

Minnesota: Sold to the Highest Bidder

The Outsize Influence of Right-wing Conservative Dark Money and ALEC

Imagine This

Instead of attending public schools, schoolchildren attend virtual, for-profit charter schools.

Medicare is privatized and seniors receive a subsidy to purchase private, for-profit medical insurance.

Instead of receiving Social Security, recipients manage their own retirement finances.

You travel on roads and other infrastructure owned and managed by private, for-profit companies.

States outsource the entire management of prisons to private, for-profit companies.

The Reality of a World of Dystopian Privatization

Most schoolchildren would learn less. For hundreds of years, education has been a communal effort, first handled by churches and synagogues, then by local communities. The understood purpose was passing on skills that reflected the community's culture and values. The purpose was not pocketing a profit. A comprehensive study done at Stanford University's Center for Research on Education Outcomes shows that online charter schools significantly underperform traditional public schools.¹ Another study focused on online schools states that "academic benefits from online charter schools are currently the exception rather than the rule."² But fewer credentialed teachers would be needed for online charter schools. If fewer teachers had credentials, they could be paid less. And the for-profit school operators would make a profit at the expense of our schoolchildren.

Privatizing Medicare would result in increased costs for 59% of recipients.³

Retirees managing their own Social Security benefits would lose the guarantee of defined benefits, the type that typically pay a set monthly amount at retirement. And senior citizens—at an age when many face a cognitive decline—would need the capability to actively and competently manage their money, if they have any.

Infrastructure operated by for-profit entities has resulted in increased rates. In Indiana, a contract with a private company managing a toll road allowed for toll increases every year, resulting in tolls that almost doubled in the first 5 years of a 75-year lease.⁴ Some contracts even

¹ <https://credo.stanford.edu/pdfs/OnlineCharterStudyFinal2015.pdf>

² <https://credo.stanford.edu/pdfs/OnlineCharterStudyFinal2015.pdf>

³ <https://kaiserfamilyfoundation.files.wordpress.com/2013/01/8373.pdf>

⁴ <http://www.pfaw.org/report/predatory-privatization-exploiting-financial-hardship-enriching-the-1-undermining-democracy/>

stipulate that governments can't build or maintain nearby roads, as that would be competition for the private toll roads.

Privately managed prisons are motivated to fill up to capacity as they try to maximize profits with more inmates. Private prisons lose money if they aren't full, which gives them an incentive to have more people arrested. Arizona's notorious anti-immigrant bill was supported by private prison companies—arresting immigrants is a good source of profit for these prisons. Evidence shows private prisons actually cost states more than state-run prisons.⁵ The United States already has the highest imprisonment rate—by far—of any developed nation.

It isn't just prisons that cost more to operate if privatized. Outsourcing work to contractors just costs governments *more* in general.⁶ But that's not because the private corporations are paying their employees better. In fact, these corporations increase their profits further by cutting pay and benefits to employees. Another way to ratchet up the profits is to hire people with fewer qualifications so they can be paid less. Oversight and accountability become additional victims when public services are privatized.

This dystopian world of privatization is the dream of some. With such obvious shortcomings, why is there a push for privatization? While the profit motive for companies is clear, it is less clear why elected officials go along with this idea—until you realize that the politicians are receiving donations from corporate advocates of privatization.

How Corporate Interests Control National Policy to Society's Detriment

The privatization that has become increasingly common across states is a result of the outsized power that one constituency—business—has to influence legislation. But businesses, whose primary motive is profit, don't necessarily consider the societal costs of their actions. Do we really want businesses, whose overriding interest is monetary gain, to be running our schools? It is disquieting when corporations or other organizations are able to curtail civil rights within a state. And when businesses are able to pollute the environment without consideration of the costs to public health, not only current but future generations will suffer the consequences. We need a society that benefits the majority, not just a few wealthy individuals and corporations.

This phenomenon—the enormous power of one constituency—is playing out in two different but related ways. A national organization, called the American Legislative Exchange Council, commonly referred to as ALEC, has had a huge impact on laws passed within the states. Its impact comes from writing "model" legislation, which is then given to lawmakers who sponsor it. This has resulted in nearly identical bills being passed in many different states.

