Philanthropic Investments in Toxics Reform
M+R Evaluation for HEFN

From welfare reform to all but eliminating the estate tax to union-busting right-to-work laws, conservative funders “wrote the book” on supporting successful, long-term advocacy campaigns that drive smart messaging, broaden constituencies, and put opponents on the defensive.

If patient investing yields greater returns in the market, patient philanthropy—sometimes requiring investments spanning a decade or more—can yield similarly impressive returns. Too often, public interest-focused philanthropy takes too short a time horizon and too narrow an approach.

One exception has been an effort to reform U.S. toxics policies. In 2004, environmental health funders met over concerns about the tens of thousands of untested chemicals on the market, seeing evidence of harm but little public awareness, weak regulations, and low philanthropic investment. They formed a HEFN “Catalysts Collaborative” to have greater collective impact.

For more than a decade, Catalysts shared information and discussed strategies, invested millions of dollars, and partnered in building a movement to shift from toxic to safer chemicals. They and their grantees have achieved tangible results:

- Public awareness and consumer pressure have increased;
- New constituencies have been engaged and voices of health-affected groups elevated;
- Dozens of companies have replaced toxins with safer alternatives;
- Bipartisan majorities in 34 state legislatures have passed new chemical safety laws; and
- New tools have been developed guiding safer chemicals design and selection.

Another major milestone came in June 2016 with the enactment of a new U.S. federal toxics law reforming chemicals policy and setting out a mandatory schedule of chemicals testing and regulation. Whether the public’s health is in fact better protected and whether markets accelerate transitions towards safer materials depend on what policymakers, business decision-makers, and advocates do from here.

Several Catalysts funders believed this was an important moment at which to take stock and evaluate the work to date, in order to inform next steps. The Forsythia Foundation, the John Merck Fund, the Marisla Foundation, the Passport Foundation, and the Fine Fund provided support to HEFN to implement this evaluation. HEFN helped frame and direct the evaluation and contracted with M+R Strategic Services to conduct it.

We’re pleased to share this evaluation of achievements and lessons from multi-year investments by HEFN member foundations to address toxic threats to health. Many thanks to the funders who supported this evaluation; M+R for conducting it; and the advocates, policymakers, industry representatives, journalists, and others who provided feedback.

Mostly we’d like to acknowledge something that must become less rare in the current policy environment: courageous advocates and funders who patiently press ambitious strategies over the many years it takes to make meaningful change.

Kathy Sessions
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June 2017
June 2017

An Evaluation for
The Health and Environmental Funders Network

*Philanthropic Investments in Toxics Reform*

TOM NOVICK
Executive Summary

Context

The Health and Environmental Funders Network (HEFN) engaged Tom Novick of M+R to conduct an independent evaluation looking back at more than ten years of grants and project-based work designed to reform federal, state, and corporate policy on toxics.

The evaluation took stock of HEFN members’ investments to ascertain which components of the work were most effective and impactful and what can be learned from these efforts to improve work going forward. M+R conducted much of the evaluation through the lens of the recently reauthorized Toxic Substances Control Act because many of the strategies adopted and pursued by HEFN funders were aimed at ultimately passing a comprehensive federal reform bill. The core of the project was a qualitative analysis guided by a series of in-depth personal interviews with stakeholders as well as qualified observers.

After several years of efforts to pass legislation that included a number of fits and starts and various challenges that seemed destined to prevent comprehensive reform, final legislation garnered broad bipartisan support in both houses of Congress and was enacted in June 2016. We focused our inquiry on key questions about what impact the funders’ investments and their grantees had on the ultimate legislation, what lessons can be learned from the strategies employed that could be useful for future work, and what capacities could contribute to or hinder future successes.

Key Conclusions

The evaluation’s overarching conclusion is that HEFN members’ long-term strategy and investments played a critical role in TSCA reform. Grants that supported state-based work, market-based efforts, and capacity building to engage at the federal level were all important components that helped set the stage for federal reform. HEFN members’ grantees played decisive roles in the debate and positively influenced the legislation. While the final bill is not the bill that many of the advocates would have written, there is a broad consensus that it is an improvement over current law.

1. HEFN members’ investments and long-term strategy created the context for federal reform

State-based campaigns supported by HEFN members enacted model policies, shifted the orientation of chemical industry, and built a cadre of seasoned campaigners and activists to engage in federal reform efforts. Market campaigns achieved major successes in changing some companies’ behavior and resulted in some of those companies pressuring their trade associations to engage with reform in more positive ways. HEFN members also invested in expanding the advocacy community’s capacity to make progress on federal reform, especially through the building of Safer Chemicals, Healthy Families (SCHF) a broad-based coalition focused on federal reform, markets work, and public education. The coalition
ultimately played a decisive role in the federal reform debate and was able to positively influence and shape the final legislation.

2. Advocates achieved bipartisan support for reform, limited the worst damage, and improved legislation

Advocates utilized a variety of avenues to influence the bill. While some strategic decisions by SCHF left them at key times essentially on the outside looking in, the coalition ultimately played an important role in influencing the legislation. Our review showed that the majority of improvements that SCHF sought were incorporated in the final bill. A strong majority of those interviewed for this assessment credit the coalition with improving the final legislation.

