

Issue: PA Politics

Pennsylvania: Sold to the Highest Bidder

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

Imagine This:

- Instead of attending public schools, children attend virtual, for-profit charter schools.
- Medicare is privatized and seniors receive a subsidy to purchase for-profit medical insurance.
- Instead of receiving Social Security, recipients manage their own retirement finances.
- Private, for-profit companies own and manage critical U.S. infrastructure, such as roads and bridges.
- States outsource the management of prisons to private, for-profit companies.

The Reality of a Dystopian World of Privatization

Most school children would learn less in virtual charter schools. 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, not profit. A Stanford University Center for Research on Education Outcomes study shows that students at online charter schools significantly underperform those attending traditional public schools.¹ The study focused on online schools and states that "academic benefits from online charter schools are currently the exception rather than the rule."² Online charter schools use fewer credentialed teachers, and teachers without credentials can be paid less. For-profit school operators would make a profit at the expense of our school children.

Privatizing Medicare would result in increased costs for 59 percent 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. Senior citizens—at an age when many face cognitive decline—would need the capability to actively and competently manage any money they may have.

Infrastructure projects such as roads and prisons operated by for-profit entities have 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 stipulate that governments cannot build or maintain nearby roads as they would be in competition with the private toll roads.⁵

Privately managed prisons have reason to be filled to capacity as they try to maximize profits; thus they benefit when more people are arrested.⁶ One of the provisions of Arizona's notorious anti-immigrant bill (SB 1070, passed in 2010) required police to ask for immigration papers and allow them to arrest anyone who could not prove they were legally in the country. Private prison companies supported the bill. Evidence shows private prisons actually cost states more than state prisons.^{7,8} The United States has the highest imprisonment rate—by far—of any developed nation.⁹

It isn't just private prisons that cost more. Outsourcing work to contractors costs more in general.¹⁰ That's not because the private corporations are paying their employees more, but because corporations increase their profits by cutting employees' pay and benefits and by hiring less-

qualified people who usually earn less.¹¹ Oversight and accountability become additional victims when public services are privatized.

With such obvious shortcomings, why is there a push for this? 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 in support of it are receiving donations from corporate advocates of privatization.

How Corporate Interests Control National Policy to Society's Detriment

The trend towards privatization comes from the outsized power that one constituency—business—has in influencing legislation. Corporations don't necessarily consider the societal costs of their actions. Do we want businesses, whose overriding goal is profit, running our schools?

Turning public service into private profit is but one disquieting practice. Corporations can work to curtail civil rights. When businesses are able to pollute the environment, the costs—poorer health of the population and a degraded environment—are outsourced to the general public. We need a society that benefits the majority, not just some wealthy individuals and corporations.

This phenomenon—the enormous power of one constituency—plays out in two related ways. First, a national organization, called the American Legislative Exchange Council (commonly referred to as ALEC) has had a huge impact on new state laws. ALEC writes "model" legislation, which is then given to Republican state lawmakers who sponsor it. Nearly identical bills have been enacted in many different states.¹²

Second, outside interests affect local policy through "preemption." Preemption occurs when laws are passed at the state level—often with ALEC's input—to prevent cities from enacting their own ordinances. Preemption laws supported by conservatives often keep progressive cities from trying to solve problems not addressed at the state or national level. For instance, some cities have tried to address non-living wages by passing laws to increase the minimum wage. Republican-led state legislatures thwart these attempts with preemption laws.¹³

About ALEC

ALEC has been compared to a dating service for legislators and corporations: it matches up fully-written legislation with legislators willing to sponsor the bills.¹⁴ Although ALEC claims to be bipartisan, the vast majority of legislative members are Republicans. ALEC-drafted legislation seeks to increase business profits, weaken environmental protections, privatize public entities such as schools, prisons, and infrastructure, such as highways. Other legislation promotes conservative social causes.

