BUSINESS LOBBYING IN THE SERVICE SECTOR ON CAPITOL HILL DURING THE POST- COLD WAR PERIOD

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CERTIFICATE

This dissertation entitled "BUSINESS LOBBYING IN THE SERVICES SECTOR ON CAPITOL HILL DURING THE POST-COLD-WAR PERIOD" by Mr. Amit Kumar for the Degree of Master in Philosophy is an original work and has not been previously submitted for any other Degree in this or any other University.

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PREFACE

Lobbying on Capitol Hill is an important subject of investigation and research. Lobbying provides different groups in American society a vehicle to participate in decision making so that their interests can be championed, protected and promoted. The U.S. Congress is the most powerful law making body, whose legislation have an impact within the U.S. and without. Although lobbying can be done at the level of state legislatures, the bureaucracy and the U.S. Executive, lobbying on Capitol Hill is the most pronounced and decisive as manifest in its impact on national and international business and trade policy.

The study attempts to answer the following questions:

1. What is lobbying?
2. What is the history of lobbying, especially big business lobbying on Capitol Hill?
3. How does business lobbying in the services industry take place on Capitol Hill?
4. What are the major business lobbies and how do they operate?
5. Who are the major players/actors in business lobbying on Capitol Hill?

Lobbying is an integral element of the political process in America. Whether domestic politics or foreign affairs, the role of lobbyists including that of business lobbies in Washington D.C. has been increasing especially since the 1980s. The locus of power has shifted from the Speaker to Committee Chairmen in Congress and the number of pressure

points in Congress has increased. This has mirrored the growth of lobbyists and their influence on Capitol Hill.

Lobbying has been recognized as a legitimate, protected activity from the earliest years of the United States. The First Amendment to the Constitution provided that "Congress shall make no law...abridging the freedom of the speech or of the press; or the right of the people peaceably to assemble and petition the Government for redress of grievances."

The term "lobbyist" came into usage about this time, and the unsavory reputations of the early practitioners gave the word a pejorative sense that lobbyists have been trying to shake ever since. By 1829, the phrase "lobby agents" was being applied to special favor-seekers hovering in the New York Capitol lobby at Albany. By 1832 the term had been shortened to lobbyist and was in wide use at the U.S. Capitol.

An oft-cited example of the conflict-of-interest problem arose in the 1830s when Congress became embroiled in President Andrew Jackson's battle with the Bank of the United States. It was disclosed that Daniel Webster, then a Senator from Massachusetts, enjoyed a retainer from the Bank. On Dec. 21, 1833, Webster complained to Bank President Nicholas Biddle: "My retainer has not been renewed or refreshed as usual. If it is wished that my relation to the Bank be continued, it may be well to send me the usual retainers."

As the services sector has grown in size and its importance to the U.S. economy, lobbying in the services sector has become more intense. The banking, insurance and lately the information technology sectors amongst others in the U.S. economy have been exercising enormous influence on Capitol Hill.

The changes in Congress that occurred in the 1970s worked to enlarge the job of Washington lobbyists. They not only had to become more active—to communicate their messages to a much broader range of members and their staff-but they also had to adopt more effective techniques. As access to members became more available, more groups formed to protect or enlarge their turf and competition between lobbyists increased.

Lobbying is also effected through engaging professional lobbying firms. These firms comprise specialists from the fields of law, public policy, communication etc. They understand the way Congress functions, how legislation is drafted, how votes are cast and how consensus is built on Capitol Hill. For services sector companies that may have little or no direct access to members of Congress, lobbying firms constitute the ideal form of indirect lobbying.

Business lobbies have contributed in great measure to political campaigns. This has been through their contributions to political action committees of congressional candidates as well as through soft money contributions to the Republican and Democratic National Committees. The political campaigns are to a great extent financed by the competing and

competitive business interests. Hence the role of the lobbies in election campaigns is more dominant now than ever before.

The term "PAC" is not precisely defined in the Federal Election Campaign Act (FECA), the law that provides the basic ground rules for the financial conduct of federal campaigns. FECA does define a non-political party committee as any committee, club, association or other group of members that has either receipts or expenditures in a calendar year of at least $1000, or operates a separate, segregated fund to raise or disburse money in federal campaigns. Committees that fit this definition are known as PACs.