Preemption is the other way local policy is being affected by outside interests. Preemption occurs when laws are passed at the state level—often with input from ALEC— which prevent cities from enacting their own ordinances or laws. In other words, local laws are preempted by state laws. Preemption laws are usually the result of conservative state legislators acting to rein in progressive cities which are trying to solve problems not being addressed at the state or national level. One example is the attempts of cities to address low, non-living wages by passing

⁵ <https://www.nytimes.com/2011/05/19/us/19prisons.html>

⁶ <http://www.nytimes.com/2011/09/13/us/13contractor.html>

laws that increase the minimum wage. Republican-led state legislatures have thwarted these attempts by passing laws that prevent cities from passing their own minimum wage laws.

About ALEC

Through its model legislation, ALEC promotes very conservative and pro-business causes. It's been compared to a dating service for legislators and corporations because it matches up fully-written legislation with legislators willing to sponsor the bills.⁷

Although ALEC claims to be bipartisan, the vast majority of legislative members are Republicans. Legislation written by ALEC seeks to increase business profits, weaken environmental protections and privatize public entities such as schools, prisons and other infrastructure. Other legislation promotes very conservative social causes.

Most of its funding comes from corporations, trade associations and the foundations of very wealthy individuals. Entities controlled by the Koch brothers have been major donors, but many other right-wing groups also give substantial amounts⁸. The Koch brothers, with a combined net worth of about \$97 billion, have long sought to weaken (or eliminate) the social safety net, weaken labor laws, promote denial of climate change and weaken regulation of industry.^{9 10}

ALEC is very secretive. ALEC does not reveal its members, either corporate or legislative. Many legislators will not even acknowledge their membership or that they are sponsoring legislation that came from ALEC. Some legislators are known to be members of ALEC only because of information that has been leaked to the press or to groups such as Common Cause. According to the ALEC website, "a quarter of state legislators, one-fifth of the U.S. Congress, and seven sitting governors" are members of ALEC.¹¹ With 7,383 state legislators nationwide, this works out to nearly 2000 ALEC members in state houses.

Since legislators generally don't admit to sponsoring legislation provided by outside organizations, it can be difficult to know when this is occurring. Sometimes it becomes apparent that bills were generated from a template when bills with very similar language—too similar to be coincidental—are found in different states. Occasionally, legislators are outed as being members of ALEC when failing to remove some of the boilerplate language in legislation that identifies ALEC as the true author of the bill.

ALEC is registered as a 501 (c)(3) organization, the designation for a tax-exempt charitable organization with the IRS. Such organizations are not permitted to lobby. However, the activities of ALEC are the very essence of lobbying. ALEC puts on conferences where business and legislative members hash out details of bills. In some states, lawmakers have used taxpayer money to attend the ALEC conferences, which are held at high-end resorts. Activities for spouses and childcare are perks for attendees. Not only does ALEC pay for these boondoggles,

⁷ <https://www.npr.org/2013/12/10/249956329/how-alec-serves-as-a-dating-service-for-politicians-and-corporations>

⁸ <https://www.prwatch.org/news/2011/07/10887/cmd-special-report-alecs-funding-and-spending>

⁹ https://www.alecexposed.org/wiki/ALEC_Exposed

¹⁰ https://ipfs.io/ipfs/QmXoypijzjW3WknFjInKLwHCnL72vedxjQkDDPlmXWo6uco/wiki/American_Legislative_Exchange_Council.html

¹¹ <https://www.alec.org/membership/>

lawmakers often don't disclose these gifts to their constituents. Because of ALEC's tax-exempt status, taxpayers are effectively subsidizing its lobbying activities.

A former Republican state senator from New Jersey, William Schluter, said about ALEC, "When you get right down to it, this is not different from lobbying. It is lobbying... Any kind of large organization that adds to public policy or has initiatives involving public policy should be disclosed—not only their name, but who is backing them."¹²

The vision of ALEC is to privatize almost all functions of government with the exception of national security. As mentioned in the introduction, eliminating public education, infrastructure, Medicare, Social Security and government-run prisons are goals of ALEC. Here is a sampling of what ALEC bills have done to further this vision:

- Limit consumer and worker rights
- Help protect businesses against lawsuits
- Privatize public water and sewer systems
- Weaken unions
- Weaken environmental laws
- Limit or prevent local governments from regulating pollutants and pesticides
- Eliminate taxes such as the estate and capital gains taxes
- Require identification to vote and other voter suppression measures
- Enact state laws to preempt local laws
- Promote "stand your ground" gun laws

ALEC Laws in Minnesota

Minnesota has not been immune from ALEC-sponsored legislation. When former Rep. Steve Gottwalt (R-St. Cloud) was sponsoring a health care bill in 2012, he claimed "This bill is my bill." Yet papers he had distributed to House members contained the ALEC logo and the bill itself exactly matched ALEC legislation. Later, Rep. Gottwalt stated that a coalition of states wrote his bill, which ALEC then adopted.¹³ But ALEC bills don't start in states; they start with ALEC corporate and legislative members, and once approved, are given to legislators.

