Eroding Public Services: Modelling the Rise of the American Legislative Exchange Council in the United States Legislatures

Edvin Andreasson[a]* and Jefferson K. Rajah[a]

[a]*System Dynamics Group, Department of Geography, University of Bergen*
P. O. Box 7800, 5020 Bergen, Norway

*Correspondence: edvin.andreasson@student.uib.no

Abstract

The American Legislative Exchange Council (ALEC) is a conservative lobbying group in the United States that favours corporate interest on the state level. The organisation has been referred to as a 'bill mill' which is an organisation that drafts model bills for state legislators to use. These bills are often drafted in cooperation with firms and businesses to make bills that undemocratically favour corporate interests. These bills are then sent to members in state legislatures and pass without much resistance. Thus, it is often critiqued for circumventing the democratic process by not considering the local mandates of politicians. This project aimed to create a conceptual model that demonstrates the mechanisms and reinforcing structure that aids in ALECs success throughout the 21st century. The findings demonstrate that ALEC uses its influence to reduce state budgets for politicians so that they do not have sufficient resources to effectively perform their duties. In turn, these politicians join ALEC as they provide said resources. The more legislative members that join ALEC the greater the access is to the political process, which in turn results in greater influence. In the analysis, different scenarios are run to find leverage points in the structure to see how potential policies can reduce ALECs influence in the United States.

Keywords: State Legislators, ALEC, State Resources, Privatization, Access to the Political Process

Conference Thread: Public Policy; Political Science

Introduction

Problem Statement

The American Legislative Exchange Council (ALEC) is a conservative lobbying group in the United States that favours corporate interest on the state level (Cooper et al 2016). Their main service is to provide aid to overworked state politicians. Although this may not seem problematic at face value, ALEC's modus operandi seeks to undemocratically influence state legislators in the democratic process. Particularly, this is done through the creation of 'model bills' to be passed in any state, which are drafted in cooperation with ALEC members on behalf of corporate interests (ALEC 2013). These bills can be deemed illegitimate as they do not consider the local context of the state and thus, are not representative of the local ideas (Hertel-Fernandez 2019). Moreover, the bills' foundations range from conservative to far right and have been at the centre of most political controversies in the States (Anderson and Donchik 2016). The more infamous of these model bills include the Stand your Ground Laws, Anti-Sanctuary Bills, and most pro-gun legislation (Graves 2011; Fischer 2012; Collingwood et al 2019).

The key issue with ALEC is their untransparent and unaccountable nature. As they are a private organisation, they do not have to disclose any internal documents and therefore, it is near impossible (without leaked documents) to grasp their influence. Having a 'black box' organisation with such wide-reaching influence present in any political arena raises concerns about legitimacy, representation, and democratic ideals. The problem at hand is that, despite these tendencies, ALEC has kept growing in influence and members over time (ALEC 2010). Given ALEC's secretive nature, there are no existing time-series data that measures the organisation's outcomes. Nevertheless, based on existing literature, we can anticipate a reference condition of exponential growth in ALEC membership over time (Hertel-Fernandez 2019; Hertel-Fernandez 2014; ALEC 1992; ALEC 2016).

Research Overview

This paper seeks to provide an explanation for the exponential growth in ALEC membership, and thus their influence over the legislative process in the States. In general, based on the perspective of institutional decay, it is hypothesised that ALEC is able to increase membership by appealing to resource-starved state legislators. This was tested using a conceptual, simulation model that was derived from the literature surrounding network governance, political lobbying, and corporate interests (Andreasson 2021; Hertel-Fernandez 2019; Dahl 2003; Bowers 1983; Block and Twist 1995; Klijn and Skelcher 2007).

The simulation results of the model lend strength to the assertion that under-resourced policymakers being unable to effectively perform their tasks causes an increased demand for ALEC's services. The simulation demonstrates this reinforcing mechanism in which stressed policymakers start to rely increasingly on ALEC, and in turn ALEC obtains more influence to reduce the state budgets. Consequently, the lack of resources for these policymakers further increases their stress which reinforces ALECs influence. Additionally, the findings indicate that if the organisation loses a majority of

corporate members and donors, in other words, ALECs main income, then the influence will begin to decline.

Method

The system dynamics method was selected to study the effect of ALEC on the political process and explain its growth. System dynamics is a simulation modelling technique for representing complex systems and simulating the effects of various system components in driving the system's behaviour over time. In this sense, it is able to provide an endogenous explanation for phenomena, clearly showing how characteristics of the system contribute to its own resultant behaviour.

This system dynamics perspective could contribute to existing political science literature on ALEC and interest group lobbying more generally. Unlike the traditional political science field, which tests hypotheses in a linear fashion (wherein an independent variable causes a change in a dependent variable), system dynamics enables the construction of dynamic hypotheses that explain how variables are connected in complex feedback loops. These circular loops of causal mechanisms then further interact with other loops in the system to produce the overall dynamics of the system in question.