Most ALEC funding comes from corporations, trade associations and conservative foundations. Entities controlled by the Koch family have been major donors, but many other right-wing groups also give substantial amounts.¹⁵ (Note: David Koch died in August of 2019.) The Koch family, with a combined net worth of about \$99 billion in June of 2018, has long sought to weaken or eliminate industry regulations—particularly environmental rules, labor laws, and the social safety net.^{16, 17, 18}

ALEC is very secretive. It does not reveal its entire membership, either corporate or legislative. Many legislators will not even acknowledge their membership or that they sponsor ALEC's legislation. Some legislators are known to be members of ALEC because of information leaked to the press or to groups such as Common Cause. (When this Local Majority paper was initially written in 2018, the ALEC website stated then that "a quarter of state legislators, one-fifth of the U.S. Congress, and seven sitting governors" are members.) As this paper is being updated in 2020, the ALEC website claims

that almost a fourth of state legislators are members.¹⁹ 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 hard to know when it happens. Sometimes it's obvious that bills were generated from a template when bills with very similar language appear in different states. Occasionally, legislators are outed when they fail to remove boilerplate language that identifies ALEC as the true author.

ALEC is registered as a 501(c)(3) organization, the IRS designation for a tax-exempt charitable group. These are not allowed to lobby. But ALEC's work is the essence of lobbying. At ALEC conferences, business and legislative members hash out details of bills. Some lawmakers have used taxpayer money to travel to their conferences, which are held at high-end resorts.²⁰ Activities for spouses and childcare are other perks. Not only does ALEC pay for these boondoggles, lawmakers often don't disclose these gifts. Since ALEC is tax-exempt, taxpayers are effectively subsidizing its lobbying.

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."²¹

The vision of ALEC is to privatize almost all functions of government with the exception of national security—in particular, eliminating government's role in public education, infrastructure, Medicare, Social Security, and government-run prisons. Here is a sampling of what ALEC bills have done:

- Limit consumer and worker rights²²
- Help protect businesses against lawsuits²³
- Privatize public water and sewer systems²⁴
- Weaken unions²⁵
- Weaken environmental laws²⁶
- Limit or prevent local governments from regulating pollutants and pesticides²⁷
- Eliminate taxes such as the estate and capital gains taxes^{28, 29}
- Require identification to vote and other voter-suppression measures³⁰
- Enact state laws preempting local laws³¹
- Promote "stand your ground" gun laws³²

ALEC Laws in Pennsylvania

The secretiveness makes it difficult to know definitively which bills come from ALEC. However, in 2011, hundreds of ALEC model bills were leaked to the Center for Media and Democracy. Thus, much more is known about ALEC legislation from that time than in recent years. The alexexposed.org site for Pennsylvania has descriptions of several ALEC bills that were introduced in Pennsylvania in 2011.³³ The topics reflect ALEC's priorities: promoting deregulation, requiring identification to vote, and promoting medical insurance plans which do not meet the requirements of the Affordable Care Act. Sponsors of those ALEC bills who still serve in the House are Seth Grove (HD-196), Tina Picket (HD-110), Daryl Metcalfe (HD-12) and Stan Saylor (HD-94). All four are Republicans. Also, according to the Brookings Institution, a "Castle Doctrine" bill (the permission to use force against an intruder) modeled on ALEC legislation was passed in 2011.³⁴ The Appendix provides a list of Pennsylvania legislators known to be members of ALEC.

Preemption

With inaction at the state and national level on problems facing their constituents, local officials have sought their own remedies, including laws that mandate higher minimum wages, paid sick leave, and more regular work schedules. These efforts are being thwarted by preemption laws passed at the state level which prevent municipalities from passing laws aiding the workers and citizens of a locality. State preemption laws are usually sponsored by Republican politicians to rein in progressive local leaders. Other preemption laws have prevented cities from prohibiting discrimination by businesses on religious grounds and from enacting local bans on fracking.

