Conservative Nonprofit Acts as a Stealth Business Lobbyist

Desperate for new revenue, Ohio lawmakers introduced legislation last year that would make it easier to recover money from businesses that defraud the state.

It was quickly flagged at the Washington headquarters of the American Legislative Exchange Council, or ALEC, a business-backed group that views such “false claims” laws as encouraging frivolous lawsuits. ALEC’s membership includes not only corporations, but nearly 2,000 state legislators across the country — including dozens who would vote on the Ohio bill.

One of them, Bill Seitz, a prominent Republican state senator, wrote to a fellow senior lawmaker to relay ALEC’s concerns about “the recent upsurge” in false-claims legislation nationwide. “While this is understandable, as states are broke, the considered advice from our friends at ALEC was that such legislation is not well taken and should not be approved,” he said in a private memorandum.

The legislation was reworked to ease some of ALEC’s concerns, making it one of many bills the group has influenced by mobilizing its lawmaker members, a vast majority of them Republicans.

Despite its generally low profile, ALEC has drawn scrutiny recently for promoting gun rights policies like the Stand Your Ground law at the center of the Trayvon Martin shooting case in Florida, as well as bills to weaken labor unions and tighten voter identification rules. Amid the controversies, several companies, including Coca-Cola, Intuit and Kraft Foods, have left the group.

Most of the attention has focused on ALEC’s role in creating model bills, drafted by lobbyists and lawmakers, that broadly advance a pro-business, socially conservative agenda. But a review of internal ALEC documents shows that this is only one facet of a sophisticated operation for shaping public policy at a state-by-state level. The records offer a glimpse of how special interests effectively turn ALEC’s lawmaker members into stealth lobbyists, providing them with talking points, signaling how they should vote and collaborating on bills affecting hundreds of issues like school vouchers and tobacco taxes.

The documents — hundreds of pages of minutes of private meetings, member e-mail alerts and correspondence — were obtained by the watchdog group Common Cause and shared with The New York Times. Common Cause, which said it got some of the documents from a whistle-blower and others from public record requests in state legislatures, is using the files to support an Internal Revenue Service complaint asserting that ALEC has abused its tax-exempt status, something ALEC denies.

“We know its mission is to bring together corporations and state legislators to draft profit-driven, anti-public-interest legislation, and then help those elected officials pass the bills in statehouses from coast to coast,” said the president of Common Cause, Bob Edgar. “If that’s not lobbying, what is?”
ALEC argues that it provides a forum for lawmakers to network and to hear from constituencies that share an interest in promoting free-market, limited-government policies. Lobbying laws differ by state, and ALEC maintains that if any of its members’ interactions with one another happen to qualify as lobbying in a particular state, that does not mean ALEC, as an organization, lobbies.

Mr. Seitz, who sits on ALEC’s governing board, said he believed that liberal groups like Common Cause are attacking the organization out of frustration that “they don’t have a comparable group that is as effective as ALEC in enacting policies into law.” He said that ALEC was not much different from other professional associations that represent state legislators, and that members were free to ignore or disagree with the group’s policy positions.

“This concept that private companies are writing the bills and handing them to gullible legislators to trundle off and pass is false,” Mr. Seitz said. “There is nothing new, surprising or sinister about private-sector organizations coming together with legislators to share ideas and learn from each other.”

Even so, the effectiveness of ALEC’s bill-production system is a major part of the group’s appeal to businesses. A membership brochure last year boasted that ALEC lawmakers typically introduced more than 1,000 bills based on model legislation each year and passed about 17 percent of them. A members-only newsletter from 1995, found in an online archive of tobacco company documents, bluntly characterized that success ratio as “a good investment.”

ALEC’s members include corporations and nearly 2,000 lawmakers. Kraft Foods, Intuit and Coca-Cola left the group amid a policy controversy.

“Nowhere else can you get a return that high,” it said.

ALEC, which is registered as a public charity under section 501(c)(3) of the tax code, traces its roots to 1973, when the conservative activist Paul M. Weyrich and several other Republicans sought to create a state-level clearinghouse for conservative ideas. Although its board is made up of legislators, who pay $50 a year to belong, ALEC is primarily financed by more than 200 private-sector members, whose annual dues of $7,000 to $25,000 accounted for most of its $7 million budget in 2010.

Some companies give much more, all of it tax deductible: AT&T, Pfizer and Reynolds American each contributed $130,000 to $398,000, according to a copy of ALEC’s 2010 tax returns, obtained by The Times, that included donors’ names, which are normally withheld from public inspection. The returns show that corporate members pay stipends — it calls them “scholarships” — for lawmakers to travel to annual conferences, including a four-day retreat where ALEC spends as much as $250,000 on child care for members’ families.