Since PACs are an integral feature of the political process in the U.S. the present study would attempt to focus on the correlation and correspondence between PAC contributions and legislative voting patterns on major issues of concern to the services sector. The soft money contribution, which is the money collected by the major national parties and is unregulated cannot be directly used for candidate races, is used for 'issue ads' that boost the chances of respective party candidates.

The scope of the study thus covers a brief survey of the history of lobbying in the U.S. Capitol, an insight into the techniques of lobbying, an examination into the role of Lobbying in political campaigns and the vehicles-namely PACs and soft money that lobbyists use to achieve their objectives. The entire slant of the study will be on the services sector with a special emphasis on the post Cold War developments.

The focus of the study would be on the lobbies in the services sector on Capitol Hill. Business lobbies influence the drafting of legislation, the passage/blockage of legislation that influences their interests with special reference to developments in the post Cold-War period. For the sake of investigation, the study will look at major developments in four major service sectors, namely a) Technology comprising Information Technology and Telecommunications, b) Financial Services comprising Banking, Insurance and Securities, c) Healthcare and d) Transportation. However, for the purpose of detailed investigation, the Healthcare sector would be selected. The other service sectors studied could prove to be useful backgrounder material for further detailed work at a later stage.

The research attempts to gain an understanding and insight into the Business lobbying process on Capitol Hill and to assess the success/failure of lobbying by businesses in the services sector on Capitol Hill in regard to passage/blocking of legislation, influence on national business and economic policy.

The basic approach to this study is empirical. Lobbying on Capitol Hill will be examined as a dependent variable whereas the particular aspects of the services industry would constitute the independent variables in this research endeavor. The dependent variable, e.g. the techniques of lobbying, the kind of lobbying viz. direct or indirect would in good measure be a function of the issues, challenges and policy parameters concerned with the services sector. From a research perspective, the interplay between these variables would be of special interest.

Chapter I traces the historical evolution of big business lobbying on Capitol Hill. The theoretical, ideological and political basis of lobbying in the historical context of the 20th Century American political scene has been examined in great depth. The competing influences on polity of the big business groups on one hand and the labor, environmental, and consumer interest groups on the other has been probed.

Chapter II delves into the mechanisms of the lobbying process, namely the techniques of lobbying-direct and indirect. Laws governing lobbying practices also have been looked into. Any industry group or corporation interested in lobbying on Capitol Hill has to follow strict lobbying registration and disclosure laws.

Chapter III examines the role of lobbies in political campaigns. Political Action Committees, Hard and Soft Money Contributions, to the extent that they tend to influence campaign and election outcomes are important aspects of contemporary American political life and depict how closely business interests have become so closely intertwined with political activity. This relationship between big business and congressmen has been looked into in some detail. The Federal Election Campaign Acts and recent efforts at campaign finance reform, especially with regard to the contribution to parties and individual candidates by big business groups have been discussed at length.

Chapter IV deals with the major legislative and policy issues confronting the Healthcare Sector in the post-Cold War 1990s and how the respective lobbies have attempted to

dictate policy and drive legislation to safeguard, protect, promote and nurture their interests. The tools and contrivances used by these lobby groups have been analyzed.

I owe a deep debt of gratitude to Prof. Christopher S Raj for his patient supervision and for having shared his expert views, but for which this work would not have been completed. I sincerely acknowledge all his help.

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DATED: JULY 2001 (AMIT KUMAR)

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CHAPTER I

HISTORICAL EVOLUTION OF BUSINESS LOBBYING ON CAPITOL HILL

In an effort to understand the evolution of American polity in the 20th century and the role that lobbying plays in it, John Judis describes three schools of thought. A good part of the following account is borrowed from his book, 'The Paradox of American Democracy'.

The oldest school of thought, the electoralist, believed that what the government did was primarily determined by which candidates the votaries elected and what party prevailed in Washington and in the states. Politicians and parties could defy voters, but voters could then retaliate by throwing them out of office. Labor unions, business groups, environmental organizations, and other kinds of groups had influence on the political process, but were constrained to work through voters, candidates and their parties. The parties played a critical mediating role among these contentious groups. Clinton Rossiter stated this view succinctly at the beginning of his classic *Parties and Politics in America:* "No America without democracy, no democracy without politics, no politics without parties, no parties without compromise and moderation.[1]" This kind of democracy was thought to work best when the two major parties were highly competitive and when a large percentage of Americans participated.