To that end, a conceptual system dynamics model was constructed based on existing political science literature. The literature identifies several mechanisms that aid in reducing state resources through privatisation. These mechanisms are grounded in the shift to network governance, which is the act of governing through networks rather than only a single actor. Through the shift in governance, public institutions are receiving more complex duties and less resources. This is because, in network governance, more institutions are created to deal with the growing number of issues but because there are now more institutions, there exists less resources per institution. The under resourced network results in less time, personnel, and fair compensation for the workers within these institutions. This has resulted in a reliance on outsourcing the tasks to other actors such as ALEC. However, organisations that have access to central information nodes, or central steps in the political process can shift and control ideas flowing through. So, if an organisation/idea/ideology can dominate the information nodes throughout the network it will reinforce that influence through reflecting itself onto the network (Andreasson 2021; Gilens and Page 2014; Jones et al 1997). Thus, eventually causing an over representation of said organisation/idea. These reinforcing mechanisms if left unattended will cause the frame of said organisation to control the discussions and debates.

Dynamic Hypothesis

The main feedback loop structure underlying the dynamic hypothesis for the model is presented in Figure 1, below. In general, the more corporate and political members ALEC accumulate, the more influence they assert, which in turn causes them to increase their perceived success resulting in a further increase of members and donors (Corbett 2003; Cohen 2016; Collingwood et al 2019). If ALEC has a large amount of influence, then the state resources are reduced as the prevalent idea of the network is to cut funding, which causes policymakers to be under resourced and overworked, which in turn increases the demand to join ALEC (Hertel-Fernandez 2019; Provan and Kenis 2008).
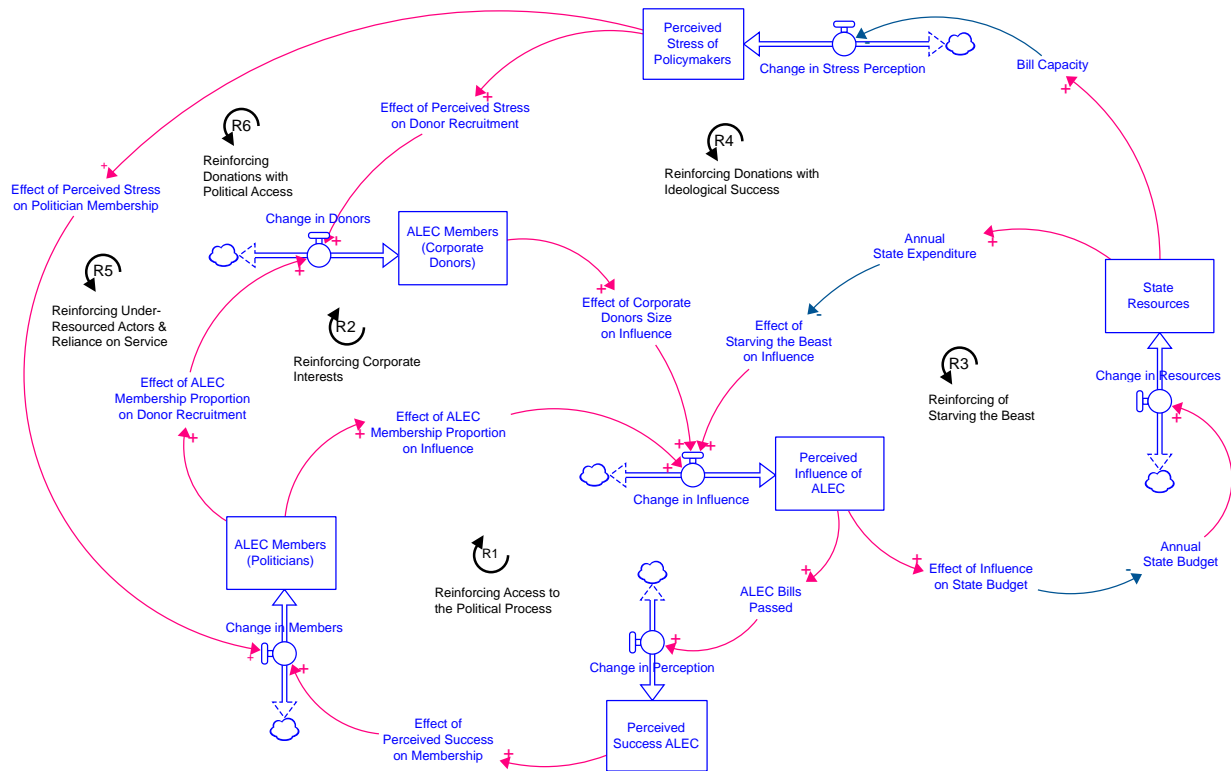
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Figure 1 Simplified Model Structure with Key Feedback Loops

R1 – Reinforcing Access to the Political Process

The service that ALEC sells is the access to the political process for corporate interests. Hence, the most important aspect of their business strategy is to make sure they have policymakers as members to increase that access (ALEC 1998). The more members the more of their model bills they can get enacted. They draw on their influence to demonstrate that they are successful which makes more politicians willing to join the organisation thus, furthering their influence through sheer size.