3. Advocates balanced inside and outside games, but not always at the same time

Effective advocacy campaigns use both inside strategies (direct lobbying, working with champions, and allies to influence legislation) and outside strategies (mobilizing constituencies and support, organizing coalitions, and applying pressure). Creating a proper mix requires a series of strategic choices. SCHF had the benefit of a large coalition membership to draw on to mobilize and in the earlier phases of the effort was credited with a good balance between the inside and outside game. Both outside observers and coalition partners noted that SCHF’s outside mobilization game was stronger earlier in the campaign. Staff changes at SCHF including the departure of the field director and a stronger focus on the negotiations made that less apparent later in the process. Significant grassroots and grasstops capacity was built over the years through the state advocacy efforts. However, when it came to federal legislation, this capacity did not necessarily match the map where potential swing votes were or places where the campaign needed to pressure federal decision makers.

4. Strategic grantmaking over time built capacity that helped lead to federal reforms

Two of the four strategic objectives adopted by funders in 2004 included building capacity of affected communities and building a strategic infrastructure to connect across all areas of work. Investments over the last decade made significant advancements on these objectives. State campaign efforts and SAFER States had multiple impacts including building a cadre of seasoned campaigners and activists to engage in federal reform efforts. Funder support built coalition and campaign capacity for federal reform through SCHF. In addition, grants to health professionals, advocates for people with learning and developmental disabilities, reproductive health advocates labor, breast cancer groups, learning disability groups, and others helped broaden the voices calling for reform. Multiple Hill staff told us these voices added significantly to the debate and allowed the negotiations to avoid being framed as “industry vs. eniros.”
5. The large coalition had significant benefits and drawbacks

While it would be hard to argue that all 450 member groups of SCHF—consisting of parents, health professionals, advocates for people with learning and developmental disabilities, reproductive health advocates, environmentalists, businesses, and others—were actively involved in the day-to-day actions of federal reform efforts, our evaluation found that a solid and significant core of the coalition were. Largely, the coalition was high functioning and unified. At the same time, there are costs associated with large coalitions. One is the time and resources needed to manage the care and feeding of the coalition as well as to arrive at clear decisions. Many observers on the Hill, including allies, felt that process made it difficult to negotiate with SCHF or to determine the coalition’s bottom lines for provisions needed in a final bill. Finally, the split of a major partner from the coalition in the final months of negotiations took a toll on the coalition’s overall effectiveness. That a reasonably meaningful reform was both strengthened and passed in spite of this division is testament to the strength of the coalition’s underlying strategies as well as its relationships in Congress that were nurtured over years. But future victories can by no means be assured if the advocacy community working on these issues remains splintered.

Lessons

The successful collaborative efforts of HEFN members to reform federal policy on toxics illustrate a number of important lessons including but not limited to the following:

1. Major policy changes typically take a significant amount of time.
2. A multi-pronged approach was important and confronted opponents in different arenas – at the state level, in the marketplace, etc. – helping build support for federal changes.
3. The state-based strategy achieved important public health policy results and demonstrated the need for federal reform. While resources were directed to states where wins were possible, additional resources might have been made available in states where wins were less assured but where it was important to build political support for reform.
4. Supporting joint campaigns, new voices, organizations, and coordination entities significantly broadened the field bringing important new constituencies into the fight. At the same time, representing, informing, and consulting with a large field is challenging during negotiations.
5. The coalition’s leadership and/or funders could have better prepared coalition members for an expected compromise on preemption in the final bill.
6. Having a coalition process to develop bottom lines or “must have” provisions in advance of end game negotiations is important, particularly in large coalitions.
7. Be prepared with a “surge” of funding and additional advocacy staffing during the endgame negotiations with Congress so that the inside negotiating game and the outside organizing and messaging game are sufficiently resourced.
8. Make every effort to avoid costly and potentially hobbling divisions in the advocacy community. When they occur, senior leaders in the community and funders have a special role to play in healing these divisions for the sake of future progress.
Introduction

The Health and Environmental Funders Network (HEFN) engaged Tom Novick of M+R to conduct an independent evaluation looking back at more than ten years of grants and project-based work designed to reform federal, state, and corporate policy on toxics.

We were asked to review key achievements, lessons, and legacies of the last ten years of work to reform U.S. chemicals policy including:

- Progress made towards meaningful reform of the Toxic Substances Control Act (TSCA) and other strategic objectives (including policy, markets, and field building);
- Key lessons learned, including about the strengths and weaknesses of the overarching reform strategies conceptually and their implementation; and
- Current capacities within the toxics-to-safer chemicals movement that could contribute to future successes.

This evaluation took stock of HEFN members’ investments to ascertain which components of the work were most effective and impactful and what can be learned from these efforts to improve work going forward. As a major milestone in this work, we conducted much of the evaluation through the lens of the recently reauthorized Toxic Substances Control Act. The core of the project was a qualitative analysis, guided by a series of in-depth personal interviews with stakeholders as well as qualified observers. This report summarizes key findings and relevant lessons for funders.