[1] Clinton Rossiter, Parties and Politics in America, New York, 1960, p.11.

The second, pluralist school of thought evolved out of dissatisfaction with the purely electoral model of democracy. Reflecting real changes in politics during the twentieth century, the pluralists believed that organized groups rather than voters and parties played the dominant role in shaping the actions of government. These groups had enormous influence on the results of elections and on what elected officials did. Borrowing from Newtonian physics, the pluralists imagined government action as the resolution of many different vector, each representing the force wielded by a large organized group, such as business lobbies or labor unions. As Arthur Bentley, the founder of pluralism, put it in his 1998 work, *The Process of Government*, "The balance of the group pressures is the existing state of society."[2] The pluralists believed that the ideal society was one of democratic pluralism, where all the major groups within society, including labor s well as business, were adequately represented. They believed that the America of the 1950s approached this ideal.

The third school of thought, composed of populists and Marxists, held that important government decisions were shaped and then made by a small, interlocking group of business, political and military leaders who prevailed regardless of who won elections. Populists described this group as a "power elite" or "establishment" and Marxists called it a "ruling class." Through the power elite's influence and even control over political parties and media, it was often able to establish a broad consensus through which politicians and interest groups acted; but even when a consensus did not exist, such as during the beginning of the Cold War and the Vietnam War, the elite was still capable of

[2] Arthur F Bentley, The Process of Government

directing government action through its clout within the Executive branch. Marxists and populists regarded the populist view as hopelessly naïve, and saw pluralists as apologists for an undemocratic status quo. Their own alternative was either participatory democracy-a vague term that conjured up direct local control-or some form of democratic socialism. While the electoral view held sway in many high school civics classes and the theory of pluralism in university political science departments, the populist/Marxist theory came into favor among New Left activists and intellectuals.

During the time when these three views were hotly debated, they were thought to contradict each other, but in the heat of political conflict, the proponents of these views failed to notice that they were describing complementary, rather than contradictory, aspects of the overall political process. If you start with the electoral view (which makes no sense in the mid-nineteenth century) and then add the dimension of interest groups (which comes into play in the late nineteenth century) and then add to that the role of elites and elite policy groups (which emerge as critical in the early twentieth century), then you have a comprehensive view of how American politics has worked in the twentieth century. You can't understand any era of twentieth century politics without understanding the distinctive role played by voters and parties, interest groups and elites.

But what of the conflicting views of how American democracy should work? If you look not at an imagined future, but how American politics has actually worked over this century, American democracy has flourished during those periods when voters actually affected what government did, and when labor and consumers as well as business

wielded significant influence. This occurred during the Progressive Era, the New Deal and the early 1960s. During those periods, elites and elite organizations also played a conspicuous and active role. They did not undermine, but bolstered democratic pluralism. Conversely, during those periods in which democracy flagged, elites and elite organizations have been eclipsed by business lobbies. The integral relationship between elites and democracy is the great paradox of twentieth-century American politics.

Voters and Parties

Political parties and elections became important during the 1820s. The male vote was still restricted by property qualifications in many states; and to the extent that parties existed, they were predominantly legislative caucuses. But over the next decade, a new party system emerged. As the states eliminated property tests for voting, the parties became local and national organizations that chose candidates, erected platforms, raised money for campaigns, and conducted them, often without the participation of the candidate, himself. When in power, the parties –which locally appeared to be "machines" doled out government jobs through patronage and controlled local newspapers, which they funded through publishing legal notices.

Until the late nineteenth century, parties were the only important national political institutions. If a dissenting national movement wanted to contest for power and influence, it had to found its own party. Thus the nineteenth century saw a plethora of third and fourth parties-from the Free Soil and Know Nothing parties to the National Greenback and Populist parties. The most successful of these was the Republican Party, which

displaced the Whigs in 1856 as the principal rival to the Democratic Party. The elections from 1832 to 1860, with their high turnout and mobilization around land, the tariff, immigration, and the expansion of slavery, represented a high-water mark in the importance of parties, politicians, and elections.

