labor organization, or one of more of the trustees or one or more members of the governing body of which is selected or appointed by a labor organization; and

(2). A primary purpose of which is to provide benefits for the members of such labor organization or their beneficiaries.

(I). "Officer" means any constitutional officer, any person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization, and any member of its executive board or similar governing body.

(J). "Member" or "member in good standing," when used in reference to a labor organization, includes any person who has fulfilled the requirements for membership in such organization, and who neither has voluntarily withdrawn from membership nor has been expelled or suspended from membership after appropriate proceedings consistent with lawful provisions of the constitution and bylaws of such organization.

(K). "[STATE OFFICIAL/AGENCY]" means [insert the official or agency designated to administer this Act].

(L). "Officer, agent, shop steward, or other representative", when used with respect to a labor organization, includes elected officials and key administrative personnel, whether elected or appointed (such as business agents, heads of departments or major units, and organizers who exercise substantial independent authority), but does not include salaried nonsupervisory professional staff, stenographic, and service personnel.

(M). "[COURT OF JURISDICTION]" means [insert the court designated as the appropriate court in which to bring actions under this Act].

## **Section 2. {BILL OF RIGHTS OF MEMBERS OF LABOR ORGANIZATIONS}**

### **(A). Bill of Rights**

(1). Equal Rights: Every member of a labor organization shall have equal rights and privileges within such organization to nominate candidates, to vote in elections or referendums of the labor organization, to attend membership meetings and to participate in the deliberations and voting upon the business of such meetings, subject to reasonable rules and regulations in such organization's constitution and bylaws.

(2). Freedom of Speech and Assembly: Every member of any labor organization shall have the right to meet and assemble freely with other members; and to express any views, arguments or opinions; and to express at meetings of the labor organization his views, upon any business properly before the meeting, subject to the organization's established and reasonable rules pertaining to the conduct of meetings: Provided, that nothing herein shall be construed to impair the right of a labor organization to adopt and enforce reasonable rules as to the responsibility of every member toward the organization as an institution and to his refraining from conduct that would interfere with its performance of its legal or contractual obligations.

(3). Dues, Initiation Fees, and Assessments: The rates of dues and initiation fees payable by members of any labor organization in effect on the date of enactment of this Act shall not be increased, and no general or special assessment shall be levied upon such members, except:

(a). In the case of a local labor organization:

(i). By majority vote by secret ballot of the members in good standing voting at a general or special membership meeting, after reasonable notice of the intention to vote upon such question; or

(ii). By majority vote of the members in good standing voting in a membership referendum conducted by secret ballot; or

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(b). In the case of a labor organization other than a local labor organization:

(i). By majority vote of the delegates voting at a regular convention, or at a special convention of such labor organization held upon not less than thirty days' written notice to the principal office of each local or constituent labor organization entitled to such notice; or

(ii). By majority vote of the members in good standing of such labor organization voting in a membership referendum conducted by secret ballot; or

(iii). By majority vote of the members of the executive board or similar governing body of such labor organization, pursuant to express authority contained in the constitution and bylaws of such labor organization: Provided that such action on the part of the executive board or similar governing body shall be effective only until the next regular convention of such labor organization.

(4). Protection of the Right to Sue: No labor organization shall limit the right of any member thereof to institute an action in any court, or in a proceeding before any administrative agency, irrespective of whether or not the labor organization or its officers are named as defendants or respondents in such action or proceeding, or the right of any member of a labor organization to appear as a witness in any judicial, administrative, or legislative proceeding, or to petition any legislature or to communicate with any legislator: Provided, that any such member may be required to exhaust reasonable hearing procedures (but not to exceed a four-month lapse of time) within such organization, before instituting legal or administrative proceedings against such organizations or any officer thereof; And provided further, that no interested employer shall directly or indirectly finance, encourage, or participate in, except as a party, any such action, proceeding, appearance, or petition.

(5). Safeguards Against Improper Disciplinary Action: No member of any labor organization may be fined, suspended, expelled, or otherwise disciplined except for nonpayment of dues by such organization or by any officer thereof.

(a). Any provision of the constitution and bylaws of any labor organization that is inconsistent with the provisions of this section shall be of no force or effect.

(B). Civil Enforcement: Any person whose rights secured by the provisions of this title have been infringed by any violation of this title may bring a civil action in the [COURT OF JURISDICTION] for such relief (including injunctions) as may be appropriate.