The ability of cities to pass local ordinances depends on both the state constitution and how cities are governed. Those cities governed by a home rule charter—which is like having its own local constitution—are more easily able to pass local ordinances. Philadelphia and Pittsburgh both have home rule charters, but even so are subjected to preemption laws passed in Harrisburg.^{35, 36}

Preemption laws drafted by ALEC essentially enable corporate interference in local affairs and can be considered anti-democratic. Conservatives often say they want to limit the role of government, and yet it is conservatives who want to use preemption to insert state government into local affairs.

Minimum Wage

The wages of the vast majority of workers in the U.S. have been stagnant in terms of buying power since the 1970s. Yet worker productivity has steadily increased over that time. If the minimum wage had kept pace with increased productivity, it would have risen to about \$18/hour, instead of \$7.25, according to a 2015 article from the Economic Policy Institute.³⁷

Because of the significantly higher cost of living in urban areas, stagnant wages have hit residents of metropolitan areas especially hard. This explains the impetus of cities to increase the minimum wage. While minimum hourly wages have increased to \$13.25 for employees and contractors for the city of Philadelphia, the minimum wage for other workers remains at the state and national rate of \$7.25 per hour. Philadelphia is prevented from raising local minimum wages for all workers because of a preemption clause in the minimum wage bill passed 2006.³⁸

All states surrounding Pennsylvania have higher hourly minimum wages. To be competitive, the state minimum wage must be high enough to lure workers who otherwise would find jobs in nearby states. Numerous bills to increase the minimum wage have been sponsored by Democrats, only to die in Republican-controlled committees. In 2019, three bills (SB 12, HB 405 and SB 79) to raise the minimum wage were introduced, but none have passed as of this writing.

Paid Sick Leave

There is no state or national requirement that employers offer paid sick leave, but both Philadelphia and Pittsburgh have ordinances requiring many businesses to provide it. Republican Seth Grove (HD-196), who is also the Pennsylvania ALEC chair, has sponsored a bill (HB 861) that would prevent localities from passing paid sick leave ordinances. Not only that, this bill would dismantle the paid sick leave requirements already enacted by Philadelphia and Pittsburgh.³⁹ The Pennsylvania Supreme Court ruled in 2019 that Pittsburgh does have the authority to enact ordinances requiring that businesses offer paid sick leave to employees.⁴⁰

Gun Regulations

Until fairly recently, rural and densely populated urban areas of the country had different regulations regarding guns. In recent times, there has been tension between cities and states regarding gun rights. Cities try to regulate guns, prompting state lawmakers to pass preemption laws. This is made more complicated by the home charter status of many cities, including Philadelphia and Pittsburgh, which does give them more leeway in the type of ordinances they can pass. Although Pennsylvania cities do attempt to enact common-sense gun ordinances, gun preemption laws in Pennsylvania have thwarted these efforts to combat gun violence.

In April 2019, a very punitive preemption bill, SB 531, passed out of committee on a party-line vote. This bill would do more than prohibit local governments from regulating firearms. According to Everytown for Gun Safety, this bill also "would allow out-of-state gun lobby groups to sue our cities for enacting or enforcing local gun laws." Not only that, taxpayers would pay the legal bills of the lobbyists, even if the cities won in court.⁴¹ This bill was laid on the table (temporarily suspended consideration) on April 15, 2020.

Conclusion

Many constituencies make up a community: individuals, neighborhood groups, businesses, congregations, schools, police, and workers. Their needs and desires must be balanced. Eleanor Roosevelt wrote, "America is not a pile of goods, more luxury, more comforts, a better telephone system, a greater number of cars. America is a dream of greater justice and opportunity for the average man and, if we cannot obtain it, all our other achievements amount to nothing."⁴² Her vision is not shared by those seeking a society skewed towards corporations and the wealthy. This is not good for our society or 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 be fair. We should demand that our legislators represent us all. 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 corporations and against workers? Legislators should represent the interests of their entire 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. Anyone who cares about accountability, cost-effective management of public services, and equitable outcomes must ask Republican candidates where they stand on these issues.