After the Civil War, much of what the national government and local and state governments did was dictated by the growing power of wealthy merchants, bankers, and industrialists. The new men of wealth were able to buy off politicians, and sometimes entire state legislatures and the U.S. Congress. Urban politics, and some state politics, were ruled by tightly organized machines that used patronage, the dispensation of social services, and force and bribery to maintain their dominance. In the South, the blacks were excluded from the vote. Corruption was rife. Simon Cameron, a Pennsylvanian Republican boss and U.S. Senator who served briefly as Lncoln's Secretary of War, once quipped, "An honest politician is one, who, when once bought, stays bought."[3] Electoral turnout was very high after the Civil War, but it didn't necessarily reflect public involvement in government debate. National campaigns were like sporting events, where parties commanded loyalty rather than intellectual conviction. A Chaicagoan might be a Democrat rather than a Republican in the same spirit that he later was a Cubs rather than a White Sox fan.

Political parties themselves began to decline in importance in the late nineteenth century. In 1883 a coalition of Democrats and dissident Republicans succeeded in getting civil service reform in Congress, which removed federal jobs from the control of politicians

and political parties. Business leaders-partly in response to the growing challenge to their power from Socialist and Populist parties-got cities to adopt commission and city manager governments that removed administration from politicians and parties.[4] They also championed new electoral rules that made it more difficult for dissident third parties to function. Ironically, populists and progressives also contributed to the decline of the parties. They advocated the initiative and referendum, which allowed voters to bypass the party competition, and the direct election of U.S. Senators, which removed an important office from party control. And on the grounds of fighting corruption, they often joined business leaders in trying to strip city councils and state legislators of power. After winning the initiative and referendum and the primary nomination in Oregon, William S. U'Ren, the leader of the People's Power League, fought to make virtually all offices subject to appointment by an elected governor.[5] (There is a direct line between U'Ren's antipolitical populism and the combination of imperial rule and plebiscitary democracy espoused by Ross Perot in the 1990s.)

The parties also lost control over the press. A new group of newspaper publishers, led by William Randolph Hearst, created commercial publications that entertained their leaders, while Adolph Och's *New York Times* promised to be 'nonpartisan."[6] Public officials, beginning with Theodore Roosevelt, established independent relationship with the press and ran their own campaigns. Roosevelt set up a pressroom in the White House, and

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[3] Quoted in Time, Aug 7, 1978.
[4] James Weinstein, The Corporate Ideal in the Liberal State: 1900-1918, Boston , 1968; and Samuel Hays, "The Politics of Reform in Municipal Government in the Progressive Era," Pacific Northwestern Quarterly, Oct. 1964.
[5] Daniel T. Rodgers, Contested Truths: Keywords In American Politics since Independence, New York, 1987, ch.6.

Wilson began holding regular press conferences. Politicians also increasingly depended directly upon wealthy individuals rather than the party itself to fund their campaigns.

After World War II, the parties were weakened by the onset of television, which changed the nature of campaigning. The party precinct captain was replaced by the adman and pollster, and the political boss by the political consultant.[7] The pollster and the consultant worked for the candidate rather than the party. Even the elected official relied on these experts in public opinion. Jimmy Carter was the first President to appoint both a pollster and an advertising expert as White House advisors. Parties were further weakened by the elimination of the closed-party caucus as a means by which states nominated presidential candidates. The spread of the primary system took the election of presidential and other candidates out of the hands of the party and its convention. It made the party nominating convention-the event that epitomized the power of party bosses like Chicago's Richard J. Daley-televised spectaculars where the nominee could exhibit his message to a national audience. The final blow, perhaps, was the collapse of the Congressional Seniority system and the strict role of authority that it entailed. Beginning in the 1970s, House and Senate members no longer deferred invariably to their party leaders and committee chairs. A freshman senator like Texas's Phil Gramms could have as much influence as the leader of his party.

The party system did not disappear, but parties no longer played the central role in the political process. In the two most consequential elections of the twentieth century-

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[6] Quoted in Michael Schudson, Discovering the News: A Social History of American Newspapers, New York, 1978.

Franklin Roosevelt's landslide win in 1936 and Ronald Reagan's landslide in 1980- neither candidate campaigned as the leader of his political party. Reagan's avoidance of the Republican label is well known, but according to historian William Leuchtenburg, Roosevelt mentioned he was a Democrat no more than three times during the entire 1936 campaign.[8] And like Reagan's victory in 1980, Roosevelt's victory strengthened a loose coalition of politicians, intellectuals, political movements and interest groups that operated through, but often independently of, the party system.