R2 – Reinforcing Corporate Interests

ALEC represents the corporate interests to the political process by introducing corporate members to the legislative members. In the early 2000s, when eBay was becoming popular, most states had 'point of purchase' tax laws, which meant that the online company would be taxed twice. This led to eBay hiring ALEC to lobby state legislators on their behalf, which resulted in a new favourable tax code. The key factor in enacting this law was that ALEC's political membership was widespread enough to cause policy diffusion throughout the various states (Hertel-Fernandez 2019; Cooper et al 2016). Hence, the more ALEC members there are, the more attractive their services are to corporate members as it allows for more model bills to be passed in the legislatures (idem 2019). The more model bills that succeed, the more successful ALEC is perceived to be which in turn results in an increased growth in membership applications from policymakers. The larger membership base allows for a greater access to the political

process, which is enticing for corporations as it increases the chances that their drafted model bills are passed.

R3 – Reinforcing Starving the Beast

'Starving the beast' is a term that entails reducing the funding for an organisation due to the ineffective behaviour then immediately calling for further reductions due to them being even more ineffective as they have a smaller budget (Prasad 2018). Eventually, starving them of any capital. ALEC is ideologically libertarian and receive most of their funding from the Koch Brothers (founders of the Tea Party) – this results in their bills and ideas being fundamentally opposed to any government spending (Andreasson 2021). This means that the less state resources there are, the more ALEC is seen as successful in demonstrating their influence on its membership base (ALEC 1998; ALEC 2016; Anderson and Donchik 2016).

R4 – Reinforcing Donations with Ideological Success

An organisation cannot survive without capital as it costs money to operate. To entice possible donors, the organisation must be seen successfully implementing their ideals and views. So, if a conservative-minded organisation observes that ALEC was successful in reducing taxes and perceived government overreach, the conservative organisation is more likely to employ ALEC in the future as they are viewed to be able to produce desired results (Hertel-Fernandez 2019). The reputation of being able to produce said results feedbacks into more corporate members and donations, which gives ALEC additional capital to expand their operations and consequently, also further expand their influence in the political process. This is because the more capital ALEC has, the more effectively they are able to lobby which results in a larger decrease of state resources (Idem 2019).

R5 – Reinforcing Under Resourced Actors and Reliance on Service

The main desire to join ALEC is for the service that they provide as they aid in alleviating the under resourced and over worked policymakers/staffers (Hertel-Fernandez 2019). This means that the less state resources, the more they become overworked as they simply do not have the time nor personnel to do their job thoroughly and effectively. However, in the long term, more ALEC members means that the network in which a state operates in starts to reflect the ideas of these members as they start to inhabit central information nodes (DeMora 2019; Dannin 2011). This process is represented in R5. Hence, R5 represents the process of becoming over reliant on these services due to the reinforcing belief of small government (Andreasson 2021; Hadley and Hatch 2018).

R6 – Reinforcing Donations with Political Access

In addition to the increase in the over representation of ALEC ideology in the network, potential corporate donors see the increasing membership base and decreasing state resources and thus, become more likely to use ALEC's lobbying service as they are viewed as able to produce results. Therefore, the increased ALEC legislator members the

higher the chance of a corporation donating to ALEC. The more corporate donors the greater the influence which eventually results in a decrease in state resources. This is because with more corporate donors, ALEC is able to have a larger budget which results in more and more effective lobbying of privatisation which through further under resourcing policymakers, results in more ALEC members.

Model Validation

This section will explore the validity and sensitivity of the developed model. Due to ALEC being secretive regarding data, this conceptual model is based on available literature, leaked internal documents, and assumptions. Given the conceptual nature, this model is concerned more with produced behavioural modes rather than accurate data points. Since the main 'drivers' of the model are the growth rates for membership and model bills, these structures were put under large scrutiny to make sure that they represented reality. This was done by cross-referencing Hertel-Fernandes (2019) work, who is the current leading expert on ALEC and dark-money in politics in general. The model structure was also mainly based on his work in combination with Cooper et al (2016); Dannin (2011); Collingwood et al (2019); Anderson and Donchik (2016); and lastly Andreasson (2021).