(1). Any such action against a labor organization shall be brought in the [COURT OF JURISDICTION] where the alleged violation occurred, or where the labor organization maintains its principal office.

(C). Retention of Existing Rights Nothing contained in this title shall limit the rights and remedies of any member of a labor organization under any law or before any court or other tribunal, or under the constitution and bylaws of any labor organization.

(D). Right to Copies of Collective Bargaining Agreements and Reports

(1). In the case of a local labor organization, it shall be the duty of the secretary or corresponding principal officer of each labor organization, to forward a copy of each collective bargaining agreement made by such labor organization with any agency to any employee who requests such a copy and whose rights as such employee are directly affected by such agreement.

(2). In the case of a labor organization other than a local labor organization, it shall be the duty of the secretary or corresponding principal officer of each labor organization to forward a copy of any collective bargaining agreement made by such labor organization with any agency, to each constituent unit which has members directly affected by such agreement; and such officer shall maintain at the principal office of the labor organization of which he is an officer copies of any such agreement made or received by such labor organization, which copies shall be available for inspection by any member or by any employee whose rights are affected by such agreement.

(3). Every labor organization must make copies of reports or other documents filed pursuant to this Act available to every employee in the bargaining unit and must annually notify every employee in the bargaining unit that said reports are available on a web site established and updated by the [STATE OFFICIAL/AGENCY] pursuant to section 3(H)(5) of this Act.

(4). The provisions of section 209 shall be applicable in the enforcement of this section.

(E). Information as to Act

(1). Every labor organization shall inform its members concerning the provisions of this Act.

(2). The provisions of section 209 shall be applicable in the enforcement of this section.

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

#### **(A). Report of Labor Organizations**

(1). Every labor organization shall adopt a constitution and bylaws and shall file a copy thereof with the [STATE OFFICIAL/AGENCY], together with a report, signed by its president and secretary or corresponding principal officers, containing the following information:

(a). The name of the labor organization, its mailing address, and any other address at which it maintains its principal office or at which it keeps the records referred to in this title;

(b). The name and title of each of its officers;

(c). The initiation fee or fees required from a new or transferred member and fees for work permits required by the reporting labor organization;

(d). The regular dues or fees or other periodic payments required to remain a member of the reporting labor organization; and

(e). Detailed statements, or references to specific provisions of documents filed under this subsection which contain such statements, showing the provisions made and procedures followed with respect to each of the following:

(i). Qualifications for, or restrictions on, membership;

(ii). Levying of assessments;

(iii). Participating in insurance or other benefit plans;

(iv). Authorization for disbursement of funds of the labor organization;

(v). Audit of financial transactions of the labor organization;

(vi). The calling of regular and special meetings;

(vii). The selection of officers and stewards and of any representatives to other bodies composed of labor organizations representatives, with a specific statement of the manner in which each officer was elected, appointed, or otherwise selected;

(viii). Discipline or removal of officers or agents for breaches of their trust;

(ix). Imposition of fines, suspensions, and expulsions of members, including the grounds for such action and any provision made for notice, hearing, judgment on the evidence, and appeal procedures;

(x). Authorization for bargaining demands;

(xi). Ratification of contract terms;

(xii). Authorization for strikes; and

(xiii). Issuance of work permits.

(B). Any change in the information required by this subsection shall be reported to the [STATE OFFICIAL/AGENCY] at the time the reporting labor organization files with the [STATE OFFICIAL/AGENCY] the annual required financial report.

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

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

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

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

(4). All income received or the value of services furnished to the labor organization by any other labor organization, including any affiliated labor organization;

(5). A report of the total amount spent by the labor organization, and an itemization of expenditures of more than \$1,500 for:

(a). Contract negotiation and administration;