In the 1990s political parties made a minor comeback, thanks to campaign finance loopholes that allowed the parties to spend "soft money" on campaigns without having to adhere to the limits on contributions to candidates. But the party organization itself plays little role in selecting or counseling candidates or in encouraging the support of politics. Candidates operate largely outside party control. Not only the candidates, but the press itself is much more likely to seek political guidance from pollsters and political consultants than from party officials. Washington pollster Guy Molyneux described the national Democratic Party of the 1990s as a party of political consultants. "Insofar as there is Democratic Party, it is a network of thirty to forty political consultants. They have the institutional memory and commitment," Molyneux said.[9] In between elections, opinion polls serve as a kind of plebiscitary referendum on policies and politicians. A president will often hesitate to act if opinion polls show a majority of the public is opposed to what he wants to do. House and Senate members will use polling in their districts and states to help them decide how to vote.

[7] See Sidney Blumenthal, The Permanent Campaign, Boston, 1980.
[8] See William Leuchentenburg, Franklin Roosevelt and the New Deal, New York, 1963, p. 190.

But what the public tells pollsters and how it votes is not an independent variable. Interest groups can change public opinion. During the debate over the Clinton healthcare program in 1993 and 1994, the Health Insurance Association of America spent $15 million on television ads that, though highly misleading, roused considerable opposition to the Clinton plan. Interest groups can even hire pollsters to devise questions that will make it appear the public supports its aims when in fact it does not. The Cato Institute, a Washington think tank funded partly by brokerage firms, financed polls that claimed to show the public favored the privatization of Social Security, but the questions, which never mentioned the risk incurred by private investment, invited the answers they got.[10] Interest groups can also use campaign contributions to influence politicians. With elections having become highly expensive because of the cost of television advertising, candidates have found it highly difficult to defy their funders. In considering legislation that fails to receive wide public scrutiny, Congress can be swayed decisively by money. Appropriations bills are filled with provisions that reflect the interest of large donors.[11] In 1995, for instance, the new Republican leadership went out its way to pay back two major contributors, the Golden Rule Insurance Co. and Amway.[12]

Interest groups can also enter the political arena more directly. They can nominate their representatives for party positions. They can go door-to-door and run phone banks for candidates. They can even run their own "independent" advertising. The modern

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[9] John B Judis, The Paradox of American Democracy, New York, 2000 p. 8.
[10] Lawrence R Jacobs and Robert Y Shapiro, "Myths and Misunderstandings about Public Opinion Towards Social Security," paper delivered at the National Academy of Social Insurance, January 29-30, 1998.

[11] Philip Stern, The Best Congress Money Can Buy, New York, 1988, ch. 8.
[12] See John B Judis, "The Contract with K Street," The New Republic, Dec. 4, 1995.

Christian right began strictly as a policy lobby to change an Internal Revenue Service ruling on church-run segregated schools, but during the 1980s entered the political arena. In the 1990s the Christian Coalition and the AFL-CIO were among the most important forces in electoral politics, even though neither was a political party and both were legally prevented from running their own candidates. This attests to the continuing vitality of the electoral system, but also to the importance within it of interest groups and other nonparty kinds of political organizations.

Interest Groups

The new national interest groups-the American Bankers Association (founded in 1877), the American Federation of Labor (1886), the National Association of Manufactures (1894), the U.S. Chamber of Commerce (1912), and the American Farm Bureau (1920)-originated at the same time that American industry began to produce for a national market, and when labor unions, following the European example, began to organize across companies and industries and to form national federations. As government itself began to intervene extensively in economic affairs-regulating the currency, curbing monopolies, encouraging conservation, policing food and meat products, and taxing income and profits-businesses and other affected groups organized lobbies to protect their interests. They operated independently of the parties, though they were often aligned more closely with one party or another.

These organizations got a boost during World War I, when government planning boards encouraged private industries to form trade associations to negotiate with the

government. By the 1920s such interest groups as the National Coal Association and the Association of American Railroads had become a fixture in American politics. In his pioneering work *Group Representation Before Congress*, political scientist E. Pendelton Herring counted more than a hundred trade organizations in Washington in 1929 and more than 500 groups with representatives. During the New Deal and World War II, still more groups were formed. By 1949, the U.S. Department of Commerce estimated that there were "approximately 4000 trade, professional, civic and other [national] associations." These in turn included 16000 local businessmen's associations, 70000 labor unions, 100000 women's organizations and 15000 civic and professional groups. All these groups engaged "in lobbying to varying degrees."[13] The next great period of growth occurred during the fierce battles over social, consumer, environmental, labor, trade, and tax legislation that took place during the 1960s and 1970s. Between 1961 and 1982, the number of corporations with Washington offices increased ten-fold. The number of attorneys in Washington tripled between 1973 and 1983 alone.[14] During the 1980s, Washington began to refer to the city's array of trade associations, law firms and public relations firms as "K Street," after the boulevard on or around which many of the firms had their offices.