In addition to being based on prior research and literature, the model and each structure was found to be dimensionally accurate and was tested thoroughly. The model was tested under extreme conditions both as partial structures and as the full model. The resultant behaviour modes were consistent with expectations under these extreme conditions. Lastly, sensitivity analysis was performed on variables under the following categories: Reference/Normal Variables, Adjustment Times, Other Parameters, and Table Functions. It was revealed that the model is not very sensitive to other parameters nor adjustment times. These changes mainly slow down the main behaviours instead of altering it. The truly sensitive variables came from the inputs to the table functions, in other words the comparisons between current and reference values. These variables will be explored in a later section. A more detailed explanation and discussion of the sensitivity results can be viewed in the supplementary materials to this paper.
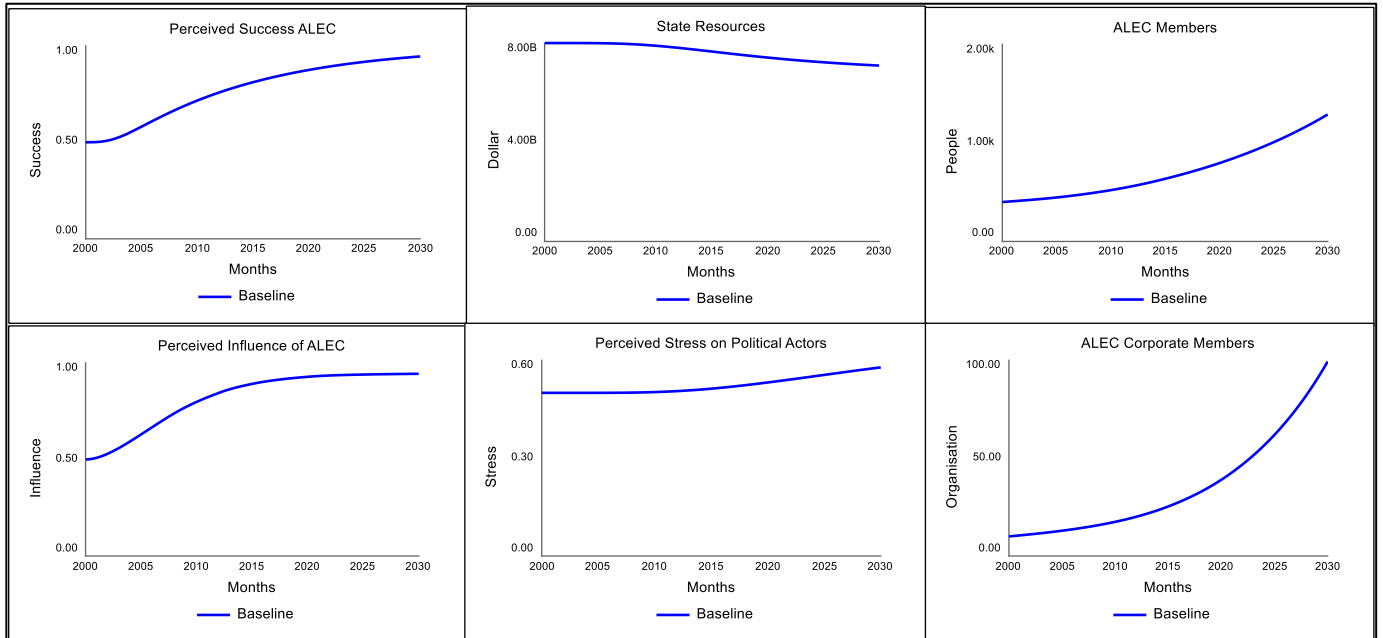
Simulation Results

Baseline Scenario

Figure 2 Key Stocks Results between 2000 and 2030

The overall simulation results of the key stocks for the explanatory model are presented above in Figure 2. Here, we observe that the stock of ALEC Members experience exponential growth, reproducing the reference or baseline condition as speculated from literature. A more detailed explanation for the observed results is discussed below in terms of the key feedback loop mechanism driving the behaviour.

As ALEC accumulates its membership over time, their influence starts to increase as they have more members and more capital for their operations (R2 Loop). The increase in influence is then translated into more model bills being enacted which further increases ALECs growth rate as they are seen to be more successful. As their influence increases, the other structures experience steady state growth. The ideology and, thus, goal of ALEC is to privatise government services.
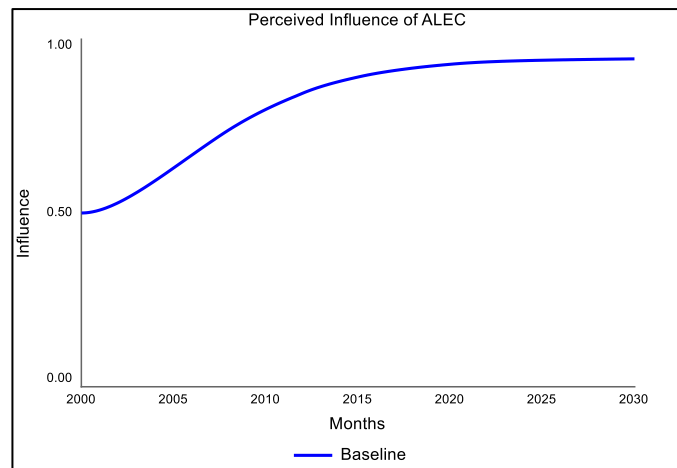
Figure 3 ALEC Influence between the 2000 and 2030