We relied on the following methods to conduct the assessment and generate findings:

- A desk review of existing materials, including HEFN’s, HEFN members’, and advocates’ strategy documents and position papers, as well as news articles and opinion pieces to gain a deeper understanding of the multi-year effort.
- Production of comprehensive interview protocols to drive and inform conversations with interviewees. Interview guides were customized for each category of interviewee.
- Initial framing interviews conducted with funders and relevant HEFN and coalition staff.
- In-depth, confidential interviews conducted with advocates, relevant House, Senate and administration staff members, and media. Interviewees were promised confidentiality and shared their thoughts and observations with candor during the interviews, helping to develop an honest assessment. Total interviews numbered 43.
- Synthesizing evaluation interview results and the materials review, and applying criteria from best practices of coalition campaigns and organizing to analyze and assess the work.
In 2004, the Bauman Foundation and Beldon Fund hosted a retreat for foundations concerned about hazards to people and wildlife from tens of thousands of untested chemicals on the market. The participants agreed that there were opportunities to increase public awareness, strengthen regulation, and increase philanthropic investment and decided to develop a collaborative initiative on toxics. A subsequent 2005 retreat hosted by HEFN reconvened funders who approached these concerns from a variety of perspectives but agreed to work toward changes that would help protect health and the environment.

Those funders and subsequent partners formed a HEFN “Catalysts Collaborative” to work on toxics with more collective impact. The four strategic objectives identified at the 2005 retreat were to 1) reform policy, 2) shift markets and science, 3) build capacity of affected communities, and 4) build a strategic infrastructure to connect across all of these areas of work. The Catalysts regularly consulted for over a decade as they invested, shared information, discussed strategies, and partnered on projects designed to shift from toxic to safer chemicals. During that time, funders pursued a variety of strategies including policy reform, work at the municipal level, constituency development, consumer education, environmental justice and fenceline community investments, and environmental health science.

Within the Catalysts’ menu of goals was a priority target of achieving comprehensive reform of U.S. chemicals policy through an overhaul of the outdated 1976 Toxic Substances Control Act (TSCA). These funders and advocacy partners developed campaigns in more than 34 states to build models and nationwide pressure. Later grants helped weave constituency organizing and state progress into a multi-stakeholder national campaign for reform.

Alongside policy-focused grants, Catalysts made complementary investments. Some targeted resources on moving markets. They supported campaigns building consumer awareness and pressure on businesses, sometimes described as “retail regulation” by using consumer action in the marketplace to reduce hazardous chemicals in everything from building materials to baby bottles. Projects linking advocates, academics, and businesses encouraged shifts in products and processes. Science-focused grants helped expand research and accelerate green chemistry to design safer chemicals. Numerous Catalysts aimed at building engagement and advocacy in communities and in highly affected and/or influential constituencies. Place-focused grants supported local organizing, while national funding helped mobilize health-impacted groups, health professionals, faith, labor, and other groups.

These funders worked together leveraging significant resources and aligning investments. The myriad efforts funded and strategic alliances across them helped result in tangible accomplishments:

- An increase in public awareness and concern;
- The replacement of toxins in products and processes by many companies;
- The passage of chemical safety laws in thirty-four states;
● The building of a national “Safer Chemicals Healthy Families” coalition representing over 450 groups to advocate for federal reforms; and
● The passage by Congress of an update to the Toxic Substances Control Act, which was signed into law by President Obama.

**Federal Reform**

This evaluation focused to a great degree on federal reform because many of the strategies adopted and pursued by members of HEFN’s Catalysts Collaborative were aimed at ultimately passing a comprehensive federal reform bill. And the ultimate passage of chemicals reform in 2016 is a critically important milestone in the funders’ long-term effort. There was widespread agreement that TSCA — the nation’s main law governing chemical safety originally passed in 1976 – was flawed and outdated. During the early years of the Catalysts work, the “regulated community” represented by the American Chemistry Council maintained that TSCA was fine and didn’t need reform. By 2009, their stance had changed and they joined environmental organizations, public health advocates, and the EPA in publicly supporting updating the law. Each of these groups established principles on what needed to be included in updated legislation from their perspective.

Over the years, several attempts to broker a compromise failed. In April 2013, long-time champion of reform, Senator Frank Lautenberg, introduced the Safe Chemicals Act. Frustrated by its failure and prior failed attempts, Lautenberg then teamed with Republican Senator David Vitter and announced a narrower compromise reform bill in May, the Chemical Safety Improvement Act of 2013. The move surprised many groups because the senators had been working on competing bills. Advocates were given little time to review the bill before it was released publicly. The legislation initially attracted 14 bipartisan co-sponsors, including seven members of the Senate Committee on Environment and Public Works (four Republicans and three Democrats). That legislation evolved over three years of negotiations.

The final 2016 compromise legislation that passed garnered broad bipartisan support; the Senate passed the final bill by unanimous consent and on a voice vote, following the House’s passage of the bill by a margin of 403-12 a few weeks before. The multi-year effort to pass the legislation included several fits and starts and various political challenges that seemed destined to prevent comprehensive reform. Along the way, significant disagreement on strategy developed among advocates and coalitions supporting reform, with an unpleasant split played out in public and in the halls of Congress.

