ALEC:
Ghostwriting the Law for Corporate America

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AMERICAN ASSOCIATION for JUSTICE
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Executive Summary

Few have ever heard of it, but the American Legislative Exchange Council, or ALEC, is the ultimate smoke-filled back room.

On the surface, ALEC's membership is mostly comprised of thousands of state legislators. Each pays a nominal membership fee in order to attend ALEC retreats and receive model legislation. ALEC's corporate contributors, on the other hand, pay a king's ransom to gain access to legislators and distribute their corporate-crafted legislation.

So, while the membership appears to be public sector, the bankroll is almost entirely private sector. In fact, public sector membership dues account for only around one percent of ALEC's annual revenues. ALEC claims to be nonpartisan, but in fact its free-market, pro-business mission is clear.

The result has been a consistent pipeline of special interest legislation being funneled into state capitols. Thanks to ALEC, 826 bills were introduced in the states in 2009 and 115 were enacted into law.

Behind the scenes at ALEC, the nuts and bolts of lobbying and crafting legislation is done by large corporate defense firm Shook, Hardy & Bacon. A law firm with strong ties to the tobacco and pharmaceutical industries, it has long used ALEC's ability to get a wide swath of state laws enacted to further the interests of its corporate clients.

ALEC's campaigns and model legislation have run the gamut of issues, but all have either protected or promoted a corporate revenue stream, often at the expense of consumers. For example, ALEC has worked on behalf of:

- Oil companies to undermine climate change proponents;
- Pharmaceutical manufacturers, arguing that states should be banned from importing prescription drugs;
- Telecom firms to block local authorities from offering cheap or free municipally-owned broadband;
- Insurance companies to prevent state insurance commissioners from requiring insurers to meet strengthened accounting and auditing rules;
- Big banks, recommending that seniors be forced to give up their homes via reverse mortgages in order to receive Medicaid;
- The asbestos industry, trying to shut the courthouse door to Americans suffering from mesothelioma and other asbestos-related diseases; and,
- Enron to deregulate the utility industries, which eventually caused the U.S. to lose what the Securities and Exchange Commission (SEC) estimated as $5 trillion in market value.

Introduction to ALEC: Ghostwriting the Law for Corporate America

Bismarck, North Dakota. Winter 2009.

Not a place you would normally find a high-flying, big city corporate defense attorney. However, for Mark Behrens, partner at one of Washington's most illustrious corporate defense firms, Bismarck was home in January 2009. Behrens was part of a contingent of lawyers from the D.C. office of Shook, Hardy & Bacon who spent much of January 2009 visiting the North Dakota State Capitol on behalf of the corporate front group ALEC, or the American Legislative Exchange Council.[1]

At first mention, ALEC sounds like just another inoffensive non-profit. Few have ever heard of the group, and that is precisely what the executives behind ALEC want. ALEC's self-described mission – "unite the public and private sector in a dynamic partnership to support policy development" – sounds innocuous enough. But underneath this premise, the organization's true raison d'être is more sinister: ALEC enables corporations to buy laws that favor their interests at the expense of Americans' well-being.

ALEC operates by placing thousands of state legislators in closed back rooms with corporate executives. Legislators pay a pittance in membership fees, and in return are wined, dined and golfed. At the end of their retreats, the legislator can go back to his or her capitol with legislation passed on by ALEC. Meanwhile, corporations pay tens of thousands of dollars for access to these same retreats and closed back rooms in order to persuade the legislators to introduce and enact their corporate-crafted legislation. It is a process that some commentators have described as "ghostwriting the law."[2]

For state legislators, who generally lack the resources to research and develop public policy at great length, ALEC provides more than just a tee time on someone else's dime. They return from each retreat with a package of seemingly substantive legislation. For corporations, the millions of dollars spent are well worth the thousands of pro-business, anti-consumer laws that ALEC allows them to put into place.

ALEC was founded in 1973 by Paul Weyrich to promote a conservative social agenda. Weyrich, who also co-founded the Heritage Foundation and is responsible for coining the phrase "Moral Majority," imagined ALEC to be a vehicle for reaching state legislators and making information on issues such as abortion, the Equal Rights Amendment, and D.C. voting rights easily accessible.