Therefore, once the influence starts to increase decreasingly towards 1 (as seen in the Perceived Influence Graph, above in Figure 3), the annual budget set for state policymakers starts to slowly decrease which further translates back into influence as part of the R3 loop. This is because ALEC is able to successfully demonstrate its influence towards their ideological goal. However, as there are a lot of governmental processes and red tape, this effect is delayed and therefore, the stock of state resources does not start to experience the reduction until 2007 when the R3 loop starts to affect it to cause a slow negative exponential growth (See Figure 4). This negative exponential growth continues as ALEC becomes capable of asserting greater influence through its vast legislature members.
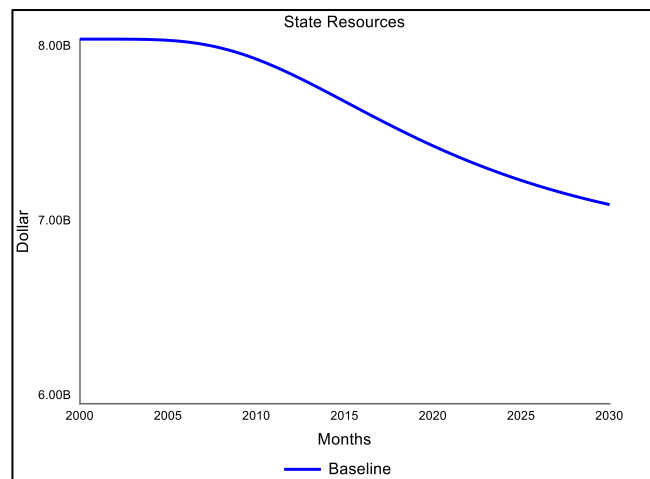

Figure 4 The Stock of State Resources Between 2000 and 2030

As the amount of state resources starts to decrease, the perceived stress of political actors starts with a large delay as it takes over a year to reflect on the stress of the job. The stress from the resource reduction is not truly felt until 2012. In that year it is realised that the policymakers have even less of a capacity to perform their jobs at effective levels. The increase in stress can be seen in Figure 5. This stress makes ALEC, who offers personnel and resources, seem like an attractive option to alleviate the stress. Hence, the R4, R5 and R6 loops jointly drive up the growth in political and donor membership. This results in an overall exponential growth for ALEC that has no indication of stopping.
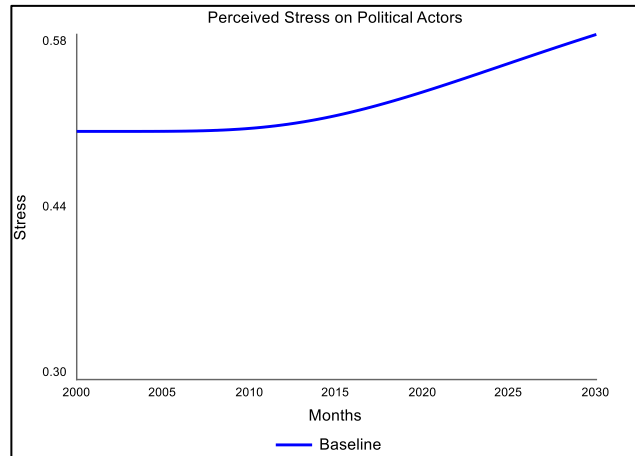
Figure 5 Perceived Stress on Political Actors Between 2000 and 2030