At the conferences, internal records show, representatives of corporations sit with legislators on eight task forces dealing with issues like telecommunications, health care and product liability. (ALEC announced last week that it was disbanding a ninth task force on public safety and elections, which was the focus of much of the recent scrutiny of the group.) Each task force is led by a legislator and someone from the private sector. Corporate members in recent years have included Bank of America, Walmart, Verizon, Microsoft and Connections Education, an online learning company.

The task forces develop model bills that legislators then introduce in their home states. The provenance of those bills is not always apparent to those being asked to vote on them. But minutes of task force meetings, not available to the public, show how some of the bills were produced and who within ALEC sponsored them.

Last December, ALEC adopted model legislation, based on a Texas law, addressing the public disclosure of chemicals in drilling fluids used to extract natural gas through hydraulic fracturing, or fracking. The
ALEC legislation, which has since provided the basis for similar bills submitted in five states, has been promoted as a victory for consumers’ right to know about potential drinking water contaminants.

A close reading of the bill, however, reveals loopholes that would allow energy companies to withhold the names of certain fluid contents, for reasons including that they have been deemed trade secrets. Most telling, perhaps, the bill was sponsored within ALEC by ExxonMobil, one of the largest practitioners of fracking — something not explained when ALEC lawmakers introduced their bills back home.

ALEC says that its lawmaker members have the ultimate say over its policy deliberations, and that no model bills are adopted unless its governing board, made up entirely of legislators, approves it. But the organization’s rules give corporations a great deal of influence on the task forces, where model legislation must first clear a preliminary vote before going to the board. As a result, meeting minutes show, draft bills that are preferred by a majority of lawmakers are sometimes killed by the corporate members at the table.

In August, the telecommunications task force met and considered a model resolution regarding online piracy that had been introduced by the U.S. Chamber of Commerce. Although AT&T, Verizon and AOL could not agree on the details, the lawmakers present overwhelmingly supported the resolution in a 17-to-1 vote. However, because the corporate members deadlocked 8 to 8, the bill failed.

ALEC’s bylaws also grant its corporate members greater power over task force appointments. They say lawmakers can be removed from a task force leadership position for any reason, while private-sector members can be removed only “with cause,” like nonpayment of dues.

AT&T, Reynolds American and Pfizer each gave $130,000 to $398,000 to the group, its 2010 tax returns show.

Beyond creating model bills, ALEC keeps careful track of state legislation, as well as national issues, and tries to mobilize its lawmaker members to take action. Aides on ALEC task forces keep detailed, color-coded spreadsheets on “good bills” and “problematic bills” in all 50 states, and they regularly send e-mails to alert legislators about ones that ALEC opposes or supports.

ALEC also sends talking points to its lawmakers to use when speaking publicly about issues like President Obama’s health care law. Last month, on the day that Supreme Court arguments on the law began, ALEC sent an e-mail to legislators with a bullet-point list of criticisms of it, to be used “in your next radio interview, town hall meeting, op-ed or letter to the editor.”

Alan P. Dye, a lawyer for ALEC, acknowledged that the group’s practice of communicating with lawmakers about specific bills could meet the federal definition of lobbying, if not for an exception that he said applied when such interactions were a result of “nonpartisan research and analysis.” ALEC simply offers independently produced material for elected officials to consider, Mr. Dye said.

“If you look at the ALEC method of operating, it’s all based on nonpartisan research and analysis,” he said. “They have consensus building, pros and cons, everyone has a say.”

Critics dismiss that argument as misleading. Lisa Graves, the executive director of the Center for Media and Democracy, which teamed up with The Nation magazine to publicize a cache of 800 ALEC model bills last year, said that as of last August, all but one of 104 leadership positions within the organization were filled by Republicans and that the policies ALEC promoted were almost uniformly conservative.

“They talk a good game about being bipartisan,” Ms. Graves said, “but the record shows the opposite.”
Mr. Seitz, the Ohio state senator, said concerns about partisanship, lobbying and the shaping of model bills were beside the point, because whatever emerged from the ALEC process would be subjected to “endless public vetting” in legislatures before becoming law.

As for his decision to write a memo raising objections to the Ohio false-claims bill, Mr. Seitz, a lawyer and member of the Senate Judiciary Committee, said that occurred after he attended an ALEC task force meeting and talked about it with his co-chairman, a Washington lawyer and lobbyist who represents the U.S. Chamber of Commerce and other businesses. He said he learned that the bill, as originally written, would have been “a trial lawyer's bonanza,” and so he has been working with the state attorney general to draft legislation more acceptable to himself — and to ALEC.