During our evaluation, we heard multiple and strongly held viewpoints on the role various entities played and the impact they had as the bill moved forward. This new bill attracted the support of the Environmental Defense Fund (EDF), while the Safer Chemicals, Healthy Families (SCHF) coalition, which represented some 450 public health, environmental, labor, family and medical groups, took a more
measured stance initially. The coalition included diverse groups including the Natural Resources Defense Council, the Sierra Club, Earthjustice, the Breast Cancer Fund, the BlueGreen Alliance, and EDF. (EDF had been one of the Coalition’s founding members.) After reviewing the bill in detail, SCHF initially said it did not support the bill, calling it worse than current law and noting that while it could be fixed it “was unworkable in its current form because of concerns about its safety standard, preemption of state laws and lack of protections for vulnerable populations, among other concerns.” EDF’s public position was that, while they believed the bill could be improved, they would support the legislation. Their position, at odds with coalition agreements to take unified positions, ultimately led to EDF being asked to leave the coalition. This dynamic played out both in internal deliberations of the coalition and in public.

When long-term allies divert from one another and split, it affects strategic considerations, the ability to present a united front, inter-organizational workings, and personal relationships. Although large coalitions often have trouble keeping everyone on the same page, this particular split was described by long-time observers of the environmental movement as one of the worst they have seen in 35 plus years. It also affected relationships with decision makers and their staff.

Despite the split, many viewed the TSCA reauthorization as a major victory: A White House statement called it a “landmark reform.” Some were more muted – not supporting or opposing passage but rather noting that the bill fell far short of the comprehensive reform they sought while acknowledging that it was an improvement over current law. Others opposed passage, saying the new law did not go far enough to protect public health or that it included problematic provisions such as preemptions of some further state policy reforms.

Ultimately, we focused our inquiry on key questions about what impact the funders’ investments and their grantees had on the reforms, what lessons can be learned from the strategies employed that could be useful for future work, and what capacities could contribute to or hinder future successes.

**Overarching Finding**

HEFN members’ long-term strategy and investments played a critical role in TSCA reform. Grants that supported state-based work, market-based efforts, and capacity building to engage at the federal level were all important components that helped set the stage for federal reform. HEFN members’ grantees played decisive roles in the debate and positively influenced the legislation. While the final bill is not the bill that many of the advocates would have written, there is a broad consensus that it is an improvement over current law.
Discussion of Key Conclusions

1. HEFN members’ investments and long-term strategy created the context for federal reform

As noted in the earlier section, a major focus for many HEFN members was comprehensive reform of U.S. chemicals policy through an overhaul of the outdated 1976 Toxic Substances Control Act (TSCA). Recognizing that it would take time to achieve federal reform, funders helped develop allied campaigns in a range of states as a way to build the field, make policy advances to protect public health, and ultimately create the space for federal reform. Other efforts targeted resources toward moving markets by supporting campaigns that sought to build consumer awareness. In addition, funders supported coalition and campaign capacity for federal reform through Safer Chemicals, Healthy Families (SCHF). All of these strategies helped create the context that led to passage of the Frank R. Lautenberg Chemical Safety for the 21st Century Act.

a. State-based strategies largely succeeded

Funders began a concerted effort to support state-based campaigns in 2005. As part of that, they supported the creation of Safer States (State Alliance for Federal Reform of Chemical Policy or SAFER), an alliance of eight state-based groups to help coordinate campaign efforts. Their strategy concentrated on consumer products and in particular those used by children. A focus on the presence of harmful chemicals in toys and other products intended for children was a powerful tool; parents and mothers proved to be effective spokespeople and advocates.

Maine and Washington passed comprehensive laws to regulate chemicals in children’s products in 2008. Additional states followed suit introducing similar laws, while others opted for individual chemical bans. Policy proposals began to proliferate throughout the country. SAFER expanded to over 15 coalition-led states and supported efforts in more than 30 states nationwide. During this time, 7 states passed comprehensive bills; 12 states passed 17 laws on BPA; 6 states passed 10 policies on cadmium; 12 states passed 30 policies related to flame retardants; and others passed policies regarding green cleaning and phthalates.

These state-based campaigns had multiple impacts. First, they enacted model policies that protected the public and prompted changes in corporate behavior. Second, as a result of these efforts, the public position of the chemical industry began to shift from a defensive posture, indicating no change was needed in the federal law, to one that was open to change federally but still opposed to state action. Third, the campaigns helped build a cadre of seasoned campaigners and activists to engage in federal reform efforts.
b. Market campaigns impacted policy debate

Advocacy organizations also trained their sights on individual consumer products and/or retailers, and they ran campaigns to apply pressure on these companies to remove toxics from their products and/or stores. Over the years, multiple efforts took place and markets work has proven to be very effective. Examples include the Breast Cancer Fund and the Campaign for Safe Cosmetics targeting Revlon over cosmetics that contain toxic chemicals. National efforts like Coming Clean’s Campaign for Healthier Solutions are currently challenging discount retailers to adopt corporate policies to identify and remove harmful chemicals from their stores. Safer Chemicals, Healthy Families launched Mind the Store in 2009, a campaign challenging the country’s largest retailers to restrict products that include any of more than 100+ hazardous chemicals identified by the organization.

