

Greetings. You're getting this note as one of a number of law professors who I have reason to believe may be interested in the collaborative project described below. I'm writing to ask for your help with it.

The project — now involving several law professors and soon, I hope, closer to a hundred — is to assemble, for a wide variety of areas of concern in state and local policy, a one-stop, web-based, open-source library of progressive model legislation and executive orders. There is nothing like this in existence now, and great demand among progressives in or around state and local government for something like it. I think building it would be very useful for the country, not just its state and local governments.

You could help by taking responsibility for drafting one or two or more of its model legislation/orders, perhaps enlisting a few students for help in that. You'd have a template for these models and experienced advice, as needed, on the rules of the road and nuances of drafting for state and local government. I'm looking primarily for the benefit of your substantive expertise.

I'm writing now to see if you might be interested in taking this on. Before you disappear for the holidays, please just [click this link](#) to indicate possible, definite, or no interest in helping. When I get a critical mass of positive responses, I'll schedule a conference call to discuss any questions not addressed by the project backgrounder that follows immediately below this note.

Thanks much, and Happy Kwanzchanuksticemas to you and yours.

Joel Rogers  
University of Wisconsin Law School

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### ***Introducing ALICE***

The project, provisionally called ALICE (American Legislative and Issue Campaign Exchange), might best be thought of as a belated and partial counter to [ALEC](#) (American Legislative Exchange Council), the corporate-backed 501(c)(3) that has for nearly 40 years provided a similar model-legislation service to its nearly 2,000 conservative state legislative members.

ALEC advertises itself as dedicated to advancing “free markets, limited government, federalism.” More bluntly stated, it aims to swell business power and shrink democratic capacity (and kill any contrary local experiment, as [Bloomberg Businessweek](#) recently reported). At the center of its work is a library of nearly 800 pieces of model legislation — on everything from deregulating banks and insurance companies to rolling back environmental protections, destroying unions, prohibiting living wage laws, promoting sprawl, and privatizing prisons and much else in government — directed at those two ends.

ALICE, also to be administered as a values-based but 501(c)(3) organization, would cover as wide a range of concerns as ALEC. But it would be different in two ways. First, it would include models of local as well as state legislation, and executive orders as well as laws. Second, its aims and values would be about 180 degrees from those of ALEC, viz. to help progressive state and local officials experiment in advancing shared prosperity, environmental sustainability, and effective democratic government.

### ***Is this a good use of my time?***

Is ALICE worth building? I certainly think so. While hardly the single or even most important source of the right's wide success in states in recent decades, ALEC's model bills have been a critical ingredient in that success. They've provided an important unifying element among conservative legislators both within and across state governments. They've been a good hook on which to hang other supports. And they've been particularly useful to new leadership, by providing immediately actionable legislative proposals for them to pick up and run with. If ALICE were built, there's no reason why we shouldn't see like effects among progressive legislators, which would be great. And, again, there's currently nothing like ALICE — no one place where progressive legislators can get a fairly comprehensive set of set of bills reflecting their values that could be introduced more or less immediately. So we wouldn't be wasting our time on something redundant.

### ***If it is, why hasn't somebody else already done it?***

If ALICE is such a good idea, why doesn't it already exist? I don't have a complete answer to that question, but a core part of one, surely, is that progressives didn't really think it was needed. There were other barriers, of course — the general lack of coordination and marked rivalry among progressive organizations, as compared to those of the right; the national progressive movement's historic inattention or hostility to state and local politics. But the biggest factor seems to have been progressives' slowness to realize just how serious and successful the American right has been, and how much of its success owed to its patient building of an institutional infrastructure, outlasting any single election, to support its work, by using government to advance it more or less directly. That led progressives, if they did state and local electoral work at all, to focus almost exclusively on short-term support for the best available candidates.

By now, however, most progressives know this isn't enough. While they certainly don't have an equivalent to the right's vast machine of youth leadership training, candidate and staff recruitment and development, messaging and communications, and voter targeting and mobilization, they now at least recognize the need for such, and have begun to do the work to built it. And as they have developed better technical capacity, the need for actionable program has become apparent to nearly all. Everybody now thinks we need "an ALEC for our side" — some accessible collection of bills and executive orders that state and local elected progressives could actually start moving across the country.

### ***Why your skills are needed***

Unlike the right, however, progressives don't have an ALEC to turn to, with its legions of corporate lobbyists skilled at writing such bills. But that's exactly what you know how to do. My thought is that we can get a big group of law professors and their students, working with the legislation clinics or other resources at their schools, to do the work for our side that ALEC's corporate sponsors pay the lobbyists to do for theirs. We're law professors, right? Don't we have some ideas on legislation, and know-how on good drafting? Why not use them to a good end?

### ***How to get started?***

So how to build it? I don't have any brilliant ideas or a boatload of money. But two steps, which require neither, and are needed in any case before more are taken, seem like a reasonable start.