“I expect there could be hearings on it within the next month,” Mr. Seitz said.

**Progressive group pushes back at Democratic legislators**

**(CNN)** – A progressive group is again taking on some Democratic state legislators, calling on Friday for them to drop their membership or association with the American Legislative Exchange Council.

ALEC bills itself as a think tank and research resource that brings together state legislators and private business leaders. It says it does not lobby, but holds meetings which bring together legislators and business leaders, as well as provides draft legislation and research to state policymakers.

While the organization says it is bipartisan, the Progressive Change Campaign Committee says it would be "a sham to project that it has a bipartisan nature."

On a Friday conference call with reporters and supporters, state legislators aligned with the PCCC called on their Democratic colleagues to part way with the organization, citing its involvement in legislation with which they disagreed.

Some, including New York state assemblyman Hakeem Jeffries, who called the group a "sham," were critical of ALEC's role in "stand your ground" legislation, a law brought to national prominence in the February shooting death of Florida teen Trayvon Martin.

"No Democrat should give aid and comfort to this organization by participating in it, to promote its alleged 'bipartisanship,’” Jeffries said. "It is very important that members of the Democratic Party, who traditionally have stood for enfranchising voters and have stood for promoting the rights to organize and for sensible gun laws should withdraw from an organization that that pushes an agenda that is exactly the opposite."

Others criticized the organization's role in education and voting legislation and accused it of helping corporations "boost their bottom line at the expense of the American people."

The PCCC's political activities include endorsing Democratic candidates and weighing in on legislative and policy debates.

CNN reached out to a spokeswoman for ALEC but received no response.
SB 1070-Backer ALEC Under Fire for its Legislative Influence

For many, the American Legislative Exchange Council, a powerful and well funded coalition of corporations and lawmakers, first came to the public attention when a 2010 NPR investigation revealed the role that the organization played in crafting SB 1070, a law that many of its members financially benefited from. In particular, those opposed to SB 1070 were outraged to learn that private prison industry leader Corrections Corporation of America, a member of ALEC, collaborated with Arizona State Sen. Russell Pearce, himself an ALEC board member, in writing the model bill that eventually became SB 1070, a law that ended up funnelling thousands into the Arizona private prison system.

This was perhaps the first time that it came to the attention of the public that big business is not only lobbying legislators, but it may at times even be literally writing the legislation that gets passed into law.

Nearly two years after this original scandal, ALEC has become more controversial and is receiving more criticism from the public than ever. The newest controversy in which ALEC has become embroiled concerns its role in crafting Florida’s much maligned “Stand Your Ground” law. ALEC has strongly supported and was influential in the passage of the law, now famous as the defense of alleged Trayvon Martin murderer George Zimmerman. And now, to make matters worse, half of the members of a task force set up by Florida Gov. Rick Scott to investigate the potential negative impacts of the law are reportedly ALEC members as well.

As a result of ALEC’s connection to this now extremely unpopular law, many of the organization’s corporate members have been forced to extricate themselves from the group. In the last several weeks, a number of high profile companies have officially cut ties with ALEC, including Yum Brands, Coca Cola, Pepsico, Kraft, Intuit, the Bill and Melinda Gates Foundation, McDonald’s, Wendy’s and Mars.

In the wake of this exodus from its ranks, ALEC has responded by adjusting the scope of its work. Trying to minimize fallout from the “Stand Your Ground” scandal, ALEC now states that it will no longer be directly involved in legislation that is not specifically related to economic issues. ALEC is pledging to eliminate its Public Safety and Elections Taskforce, the branch of the organization that dealt with non-economic issues.

This latest move by ALEC may not be enough to save the organization’s reputation, however, as a new controversy is just now cresting the horizon. This growing scandal concerns the organization’s status as a tax-exempt organization. Groups that primarily exist to lobby legislators are not eligible for tax exempt status. However, ALEC claims to do no lobbying, and it has therefore thus far been allowed to be tax exempt. However, many are now calling the claim that ALEC abstains from lobbying a complete fraud and are urging the federal government to revoke the group’s tax exempt status.

Legislators defend association with ALEC

CANTON, GA. — Two Cherokee County state legislators are defending their association with a nonprofit organization that has come under fire for its support of a controversial law now under scrutiny in Florida after the death of teenager Trayvon Martin.

Senate Majority Leader Chip Rogers (R-Woodstock) and Rep. Calvin Hill (R-Hickory Flat) are standing by their membership with the American Legislative Exchange Council, or ALEC.
Rogers, who has been a member for 10 years, is also the national treasurer of the conservative organization, while Hill serves with Rogers as the state chairs from Georgia for the group.