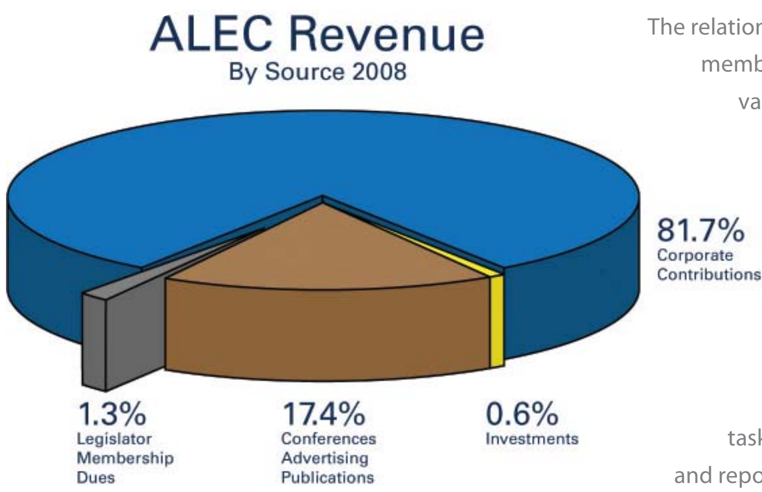
Over the years, ALEC's mission evolved from promoting a socially conservative agenda to advocating for pro-business, free market doctrines. ALEC began courting corporations and their contributions, touting its ability to bring legislative leaders and corporate executives together.[3] As the mission of the organization changed, Weyrich's name was dropped from references to the group's beginnings, and ALEC subtly moved away from some of its more extreme stances on social issues. Instead, ALEC executives focused on the issues concerning the corporate sponsors with the deepest pockets, mainly tobacco, energy and pharmaceutical companies.

Today, Washington, D.C.-based ALEC serves as the ultimate smoke-filled backroom, where corporations gain access to legislators and get the laws they write enacted throughout the country. Former Wisconsin

Governor Tommy Thompson, a major force in ALEC's rebirth as a corporate front, outlined the process, saying, "I always found new ideas and then I'd take them back to Wisconsin, disguise them a little bit, and declare that it's mine."[4]

ALEC's private sector division is comprised of major corporations that pay a minimum of $5,000 per year just to have a seat at the table. Others pay up to $50,000 to sponsor events at ALEC meetings.[5] Its legislator membership, many of whom serve in a part-time capacity without a legislative staff and receive only a small stipend for their work, pay only a nominal fee of $50 for a two year membership.

So, while the membership appears to be public sector, the bankroll is almost entirely private sector. In fact, public sector membership dues account for only one percent of ALEC's annual revenues, which hover around $7 million.[6]



The relationship between ALEC's public and private sector members is simple and symbiotic: legislators receive vacations, dinners, and prepackaged model legislation that they can take home and introduce in their sessions without the burden of researching and writing, while corporations get open access to friendly legislators who are willing to act as corporate handmaidens to ensure that corporate perks keep rolling.

Today, ALEC is organized into 10 separate issue task forces to produce model legislation, research, and reports. These task forces include Civil Justice, Commerce, Insurance and Economic Development, Education, Health and Human Services, International Relations, Natural Resources, Public Safety and Elections, Tax and Fiscal Policy, and Telecommunications and Information Technology. In each task force, "[l]egislators welcome their private sector counterparts to the table as equals, working in unison to solve the challenges facing our nation."[7] According to ALEC's 2010 Legislative Scorecard, 826 pieces of ALEC legislation were introduced in statehouses around the country in 2009 and 115 were enacted into law.[8]

ALEC holds three legislative Task Force meetings each year.[9] In addition, the organization also holds its Annual Meeting in the summer and its State & National Policy Summit in late November or early December. To make sure that lawmakers attend conventions, ALEC offers "scholarships" to defray the cost of attendance for public sector members.[10] In one memo, ALEC invited the Tobacco Institute to help raise money for the Legislative Scholarship fund by offering various sponsorships at a golf retreat. The Tobacco Institute was told that "an excellent way to recognize a deserving legislator from your state" would be to sponsor a hole on the golf course. Other ways to contribute would be to pay $100 for a legislator's green fees and golf cart rental, with the surplus going to the scholarship fund. ALEC also mentioned the option to buy an insurance policy that would award a car to anyone who made a hole-in-one on the course.[11]

In other cases, legislators use public funds to travel to the corporate junkets. Due to the fractured nature of state disclosure regulations and reports, it is impossible to account for all the money taxpayers spend to send their lawmakers to these corporate retreats. It is estimated that taxpayers spent $3 million on expenses associated with sending legislators to ALEC meetings in 1999 and 2000.[12]

While ALEC claims to be nonpartisan, its pro-business, anti-consumer mission is clear from examining the political leanings of it legislator members, the vast majority of which are Republicans. Of the 23 members of the public sector board in 2010, only three are Democrats. Of the 72 filled state chairmen seats, only three are held by Democrats (see Appendix for details).

ALEC's campaigns and model legislation have run the gamut of issues, but all have either protected or promoted a corporate revenue stream, often at the expense of consumers. ALEC has a long history of providing political cover to Big Tobacco, Big Pharma, Big Oil, and numerous other industries.