In 2011, Rep. Mary Kiffmeyer (R-Big Lake), now in the state Senate (SD-30), sponsored a voter ID bill nearly identical to the ALEC Voter ID bill.

Governor Mark Dayton vetoed seven bills that came from ALEC in 2012. One was a voter ID bill and one was a "stand your ground" bill which creates a legal defense for someone charged with gun violence, such as that which enabled the killer of Trayvon Martin in Florida to be acquitted. The other five would have made it harder for individuals to sue corporations in cases of corporate wrongdoing.¹⁴

According to the Center for Media and Democracy, in 2015, a Virtual Schools Act was introduced in Minnesota and other states which would have resulted in public money being

¹² http://www.nj.com/news/index.ssf/2012/04/alec_model_bills_used_in_nj_la.html

¹³ <http://video.startribune.com/alec-s-influence-on-legislature-debated/148977075>

¹⁴ <http://theuptake.org/2012/02/11/mn-governor-vetos-alec-template-bills/>

funneled to for-profit online schools. However, long before this, ALEC has been trying to weaken public education by promoting charters and vouchers.¹⁵

The appendix to this paper contains a more comprehensive list of ALEC legislation introduced in Minnesota. Because a huge trove of information about ALEC was leaked in 2011, knowledge of ALEC legislation around that time is quite extensive.

Preemption

The wages of the vast majority of workers in the U.S. have remained flat in terms of buying power since the 1970s. Yet worker productivity has steadily increased over that same time period. If the minimum wage had kept pace with this increased productivity, it would be about \$18/hour, according to the Economic Policy Institute.¹⁶ Meanwhile, executive pay has exploded, with CEOs now earning around 270 times the pay of the average worker. As a comparison, in the mid-1960s, CEOs were earning just 20 times that of an average worker.¹⁷

Stagnant wages have hit residents of metropolitan areas especially hard because of the significantly higher cost of living in urban areas. With inaction at the state and national level, local officials have sought to find their own remedies. This has included laws that mandate higher minimum wages, paid sick leave and more regular work schedules. However, these efforts are being thwarted by preemption laws passed at the state level to specifically prevent municipalities from passing laws aiding the workers and citizens of a locality.

State preemption laws are overwhelmingly sponsored by Republican politicians to rein in progressive local leaders. Proponents of preemption laws state that increased minimum wages will reduce job growth. Such claims have been debunked by many sources including the White House Council of Economic Advisors. Another study examined neighboring counties in different states, where one county had a higher minimum wage. It found that job growth rates were essentially the same.¹⁸ Conservatives often state their desire to limit the role of government, and yet it is conservatives who want to use preemption to insert state government into local affairs.

In Minnesota, a preemption bill pertaining to paid sick leave made it to Governor Dayton's desk in 2017. This bill was introduced by Pat Garofalo, a co-chair of the Minnesota state ALEC group. Although this bill was vetoed by Governor Dayton, it would have preempted ordinances passed both in Minneapolis and St. Paul that gave workers paid sick leave.

Preemption laws prevent cities from much more than raising the minimum wage and requiring employers to offer paid sick days. Around the country, preemption laws have also prevented cities from the following:

- Enacting local bans on fracking
- Protecting the civil rights of the LGBT and other marginalized communities

¹⁵ <https://www.prwatch.org/news/2016/03/13054/cashing-kids-172-alec-education-bills-2015>

¹⁶ <http://www.epi.org/publication/charting-wage-stagnation/>

¹⁷ <http://www.epi.org/publication/ceo-pay-remains-high-relative-to-the-pay-of-typical-workers-and-high-wage-earners/>

¹⁸ <http://www.nelp.org/publication/fighting-preemption-local-minimum-wage-laws/>

- Prohibiting discrimination by businesses on religious grounds
- Enacting restrictions on tobacco use
- Enacting local gun controls
- Banning plastic bags
- “Banning the box”, which refers to a civil rights initiative to prevent employers from asking job applicants about criminal records
- Creating municipal broadband

Because conservatives are so tightly aligned with corporate interests, preemption laws essentially enable corporate interference in local affairs, and can be considered anti-democratic. A list of some of preemption bills introduced in the Minnesota state legislature in recent years is in the appendix.