In 2015 the R1 and R2 loops still dominate the system by increasing increasingly the numbers of members and donors as the policymakers are starting to become more stressed and thus, rely on ALEC further. This means that the R5 loop is driving the stressed overworked politicians toward ALEC to make the membership rate increase even further, which in turn further translates to a consolidated influence. In the same vein, the conservative and libertarian donors are noticing the success of ALEC in reducing the state resources which in turn increases the donor stock (R4 loop). This growth, in turn, increases the growth rate of ALEC members, which further increases the influence of ALEC towards the maximum (See Figure 6). This is due to the number of members being large enough to be able to have majority in several legislatures and thus, be able to introduce, pass, and enact more model bills than previously (See Figure 6).
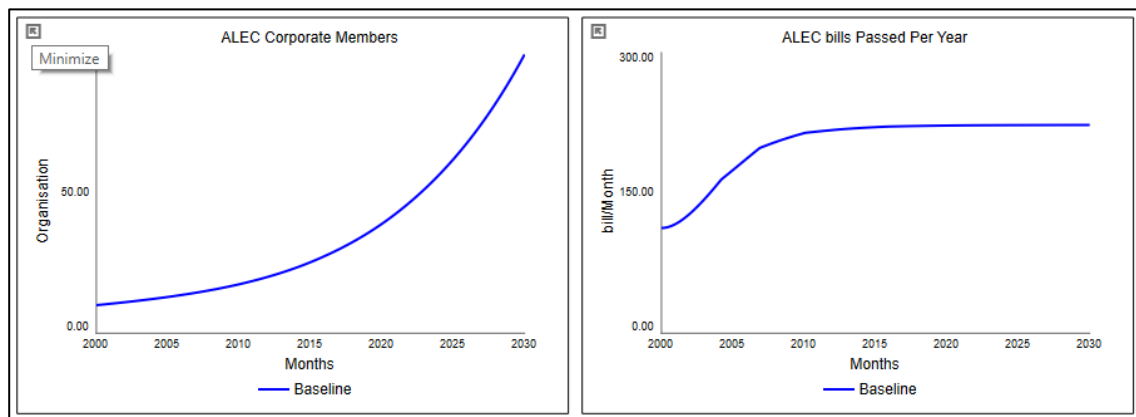

Figure 6 Comparison Between ALEC Corporate Members and Model Bills Passed Per Year

The stock of corporate donors increasing increasingly allows ALEC to invest more capital into the lobbying activities. This increased spending results in exceedingly greater influence. Due to the reinforcing nature of the structure, it is significantly difficult to take the structure out of steady state growth as an increase in any stock results in an increase in the other structure. Concurrently, if the behaviour starts out decreasing the structure will only produce exponential decline as ALECs hold on state legislatures are removed.

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Discussion

The model (not including the first order balancing loops) consists of only major reinforcing loops that either increase or decrease depending on the 'path' of the influence stock. Hence, if influence starts decreasing the entire system goes into negative steady state 'growth' and vice versa. The 'path' for influence is determined by the 'reference' values that compare the threshold for being successful based on the value of the membership stock. So, if the actual membership level is larger than this reference threshold then the effect is positive on influence. If the reference value is larger than the actual, the effect is negative. This happens as there is no counter nor balancing structure to hinder the behaviour, thus, representing the path dependence of the unchecked and hidden nature of ALEC's operation.

Scenario Analyses

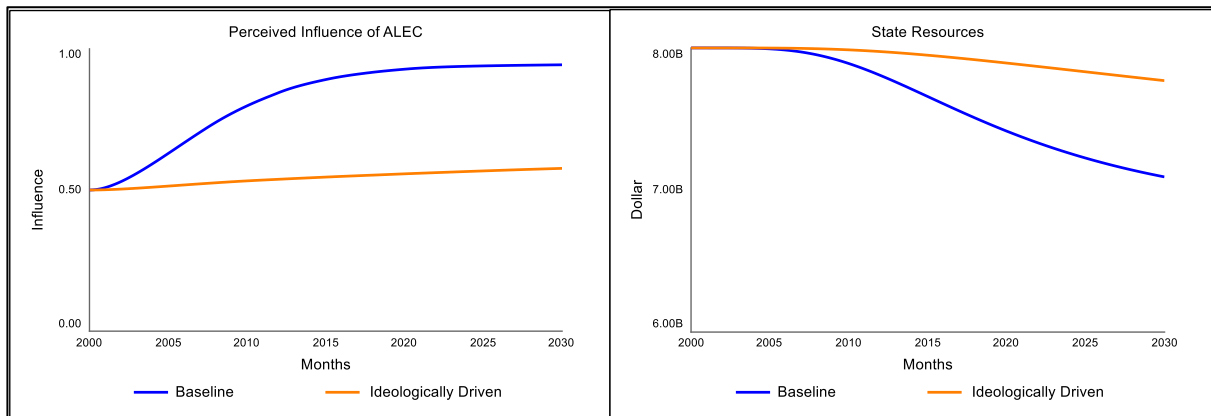*Scenario 2: Ideologically Driven Organisation*

Figure 7 Comparison Between Perceived Influence of ALEC and State Resources Under the Ideologically Driven Organisation Scenario

The switch in board-members and the following reshuffling of ALEC in the early 1990s led ALEC to make sounder financial decisions and focus on the 'capital of the organization' (ALEC 2016). In other words, it shifted from an ideologically driven think thank to the corporate bill mill that it is today. This means that in terms of 'weight' of operations, corporate donations and acquiring members is now the main task. This scenario explores the idea of ALEC having stayed with those ideologically driven goals of increasing privatisation of state services. Thus, seeing whether ALEC would be as successful if they had remained in their original iteration (Hertel-Fernandez 2019).