Tobacco

Big Tobacco has been a longtime supporter of ALEC and its methods of influencing state lawmakers. The tobacco industry's affiliation with ALEC began in earnest in the 1980s when R.J. Reynolds realized it could use ALEC to "help create an atmosphere of tolerance and fairness in the public's attitude toward smoking and smokers."[13] One way ALEC could do this would be by "telling the pitfalls and problems of earmarking cigarette tax dollars for cancer research centers."[14]

ALEC's relationship with Big Tobacco continued throughout the 1990s as regulations tightened and state attorneys general negotiated the Master Settlement Agreement. In 1993, Ohio State Representative Dale Van Vyven circulated a letter, written on ALEC letterhead, to his colleagues in the legislature asking them to push back against the efforts of the Federal Trade Commission and state attorneys general to restrict tobacco marketing. In his letter, Van Vyven wrote, "The free enterprise system, the 'First Amendment,' and the 'Joe Camel' ads of the R.J. Reynolds Tobacco Company are all under attack by special interest organizations and an ad hoc group of state attorneys general, including our own. As a consequence, our friends at RJR need your help and that of other ALEC members in Ohio in opposition to a proposed Federal Trade Commission (FTC) ban against the 'Joe Camel' advertising campaign."[15]

The partnership continues to this day. ALEC is currently pushing a resolution called "Economic Neutrality in the Taxation of Smokeless Tobacco" and a variety of restrictions on tort liability that are no doubt written with tobacco interests in mind.

Big Oil

ExxonMobil has used ALEC as part of its efforts to prevent states from taking action to combat the causes of climate change, particularly by challenging the science behind the causes and effects of global warming. Since 2001, ExxonMobil has given over $1.1 million to ALEC.[16] Between 1998 and 2005, $327,000 of the money ExxonMobil gave to ALEC was earmarked specifically for climate change projects.[17]

For its money, ExxonMobil has received model legislation, unpeer-reviewed studies that question the science behind climate change, and statements such as, "the science of climate change is unsettled," and the "question is how much, if any, of this warming is caused by human activities."[18] Its efforts to distort the science surrounding climate change extend all the way to schools, where ALEC is currently pushing a "Resolution on Non-Verified Science Curriculum Funding," which "establishes that the state legislature will no longer fund curricula or textbooks that present 'science' that promotes and advocates for or against only one side of an issue."[19]

ALEC is currently pushing several pieces of model legislation devoted to climate change, including "Conditioning Regulation of Non-Pollutant Emissions on Science," a "Resolution in Opposition of Carbon Dioxide Emission Standards," "State Responses to Kyoto Climate Change Protocol," and the "Climate Accountability Act." ALEC is also pushing dozens of other pieces of legislation aimed at overturning environmental safeguards and limit the accountability of corporations that pollute the air, water, and land.

Medical Negligence

For years, ALEC has pushed legislation that would limit the rights of individuals who suffer serious, debilitating injuries from medical negligence to hold their medical care providers accountable. ALEC has crafted model legislation to deter injured patients from filing medical negligence lawsuits by capping noneconomic damages, eliminating joint and several liability, limiting attorney fees, and several other methods of limiting injured patients' rights.

Though ALEC works to limit the rights of seriously injured patients and the families of those killed by medical negligence, its own leaders do not believe these limitations should apply to them. In 2002, Duane Parde, then executive director of ALEC, sued his orthopedic surgeon for malpractice following shoulder surgery, alleging that he "suffered permanent injury and damage, sustained and continues to sustain conscious pain and suffering, loss of quality of life, and otherwise incurred and continues to incur losses and expenses."[20] Parde demanded $250,000 in damages from his doctor. Thus, ALEC's leader was asking for access to the very same things that his organization is trying to limit for everyone else.

Health Care Reform

Most recently, ALEC has been working with the health insurance industry to craft and push model legislation in the states aimed at killing health care reform passed by the U.S. Congress. The "tenther" legislation claims that Congress' health care reform legislation is unconstitutional under the Tenth Amendment. Of course, ALEC did not write this "Freedom of Choice in Health Care Act" on its own. Christina Herrera, the director of ALEC's Health and Human Services Task Force, admitted that Blue Cross Blue Shield executive Joan Gardner helped craft the legislation and brought "great knowledge" to the issue.[21] Thus far, legislation to nullify federal health care reform has been introduced in 29 states.[22] Gardner is one of three private sector members of the Executive Committee of ALEC's Health and Human Services Task Force. The others are executives at Johnson & Johnson and the Pharmaceutical Research and Manufacturers of America (PhRMA).[23]

ALEC and Asbestos

As a case example of how ALEC operates, look no further than one of the most toxic special interests of the 20th century: the asbestos industry.

In fact, ALEC's commitment in this example is less to an industry as a whole, and more focused on one particular company: Crown Holdings, Inc.

In 1963, the company then known as Crown, Cork & Seal – inventors of the bottle cap – bought a smaller company called Mundet Cork, a manufacturer of asbestos insulation in 1963. Mundet Cork was part of an industry that had produced asbestos for decades despite knowing of its deadly effects. Knowledge of asbestos's dangers had been known throughout the industry for decades. In 1958, one corporate executive wrote in a memo, "just as certain as death and taxes… if you inhale asbestos dust you get asbestosis."[24] The industry kept the dangers of asbestos as secret as possible, but asbestos-related lung disease was well documented in the early 1900s, the link to lung cancer established by the 1940s, and mesothelioma in the 1950s. Indeed, asbestos claims were pending against Mundet Cork at the time it was acquired by Crown, Cork & Seal.[25]

This was not news to Crown, but the claims were covered by insurance and Mundet still presented good value, so Crown bought Mundet. Indeed, it continued to produce asbestos for some time.[26]

Today, Crown is a large and successful multinational corporation with 28,000 employees and over $8 billion in sales annually.[27] The thriving company enjoyed $1.2 billion in profits in 2008.[28] And, according to papers Crown has filed with the SEC, the company believes claims from those sickened by asbestos will have no material adverse affect on the corporation.[29] The money Crown sets aside for asbestos claims is less than one percent of its revenue.[30] These claims do not threaten Crown. Its motive for trying to end asbestos claims against it was not borne out of any concern other than adding to its profits.