Public-facing brands proved to be very sensitive to consumer pressure, and these campaigns began to bear fruit. In 2013, Walmart, the world’s biggest retailer, promised to try to reduce, restrict, and eliminate "approximately ten chemical ingredients." A few weeks later, Target unveiled a Sustainable Product Standard – based on the "sustainability of ingredients, ingredient transparency and overall environmental impact" – to rate thousands of personal care, baby care and beauty products, as well as household cleaners. In January 2017, Target announced a new comprehensive chemical policy and goals. Mind the Store praised Target publicly and challenged other leading retailers like Amazon and Costco to follow suit.

These market campaigns also had multiple impacts. First, suppliers started responding. Procter & Gamble, the world’s largest consumer products company, promised to eliminate diethyl phthalate, a solvent and plasticizer, and triclosan, an antimicrobial ingredient, from its products – even while insisting they are perfectly safe.

Second, these companies began to engage in discussions around federal reform or encourage their trade associations to engage in positive ways. Procter and Gamble and Consumer Specialty Products Association (CSPA) are two examples. CSPA is the trade association representing the interests of companies engaged in the manufacture, formulation, distribution and sale of more than $100 billion of familiar consumer products in the U.S. annually, and is a member of the American Chemistry Council (ACC). Both Proctor and Gamble and CSPA were constructive voices in debates around TSCA reform and took stances that were more progressive than the ACC. Moreover, both noted that concern for their consumer base and markets-based work had led them to do so.

c. Campaign capacity for federal reform was built

HEFN members also played a key role in building Safer Chemicals, Healthy Families (SCHF) a broad-based coalition focused on federal reform, markets work, and public education. Formed in 2009, over time, the coalition grew to more than 450 member groups representing more than 11 million individuals. Those groups include mainline national environmental groups, state-based advocates, parents, health professionals, advocates for people with learning and developmental disabilities, reproductive health
advocates, and businesses from across the nation. Longtime observers note that both the size and breadth of the coalition were impressive. During the multi-year efforts, SCHF balanced the needs of a large coalition effectively, and it successfully built and sustained an expansive, high-functioning, and strategically unified coalition. Clear principles, an action-oriented approach, and strong coalition management contributed to cohesion.

Many also note that, once formed, it is difficult to keep such a large and diverse coalition together. Although there was ultimately a split with some members, the coalition played an important role keeping a focus on efforts to reform TSCA over a period of many years. In addition, it also played a decisive role in the debate and positively influenced the legislation.

d. Industry pressured to come to the table

While it may have taken longer than HEFN members had originally anticipated, the funding and political strategies pursued created the context for the industry to begin pushing for reform. There had been numerous attempts over the years with negotiations taking place in fits and starts. But by 2013 the American Chemistry Council was engaged in an all-out effort to pass TSCA Reform. Different sectors of ACC were motivated by different factors, but they all agreed that it was an opportune moment for reform. For large suppliers, international regulations (including the European Union’s Registration, Evaluation, Authorization and Restriction of Chemicals (REACH)) provided an impetus to have an updated U.S. standard.

For others, the increased willingness of states to step in and regulate in the absence of federal action meant the industry was fighting battles on multiple fronts and facing differing rules in different states. For them, a single national standard was preferable. The consumer-facing markets work also had ACC members including Consumer Specialty Products Association pressuring the Association to engage. Finally, leaders at ACC understood that they had strong allies in leadership roles in Congress, which would allow them to play a decisive role in influencing any legislation that might move forward.

2. Advocates achieved bipartisan support for reform, limited the worst damage, and improved legislation

The joint introduction by Senators Lautenberg and Vitter of the Chemical Safety Improvement Act in May 2013 turned out to be one of Senator Lautenberg’s final acts before passing away in June of that year. Proponents of the bill began looking for a Democratic senator to join with Vitter. Both Senators Kirsten Gillibrand and Tom Udall were members of the Senate Environment and Public Works Committee, co-sponsors of the legislation, and potential targets. Ultimately, Senator Udall agreed to take on a lead role.
SCHF and Environmental Defense Fund (EDF) took very different approaches to the legislation at this point. EDF’s public position was that, while the bill could be improved, they supported continued negotiations. SCHF called the draft worse than current law and opposed it as written. During our evaluation, we heard multiple strongly held viewpoints on the impact this strategy disagreement had as the bill moved forward. There is general agreement that the legislation as initially introduced was weak.

As we mentioned earlier, when long-term allies divert from one another and split in this fashion, it affects strategic considerations, the ability to present a united front, inter-organizational workings, and personal relationships. The ability to respond well to buffeting events and challenges as well as adjust strategies as needed are core components of effective advocacy efforts. While acknowledging the split and the impacts it had, we focused our inquiry on determining the answers to a number of key questions such as:

- Is the legislation that ultimately passed better than previous law;
- Were advocates able to positively impact the legislation and improve it; and
- Was it the best result that could be achieved given the political dynamics?

a. Advocates improved the legislation and limited the worst damage

With public support from both industry and a major national environmental group, Senators Vitter and Udall continued negotiations to reach agreement and momentum continued to build. Against this backdrop, advocates utilized a variety of avenues to influence the bill. Despite working with Senate allies on the committee including Senators Merkley, Markey, and Whitehouse to identify and successfully address several serious deficiencies in the bill, some strategic decisions by SCHF left them essentially on the outside looking in.