Appendix: Some Pennsylvania Members of ALEC

The list of members, obtained at the four URLs below, may be incomplete as many ALEC members do not acknowledge being members.

https://www.sourcewatch.org/index.php?title=Pennsylvania_ALEC_Politicians

<https://documented.net/2018/03/revealed-names-alec-lobbyist-legislator-members/>

<http://keystoneprogress.blogspot.com/2012/04/corporate-sponsors-quit-alec-keystone.html>

<https://www.alec.org/about/state-chairs/>

Current State House Representatives Known to be Members of ALEC

Name	Party and District	
Stephen Barrar	R 160	
Karen Boback	R 117	
Jim Cox	R 129	
Gary Day	R 187	
Sheryl DeLozier	R 88	
Cris Dush	R 66	
Matt Gabler	R 75	
Seth Grove	R 196	State Chair
Marcia Hahn	R 138	
Susan Helm	R 104	
Tim Hennessey	R 26	
Jerry Knowles	R 124	
Daryl Metcalfe	R 12	
Eric Nelson	R 57	State Chair
Joseph Petrarca	D 55	Has been identified as a member but claims no affiliation
Tina Pickett	R 110	
Kathy Rapp	R 65	
Harry Readshaw	D 36	Has been identified as a member but claims no affiliation
Francis Ryan	R 101	
Stan Saylor	R 94	
Todd Stephens	R 151	
Marcy Toepel	R 147	
Tarah Toohil	R 116	
Mike Turzai	R 28	
Ryan Warner	R 52	

Current Pennsylvania Senators Known to be Members of ALEC

Senate	Party and District	
David Argall	R 29	
Lisa Baker	R 20	
Lisa Boscala	D 18	
Patrick Browne	R 16	
Jacob Corman	R 34	
Scott Hutchinson	R 21	
Thomas Killion	R 9	
Scott Martin	R 13	
Robert Mensch	R 24	
Kristin Phillip-Hill	R 28	State Chair
Anthony Williams	D 8	Has been identified as a member but claims no affiliation