The workers, on the other hand, have not fared so well. Thousands of workers exposed to Mundet's asbestos products are dying from mesothelioma and other asbestos-related diseases, because no precautions were ever taken to protect them or warn them of the risks they faced just by reporting to work every day.

Under the law, Crown had indeed willfully bought Mundet with knowledge of the future asbestos claims. And although Crown Cork assumed responsibility for future liabilities when it purchased Mundet Cork, it decided to ask state legislatures to allow it to renege on its contractual obligation by changing the law itself.

That is where ALEC came in. If you cannot win on a level playing field, ALEC can tip the field. In this case, ALEC began a campaign to persuade state legislatures to cap the liability companies face when they acquire the assets of another company.

The legislation was sometimes slipped into larger bills, where they would not be open for debate. It capped the liability of corporations to an amount equal to the assets of the acquired company at the time of acquisition. This cap, unadjusted for inflation or the subsequent growth of any assets, applied no matter how many workers, customers, or bystanders were sickened or killed by the asbestos. This provision was the key to the bill's effectiveness in ending claims. In 1963, when Crown bought Mundet, gas was 29 cents a gallon, and the average cost of a new home was less than $13,000. In 1963, Crown's profits were $4.9 million, but by 2008 their profits had grown by more than 24,000 percent to $1.2 billion.[31] Just as the cost of gas has increased, so has the value of assets acquired. But the bill capped them at their low 1963 value.

Asbestos-related diseases can take years, even decades, to manifest after exposure. Thousands of Mundet employees had inhaled the deadly fibers at the time of the Crown acquisition, but relatively few had filed claims over the deadly time-bombs in their chests, which were, in effect, installed by Mundet. As the employees got sicker and medical bills piled up, Crown got more aggressive in denying responsibility. The immediate effect of the legislation is to effectively bar claims from those sickened by asbestos and the families of those who have already died. In fact, the legislation retroactively bars claims from those who filed timely claims under existing laws. Asbestos victims would be left without recourse to justice and no way to cover medical expenses.

This so-called "successor immunity" has all the hallmarks of an ALEC special interest bill. It is plainly designed not with public policy in mind, but rather a specific industry (or in this case, a specific company). There is no suggestion that all companies that produced toxic materials, or any dangerous and defective product for that matter, should receive immunity from liability – just asbestos, arguably one of the worst health hazards ever inflicted on the American public. The public policy effect would, in fact, be to transfer the burden of caring for the sick and dying victims of asbestos onto taxpayers and state governments.

ALEC's pitch to state legislators has been that the dangers of asbestos were unknown in 1963, that Crown only owned Mundet for a short time, and that holding it liable will endanger its financial health and cause it to shut down facilities and lay off current workers. The truth, however, is that the dangers of asbestos were indeed widely known at the time of Crown's purchase, they benefited financially from Mundet's assets, and that Crown is not even a very frequent defendant in asbestos claims and faces liability that is barely a drop in the ocean of its huge assets.

But none of this matters. Whether the legislation makes good public policy, or is in fact a special interest giveaway that will cause serious grief for thousands of ordinary Americans, does not matter. Because, as with all ALEC does, this legislation will not live or die by its merits, but by the influence of ALEC and its many corporate members.

Through its special-interest panels, ALEC persuaded legislators in several states to do Crown's bidding. Legislation providing Crown with immunity was enacted in Florida, Georgia, Indiana, Mississippi, Nebraska, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Texas and Wisconsin. Similar legislation was introduced in several states including Illinois, Louisiana, Michigan, Minnesota, Missouri, New York, Virginia, Washington, and West Virginia.

The Nexus of Special Interests: Shook, Hardy & Bacon

ALEC does not operate alone, rather it teams with a vast array of allied corporate fronts, phony grassroots groups, and "think tanks."[32] However, at the nexus where special interests meet state legislators lies one entity: the law firm Shook, Hardy & Bacon.

For decades, Shook, Hardy & Bacon has represented some of the nation's largest tobacco companies, including Philip Morris (now known as Altria). The firm played a pivotal role in the tobacco industry's campaign to ward off litigation over smoking-related illnesses. In one memorable memo, the law firm's attorneys advised Philip Morris to stop testing the effects of nicotine, saying, "the performing and publishing of nicotine related research clearly seems ill-advised from a litigation point of view."[33]

Not coincidentally, ALEC was heavily involved in the tobacco fight, pushing for restrictions on tobacco litigation and attacking pension funds that dared to disinvest in tobacco companies, while being compensated to the tune of $200,000 per company for its work.[34] Similarly, when Shook, Hardy & Bacon began representing the pharmaceutical industry, ALEC was suddenly every drug manufacturer's best friend.