It is worth noting that preemption of existing state laws was a major issue hanging over negotiations. In this context, advocates and funders were in essence victims of their own successful strategy. The campaigns and enacted state laws brought industry to the table to support national reform – which was one of their goals – but with conditions and unintended consequences. Industry conditioned their support for reform on the federal government preempting states from taking action. For a core number of members of the ACC, this was the “price of admission.”

This was a particularly thorny issue for SCHF. The coalition did not want the precedent of preemption on sound public policy grounds. In addition, the coalition leadership included many of the advocates who had led the successful campaigns for those hard-fought state laws, and they were strongly opposed to preemption weakening their state laws or preventing states from taking action.

It is also worth pointing out that most observers interviewed for this evaluation understood that some sort of preemption would be part of the final package. It is our view that advocates did a good job utilizing preemption as a bargaining chip and narrowing the final provisions as much as possible. While
there are preemptions, the final bill grandfathered existing state laws, exempted from preemption restrictions policies pursued under state laws that relate to air, water, or waste, and left space for continued state leadership.

Observers all acknowledge that the final bill was vastly improved during the process. It is hard to assign credit for ultimate improvements of a bill to any one individual entity or campaign – a point that was made repeatedly during our interviews. However, with this caveat in mind, our major conclusion in this evaluation is that the coalition played an important and valuable role in influencing the legislation. Our review showed that the majority of improvements that SCHF sought were incorporated in the final bill. A strong majority of those interviewed for this assessment credit the coalition with improving the final legislation.

b. Reform widely viewed, even by opponents, as improving current law

The House passed an amended version of H.R. 2576 on May 24, 2016. On June 7, 2016, the Senate passed the bill, and on June 22, 2016, President Obama signed it into law. Some groups called passage a clear victory for public health. Others remained neutral and/or opposed final passage. It is clear that this is not the bill that the environmental and public health communities would have written; it did not go as far as many were hoping it would go, and falls short in a variety of areas. With that context in mind, we asked each person interviewed for this evaluation to give us their opinion on whether the final bill improves on existing law.

We found a strong consensus (though not unanimous) that this is an improvement over existing law. The legislation gives EPA important new authorities, establishes enforceable deadlines and schedules for EPA work on chemicals, and creates dedicated funding from fees paid by industry.

c. Reform achieved the best result that could reasonably be accomplished under existing political realities

Backward looking evaluations have the benefit of being able to analyze political dynamics with a broader set of information and knowledge of the various factors at play. Even with that, judgments are subjective. Advocates often do not get to choose the field of play (recent elections underscore that) or control all of the factors that influence whether or not legislation moves. In the case of TSCA reform, a series of distinct factors all added up to produce the momentum that led to a compromise bill:

1. A desire to get something done as Senator Lautenberg’s deteriorating health helped advance the introduction of a bipartisan bill;
2. A different senator stepping in to attempt to find a way forward;
3. An industry driven to the negotiating table by a long-term advocacy strategy and motivated to push for reform; and
4. A strategic split within the broader coalition, providing a major environmental endorsement of the compromise bill.
Each of these individual actions added up and produced the momentum necessary to pass a bill. Advocates had to choose to either attempt to derail the efforts with the hope that they would have a better opportunity in the future or to do what they could to steer and improve the negotiations. We believe that given the momentum, it would have been very difficult to stop the bill from moving forward and working to improve it was the correct strategic decision. It is our view that, given the political makeup of Congress and the dynamics at play, this legislation is likely the best that could be achieved. We also asked those interviewed for this evaluation — including enthusiastic supporters, those who were neutral and those who opposed passage — for their thoughts. The majority agreed with that assessment.

3. Advocates balanced inside and outside games, but not always at the same time

Effective advocacy campaigns use both inside strategies (direct lobbying, working with champions and allies to influence legislation) and outside strategies (mobilizing constituencies and support, organizing coalitions and applying pressure). Creating a proper mix requires a series of strategic choices. SCHF had the benefit of a large coalition membership to draw on to mobilize and in the earlier phases of the effort was credited with a good balance between the inside and outside game. Both outside observers and coalition partners noted that SCHF’s outside mobilization game was stronger earlier in the campaign. Staff changes at SCHF including the departure of the field director and a stronger focus on the negotiations made that less apparent later in the process. Additional staff bandwidth and financial resources during the final stages of negotiations with Congress could have ensured that the outside organizing and/or communications game could have been maintained if not enhanced during this period.

When a coalition reaches the size of SCHF there are often questions on how real the coalition is, how active the member groups are, and the transaction costs needed to manage such an effort. Our analysis is that a solid core group of coalition members (primarily those on the steering committee) remained closely involved throughout the process, provided strategic guidance, and actively worked both the inside and outside game. That said, there was a perception on Capitol Hill that the coalition’s size and breadth impacted its ability during negotiations. As time went on, the nature of the process towards a consensus bill meant that significant amounts of time and energy had to be invested in the inside lobbying game.

