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ALEC Exposed: Business Domination Inc.

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In the world according to ALEC, competing firms in free markets are the only real source of social efficiency and wealth. Government contributes nothing but security. Outside of this function, it should be demonized, starved or privatized. Any force in civil society, especially labor, that contests the right of business to grab all social surplus for itself, and to treat people like roadkill and the earth like a sewer, should be crushed.

This view of the world dominated the legislative sessions that began in January. GOP leaders, fresh from their blowout victory in November, pushed a consistent message—“We’re broke”; “Public sector workers are to blame”; “If we tax the rich we’ll face economic extinction”—and deployed legislative tools inspired by ALEC to enact their vision. They faced pushback, but they also made great progress—and will be back again soon.

Let’s examine what happened in three critical economic areas:

Revenue

ALEC has long sought to limit the ability of states to raise or collect taxes or fees. Before this spring, it had already succeeded in getting more than thirty to adopt such limits, often hard-wired into their constitutions or requiring supermajorities to change. Its varied model legislation to this end includes the Capital Gains Tax Elimination Act, Use Tax Elimination Act, Super Majority Act, Taxpayer Protection Act and Automatic Income Tax Rate Adjustment Act. Its model resolutions oppose such things as mandatory unitary combined reporting (the chief way states get corporations to pay any taxes at all) while supporting such things as the federal flat tax and efforts to extend the Bush tax cuts permanently. The Automatic Income Tax Rate Adjustment Act, for example, “provides for a biennial reduction in the state adjusted gross income tax rate on residents, nonresidents, and corporations if year-over-year revenue...exceeds certain amounts,” in effect ensuring no increase in state revenue, even during periods of growth, while keeping tax cuts on the table. The Taxpayer Protection Act “prohibits the revenue department of a state from basing any employee’s compensation, promotion or evaluation on collections or assessments,” otherwise known as doing their job.

This past session, ALEC members, drawing heavily from the list above, introduced 500 bills to “starve the beast.” But their greatest victory was the most obvious one. Faced with shortfalls in

state revenues from the economic crisis, states almost universally and overwhelmingly chose cuts to public employment or services over progressive tax increases as a solution.

Privatization

Privatization is so central to ALEC's agenda that it has built a fake board game, Publicopoly, on its website, where the curious can find model legislation and other resources on privatizing basically everything, from transportation (Competitive Contracting of the Department of Motor Vehicles Act) to the environment (Environmental Services Public-Private Partnership Act). Critical to ALEC's agenda are the foundational bills that set up the rationale for privatizing government services: the Public-Private Fair Competition Act creates a committee to review "whether state agencies unfairly compete with the private sector," and the Competitive Contracting of Public Services Act requires "make or buy" decisions to encourage privatization. The hallmark of ALEC's model privatization legislation, the Council on Efficient Government Act, creates "a council on efficient government to leverage resources and contract with private sector vendors if those vendors can more effectively and efficiently provide goods and services and reduce the cost of government." These councils typically include representatives from the private sector, who then decide to let their business colleagues bid for public sector work.

In the past few years, with at least three additions this session alone, legislation establishing a state Council on Efficient Government has been introduced in Virginia, Maryland, Arizona, Kansas, Oregon, Illinois and South Carolina. In each case, the concepts in the bill mirror the ALEC proposal. In some cases—South Carolina, Arizona and Illinois—the state bills read as copies of ALEC's model legislation. Virginia's, Oregon's, Maryland's and Kansas' bills, to varying degrees, contain language directly from ALEC's model.

Unions

The fiercest attacks this session were reserved for public sector unions, especially in the once labor-friendly Midwest states of Michigan, Ohio, Pennsylvania and Wisconsin that went deep red in November. ALEC has a sweeping range of model antiunion laws, the broad aim of which is to make it harder to be a union and easier for workers not to pay the costs of collective bargaining or union political activity. The Right to Work Act eliminates employee obligation to pay the costs of collective bargaining; the Public Employee Freedom Act bars almost any action to induce it; the Public Employer Payroll Deduction Act bars automatic dues collection; the Voluntary Contribution Act bars the use of dues for political activity.

This spring, GOP governors or legislatures introduced at least 500 of these and other ALEC-inspired antilabor laws, including laws to restrict the scope of collective bargaining; to limit or eliminate "project labor agreements" and state "prevailing wage" requirements; and to pre-empt local living wage or other labor standards. Just keeping track of all the antiunion legislation was often daunting. In Michigan, the AFL-CIO was dealing with more than fifty laws aimed at its demise.

In some states, the results have been lethal. In Wisconsin, the first state to legalize public sector union bargaining, public sector unions (excluding police and firefighters) were reduced to near irrelevance. The law limits collective bargaining to wages only (no bargaining over benefits, safety or work conditions) and forbids those to be increased faster than inflation. To continue to exist, unions must annually win recertification elections with more than 50 percent of the vote of all workers in their bargaining unit—a threshold requirement that is unheard of. Ohio also passed a law limiting public sector bargaining rights (including for police and firefighters) and permitting members to opt out of paying dues.

There were limits to this stampede. “Paycheck protection,” introduced in fifteen states, passed only in Alabama and Arizona. “Right to work,” introduced in eighteen states, hasn’t advanced significantly anywhere. (Tennessee reaffirmed a pre-existing right to work, and in New Hampshire the governor’s veto is holding it back.) But damage has been done. It may be that unions and other progressive organizations, moved by the carnage, will work together and with the public to build a mass movement to reverse it. Certainly, many people are trying to do that now. Whatever their success, we can be sure that ALEC will fight them fiercely in the states, while pressing forward with its own project: the complete business domination of American public life.