

## 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](http://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?**

[Home](#) → [Model Legislation](#) → Telecommunications and Information Technology

### Electronic Government Services Act

Did you know that global telecommunications company AT&T was the corporate co-chair in 2011?

#### Summary

While the continued development of information technology and the proliferation of the Internet has permitted government agencies to make more efficient the necessary transactions between citizens and the government, it has also blurred the lines between commercial activities and appropriate governmental functions. The "Electronic Government Services Act" would promote legitimate, appropriate, and inherently e-governmental activities while ensuring that a framework exists to prevent government from engaging in improper commercial activities. This Act would protect the exclusive governmental services that could be provided electronically using either government employees or private sector contractors paid for by the state, such as making available government publications or renewing drivers' licenses.

The private sector routinely provides value added electronic commerce services to citizens, disciplined by the free marketplace in a competitive private enterprise system. Therefore, the "Electronic Government Services Act" prohibits governmental agencies from developing, starting, or carrying on any electronic commerce service activities when such activities are offered by the private sector in the marketplace in the geographic area in which the agency intends to offer the same service unless the agency follows the guidelines contained herein, and provided that the appropriate legislative committees have the ability to exercise their proper oversight role. The intent of this legislation is not to prohibit government agencies from engaging in legitimate e-government services; rather, it is intended to ensure that e-government activities are appropriate and inherently governmental in nature. Minor differences in service offerings between the public and private sector do not justify government provision of duplicative or competing services.

#### Model Legislation

**Section 1. {Title, enacting clause, etc}** This Act may be cited as the "Electronic Government Services Act."

**Section 2. {Statement of purpose}** Whereas the Legislative Assembly recognizes that the growth of private enterprise is essential to the health, welfare, and prosperity of this state and that government competes with the private sector when it provides duplicative goods and services to the public, it is the intent of the Legislative Assembly to protect economic opportunities for private industry against unfair competition by government agencies and enhance the efficient provision of public goods and services.

#### Section 3. {Definitions}

(A) "Electronic Commerce Services" means services that are the same, similar to or overlapping those information technology-based services provided by the private sector to the general public. For example, any transaction completed over a computer network such as the buying of goods and services on the Internet.

(B) "Commercial Activity" means performing services or providing goods, which can

normally be obtained from private enterprise.

(C) "Direct Costs" means all costs, whether capital costs, operating costs, or otherwise, that would be eliminated if the service or function to which they relate were discontinued.

(D) "Full Cost Accounting" means, in accordance with applicable generally accepted accounting principles, accounting for all direct and indirect costs, including capital costs that are incurred in the ownership, management or operation of an electronic service.

(E) "Government agency" means the state, any unit of state government and any local government or other subdivision or district of the state, and shall not be construed to exclude any entity which is not majority owned as private property and which established under the Constitution, statutes, ordinances or any other order or action by any such entity or its officers.

(F) "Indirect Costs Accounting" means, all costs, whether capital costs, operating costs, or otherwise, that are not direct costs. Indirect costs that support multiple services or functions shall be allocated among those services and functions in proportion to the relative burden each service or function places on the cost category and by any reasonable method consistent with applicable generally accepted accounting principles.

(G) "Private enterprise" means an individual, firm, partnership, joint venture, corporation, association or any other legal entity engaging in the manufacturing, processing, sale, offering for sale, rental, leasing, delivery, dispensing, distributing or advertising of goods or services for profit.

(H) "Private sector" defined as privately-owned companies.

#### **Section 4. {Government activity prohibitions and exceptions}**

(A) If the private sector provides electronic commerce services to the public, government shall not develop, start or carry on any activity to provide or offer such services, expand similar services at government expense or provision unless the government agency in question follows the guidelines contained herein, and provided that the appropriate legislative committees have the ability to exercise their proper oversight role.

(B) Nothing in this Act prohibits government from providing electronic commerce services to the public in the absence of the private sector provision of such services.

#### **Section 5. {Requirements and Justification for Duplicative or Competing Services}**

(A) This Act recognizes that the structure of the state government is provided by its Constitution: no part of the bill shall contravene the Constitutional authority explicitly granted the judiciary, executive, or legislative branches of government.

(B) A government agency can provide duplicative or competing electronic commerce services to the general public provided that:

(1) The head of the agency that proposes to provide such services shall give public notice of the agency's impending actions. This notice shall include:

(a) The agency's proposed findings of fact, statutory authority, or conclusions of law that grants the agency such power and deems it necessary and in the public interest to provide duplicative or competing electronic commerce services. The initial and total lifecycle costs of the proposed government services, which include but are not limited to all technology, infrastructure, services, contracts and direct and indirect personnel costs;

(b) The individual per taxpayer cost of such services on an annualized basis, and the cost of such services per user on an annualized basis;

(c) The agency's reasons for believing that the benefits of providing such services require the expenditure of public funds and a statement to the specific benefits to be derived;

(d) An identification of unmet needs in the consumer marketplace that the government service offer would fulfill;

(e) A description of how the proposed government service offers would differ from those provided by the private sector; and,

(f) An economic impact analysis demonstrating that the proposed offering of specific electronic commerce services by government will not be anti-competitive in its effect on the existing industry, and will not adversely impact or distort the private sector marketplace for the same or similar electronic commerce services.

(2) The head of the agency that proposes to offer such services provides the opportunity for the public to respond to the public notice described in paragraph (1) and comment on the agency's proposed services.

(3) Subsequent to receiving the comments of the public, the agency head signs factual and legal conclusions enumerating all of the factors described in paragraph (1), subparagraphs (a) through (g), should the agency wish to proceed with offering such services.

(4) The state legislature approves of the findings provided in paragraph (3) pursuant to the state's proper procedures for legislative oversight.

(5) Continuing oversight authority is granted to the appropriate legislative committees and subcommittees that are generally responsible for monitoring the activities of and approving the annual appropriations that fund the government agency in question.

(6) Any provider of electronic commerce services who resides within or does business in the state has standing to judicially challenge the provision of electronic commerce services by the government agency not made in conformance with this Act pursuant to the state's procedures for hearing and resolving complaints filed under this Act.

**Section 6.** Nothing contained in this Act may be construed to prohibit a government agency from offering electronic government services to the general public services prior to the enactment of the Act.

#### **Section 7.**

(A) If an agency elects to provide electronic services in a jurisdiction where a private enterprise delivers the same electronic service, the agency shall prepare and publish, on or before (insert date) an annual report on its electronic services. This report shall:

(1) Be substantially in accordance with full cost accounting and shall include disclosure of the amount, source, and cost of working capital utilized for its electronic services.

(2) Provide specific information on the cost of activities and what the anticipated return on such investment is.

(3) Fully assess the program's effectiveness given the return on investment.

#### **Section 8. (Severability clause)**

#### **Section 9. {Repealer clause}**

← **Were your laws repealed?**

#### **Section 10. {Effective date}**

**Exposed**

By the Center for  
Media and Democracy  
www.prwatch.org

*Adopted by the Telecommunications & Information Technology Task Force at the Annual Meeting August 9, 2001; amended at the States and Nation Policy Summit December 11, 2002. Approved by the full ALEC Board of Directors January, 2003.*

**About Us and ALEC EXPOSED.** The Center for Media and Democracy reports on corporate spin and government propaganda. We are located in Madison, Wisconsin, and publish [www.PRWatch.org](http://www.PRWatch.org), [www.SourceWatch.org](http://www.SourceWatch.org), and now [www.ALECexposed.org](http://www.ALECexposed.org). For more information contact: [editor@prwatch.org](mailto:editor@prwatch.org) or 608-260-9713.