For Shook, Hardy & Bacon, the point men are attorneys Victor Schwartz and Mark Behrens. Schwartz is one of the most influential tort scholars in the United States. Behrens is less well known, but equally influential. Both are partners at Shook Hardy & Bacon and serve in a variety of roles for ALEC, the American Tort Reform Association (ATRA), and the conservative Washington Legal Foundation. When ALEC is described as "ghostwriting the law," Schwartz and Behrens are the ghosts.

Schwartz is the show pony of the tort reform community, and Mark Behrens is the work horse. Schwartz is the one reporters turn to when they need a pithy quote. Behrens travels incognito to Bismarck, North Dakota.

In January 2009, Behrens made the trip to Bismarck with another Shook, Hardy & Bacon attorney, Corey Schaecher.[35] Schaecher circulated throughout the North Dakota capitol for days, speaking with legislators and their staff about ALEC's asbestos bill, the Innocent Successor Liability Act, all without registering as a lobbyist with the North Dakota Secretary of State. Perhaps this could have been passed off as an oversight by an inexperienced lobbyist. But Behrens, a veteran in the state legislative process, had also failed to register.

ALEC's model legislation on asbestos successor liability was introduced on January 15, as House Bill 1430, a bill to limit the liability of successor corporations for asbestos-related claims. This was at least three days after Schaecher was known to have been lobbying legislators. He and Behrens did not officially register as lobbyists for Crown until January 23, the same day ALEC submitted letters of authorization to the secretary of state's office permitting Behrens and Schaecher to lobby on its behalf.[36] Then, on January 27, Behrens testified before the North Dakota House Judiciary Committee in support of the legislation. The next day ALEC threw a party for legislators so that they could "learn about America's premier legislative organization – dedicated to limited government, free markets & federalism," with invitations left on their desks and circulated by email.[37]

The efforts extended by ALEC, Crown, Behrens, and Schaecher in North Dakota are exceptional considering they took place 12 years after Crown stopped doing business in the state. Crown had a short history operating in North Dakota. Its corporate registration with the secretary of state was filed on March 10, 1994,[38] and its application to stop doing business in North Dakota was filed just three and a half years later on October 24, 1997.[39]

Even though the bill was targeting a company that had not conducted business operations in the state for over a decade, and even though the National Federation of Independent Business (NFIB) said the bill was "not of any immediate concern to North Dakota's small businesses,"[40] the North Dakota Legislative Assembly passed the bill.

A similar bill introduced in Virginia, where Crown employs approximately 300 people, did not fare so well. The Crown successor liability bill was introduced in the Virginia House of Delegates in early 2010 by Del. Terry Kilgore (an ALEC member) on behalf of House Speaker William J. Howell, ALEC's 2009 national chairman. Crown has contributed $8,000 to Howell's political action committee since 2008, contributed over $100,000 to legislators in Virginia, and spent over $100,000 on lobbying in the state since 2007.[41]

The bill passed 49-48 in the House of Delegates, but faced an uphill challenge in the Senate Commerce and Labor Committee. Crown's general counsel, William Gallagher, testified at a hearing that "Crown would have no way of knowing" the extent of its asbestos liability from the outset, prompting Committee Chairman Richard Saslaw to respond, "You didn't just arrive here from Mars."[42] The bill was easily defeated in the Senate.

ALEC Says: "We Don't Lobby"

For an organization that is so intimately involved in drafting legislation and interacting with state legislators, it is surprising that ALEC denies being a lobbying group. As a charitable organization registered with the IRS 501(c)3 exempt status, ALEC must abide by strict guidelines.

The IRS says that no organization may qualify for section 501(c)3 status if a substantial part of its activities consist of attempting to influence legislation, commonly known as lobbying.[43] ALEC's interaction with legislators and legislation would seem to disqualify the group from 501(c)3 exempt status. However, ALEC is quick to deny that they violate their tax status. According to former spokesperson Bob Adams, "We don't lobby. We don't introduce legislation at the state level. We just don't do that. We educate people and inform ideas…We are a tool for state legislators."[44]

The IRS strictly regulates donations to charities. Groups that are registered as 501(c)3s are considered charities and contributions made to them are tax deductible for the donors. However, with this unique status come limitations on the ability of the organization to lobby or electioneer. The IRS has designated other nonprofit statuses for advocacy groups wishing to lobby and have more influence than 501(c)3 status allows. Contributions to these other types of 501(c) groups are not tax deductible.

According to the IRS, "an organization will be regarded as attempting to influence legislation if it contacts, or urges the public to contact, members or employees of a legislative body for the purpose of proposing, supporting, or opposing legislation, or if the organization advocates the adoption or rejection of legislation." This definition appears to fit ALEC's actions.

Yet the IRS also defines advocacy that is not considered lobbying by stating that "organizations may… involve themselves in issues of public policy without the activity being considered as lobbying. For example, organizations may conduct educational meetings, prepare and distribute educational materials, or otherwise consider public policy issues in an education manner without jeopardizing their tax exempt status."