Conclusion

A community is composed of many different constituencies: its citizens, neighborhood groups, businesses, congregations, schools, and other public services. The needs and desires of all must be balanced, even though there are sometimes competing demands and obligations. Eleanor Roosevelt wrote that “America is not a pile of luxury goods and more comforts, but rather is a dream of greater justice and opportunity for the average person. If we do not attain this, all of our accomplishments will amount to nothing.”¹⁹

Eleanor Roosevelt's vision of America is not shared by Republicans and their donors who want a society that is yet more skewed towards corporations and the already very wealthy. This is not good for society as a whole—which should be representing the needs of all people—nor is it good for our democracy. When too much power is concentrated in the hands of a few, it weakens the normal checks and balances that a society needs to function equitably. The state of Minnesota has a proud history of independence, and we should demand that our legislators represent all of our constituencies.

In a time of decreased social mobility and increased income inequality, do we really want laws—written by outsiders—that are tilted strongly in favor of businesses and against workers? Legislators should be representing the interest of all members of their community, not just a special few. However, the secrecy and lack of transparency, as exemplified by ALEC and its legislator members, prevents the public from knowing whose interests their legislators are actually representing. Anybody who cares about accountability, cost-effective management of public entities and services, and equitable outcomes must ask Republican candidates for office where they stand on these issues.

¹⁹ From Eleanor Roosevelt's syndicated column, called My Day, on January 6, 1941.

Appendix: ALEC and Preemption Bills Introduced in Minnesota

In 2011, hundreds of ALEC model bills were leaked to the Center for Media and Democracy. That is why more is known about ALEC legislation from that time than in some other years. The public interest group Common Cause found over 60 ALEC bills that were introduced in the Minnesota legislature in a 2-year period around 2011. The alexexposed.org site for Minnesota lists more than 27 ALEC bills introduced in Minnesota for the year 2011. Here is a partial list of ALEC bills introduced in our state legislature.

2010

- Legislation was proposed that would have required local law enforcement to enforce federal immigration laws and require immigrants to carry immigration documents. This would have opened the door to racial profiling. Portions of this bill came from the Arizona anti-immigrant bill (SB 1070) which was written for the Corrections Corporation of America, which is an ALEC corporate member. HF 3830 was sponsored by Republican Rep. Drazkowski, a member of ALEC. It died in committee.

2011

- Legislation was proposed to make it more difficult for the state to rescind tax breaks already given to corporations. This would have amended the state constitution to require 60% approval to enact laws that raise taxes. HF 1598/SF 1384 are similar to the ALEC bill "Super-Majority Act" and both the House and Senate versions were sponsored by Republicans. It died in committee.
- Measures were proposed that would have effectively blocked investigation of agricultural facilities for lax sanitation practices or mistreatment of animals. It was based on the ALEC bill "Animal and Ecological Terrorism Act". HF 1369 and SF 1118 were sponsored by Republicans but did not have any hearings.
- Legislation was introduced that would have required police to request the immigration status of anyone arrested for a felony. This legislation was designed to help private prisons fill up by targeting undocumented immigrants. Since the state pays these costs, it is ultimately the taxpayers of Minnesota who would have paid. The Minnesota bill was related to ALEC bill "No Sanctuary Cities for Illegal Immigrants Act" and Arizona's SB 1070. Sponsored by a Republican, HF 691 died in committee.
- This bill would have prohibited cities and police departments from adopting community policing policies. The goal of community policing is to build relationships in the community so that citizens are willing to work with the police to solve crimes. This bill is also related to ALEC bill "No Sanctuary Cities for Illegal Immigrants Act" and Arizona's SB 1070. Sponsored by a Republican, HF 358 passed in the House. The Senate version died in committee.
- The legislation would have lowered tax rates on moist snuff tobacco, which would have resulted in more people getting hooked on tobacco. This is based on the ALEC legislation "Resolution on the Enhancement of Economic Neutrality, Commercial Efficiency, and Fairness in the Taxation of Moist Smokeless Tobacco (MST) Products." HF1079 was sponsored by Republicans and died in committee.