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- ¹ https://credo.stanford.edu/sites/g/files/sbiybj6481/f/online_charter_study_final.pdf
- ² https://credo.stanford.edu/sites/g/files/sbiybj6481/f/online_charter_study_final.pdf
- ³ <https://www.cbsnews.com/news/study-privatized-medicare-would-cost-patients-more/>
- ⁴ <http://www.pfaw.org/report/predatory-privatization-exploiting-financial-hardship-enriching-the-1-undermining-democracy/>
- ⁵ https://uspirg.org/sites/pirg/files/reports/Private-Roads-Public-Costs-Updated_1.pdf
- ⁶ <https://www.brennancenter.org/our-work/analysis-opinion/do-private-prison-contracts-fuel-mass-incarceration>
- ⁷ <https://www.nytimes.com/2011/05/19/us/19prisons.html>
- ⁸ https://www.brookings.edu/wp-content/uploads/2016/10/es_20161021_private_prisons_economics.pdf
- ⁹ <https://www.prisonpolicy.org/profiles/US.html#:~:text=With%20over%20two%20million%20people,1%25%20of%20our%20adult%20population.>
- ¹⁰ <http://www.nytimes.com/2011/09/13/us/13contractor.html>
- ¹¹ <https://www.sentencingproject.org/publications/capitalizing-on-mass-incarceration-u-s-growth-in-private-prisons/>
- ¹² <https://www.brookings.edu/articles/alecs-influence-over-lawmaking-in-state-legislatures/>
- ¹³ <https://www.nelp.org/publication/fighting-wage-preemption/>
- ¹⁴ <https://www.npr.org/2013/12/10/249956329/how-alec-serves-as-a-dating-service-for-politicians-and-corporations>
- ¹⁵ <https://www.prwatch.org/news/2011/07/10887/cmd-special-report-alecs-funding-and-spending>
- ¹⁶ <https://www.cnn.com/2018/06/27/25-richest-families-in-the-world-are-worth-more-than-1-trillion.html>
- ¹⁷ <https://www.prwatch.org/news/2016/05/13099/alec%27s-2016-agenda-snapshot>
- ¹⁸ <https://archive.nytimes.com/www.nytimes.com/cwire/2011/04/04/04climatewire-conservative-group-drafts-promotes-anti-epa-29249.html?scp=1&sq=Climate%2520State%2520Legislature%2520Bills%2520ALEC&st=cse>
- ¹⁹ <https://www.alec.org/about/>
- ²⁰ <https://www.commoncause.org/democracy-wire/alec-taxpayer-funded/>
- ²¹ http://www.nj.com/news/index.ssf/2012/04/alec_model_bills_used_in_nj_la.html
- ²² https://www.alecexposed.org/wiki/Worker_Rights_and_Consumer_Rights
- ²³ <https://socialchangenyu.com/review/wrecking-ball-disguised-as-law-reform-alecs-model-act-on-private-enforcement-of-consumer-protection-statutes/>
- ²⁴ <https://www.inthepublicinterest.org/wp-content/uploads/Predatory-Privatization.pdf>
- ²⁵ <https://www.inthepublicinterest.org/wp-content/uploads/Predatory-Privatization.pdf>
- ²⁶ <https://archive.nytimes.com/www.nytimes.com/cwire/2011/04/04/04climatewire-conservative-group-drafts-promotes-anti-epa-29249.html?scp=1&sq=Climate%2520State%2520Legislature%2520Bills%2520ALEC&st=cse>
- ²⁷ <https://slate.com/business/2016/09/how-alec-acce-and-pre-emptions-laws-are-gutting-the-powers-of-american-cities.html>
- ²⁸ <https://www.cbpp.org/research/alec-tax-and-budget-proposals-would-slash-public-services-and-jeopardize-economic-growth>
- ²⁹ <https://www.alec.org/model-policy/capital-gains-tax-elimination-act/>
- ³⁰ <https://www.theatlantic.com/politics/archive/2012/04/exposing-alec-how-conservative-backed-state-laws-are-all-connected/255869/>
- ³¹ <https://slate.com/business/2016/09/how-alec-acce-and-pre-emptions-laws-are-gutting-the-powers-of-american-cities.html>
- ³² <https://www.theatlantic.com/politics/archive/2012/04/alec-group-pushed-stand-your-ground-quits-culture-wars/329233/>
- ³³ <https://www.alecexposed.org/wiki/Pennsylvania>
- ³⁴ <https://www.brookings.edu/articles/alecs-influence-over-lawmaking-in-state-legislatures/>
- ³⁵ <https://why.org/articles/what-is-home-rule/>
- ³⁶ <https://pittsburghpa.gov/clerk/home-rule-charter>
- ³⁷ <http://www.epi.org/publication/charting-wage-stagnation/>
- ³⁸ <https://www.inquirer.com/news/raise-the-wage-act-pa-philly-roc-united-20190712.html>
- ³⁹ <https://www.womenslawproject.org/2018/06/13/wlp-testified-in-opposition-to-hb-861-preemption-of-local-labor-protections/>
- ⁴⁰ https://www.thecentersquare.com/pennsylvania/after-supreme-court-win-pittsburgh-s-paid-sick-leave-mandate/article_275c2ee2-aa30-11e9-a098-d7eb82eafc21.html
- ⁴¹ https://act.everytown.org/sign/PA_Senators_Oppose_SB531/
- ⁴² https://www2.gwu.edu/~erpapers/myday/displaydoc.cfm?_y=1941&_f=md055778