The development of K Street was by no means inevitable and has not been replicated in Western Europe or Japan. It was spurred initially by the success of progressives, populists, and business leaders in weakening the political parties. Interest groups filled a vacuum left by the declining power of the political parties. In the 1870s farmers, angered

[13] Quoted in David B Truman , The Government Process, New York, 1951, pp. 58-59
[14] Allan J Cigler and Burdett A Loomis, Interest Group Politics, Washington, D.C., 1991, p. 11.

by tight money, formed parties; by the 1920s, farmers, threatened by falling prices, formed national organizations and lobbies. K Street was also made possible by the peculiar way in which the American.regulatory state developed. In other countries, state bureaucracies, staffed by civil servants, had authority to make rules and final judgements on complex issues involving business, labor and consumers. During the 1930s, American public officials in regulatory agencies wielded this kind of power, but after a ten-year battle, businesses, aided by the American Bar Association, persuaded Congress to pass the Administrative Procedure Act in 1946, which made regulatory rulings subject to hearings and then judicial review. The act helped turn the regulatory apparatus into a mini-court and led to the proliferation of lawyers and lobbyists in Washington.[15] From 1960 to 1987, public expenditure on lawyers increased sixfold, and the share of gross national product going to legal services doubled. By 1987, the legal industry had become larger than the auto or steel industries.[16]

The pluralists-Bentley, Herring, and after World War II, David Truman of Columbia University, Robert Dahl of Yale, and V.O. Key and John Kenneth Galbraith of Harvard-were right to insist that interest groups and lobbies have exerted an enormous influence over American politics. Every piece of tax and Regulatory legislation, every government expenditure, and every government initiative in international trade bears this imprint. Indeed, many of the important bills, such as the 1947 Taft-Hartley Act, were drafted by lobbyists. And the enforcement of every important government rule and regulation is

[15] See Joseph Goulden, The Superlawyers, New York, 1971, ch.6; and Hugh Heclo, "Issue Networks and the Executive Establishment ," The New American Political System, ed. Anthony King, Washington D.C., 1980

subject to litigation on behalf of competing interest groups. The question is however, whether all politics can be explained by the competition among interest groups.

Political scientist E. E. Schattchneider made the most telling critique of pluralist theory. He conceded in his classic work *The Semi-Sovereign People* that the pluralists had correctly identified the *origins* of much political conflict-which lay in the conflict between interest groups. But he pointed out that they had moved form this valid observation to invalid inference that interest groups dominated the *course* of political conflict and its *resolution*. Some conflicts between interest groups-say, over an arcane piece of telecommunications law-might never surface in the public, political arena. They might be fought out in the corridors outside committee hearings. But most conflicts that begin between groups eventually take a political and electoral form. Explained Schattschneider "Private conflicts are taken into the public arena precisely because someone wants to make certain that the power ratio among the private interests most immediately involved shall not prevail."[17] In 1977, consumer groups led by Ralph Nader stood poised to win Congressional passage of a bill creating a new consumer protection agency. The bill had passed the House three times already, and in November 1977, Democrats had control of the Presidency and the Congress. Business groups, sensing their initial disadvantage, tried to portray the new agency publicly not as a boon to consumers, but as a new "super-agency" that would cost taxpayers money and would not do anything. As public perceptions changed, politicians who were unsure how to vote

[16] See Robert A Kagan, "Adversarial Legalism and American Government," The New Politics of public Policy, ed. Mark K Landy and Martin A Levin, Baltimore, 1995.
[17] E E Schattscneider, The Semi-Sovereign People, Hinsdale, Ill., 1961, p.38.

sided with the business groups, and the agency lost.[18] Or what happened with the minimum wage. Early that year, the AFL-CIO, facing united business opposition in Washington, decided to conduct a public campaign on behalf f legislation raising the minimum wage. It ran television ads in districts of Republican House members who faced difficult races next year. When opinion polls revealed that the public, including voters in these districts, strongly favored an increase, Congress finally acceded.