Rogers said the criticism of the organization is unfounded, adding the attacks are “coming from the same far left radical groups that have been attacking conservatives for years.”

“The question is whether supporters of free markets and limited government will yield to these type of tactics,” Rogers said. “ALEC is the leading conservative legislative organization in the nation. It will continue to stand for free markets, less government and federalism. These are the principles on which America was founded and we need more lawmakers to stand by them.”

Hill also said the criticism is lacking in substance.

Hill said the attacks are coming from “a few fairly extreme organizations” that aren’t even focused on what ALEC is all about, which he identified as “a free open exchange of ideas by legislators and people in private industries.”

Not so, said Bryan Long, executive director of Better Georgia, a nonprofit organization that works “for elected officials to pass sensible laws and policies that make Georgia a better state.” The organization is affiliated with ProgressNow, a national progressive grassroots organization.

Long said ALEC is a “radical right-wing group that operates in the shadows of the government” and very little is known about how they operate.

“There’s a lot there that’s a bit of mystery,” he said.

He also pointed to ALEC’s influence in distributing model legislation to its political members and referenced Georgia’s voter ID law, some of the state’s pro-charter school bills and its crackdown on illegal immigration as examples of model bills being introduced in state legislators.

Now that Georgia-based Coca-Cola has backed away from ALEC, Long said it’s high time for Rogers as well as Hill to consider following suit.

He also said Rogers has been all but mum on his involvement with the organization.

If Rogers is proud of his association with the organization, Long said it’s imperative the senate majority leader is up front with legislation he’s taken from the organization.

Rogers said ALEC has between 800 and 1,000 model bills and said most of them originate from legislators who bring them to the organization.

According to its website, ALEC works to “advance the fundamental principles of free-market enterprise, limited government, and federalism at the state level through a nonpartisan public-private partnership of America’s state legislators, members of the private sector and the general public.”

The organization has joined forces with its private sector members to advocate conservative legislative causes on issues ranging from education to economics.

The organization was also instrumental in getting Florida’s Stand Your Ground law passed, which has come under scrutiny in the wake of the Martin shooting death.

George Zimmerman, who has been charged with second-degree murder in Martin’s death, said he shot the unarmed teenager in self-defense.

The organization’s association with Florida’s statute has led to some of its corporate backers, such as
McDonald’s Corp., Coca-Cola Co., Kraft Foods Inc and the Bill & Melinda Gates Foundation to withdraw its support.

In the last few days, the organization has also announced that it would shift its focus solely to economic issues.

“It’s just an organization between legislators like myself, and we pay money to join,” Rogers said. “We have a dialogue between ourselves and private industries and other legislators.”

ALEC does not have a list of private sector members on its website, but members of its private enterprise board include representatives from Bayer Corp., GlaxoSmithKline, Reynolds American, Wal-Mart Stores, Energy Future Holdings, Centerpoint360, Johnson & Johnson, PhRMA, American Bail Coalition, Kraft Foods Inc., Pfizer Inc., DIAGEO, AT&T, Peabody Energy, UPS, Koch Companies Public Sector LLC, Exxon Mobil Corporation, State Farm Insurance Co., Altria Client Services, and Reed Elsevier Inc.

Dating back to 2008, both Cherokee County legislators have accepted campaign contributions from some corporations listed, including Coca-Cola, UPS, GlaxoSmithKline, PhRMA, Pfizer, Bayer Corp., Johnson & Johnson and Kraft Foods.

Scrutiny of Rogers’ campaign disclosures show as much as $44,000 in contributions in 2010 came from companies believed to have ties with ALEC.

However, Rogers pointed out the same corporations that sponsor ALEC also sponsor the National Conference of State Legislators and the Council of State Governments, two other nonprofit legislative organizations that lean to the center or left of the political spectrum.

“Many of these companies have large numbers of employees in Georgia,” he added. “I am glad that private sector employers consider me a pro-business legislative leader.”

He said he’s “probably brought more ideas to ALEC for model legislation” than he’s ever used.

An example is his model resolution he passed through ALEC that calls for the federal government to return gas tax revenue to the state.

Once that bill passed through ALEC, Rogers said he introduced that resolution in Georgia, which he said passed.

Hill added legislation that went into effect about four years ago that allows Georgia residents to freeze their credit was a model bill from ALEC.

“We talked to other legislators and had taken ideas from them,” he said.

That’s not good enough for Long.

He said he and others would like a better understanding about ALEC, the corporations who are involved and their role in crafting legislation to govern the citizenry.

“It’s a powerful group of corporations and lawmakers who sit at the table together and write our laws without our knowledge,” he said. “They are being told by corporations what are the laws they need to pass.”