ALEC clearly straddles these definitions. In one regard, it is highly involved in influencing the development of legislation favorable to member corporations and facilitating contact between corporate representatives and state legislators. On the other hand, ALEC adamantly denies being lobbyists and may distance themselves from lobbying just enough to escape lobbyist classification. The organization does not lobby the federal government. And there are certainly vast differences between state laws on lobbying. In its 990s filed annually with the IRS, ALEC reports that it does not engage in lobbying activity.

So why does ALEC go to such great lengths to bring titans of the corporate world together with political leaders, but refuse to allow any lobbying to take place? ALEC's careful parameters for defining what it does are likely based on ethics laws regulating legislators' affiliations with lobbying groups and travel expenses associated with attending lobbyist functions. If ALEC facilitated lobbying at its meetings, most lawmakers would not be able to use public funds to travel to events. If legislators cannot attend ALEC meetings, then they cannot interact with corporate interests, which is ALEC's sole purpose.[45]

So what does this mean for Mark Behrens and Corey Schaecher, who registered as lobbyists for ALEC in North Dakota on January 23, 2009? According to the National Institute on Money in State Politics, this is the only instance in which ALEC has ever registered to lobby in any state.[46] It is known that Schaecher was interacting with North Dakota legislative members and their staffs for days without registering with the state's secretary of state. In fact, ALEC did not send letters of authorization for Schaecher and Behrens to lobby on ALEC's behalf to the secretary of state until a few hours after a blog post was published detailing their activity in Bismarck in the second half of January.[47]

ALEC's explanation of its lobbying activities in North Dakota will not be known until the organization files its 2009 tax return. ALEC has not declared any lobbying in past returns. If there is no mention of lobbying in the next return, it begs the question: has ALEC been lobbying all along but failed to report it?

Conclusion

Even in the world of politics, few know anything about ALEC or realize just how insidious its reach into lawmaking has become. Every few years, an author or organization raises a red flag, and for a brief time there is shock and outrage at the corporate takeover of our state legislatures. And each time, ALEC merely lays low and waits until everyone forgets, then invites another batch of lawmakers to a golf tournament with CEOs.

In fact, the greatest threat to ALEC may not be from other groups warning of the organization's power, but from within. Despite the nominal membership fee, ALEC appears to be experiencing a decline in its state legislator membership.[48]

ALEC also began hemorrhaging employees in 2006, shortly after Lori Roman took the reigns as ALEC's executive director. In the 18 months following Roman's arrival, ALEC turned over nearly 75 percent of its staff. Reports from departed staff members described "a work environment that grew hostile and 'toxic'" after Roman came on board.[49]

Roman's short tenure as executive director ended in February 2008, but the tumult at the organization did not. Her replacement, Alan Smith, was abruptly fired in December 2009.

Corporate contributors, including the wealthy oil and pharmaceutical industries, reportedly became dissatisfied with the organization, and began reconsidering their contributions.[50] Sure enough, in recent weeks budget problems forced the cancellation of the corporate task force meetings.[51]

It is probably too optimistic to believe that ALEC has abandoned their cynical campaign to buy the laws they want. But maybe, in an era where CEOs have been known to give back their million dollar bonuses and have finally begun to acknowledge that corporations must be responsible too, ALEC and its supporters are at least rethinking their strategy.

Appendix

ALEC Private Sector Board Members - 2010

Jim Epperson, Jr., AT&T Services, Inc., National Chairman

W. Preston Baldwin, UST Public Affairs, First Vice Chairman

Pat Thomas, UPS, Second Vice Chairman

Sandy Oliver, Bayer Corporation, Treasurer

John Del Giorno, GlaxoSmithKline, Secretary

Jerry Watson, American Bail Coalition, Immediate Past Chairman

Sano Blocker, Energy Future Holdings

Bernie McKay, Intuit, Inc.

Don Bohn, Johnson & Johnson

Mike Morgan, Koch Industries, Inc.

Jeff Bond, PhRMA

Kevin Murphy, ExxonMobil

Raymond Bracy, Wal-Mart

David Powers, Reynolds American Inc.

Derek Crawford, Kraft Foods, Inc.

Ron Scheberle, Chairman Emeritus

Matt Echols, The Coca-Cola Company

William Smith

Ken Lane, DIAGEO

Russell Smoldon, Salt River Project

Kelly Mader, Peabody Energy

Toby Spangler, Altria Client Services, Inc.

Bob McAdam, Darden Restaurants, Inc.