Interest groups themselves have recognized that they cannot usually confine their efforts merely to influencing legislators directly. Since the 1920s, they have hired public relations specialists and employed what was called "grassroots lobbying" to make their case. Wrote Herring in 1929, "The men who seek special favors of Congress rely almost exclusively on the manufacture of public sentiment....they attempt to make the legislators think that the thing they want is the thing the public wants."[19] Today, what is called K Street is not simply composed of lobbyists and lawyers, but of pollsters and public relations specialists who make their living turning interest group battles into public campaigns. Pluralists could still argue that most conflicts begin between interest groups. They could also point out that the interest groups attempt to shape and manipulate the electoral arena through public relations and campaign finance, but as Schattschneider demonstrated, they have to concede that the electoral arena is a distinct realm of politics that is also important in determining what government will do.

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[18] See Walter Guzzardi, Jr., "Business is Learning How to Win in Washington," Fortune, March 27, 1978.
[19] E Pendleton Herring, Group Representation Before Congress, Baltimore, 1929, ch.4.

The pluralists also set out a model for how politics and democracy should work. The liberal pluralists argued that the government should use its power to enable labor unions to organize against the superior power of business-in effect to create the conditions of more democratic pluralism. John Kenneth Galbraith argued that political equality would be made possible by the "countervailing power" of business and labor organizations.[20] If combined with the electoral idea of public participation and accountable parties, this model of democratic pluralism comes very close to defining what we mean by democracy in the twentieth century.

Herring wrote about the "balance of interests"[21] between business and financial interests on one hand, and labor and consumer interests on the other. This balance has shifted dramatically with each new political epoch. Labor was at its peak of strength during World War I and from 1936 to 1946. Business was clearly stronger than its critics in the 1950s. In the 1920s and 1980s, business lobbies would eventually reign supreme, undermining the promise of democratic pluralism. Which groups or lobbies were in the ascendancy made all the difference in what kind of things government did during a particular period.

During the fifties, the pluralist model also failed t o take into account of a different kind of policy group and political institution. The Council on Foreign Relations, the Brookings Institution, and the Ford Foundation exercised considerable influence over policy. These groups, organizations, or institutions were run primarily, but not exclusively by

[20] John Kenneth Galbraith, American Capitalism, Boston, 1952, p.111.
[21] Herring, Group Representation.

Americans drawn from the upper rungs of business, finance, the academy, and labor. But they were not dedicated to defending the particular interests of their members. Rather, they stood for what their members believed to be the national interest. They didn't fit easily within either the electoral or the pluralist model of how American politics worked.

Well before C. Wright Mills published his *The Power Elite* in 1956, there were Marxists who insisted that American politics was dominated by a "ruling class" drawn from and accountable only to the country's capitalist class.[22] Mills, a populist and progressive from Texas and a well known sociologist at Columbia University argued that American politics was ruled by an "intricate of set of overlapping cliques" that occupied the "command posts" of the great economic, military, and political institutions.[23] He called these "self-conscious members of a social class" the "power elite." "Insofar as national events are decided, the power elite are those that decide them," Mills wrote.[24]

Business and the Rise of K Street

In the decades after World War II, many businessmen steered clear of politics. They voted, and sometimes contributed to candidates, but they really participated in political movements or political groups. Among those that did, the small businessman and the head of a family-owned enterprise were most likely to join the Chamber of Commerce and to oppose most kinds of government economic intervention. Some corporate executives and investment bankers joined the NAM or Liberty League, but others worked with policy groups such as the Committee on Economic Development, which saw the

[22] See Paul M Sweezey, The Theory of Capitalist Development, New York, 1942.
[23] C Wright Mills, The Power Elite, New York, 1956.

government as having a role in tempering the business cycle and in limiting the inequities or addressing the externalities of unregulated capitalism. They were an important group within the American elite.

