Resolution On Transparency In State Attorney General Conduct

PURPOSE: Urging State Legislatures to adopt measures similar to the US Chamber Institute for Legal Reform’s State Attorney General Code of Conduct in order to assure high ethical standards in conducting the affairs of the Office of Attorney General and to protect the public confidence in the integrity of this important Office;

WHEREAS, public statements by State Attorneys General can have serious implications affecting the public interest, Attorneys General must exercise prudence and caution in the conduct of any media contact, limiting comment on matters of great significance to the public interest.

WHEREAS, a State through its legislative and executive functions establishes salaries, number and qualifications of personnel needed to carry out the duties of the Office of Attorney General, employment of outside counsel should only be undertaken when the lack of expertise of the Attorney General’s office or a conflict of interest on the part of the Attorney General’s office requires the use of individuals not employed by the State, and any such retention generally should be on a fixed fee basis whose terms are specified in a written agreement between the State and the outside counsel that is subject to public oversight;

WHEREAS, the affairs of the Office of Attorney General should be free of any appearance of favoritism or use of the Office to benefit a private party, any contract with outside counsel where fees are anticipated to exceed $1 million should be awarded based only on the conclusion of a competitive bidding process open to the public for oversight;

WHEREAS, those who conduct the affairs of the Office of Attorney General, including outside counsel, should be free of the appearance of conflicts of interests, any use of contingency fees should be extremely rare and any such fee should be capped so that total compensation is no higher than is reasonable under the circumstances, and the terms of any such agreement should be specified in a written agreement between the State and the outside counsel that is subject to public oversight;

WHEREAS, the conduct and decisions of outside counsel reflect on the State and affect its rights and responsibilities, the Attorney General should retain ultimate control and decision-making authority over the major issues in all cases where outside counsel is retained to represent the interests of the State;

THEREFORE BE IT RESOLVED, that the American Legislative Exchange Council urges all State legislatures to enact legislation requiring compliance by its Office of the State Attorney General and all personnel of such Office with the principles embodied in the State Attorney General Code of Conduct issued by the U.S. Chamber Institute for Legal Reform, where the State constitution permits such exercise of power by the legislative branch, so that the legal matters of the State are carried out in a manner that is fair and equitable and subject to oversight by the residents of such State.

Adopted by the Civil Justice Task Force on August 1, 2008. Approved by the ALEC Board of Directors on September 11, 2008.