- (b). Organizing activities;
  - (c). Strike activities;
  - (d). Litigation, specifying the matters and cases involved;
  - (e). Public relations activities;
  - (f). Political activities, including contributions to candidates, ballot measures, member communications, and get out the vote efforts;
  - (g). Activities attempting to influence the passage or defeat of federal, state, or local legislation or the content or enforcement of federal, state, or local regulations or policies;
  - (h). Voter education and issue advocacy activities;
  - (i). Training activities for each officer of the labor organization or labor organization support staff; and
  - (j). Conference, convention, and travel activities engaged in by the labor organization;
- (6). The percentage of the labor organization's total expenditures that were spent for each of the activities described in (5)(a) through (j) of this subsection;
  - (7). The names, addresses, and activities of any of the law firms, public relations firms, or lobbyists whose services are used by the labor organization for any activity described in (5)(d) through (j) of this subsection;
  - (8). A list of political candidates, political organizations, charitable organizations, nonprofit organizations, and community organizations to which the labor organization contributed financial or in-kind assistance and the dollar amount of such assistance; and
  - (9). The name and address of any political action committees or designated funds with which the labor organization is affiliated or to which it provides contributions, the total amount of contributions to such committees or funds, the candidates or causes to which such committees or funds provided any financial assistance, and the amount provided to each such candidate or cause.
  - (10). Direct and indirect loans made to any officer, employee, or member, which aggregated more than \$250 during the fiscal year, together with a statement of the purpose, security, if any, and arrangements for repayment;
  - (11). Direct and indirect loans to any business enterprise, together with a statement of the purpose, security, if any, and arrangements for repayment; and
  - (12). Other disbursements made by it including the purposes thereof, all in such categories as the [STATE OFFICIAL/AGENCY] may prescribe.

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

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

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

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

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

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

otherwise dealing with such labor organization;

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

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

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

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

(H). Reports Made Public Information

(1). The contents of the reports and documents filed with the [STATE OFFICIAL/AGENCY] pursuant to this Act shall be public information, and the [STATE OFFICIAL/AGENCY] may publish any information and data which he obtains pursuant to this Act. The [STATE OFFICIAL/AGENCY] may use the information and data for statistical and research purposes, and compile and publish such studies, analyses, reports, and surveys based thereon as he may deem appropriate.

(2). The [STATE OFFICIAL/AGENCY] shall preserve the statements or reports for not less than 10 years.

(3). The [STATE OFFICIAL/AGENCY] shall by regulation make reasonable provision for the inspection and examination, on the request of any person, of the information and data contained in any report or other document filed with him pursuant to ~~previous sections~~ this Act.

(4). The [STATE OFFICIAL/AGENCY] shall by regulation provide for the furnishing of copies of reports or other documents filed with the [STATE OFFICIAL/AGENCY] pursuant to this title, upon a charge based upon the cost of the service.

(5). By 90 days after the effective date of this Act, the [STATE OFFICIAL/AGENCY] shall operate a web site or contract for the operation of a web site that allows public access to reports, copies of reports, or copies of data and information submitted in reports, filed with the [STATE OFFICIAL/AGENCY] pursuant to this Act.

(6). No person shall be required to furnish to the [STATE OFFICIAL/AGENCY] any information included in a report filed by such person with the United States Secretary of Labor pursuant to 29 U.S.C. 431 - 441 if such report is furnished to the [STATE OFFICIAL/AGENCY] pursuant to 29 U.S.C. 435(c).

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

(J). Effective Date

(1). Each labor organization shall file the initial report required within ninety days after the date on which it first becomes subject to this Act.

(2.) Each person required to file a report shall file within ninety days after the end of each of its fiscal years; except that where such person is subject to previously outlined conditions or, as the case may be, for only a portion of such a fiscal year (because the date of enactment of this Act occurs during such person's fiscal year or such person becomes subject to this Act during its fiscal year) such person may consider that portion as the entire fiscal year in making such report.

(K). Rules and Regulations

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

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

(L). Enforcement by [STATE OFFICIAL/AGENCY]

(1). The [STATE OFFICIAL/AGENCY] may determine whether an actual violation of this section has occurred, and following such determination issue and enforce an appropriate order subject to the following terms:

(a). If the [STATE OFFICIAL/AGENCY] finds that a labor organization has violated this Act by failing or refusing to prepare the required reports or by preparing an incomplete or inaccurate report, the [STATE OFFICIAL/AGENCY] shall issue an order compelling compliance and assess a fine of [\$50] for each day each report was overdue.

(b). On finding a second violation by the labor organization, the [STATE OFFICIAL/AGENCY] shall:

(i). Issue an order compelling compliance; and,

(ii). Assess a fine of [\$50] for each day each report was overdue or order the refund of all membership dues or agency shop fees to employees in the bargaining unit for the period covered by the report, whichever amount is greater.