Initially, the behaviour seems to be identical to the baseline scenario except for influence in which see that it has a much slower growth barely passing 0.6 (See Perceived Influence of ALEC in Figure 7). This stunted growth becomes evident in the 2020s when the behaviour mode shows a less exponential growth meaning the curve is less steep at that point in time. This results in ALEC not increasing their organisation as much as possible nor reaching the same level of influence due to prioritising reducing state overreach (State Resources Graph in Figure 7). This behaviour fits with the literature and

assumptions as the key driver in ALECs contradictory growth is having access to the political network and the key to that is having policymakers as members. Hence, the reduced growth stems from the fact that they do not have as much access as they do in the baseline.

Scenario 3: Companies Leaving Due to Bad Press

ALEC relies on corporate donation and corporate members for their income. To access the lowest level of service, corporations have to make a minimum donation of $2500 (ALEC 2008). However, to get the full lobbying service and access the model drafting conventions, the donations can increase to upwards of $50,000 (Hertel-Fernandez 2019). If ALEC was to start receiving a large number of negative articles and critique from the media, companies may want to divorce from their partnership due to said pressure. The loss of donors can result in steep losses of income and thus, result in a less powerful and capable ALEC. After the not guilty verdict of Treyvon Martin's attacker in 2012, the stand your ground law that allowed for this to occur was traced back to ALEC (Hertel-Fernandez 2019). This resulted in over 40 corporations cutting contact with ALEC resulting in temporary loss of reputation and influence. In 2021 over 100 corporations abandoned ALEC over their involvement in the controversial voter ID laws in Georgia resulting in a loss of over 7 trillion for ALEC (Davies 2021).
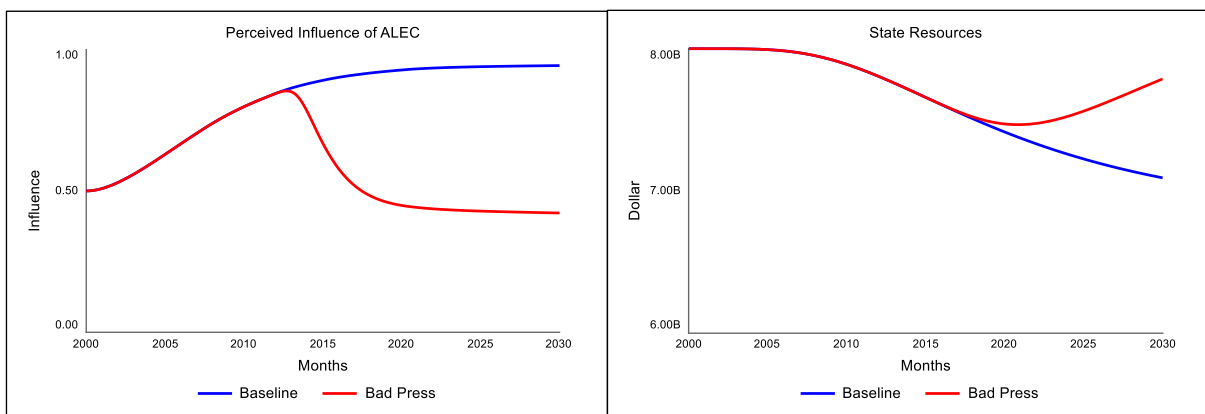

Figure 8 Comparison Between ALEC Corporate Members and Model Bills Passed Per Year in Bad Press Scenerio

Figure 8 shows the comparison between corporations using ALEC being pressured to sever ties and when no resistance is faced for firms hiring ALEC. The policy starts in 2012 to simulate the negative news after controversary of the Stand Your Ground law (Hertel-Fernandez 2019). Evidently, removing ALECs main source of income has a significant effect on ALECs success and influence. Once the stock of corporate donors is drained, the influence of ALEC decreases and becomes less than when the structure initialised. If there is less capital to use for lobbying, then the quality of ALECs service decreases, which means there is less incentive for legislators to want to join. In turn, the influence of ALEC decreases further which causes an ideological shift away from privatising government services (See State Resources Graph in Figure 8).