As noted in an earlier section, some strategic decisions by SCHF left them essentially on the outside looking in, which then required work around strategies aimed at influencing the negotiations, including working with sympathetic members of Congress to push for improvements. It also forced SCHF to be more reactive. In spite of these difficulties of the kind that all large coalitions face, our major conclusion is that the SCHF coalition played a critical role in influencing and improving the legislation.
Significant grassroots and grasstops capacity was built over the years through the state advocacy efforts. The campaigns had built a base to engage in federal reform efforts, including providing leadership for SCHF. However, when it came to federal legislation, this capacity did not necessarily match the map where potential swing votes were or places where the campaign needed to pressure federal decision makers. States often were strategically targeted where wins were possible because of favorable factors like the political makeup and capacity of on-the-ground groups. Given that, in many cases senators and members of Congress from those states were already reform supporters and/or champions.

4. Strategic grantmaking over time built capacity that helped lead to federal reforms

Two of the four strategic objectives adopted by funders in 2004 included building capacity of affected communities and building a strategic infrastructure to connect across all of these areas of work. Investments over the last decade made significant advancements on these objectives. State campaign efforts had multiple impacts including building a cadre of seasoned campaigners and activists to engage in federal reform efforts. In addition, SAFER States was another piece of infrastructure that helped nurture and coordinate those efforts. Funder support built coalition and campaign capacity for federal reform through Safer Chemicals Healthy Families.

In addition, grants to health professionals, advocates for people with learning and developmental disabilities, reproductive health advocates labor, breast cancer groups, learning disability groups, and others helped broaden the voices calling for reform. Multiple Hill staff told us these voices added significantly to the debate and allowed the negotiations to avoid being framed as “industry versus enviros.”

5. The large coalition had significant benefits and drawbacks

Safer Chemicals Healthy Families (SCHF) assembled what one long-time environmental observer called, “One of the largest and most impressive coalitions on paper I’ve ever seen.” Totaling 450 organizations including parents, health professionals, advocates for people with learning and developmental disabilities, reproductive health advocates, environmentalists and businesses, SCHF was a major player in advancing federal reform efforts. The ability to speak on behalf of and for a large and diverse coalition allowed SCHF to demonstrate the breadth of support for reforming TSCA.

Interest-group coalitions abound in the Washington lobbying process. Often they are viewed as “paper coalitions” with organizations signing on but not necessarily utilizing their resources or political capital to advance the issue. In other cases, there are active members and the coalition serves as a valuable place to coordinate activities, develop joint strategy, and pool resources. While it would be hard to argue that all 450 member groups of SCHF were actively involved in the day-to-day actions of the federal reform, our evaluation found that a solid and significant core of the coalition were. Largely the coalition was high functioning and unified.
At the same time, there are costs associated with large coalitions. One is the time and resources that are needed to manage the care and feeding of the coalition. The infrastructure needed to keep a large number of groups informed, to seek input before making decisions, and to govern can be cumbersome, slow, and sometimes unwieldy. The same individual who praised the size and breadth of the coalition said, “The large coalition was tailor made if you had a model bill. When you move into negotiations, it’s a different story.”

Keeping everyone on the same page when a coalition is large and diverse is hard work. We noted the difficulties that ensued after a public split when a prominent member of SCHF adopted a different strategy and position on the legislation. SCHF had an inclusive decision-making structure and steering committee and was committed to ensuring there was input and agreement on the coalition’s public positions regarding changes to the TSCA reform bill. Unfortunately, many observers on Capitol Hill, including allies, felt that the process made it difficult to negotiate with SCHF or to determine the coalition’s bottom lines for provisions needed in a final bill.

When any advocacy community experiences a deep and bitter division, it’s painful, distracting, and costly—ultimately taking a substantial toll on the community’s overall effectiveness. But it’s even more the case for a modestly-sized and -resourced advocacy community like the community working toward toxics reform. Such advocacy sectors have to carefully husband their resources and work collaboratively, efficiently, and strategically to be effective. Sharing intelligence and contacts is key. And directing each organization’s comparative advantages in organizing, communications, and lobbying toward a unified set of goals is the hallmark of most effective advocacy communities. That a reasonably meaningful reform was both strengthened and passed in spite of these divisions is testament to the strength of advocates’ underlying strategies as well as relationships in Congress that were nurtured over years. But future victories can by no means be assured if the advocacy community working on these issues remains splintered.

**Lessons**

The successful collaborative efforts of HEFN members to reform federal policy on toxics illustrates a number of important lessons including but not limited to the following:

1. **Major policy changes take time.** Despite several attempts to find compromise, it took almost a decade for Congress to finally pass a reform bill. Funders had to have patience and adopt the long view.

2. **A multi-pronged approach was important** and confronted opponents in different arenas – at the state level, in the marketplace, etc. – helping build support for federal changes.
3. **The state-based strategy achieved important public health policy results** and demonstrated the need for federal reform. While resources were directed to states where wins were possible, **additional resources might have been made available in states where wins were less assured** but where it was important either to build a strong field presence and “ground game” or to build political support for reform among the state’s congressional delegation.