Step one — and this has already begun, though really only in the past few weeks — is to map what’s already out there by way of progressive state and local legislation. These may not be the best bits of raw material to use in developing model bills, but they’re instructive on what’s moving and being tried, and what’s missing, so seem worth assembling. So, I’ve been looking around at what we have at [COWS](#) (especially in our member projects, like the [Center for State Innovation](#) and the [Mayors Innovation Project](#)) and have asked friends at the [Economic Analysis and Research Network](#) (a sort of progressive counter to the right’s [State Policy Network](#)) for ideas and suggestions on state and local legislation. We’ve already found dozens of examples of good laws that have potential for application elsewhere, on everything from [complete streets](#) and [consumer protection](#) to “[green banks](#),” [energy efficiency financing](#), [marriage equality](#), [location efficiency](#), [housing+transportation cost indices](#), [sick leave](#), and [single-payer](#). We hope to have a few hundred of these by the end of this month. Sorted by very broad (often overlapping) areas of state and local concern — democracy, voting rights, and elections; economic and workforce development; Pre-K through 20 education; land use and housing; infrastructure and smart growth; environment and energy; revenue and government performance; economic security; public safety; etc. — we’re putting links to all these up on a Google doc, which I’d be happy to share with you if you’re interested in helping with the project.

Step two is this letter, to begin identifying people who might want to help turn these pieces of good law (or some new idea) into model legislation for easier replication or introduction elsewhere. The idea is that involved professors would look at what’s interesting in our expanding collection of good bills/laws/orders, agree to turn one or two such bills into models, and maybe find and offer credit to students who want to help with that. Simple enough.

In thinking about whether you’d be willing to do that, you may naturally wonder about a few other things ....

***Just how detailed and in what format do you want this model legislation to be?***

The short answer is “enough (maybe more) to get the point across and arm a legislator who likes it, in some standardized format.” But I don’t think we can or should settle on a model legislation template without some discussion among the professors interested in helping, informed by consultation with advocates, elected officials, and project advisors who have experience working as legislative counsel.

We can make up any template we want, of course. But here are two possibilities. One is what ALEC provides its members — a very short summary of the goals of the bill, and then a title and canned language for most of a standard state law’s parts. You can get examples of such bills, recently assembled by an anti-ALEC group, by [clicking here](#). ALEC’s paint-by-numbers approach has the real utility of quickly communicating to a legislator what the goal and basic components of legislation are, which is usually enough for her to make up her mind on adopting it. It gives just enough information for her to say to her leg counsel “this is basically what I want; you draft it and make it fit our state.”

Another model, more sophisticated, would note for legislators important design choices, give examples of alternatives, and provide some resources to help decide what’s appropriate. A good example is the [“model policy outline”](#) from the National Complete Streets Coalition. This gives some turnkey language, but also links to actual legislation (including the CA bill I gave you the URL for above), highlights important design issues, and gives additional commentary. This template is attractive in that the bill text itself remains relatively short, but there’s also a ton of content to back it up.

In any case, I suspect we'll come out somewhere between these two templates. But again, I think this should be one of the first topics of discussion, and don't want to decide it in advance.

Also, as mentioned at the beginning of my letter to you, we'll have advice of people who've done this for a living. We're talking to several people, currently active in or recently retired from state legislative counsel offices, and intend to have them on hand for questions about drafting.

### ***Money, governance, credit***

Collaborations often fall apart over disputes over money, governance, and credit. So let me say something briefly on all three. Regarding money, I do not have any existing grant or donation dedicated to this project, but have reserved some unrestricted money at COWS for it. This is not big money, just a couple hundred grand. But it should be enough to cover graduate student and staff costs here for basic project administration and to subsidize travel and lodging for any in-person meetings we may need. It will not however be enough to pay you a consultant fee, much less your hourly rate, or to hire students for you. This has to be *pro bono* for you, and for-credit (at most) for interested students (of which I know there to be a lot). On governance, I imagine this thing starting out as a project of COWS, but with its own identity and governing board. Who's on that we can figure out through discussion. On credit, we should talk about how much people want to be identified as the authors of or contributors to different model bills. So far as I'm concerned, anybody who works on something should get whatever credit they want.

### ***COWS***

Finally, I've mentioned COWS a few times here, and recognize that you may not even know of this oddly-named organization. For those of you who don't, COWS is a center at the University of Wisconsin (where I teach), with these [program activities](#). We operate with the UW's 501(c)(3) tax status. Our funding comes from foundations, government grants, and technical assistance contracts, all of which are public record. COWS has been around for 20 years, has launched any number of projects like this over our history, and has a good record of working well with a gazillion strong-minded people. Feel free to ask around about us if you want. I won't be offended by your due diligence.

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So that's the story. I think ALICE is a good idea and really needed. And I know I need your help to do it right. I hope you're willing to offer that. Write or call [\(608-262-4266\)](tel:608-262-4266) me if you've got any questions that can't wait 'til that conference call. And feel free to forward this invitation to other professors you know who might be interested, or to suggest names of people we should be sure to invite. Otherwise, I'll just thank you for reading this long note, and hope to hear from you very soon. Again, just [click this link](#) for your response. All best.