(c). On finding a third violation by the labor organization, the [STATE OFFICIAL/AGENCY] shall:

(i). Issue an order compelling compliance;

(ii). Assess a fine of [\$50] for each day each report was overdue or order the refund of all membership dues or agency shop fees to employees in the bargaining unit for the period covered by the report, whichever amount is greater; and,

(iii) Order an employee election in the affected bargaining unit to determine whether the labor organization will continue to be the exclusive bargaining representative of the bargaining unit. The election shall be conducted upon the expiration of the existing collective bargaining agreement covering the affected bargaining unit.

(d). The [STATE OFFICIAL/AGENCY] may make determinations and issue and enforce orders at its own discretion or as a response to a petition filed by the employer, any employee in the bargaining unit before expiration of the applicable collective bargaining agreement, or any member of the general public. The [STATE OFFICIAL/AGENCY] may, at its discretion, refer matters of compliance to the state attorney general or other enforcement agency.

(M). Criminal Provisions

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

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

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

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

(N). Civil Enforcement

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

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

(O). Surety Company Reports

(1). Each surety company which issues any bond required by this Act shall file annually with the [STATE OFFICIAL/AGENCY], with respect to each fiscal year during which any such bond was in force, a report, in such form and detail as the [STATE

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OFFICIAL/AGENCY] may prescribe by regulation, filed by the president and treasurer or corresponding principal officers of the surety company, describing its bond experience under this Act, including information as to the premiums received, total claims paid, amounts recovered by way of subrogation, administrative and legal expenses and such related data and information as the [STATE OFFICIAL/AGENCY] shall determine to be necessary in the public interest and to carry out the policy of this Act.

(2). Notwithstanding the foregoing, if the [STATE OFFICIAL/AGENCY] finds that any such specific information cannot be practicably ascertained or would be uninformative, the [STATE OFFICIAL/AGENCY] may modify or waive the requirement for such information.

(P). Exemption for Organizations Covered by Federal Statute: The provisions of this title shall not apply to any labor organization required to file annual or semi-annual disclosure reports under the federal Labor Management Reporting and Disclosure Act.

#### **Section 4. {SAFEGUARDS FOR LABOR ORGANIZATIONS}**

##### **(A). Fiduciary Responsibility of Officers of Labor Organizations**

(1). Declaration of Fiduciary Responsibility: The officers, agents, shop stewards, and other representatives of a labor organization occupy positions of trust in relation to such organization and its members as a group. It is, therefore, the duty of each such person, taking into account the special problems and functions of a labor organization, to hold its money and property solely for the benefit of the organization and its members and to manage, invest, and expend the same in accordance with its constitution and bylaws and any resolutions of the governing bodies adopted thereunder, to refrain from dealing with such organization as an adverse party or in behalf of an adverse party in any matter connected with such person's duties and from holding or acquiring any pecuniary or personal interest which conflicts with the interests of such organization, and to account to the organization for any profit received by him in whatever capacity in connection with transactions conducted by him or under his direction on behalf of the organization.

(a). A general exculpatory provision in the constitution and bylaws of such a labor organization or a general exculpatory resolution of a governing body purporting to relieve any such person of liability for breach of the duties declared by this section shall be void as against public policy.

(b). When any officer, agent, shop steward, or representative of any labor organization is alleged to have violated the duties declared in subsection (1) and the labor organization or its governing board or officers refuse or fail to sue or recover damages or secure an accounting or other appropriate relief within a reasonable time after being requested to do so by any member of the labor organization, such member may sue such officer, agent, shop steward, or representative in the [COURT OF JURISDICTION] where the labor organization maintains its principal office or in any court of competent jurisdiction to recover damages or secure an accounting or other appropriate relief for the benefit of the labor organization.

(2). No such proceeding shall be brought except upon leave of the court obtained upon verified application and for good cause shown which application may be made ex parte. The trial judge may allot a reasonable part of the recovery in any action under this subsection to pay the fees of counsel prosecuting the suit at the instance of the member of the labor organization and to compensate such member for any expenses necessarily paid or incurred by him in connection with the litigation.

(3). [Any person who embezzles, steals, or unlawfully and willfully abstracts or converts to his own use, or the use of another, any of the monies, funds, securities, property, or other assets of a labor organization of which he is an officer, or by which he is employed, directly or indirectly, shall be fined not more than [\$10,000] or imprisoned for not more than [five years], or both.]