Roland Spies, State Farm Insurance Companies

Companies and Groups Known to Have Been ALEC Members

- Abbot Laboratories
- Air Transport Association of America
- Alliant Utilities -Interstate Power Company
- American Council of Life Insurance
- American Express Company
- American Plastics Council
- American Stores-Jewel/OSCO
- American Trucking Association
- Amoco Corporation
- Amway Corporation
- ARCO
- Arthur Anderson
- Arizona Public Service
- Associated Beer Distributors of Illinois
- Bank of America
- Baxter Healthcare Corporation
- Bayer Corporation
- Bell Atlantic PA
- BellSouth
- Blue Cross & Blue Shield Association
- Blue Cross Blue Shield of Texas
- The Boeing Company
- BP America, Inc.
- Caliber System, Inc.
- Cargill, Inc.
- Caterpillar, Inc.
- Chevron Corporation
- Chlorine Chemistry Council
- Chrysler Corporation
- Cigar Association of America, Inc.
- Commonwealth Edison Company
- Coors Brewing Company
- Deere & Company
- Distilled Spirits Council
- DuPont
- Electricity Consumers Research Council
- Enron Corporation
- Environmental Management Corporation
- Exxon Corporation
- Fidelity Investments
- Fruit of the Loom
- Gaylord Container
- GEICO
- General Motors Corporation
- George K. Baum & Company
- Glaxco Wellcome Inc.
- Grocery Manufacturers of America
- GTE Corporation
- Harris Trust and Savings Bank
- Hoffman-La Roche, Inc.
- Illinois Corn Marketing Board
- Illinois Energy Association
- Illinois Financial Services Association
- Illinois Petroleum Council
- Illinois Power Company
- Illinois Retail Merchants Association
- Illinois State Medical Society
- Inland Steel Industries
- International Game Technology
- International Paper
- Joseph E. Seagram & Sons Inc.
- LaSalle National Bank
- Logix Solutions, Inc.
- McDonalds Corporation
- MEGA Life & Health Insurance
- Microsoft Corporation
- MidAmerican Energy Company
- Miller Brewing Company
- Motorola, Inc.
- Mt. Carmel Public Utility Company
- National Association of Bail Insurance Companies
- National Beer Wholesalers Association
- National Pork Producers Association
- National Rifle Association
- Novartis
- Peoples Energy Corporation
- Pfizer Inc.
- Pharmaceutical Research & Manufacturers of America (PhRMA)
- Pharmacia & Upjohn
- Philip Morris Corporation
- Phillips Petroleum Company
- Rhone-Poulenc Rorer
- R.J. Reynolds Tobacco Company
- R.R. Donnelley & Sons
- Sara Lee Corporation
- SBC Communications
- Sprint / United Telephone Company of Texas
- State Farm Insurance Companies
- Steel Recycling Institute
- Texaco Inc.
- Tobacco Institute
- Union Pacific Corporation
- United Airlines
- U.S. Generating Company
- US West, Inc.
- UST Public Affairs Inc.
- Wackenhut Corrections
- Washington Times
- Wausau Insurance Companies
- Wyeth-Ayerst Laboratories
- Zurich Insurance [52]

Public Sector Board - 2010

National Chairman Rep. Tom Craddick, Texas
Republican

First Vice Chairman Rep. Noble Ellington, Louisiana
Democrat

Second Vice Chairman Rep. Dave Frizzell, Indiana
Republican

Treasurer Rep. Phil Montgomery, Wisconsin
Republican

Secretary Rep. John Piscopo, Connecticut
Republican

Immediate Past Chair Spkr. Bill Howell, Virginia
Republican

Rep. Liston Barfield, South Carolina
Republican

Sen. Curt Bramble, Utah
Republican

Rep. Harold Brubaker, North Carolina
Republican

Sen. Bob Burns, Arizona
Republican

Sen. Jane Cunningham, Missouri
Republican

Sen. Steve Faris, Arkansas
Democrat

Rep. Bill Hamzy, Connecticut
Republican

Sen. Billy Hewes III, Mississippi
Republican

Sen. Owen Johnson, New York
Republican

Rep. Steve McDaniel, Tennessee
Republican

Rep. Dolores Mertz, Iowa
Democrat

Sen. Bill Raggio, Nevada
Republican

Sen. Dean Rhoades, Nevada
Republican

Sen. Val Stevens, Washington
Republican

Rep. Curry Todd, Tennessee
Republican

Rep. Linda Upmeyer, Iowa
Republican

Sen. Susan Wagle, Kansas
Republican

Of the 23 members of the public sector board, only three are Democrats.

State Chairmen - 2010

Alabama
Rep. Mary Sue McClurkin *Republican*

Alaska
Sen. Lesil L. McGuire *Republican*

Arizona
Sen. Robert L. Burns *Republican*

Arkansas
Sen. Barbara B. Horn *Democrat*
Rep. Roy C. Ragland *Republican*

California
Assb. Joel C. Anderson *Republican*

Colorado
Sen. Bill L. Cadman *Republican*
Rep. Don W. Marostica *Republican*

Connecticut
Rep. John A. Harkins *Republican*

Delaware
Rep. Pam J. Thornburg *Republican*

Florida
Rep. Jimmy T. Patronis *Republican*

Georgia
Rep. Calvin Hill, Jr. *Republican*
Sen. John J. Wiles *Republican*

Idaho
Rep. Jim Clark *Republican*

Illinois
Sen. Kirk W. Dillard *Republican*
Rep. Renée Kosel *Republican*

Indiana
Sen. Jim Buck *Republican*
Rep. David A. Wolkins *Republican*

Iowa
Rep. Linda J. Miller *Republican*

Kansas
Rep. Ray Merrick *Republican*

Kentucky
Sen. Tom Buford *Republican*
Rep. Mike Harmon *Republican*

Louisiana
Rep. Noble E. Ellington *Democrat*

Maine
Carol Weston *Republican*

Maryland
Sen. Alexander X. Mooney *Republican*
Del. Nancy R. Stocksdale *Republican*