4. **Supporting joint campaigns, new voices, organizations, and coordination entities significantly broadened the field** bringing important new constituencies into the fight. At the same time, representing, informing, and consulting with a large field is a challenging proposition during negotiations.

5. **The coalition could have better prepared members for an expected compromise on preemption** in the final bill. The state campaign strategy was successful at creating effective pressure points to bring the opposition to the negotiating table. Coalition leadership understood there would be a significant push for preemption of state laws as a result, which is a common dynamic across advocacy and issue areas. It is our view that advocates did a good job utilizing preemption as a bargaining chip and narrowing the final provisions as much as possible, yet many viewed these provisions as a major defeat.

6. **Having a coalition process to develop bottom lines or “must have” provisions in advance of end game negotiations is important**, particularly in large coalitions.

7. **Be prepared with a “surge” of funding and additional advocacy staffing during the endgame negotiations with Congress so that the inside negotiating game and the outside organizing and messaging game are sufficiently resourced.**

8. **Make every effort to avoid costly and potentially hobbling divisions in the advocacy community.** When they occur, senior leaders in the community and funders have a special role to play in healing these divisions for the sake of future progress. Other advocacy communities have employed convening meetings where differences are discussed and reconciled or structuring future advocacy projects that require organizations to work together. Getting past deep divisions requires creativity, courage, imagination—and sometimes funding.
Conclusion

After passage of the bill, all eyes turned toward the Environmental Protection Agency (EPA). The ultimate ability of the new law to protect public health relies on strong implementation by the agency. As one observer said, “Implementation by a supportive EPA means the law will succeed. With the current changes, watchdogging is even more important.” Advocates are participating in rule-making and working to ensure the law succeeds, but that vigilance has taken on even more urgency with a new administration and EPA leadership that is hostile to regulations and close to the petrochemical industry.

A decade-plus of coordinated grantmaking has changed the landscape on toxics. A diverse field and substantial campaign capacity has been built, state and federal laws have changed, and retailers are acutely attuned to consumer demands for safer chemicals and are responding. Passage of federal reform as well as a new political paradigm provide an opportunity for HEFN and its members to assess next steps to build on these successes.
Appendix A

Completed interviews for Health and Environment Funders Network evaluation

Jeremiah Baumann, Legislative Director, Sen. Jeff Merkley
Beto Bedolfe, Executive Director, Marisla Foundation
Mike Belliveau, Executive Director, Environmental Health Strategy Center
Jonathan Black, Senior Policy Advisor, Sen. Tom Udall
Nancy Buermeyer, Senior Policy Strategist, Breast Cancer Fund
Gary Cohen, President, Health Care Without Harm
Jackie Cohen, Senior Counsel, Rep. Frank Pallone
Jamie Conrad, Conrad Law and Policy Counsel, Consultant, Society of Chemical Manufacturers
Ken Cook, President, Environmental Working Group
Richard Denison, Senior Scientist, Environmental Defense Fund
Adrian Deveny, Director of Energy and Environmental Policy, Sen. Jeff Merkley
Sarah Doll, National Coordinator, Safer States
Ben Dunham, Senior Policy Advisor, Holland and Knight
Tracey Easthope, Green Chemistry Director, Ecology Center
Scott Faber, Vice President of Government Affairs, Environmental Working Group
Anna Fendley, United Steelworkers
Michal Freedhoff, Director of Oversight and Investigations, Sen. Edward Markey
Julie Froelicher, Legislative Affairs, Procter and Gamble
Eve Gartner, Staff Attorney, Earthjustice
Rich Gold, Holland and Knight
David Goldston, Government Affairs, Natural Resources Defense Council
Shelley Hearne, Executive Director, Forsythia Foundation
Ruth Hennig, Executive Director, John Merck Fund
Andy Igrejas, National Campaign Director, Safer Chemicals Healthy Families
Jim Jones, Assistant Administrator Office of Chemical Safety, EPA
Dmitiri Karakitsos, Public Policy and Regulation Practice Group, Holland and Knight
Gene Karpinski, President, League of Conservation Voters
Phil Klein, Executive Vice President, Consumer Specialty Products Association
Michael Lerner, President, Jennifer Altman Foundation
Janet Maughan, Philanthropic Consultant, Passport Foundation
Drew McConville, Senior Advisor, White House Council on Environmental Quality
Mark Mitchell, National Medical Association, Environmental Health Task Force Co-Chair
Shorey Myers, Executive Director, Jennifer Altman Foundation
Anita Nager, Philanthropic Consultant, Jennifer Altman Foundation
Dell Perelman, Chief of Staff and General Counsel, American Chemistry Council
Bettina Poirier, Staff Director, Sen. Barbara Boxer
Pat Rizzuto, Chemicals Reporter, Bloomberg BNA
Daniel Rosenberg, Senior Attorney, Natural Resources Defense Council
Tiernan Sittenfeld, Senior Vice President, League of Conservation Voters
Bob Sussman, Principal, Sussman and Associates
Maureen Swanson, Healthy Children Director, Learning Disabilities Association
Paul Thacker, Journalist
Laurie Valeriano, Executive Director, Washington Toxics Coalition
Tracey Woodruff, OBGYN Reproductive Science, University of California-San Francisco