##### **(B). Bonding**

(1). Every officer, agent shop steward, or other representative or employee of any labor organization (other than a labor organization whose property and annual financial receipts do not exceed \$5,000 in value), or of a trust in which a labor organization is interested, who handles funds or other property thereof shall be bonded to provide protection against loss by reason of acts of fraud or dishonesty on his/her part directly or through connivance with others.

(2). The bond of each such person shall be fixed at the beginning of the organization's fiscal year and shall be in an amount not less than 10 per centum of the funds handled by him and his predecessor or predecessors, if any, during the preceding fiscal year, but in no case more than \$500,000.

(3). If the labor organization or the trust in which a labor organization is interested does not have a preceding fiscal year, the amount of the bond shall be, in the case of a local labor organization, not less than \$1,000, and in the case of any other labor organization or of a trust in which a labor organization is interested, not less than \$10,000.

(4). Such bonds shall be individual or schedule in form; and shall have a corporate

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surety company as surety thereon. Any person who is not covered by such bonds shall not be permitted to receive, handle, disburse, or otherwise exercise custody or control of the funds or other property of a labor organization or of a trust in which a labor organization is interested. No such labor organization or any officer, agent, shop steward, or other representative of a labor organization has any direct or indirect interest.

(5). Such surety company shall be a corporate surety which holds a grant of authority from the [insert appropriate State bonding official/agency] under the [insert State bonding statute] as an acceptable surety on bonds: Provided, that when in the opinion of the [STATE OFFICIAL/AGENCY] a labor organization has made other bonding arrangements which would provide the protection required by this section at a comparable cost or less, the [STATE OFFICIAL/AGENCY] may exempt such labor organization from placing a bond through a surety company holding such grant of authority.

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

(C). Making of Loans; Payments of Fines

(1). No labor organization shall make directly or indirectly any loan or loans to any officer or employee of such organization which results in a total indebtedness on the part of such officer or employee to the labor organization in excess of \$2,000.

(2). No labor organization or agency shall directly or indirectly pay the fine of any officer or employee convicted of any willful violation of this Act.

(3). Any person who willfully violates this section shall be fined not more than [\$5,000] or imprisoned for not more than [one year], or both.

(D). Prohibition Against Certain Persons Holding Office

(1). No person who has been convicted of, or served any part of a prison term resulting from his conviction of robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, or a violation of Section 3 or 4 of this Act, any felony involving abuse or misuse of such person's position or employment in a labor organization or employee benefit plan to seek or obtain an illegal gain at the expense of the members of the labor organization or the beneficiaries of the employee benefit plan, or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve:

(a). As a consultant or adviser to any labor organization;

(b). As an officer, director, trustee, member of any executive board or similar governing body, business agent, manager, organizer, employee, or representative in any capacity of any labor organization;

(c). As a labor relations consultant or adviser to any person, employer, or agency, or as an officer, director, agent, or representative of any group or association of employers dealing with any labor organization, or in a position having specific collective bargaining authority or direct responsibility in the area of labor management relations in any corporation or association;

(d). In a position which entitles its occupant to a share of the proceeds of, or as an officer or representative of, any entity whose activities are in whole or substantial part devoted to providing goods or services to any labor organization; or

(e). In any capacity, other than in his capacity as a member of such labor organization, that involves decision making authority concerning, or decision making authority over, or custody of, or control of the monies, funds, assets, or property of any labor organization; subject to the provisions in subsection (2).

(2). During the period of thirteen years after a conviction as determined previously, or after the end of such imprisonment, whichever is later, no person shall serve in any capacity referred to in clauses (1)(a) through (1)(e) unless:

(a). The sentencing court on the motion of the person convicted sets a lesser period of at least three years after such conviction or after the end of such imprisonment, whichever is later; or

(b). Prior to the end of such period, in the case of a person so convicted or imprisoned, his citizenship rights, having been revoked as a result of such conviction, have been fully restored; or

(c). The offense is an offense in this state, and the sentencing judge or, if the offense is a federal offense or an offense in another state, the [insert court of jurisdiction] in the county in which the individual resides, pursuant to any state sentencing guidelines and policy guidance, determines that such person's service in any capacity referred to in clauses (1)(a) through (1)(e) would not be contrary to the purposes of this Act. Prior to making any such determination, the court shall hold a hearing and shall give notice of such proceeding by certified mail to the [STATE OFFICIAL/AGENCY] and to state, county, and federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The court's determination in any such proceeding shall be final.