Michigan
Sen. Jason E. Allen *Republican*
Rep. Tonya Schuitmaker *Republican*

Minnesota
Rep. Laura Brod *Republican*
Sen. Gen Olson *Republican*

Mississippi
Rep. Jim Ellington *Republican*
Sen. Alan Nunnelee *Republican*

Missouri
Rep. Ed G. H. Emery *Republican*

Montana
Rep. Dennis Himmelberger *Republican*

Nebraska
Sen. Abbie Cornett *Republican*

Nevada
Sen. Dennis Nolan *Republican*

State Chairmen - 2010 (Con't)

New Hampshire
Rep. Gary L. Daniels *Republican*

New Jersey
Sen. Steve Oroho *Republican*
Assb. Jay Webber *Republican*

New Mexico
Rep. Paul C. Bandy *Republican*
Sen. Kent L. Cravens *Republican*

North Carolina
Rep. Fred F. Steen *Republican*

North Dakota
Rep. Alan H. Carlson *Republican*
Rep. Blair B. Thoreson *Republican*

Ohio
Rep. John P. Adams *Republican*

Oklahoma
Rep. Gary W. Banz *Republican*
Sen. John W. Ford *Republican*

Oregon
Rep. C. Gene Whisnant *Republican*

Pennsylvania
Rep. Craig A. Dally *Republican*

Rhode Island
Sen. Leo R. Blais *Republican*

South Carolina
Rep. Harry F. Cato *Republican*
Sen. Raymond E. Cleary III *Republican*

South Dakota
Rep. Deb Peters *Republican*
Rep. Valentine B. Rausch *Republican*

Tennessee
Rep. Curry Todd *Republican*

Texas
Rep. Charlie Howard *Republican*
Rep. Jim Jackson *Republican*
Sen. Kel Seliger *Republican*

Utah
Sen. Curtis S. Bramble *Republican*
Sen. Wayne L. Niederhauser *Republican*

Vermont
Sen. Kevin J. Mullin *Republican*
Rep. Patricia A. O'Donnell *Republican*

Virginia
Del. S. Chris Jones *Republican*
Sen. Stephen H. Martin *Republican*

Washington
Sen. Don Benton *Republican*
Rep. Dan Roach *Republican*

West Virginia
Del. Jonathan R. Miller *Republican*
Sen. Michael A. Oliverio II *Democrat*

Wisconsin
Sen. Scott L. Fitzgerald *Republican*
Rep. Michael D. Huebsch *Republican*

Wyoming
Rep. Peter S. Illoway *Republican*
Rep. Lorraine Quarberg *Republican*

Of the 72 filled state chairmen seats, only three are held by Democrats.

Shook, Hardy & Bacon Clients

- American Home Products Corporation
- Applebee's International, Inc.
- Aventis Pharmaceuticals Inc.
- Bank of America, N.A.
- Barkley Evergreen & Partners, Inc.
- Big Twelve Athletic Conference
- British-American Tobacco Company, Ltd.
- Business Men's Assurance Company of America
- Capstar Broadcasting Corporation
- Cargill, Inc.; Conoco Inc.
- Crititech, Inc.
- Deutsche Financial Services Corporation
- Dodson Group
- E.I du Pont de Nemours and Company
- Electric Energy, Inc.
- Eli Lilly and Company
- Farmland Industries, Inc.
- Farmland Insurance Company
- Farmland National Beef Packing, L.P.
- First Union Corporation
- Ford Motor Company
- Fort Dodge Laboratories
- G.D. Searle & Company
- GTE Corporation
- Helzberg Diamonds
- HNTB Corporation
- Interstate Bakeries Corporation
- IPC International Corporation
- Kansas City Royals Baseball Corporation
- Kraft Foods, Inc.
- La Petite Academy, Inc.
- Lorillard Tobacco Company
- Metricom, Inc.
- Miller Brewing Company
- Motorola, Inc.
- Nucentrix Broadband Networks, Inc.
- Orion Refining Corporation
- Pharmacia Corp.
- Philip Morris Companies Inc.
- Phillips Petroleum Company
- PJM Interconnection L.L.C.
- ProQuest Pharmaceuticals, Inc.
- Sanofi-Synthelabo Inc.
- Seaboard Corporation
- Sears
- Roebuck and Co.
- Smith & Wesson Corporation
- St. John's Health System, Inc.
- Tamko Roofing Products, Inc.
- The Oz Entertainment Company
- Tomkins Industries, Inc.
- UMB Bank, N.A.
- Union Pacific Railroad Company
- Vulcan Materials Company
- Warner-Lambert Company
- Wyeth-Ayerst Laboratories Inc. [53]

Endnotes

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