- Another proposal would have weakened consumer protection laws pertaining to food, denying consumers of tainted food any legal recourse. This bill is similar to ALEC bill "Personal Responsibility in Food Consumption Act". HF 264/SF 160 were sponsored by Republicans, one of whom denies membership in ALEC but says he sponsors ALEC bills. The governor vetoed this bill.
- The innocuously named Parental Rights bill supported an amendment to the U.S. Constitution that would have facilitated the privatization of public schools. ALEC calls its similar bill "Parental Rights Amendment". Sponsored by Republicans, HF 950/SF 570 died in committee.
- This legislation would have enabled corporations to use tax credits to support private schools, which would thus decrease the amount of money going to public schools. HF 1059 and SF 641 were introduced by Republicans. This bill died in committee.
- Voter ID legislation, which was similar to ALEC's "Voter ID Act," was proposed. The chief sponsors of HF 1418/SF1236 in the House and Senate were ALEC members (Republicans Kiffmeyer and Limmer). The bill was vetoed by the governor. Other voter ID acts that Republicans sponsored in 2011, but which did not become law, include HF 89/SF 079, HF 210/SF 509, HF 302/SF 169, HF 1597 and HF 1662.
- One measure would have broadened the circumstances in which someone can legally shoot someone on their property. This is the Castle Doctrine, also known as "stand your ground," and is based on several ALEC bills. Three of the many co-sponsors of the House version of HF 1467/SF 1357 are known members of ALEC. The governor vetoed this bill.
- This bill would have placed limitations on forming a class and filing class action lawsuits. This is based on ALEC's Class Action Improvements Act". HF 211 and SF 149 were sponsored by Republicans, and were vetoed by the governor.

2012

- HF 2127/SF 1528 would have required all students to take one online course to graduate from high school. The bill was later modified to require that the teacher of any such course had to be licensed. This bill did pass after the licensing modification. The chief author of the house version was Republican Pam Myhra, who is a member of ALEC.
- A voter ID bill, HF 2738, was sponsored by Republican Rep. Mary Kiffmeyer, who is a member of ALEC. When this ballot initiative was put to the voters of Minnesota, it was defeated.

2015

- A minimum wage preemption bill was introduced by Republican Rep. Tony Albright. HF 1241 died in committee.
- The Student Achievement Backpack would have enabled access to student data by an "authorized local education agency." This bill pertained to students from kindergarten to twelfth grade. HF 1990 died in committee.

2017

- Anti-protesting legislation would have increased fines and jail sentences for protesters who block roads or access to airports. This bill was introduced in response to Black Lives Matter protests, and it has been argued that laws already exist to handle protests that get out of hand. This law would have served as a damper on constitutional rights to speech and assembly. HF 390 and SF 676 were sponsored by Republicans. This bill was vetoed by Governor Dayton.
- This measure would have prevented cities that do *not* involve themselves with immigration issues (i.e. sanctuary cities) from getting local government aid from the state. This is a backdoor preemption law, as it doesn't prevent cities from enacting ordinances related to policing, but it prevents them from getting funds from the state if they do. HF 1664 died in committee.
- This bill would enable police to charge protesters for policing costs related to "unlawful assemblies and public nuisances." Some legal experts believe this bill is unconstitutional as it would give the government the power to favor some speech over other speech. HF 322 was sponsored by Republican Zerwas. This was stalled in committee.
- This bill would have provided tax breaks to businesses and individuals who provide scholarships to low-income students at private schools. Dayton referred to these "scholarships" as vouchers, which would have enabled public money to be spent on private and religious schools. Sponsored by Republicans, HF 386 and SF 256 were rolled into HF 4, which was vetoed by Governor Dayton.
- HF 140 would have revamped teacher licensure requirements, making it much easier for teachers to teach indefinitely without a license. The lead sponsor was Republican Sondra Erickson, a member of the ALEC Education Task Force. This bill is similar to an ALEC bill from 2006 called the Alternative Certification Act. Governor Dayton vetoed this bill.
- This bill would have prohibited cities from passing ordinances that would ban or tax paper or plastic bags. Sponsored by Republicans, HF 1504/SF1195 died in committee.
- Other legislation that would have required local law enforcement to enforce federal immigration laws and requires immigrants to carry immigration documents. This would have opened the door to racial profiling. Portions of this bill came from the Arizona anti-immigrant bill (SB 1070) which was written for the Corrections Corporation of America, which is an ALEC corporate member. HF 3830 was sponsored by Republican Rep. Draskowski, a member of ALEC. This bill died in committee.

Sources for Appendix:

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