

ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda—underwritten by global corporations—includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

ALEC's Corporate Board --in recent past or present

- AT&T Services, Inc.
- centerpoint360
- UPS
- Bayer Corporation
- GlaxoSmithKline
- Energy Future Holdings
- Johnson & Johnson
- Coca-Cola Company
- PhRMA
- Kraft Foods, Inc.
- Coca-Cola Co.
- Pfizer Inc.
- Reed Elsevier, Inc.
- DIAGEO
- Peabody Energy
- Intuit, Inc.
- Koch Industries, Inc.
- ExxonMobil
- Verizon
- Reynolds American Inc.
- Wal-Mart Stores, Inc.
- Salt River Project
- Altria Client Services, Inc.
- American Bail Coalition
- State Farm Insurance

For more on these corporations, search at www.SourceWatch.org.

DID YOU KNOW? Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

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The Common Sense Scientific and Technical Evidence Act

Did you know the trade group for the gas industry was a corporate co-chair in 2011?

ALEC's model Common Sense Scientific and Technical Evidence Act is designed to ensure that state courts follow the same guidelines in admitting expert opinions about scientific and technical matters as judges in the federal courts. These guidelines help assure that the evidence admitted is reliable and trustworthy. Specifically, the Act would ensure, by way of example, that a proffered scientific opinion was in fact developed in accordance with the scientific method.

By ensuring that the federal and state standards are similar, the Act will prevent forum shopping and overburdening state courts with cases that involve so-called "junk science" that would not pass muster in the federal system. Key components of the bill include: operational definitions of scientific and technical knowledge that are consistent with the United States Supreme Court decisions in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) and *Kumho Tire Co. Ltd. v. Carmichael*, 526 U.S. 137 (1999), a rule of evidence that is comparable to Federal Rule of Evidence 702, dealing with expert opinions, and a prohibition, analogous to the one governing federally funded scientific research, that would preclude an expert who has accepted a contingent fee from testifying.

Model Legislation

[Title, enacting clause, *et cetera*]

Section 1. {Short Title.} This Act may be known and cited as the Common Sense Scientific and Technical Evidence Act.

Section 2. {Admissibility of Expert Opinion Testimony}

(a) **Expert Testimony.** Testimony in the form of an opinion concerning a scientific, technical, or other specialized matter may be admitted, but only if the court determines that the opinion—

(1) is based on scientific knowledge, where the opinion purports to be scientific, including medical, or technical or specialized knowledge, where the opinion purports to involve knowledge from other technical or specialized disciplines;

(2) will assist the trier of fact to understand the evidence or to determine a fact in issue; and

(3) is presented by a witness who is qualified as an expert.

(b) **Scientific, Technical or Other Specialized Knowledge.** In determining whether an opinion is based on scientific, technical or other specialized knowledge, and hence sufficiently reliable to warrant its admission, the court shall consider, among other factors, whether the opinion follows from or is based on

(1) a theory or methodology developed in accordance with the scientific method, including, where appropriate, publication in the peer-reviewed literature, or such other systematic method of acquiring knowledge that is generally accepted in the relevant discipline to ensure reliability and validity;

(2) the theory or methodology or the relevant techniques based on that theory or methodology and underlying the opinion have a sufficiently low error rate to ensure reliability, or the experimental results underlying the theory or methodology have been replicated by different laboratories and different researchers; and

(3) the theory, methodology or opinion, as the case may be, is generally accepted in the relevant scientific, technical or other community.

(c) **Assisting Trier of Fact.** An opinion will assist the trier of fact to understand the evidence or to determine a fact in issue, if and only if the court determines the following:

(1) The relationship between the opinion and the supporting theory and experiments is sufficiently close and congruent so as not to render the opinion speculative; and

(2) The opinion may be validly and reliably drawn from the theory.

(d) **Expert Witness.**

(1) A witness with knowledge, skill, experience, training, or education in a particular field may testify as an expert with respect to that particular field.

(2) Notwithstanding the above, the testimony of an expert witness may not be admitted if the witness is entitled to receive any compensation contingent on the outcome of any claim or case with respect to which the testimony is being offered.

Section 3. {Interpretation}. In interpreting and applying this Act, the courts of this State shall be guided by the opinions of the Supreme Court in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), *General Electric v. Joiner*, 522 U.S. 136 (1997), and *Kumho Tire Co. Ltd. v. Carmichael*, 526 U.S. 137 (1999).

Section 4. {Effective Date} This Act shall become effective upon enactment and shall apply to all trials commencing on or after the effective date.

*Adopted by ALEC's Natural Resources Task Force at the Annual Meeting July 28, 2000.
Approved by full ALEC Board of Directors August, 2000.*

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