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(3). Any person who willfully violates this section shall be fined not more than [\$10,000] or imprisoned for not more than [five years], or both.

(4). For the purpose of this section:

(a). A person shall be deemed to have been “convicted” and under the disability of “conviction” from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

(b). A period of parole shall not be considered as part of a period of imprisonment.

(5). Whenever any person, by operation of this section, has been barred from office or other position in a labor organization as a result of a conviction, and has filed an appeal of that conviction, the following provisions shall apply:

(a). Any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual agency or organization responsible for payment of such salary;

(b). Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be otherwise due, whichever time period is shorter;

(c). Upon the final reversal of such person’s conviction on appeal, the amounts in escrow shall be paid to such person; and

(d). Upon the final sustaining of such person’s conviction on appeal, the amounts in escrow shall be returned to the individual agency or organization responsible for payments of those amounts; and

(e). Upon final reversal of such person’s conviction, such person shall no longer be barred by this statute from assuming any position from which such person was previously barred.

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

##### **(A). Investigations**

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

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

(3). For the purpose of any investigation provided for in this Act, the provisions relating to the attendance of witnesses and the production of books, papers, and documents in the [insert appropriate reference to State rules of civil procedure in jury demandable actions] are hereby made applicable to the jurisdiction, powers, and duties of the [STATE OFFICIAL/AGENCY] and any officers designated by the [STATE OFFICIAL/AGENCY].

##### **(B). Retention of Rights Under Other Laws**

(1). Except as explicitly provided to the contrary:

(a). Nothing in this Act shall reduce or limit the responsibilities of any labor organization or any officer, agent, shop steward, or other representative of a labor organization, or of any trust in which a labor organization is interested, under any other laws; and

(b). Nothing in this Act shall take away any right or bar any remedy to which members of a labor organization are entitled under such other law.

(C). Service of Process: For the purposes of this Act, service of summons, subpoena, or other legal process of a court of the state upon an officer or agent of a labor organization in his capacity as such shall constitute service upon the labor organization.

(D). Prohibition on Certain Discipline by Labor Organization: It shall be unlawful for any labor organization, or any officer, agent, shop steward, or other representative of a labor organization, or any employee thereof to fine, suspend, expel, or otherwise discipline any of its members for exercising any right to which the member is entitled under the provisions of this Act. The provisions of section 102 shall be applicable in the enforcement of this section.

##### **(E). Deprivation of Rights Under Act by Violence**

(1). It shall be unlawful for any person through the use of force or violence, or threat of the use of force or violence, to restrain, coerce, or intimidate, or attempt to restrain, coerce, or intimidate any member of a labor organization for the

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purpose of interfering with or preventing the exercise of any right to which the member is entitled under the provisions of this Act.

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

(F). Severability

*Originally adopted by the Commerce, Insurance, and Economic Development Task Force December 4, 2004.*

*Approved by the American Legislative Exchange Council's (ALEC) Board of Directors January 7, 2005.*

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*Amended version approved by the ALEC Board of Directors January 14, 2009.*

**About Us and ALEC EXPOSED.** The Center for Media and Democracy reports on corporate spin and government propaganda. We are located in Madison, Wisconsin, and publish [www.PRWatch.org](http://www.PRWatch.org), [www.SourceWatch.org](http://www.SourceWatch.org), and now [www.ALECexposed.org](http://www.ALECexposed.org). For more information contact: [editor@prwatch.org](mailto:editor@prwatch.org) or 608-260-9713.

### Center for Media and Democracy's quick summary

This bill applies many elements of the federal Labor Management Reporting and Disclosure Act ( which applies only to private sector unions, with oversight by the federal government), to all public and private unions operating in the state, and gives the state government oversight authority. It requires unions to report and disclose finances, and freezes dues at the level they are at the date of enactment of the bill (unless a majority votes to increase those dues, or the union constitution authorizes the executive board to raise dues). It gives state government new levels of oversight over unions operating within it, and also gives state government enforcement authority over violations of this bill. It also establishes a fiduciary duty for union leaders (a heightened standard from the "Duty of Fair Representation"), and gives union members the right to sue for a breach of that fiduciary duty.