Furthermore, the loss of influence and capital through the draining of the corporate donors stock it becomes that ALEC cannot operate on the same effectiveness

that was possible prior to corporations severing the cooperation. Figure 9 shows the behaviour of population of corporate members and the amount of model bills ALEC can pass a year. The graphs demonstrate that the loss of income means ALEC effectively lose the capabilities to pass as many model bills. With less money the services they offer to policymakers will be worse which results in not as many policymakers or legislators desiring membership which results in less bills passing as there are fewer members in the political process.
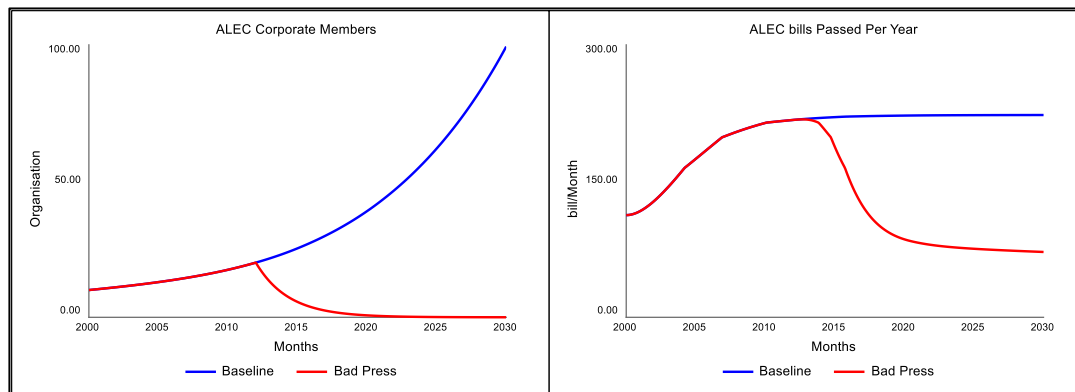

Figure 9 Comparison Between ALEC Corporate Members and Number of ALEC Bills Passed Per Year in Baseline and Bad Press Scenario.

Discussion

The scenario exploration demonstrates that though this model is true to literature and current expert opinion there are a plethora of other factors that may determine ALECs current growth trend. Therefore, the findings call for further research and for the use of more internal ALEC data, if there is any. It could be that due to the organisational theory of path dependence that due to the initial decisions in the 1990s that ALEC has become so influential (Scenario 2). The loss of donors is a significant factor in ALECs success and a structural leverage point that should be considered for future research and policy implications. In addition, this model does not consider the political climate in the US as political party is not a main decider whether policymakers join ALEC; however, endogenizing said climate may pose different results as seen in Scenario 3.

Conclusions

Policy Implications

The behaviour mode that is shown is driven by the influence of ALEC, the larger the influence the more success the organisation will experience. Thus, any effective policies need to reduce ALECs influence. ALEC is able to accumulate the influence through the amount of ALEC members present in the political process (Andreasson 2021; Bower 1983). Hence, the most effective solution is to increase the resistance to join or be affiliated with the organisation.

The sensitivity tests indicated that the *reference density* and *ALEC Member Growth Rate* are leverage points as they are part of R1 and R2 which sets the system on the positive or negative path. Hence, the policy should aim to alter these variables. A policy that considers the leverage points and the conceptualisation of an effective policy is raising media and public awareness regarding the illegal and undemocratic tendencies of ALEC to reduce members and deter any potential affiliates. This was shown to be effective in scenario 3. Hence, increasing awareness and applying pressure to corporations and policymakers to abandon ALEC is effective and can decrease their influence. There already exist organisations that are attempting this such as Common Cause, Source Watch, and ALEC exposed. However, they are not gaining enough traction and are struggling to find footing in the current polarised political news climate (Hertel-Fernandez 2019). However, with a larger investment and larger organisations applying pressure to stop ALEC it would be successful as the few times ALEC entered into the news cycle there were significant dents in their growth. To summarise, raising public awareness for ALEC's undemocratic behaviour would aid in combating their increasing influence.

Limitations and Further Research

The aim of the model was to show the mechanisms as described per the social science literature in quantifiable ways. This the model does well. However, due to ALECs not sharing internal data it is hard to state whether the model accurately reflects those numbers. Hence, the model can be limited as there is uncertainty regarding its accuracy (Hertel-Fernandez 2019). The leading expert on ALEC has stated that researching the organisation itself is difficult as ALEC will refuse to comment on the data's accuracy (idem 2019). Additionally, although social science literature describes mechanisms and feedback does not operate in 'loops' this means that often there are factors left out of the published work.

Modelling political behaviour comes with its own set of challenges as there will be a plethora of exogenous variables and not included causes such as the state of the economy, current political opinion, and other general human behaviour (Bower 1983). Hence, stating that the mechanism that attracts policymakers to ALEC can contain many more variables (Collingwood et al 2019). These would be included in the model but due to time limitations that was not possible. Despite these limitations the model does replicate the main mechanisms that are described. It may not be as robust as desired, but it does display the feedback loops regarding the contradictory growth of ALEC. This paper is a good starting ground for future research in ALEC from a system dynamics perspective.

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