These business leaders initially acquiesced in and in some cases actively supported the consumer and environmental movements of the sixties. They served on the boards of the Ford Foundation and the Brookings Institution. Yhey looked kindly on collective bargaining and were comfortable serving with labor leaders on policy groups and commissions. Some of them, like Ford CEO Robert McNamara and investment bankers Douglas Dillon and George Ball, were appointed to cabinet positions. But in the 1970s, many of these corporate leaders and bankers abandoned their commitment to disinterested public service and to a politics that transcended class. They turned against union organizers, environmentalists and consumer activists with the same resolve that an older generation of business leaders had turned against the AFL, IWW and the Socialist Party. They set up lobbies in Washington. They ran "advertorials" attacking their political opponents. They established political action committees that bankrolled hundreds of candidates. And in the process, they turned American politics decisively away from democratic reform.

What precipitated this momentous change was the economic downturn that began in the late 1960s and that foreshadowed a protracted showdown that persisted well into the 1990s. That slump altered business leaders' views about themselves and their enterprises as profoundly as it changed students' views about their future. In the sixties, Ralph Nader

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[24] C Wright Mills, The Power Elite,

had been a thorn to General Motors, but a hero to many Americans, including businessmen. In the seventies, business leaders demonized him. Businesses had acquiesced in wage demands from labor unions, while labor unions had not conducted a majoe strike since 1959. Now they vigorously resisted, setting off a new class struggle. Labor relations became as parlous as they had been forty years before.

The New Class Struggle

The history of capitalism has been characterized not only by short-term cycles of recession and recovery, but also by longer periods of boom and showdown in which recessions and recoveries have taken place. In 1969, the United States began to slip into a recession. From 1962 to 1968, the economy had grown at 4.2 percent a year. It grew only 2.4 percent in 1969, and then fell 0.3 percent in 1970. This recession proved to be in turn the beginning of a longer downturn. Over the next decades, the nation and other advanced industrial economies grew much more slowly than they had in the previous decades. From 1960 to 1973, America's gross domestic product (GDP) had risen 4 percent annually; it would increase only 2.6 percent annually between 1973 to 1979 and 2.2 percent annually between 1979 and 1995.[25]

What precipitated this longer downturn was growing competition among the major industrial nations, which drove down corporate profit rates-from an average of nearly 10 percent in after-tax profits in 1965 to less than 6 percent in the late 1970s-and led to chronic overcapacity in such key industries as steel, automobiles, machine tools, textiles,

[25] Economic Report of the President, Washington D.C., 1991.

chemicals and shipbuilding.[26] In the past, the world's economies had overcome this kind of overcapacity through the "creative destruction" of a depression that eliminated uncompetitive firms, but after World War II, the United States, Western Europe, and Japan had committed themselves to economic strategies that were intended to prevent sharp downturns. These included government protection of large banks and corporations from bankruptcy. That strategy succeeded in taming the business cycle, but it also prolonged slump that began in the late 1960s. From 1973 to 1996, world trade expanded only 3.9 percent annually compared to 7.1 percent annually between 1960 and 1973.

American businessmen got their first inking that the world economy was changing when, during the 1960s, European and Japanese firms began competing in autos, steel, textiles, and electronics. During the Vietnam War, foreign companies took advantage in rising American demand for goods to capture American markets. From 1965 to 1967, Japanese trade with the United States grew 100 percent.[27] A inflation accelerated in the late 1960s, American businesses found their products being ignored in favor of cheaper foreign goods. In 1971, the nation ran its first trade deficit since 1893.

That same year, the United States also abandoned the gold standard. As long as American goods were in demand, other countries had no incentive to cash in for gold the dollar holdings they had amassed from American overseas investments or military expenditures. Rising prices and trade deficits, however, prompted countries to begin demanding gold.

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[26] See Bennett Harrison and Barry Bluestone, The Freat U-Turn, New York, 1988, p. 7; Philip Armstrong, Andrew Glyn, and John Harrison, Capitalism Since World War II, London, 1984, ch. 11; and Susan Strange and Roger Tooze, The Industrial Politics of Surplus Capacity, London, 1981.
[27] Joyce Kolko, Andrew and the Crisis of World Capitalism, Boston, 1974, p. 85.

Finally, in August 1971, Nixon abandoned the Bretton Woods Agreement, which had fixed the value of the dollar at $35 for an ounce of gold, and forced the value of the yen and deutsche mark to rise against the dollar.[28] Even though the revaluation of the yen and deutsche mark benefited American exporters, Nixon's decision heightened business leaders' anxiety about their own future.

These changes in the international economy put pressure on American business to lower costs by resisting wage increases at home. Firms that had accepted unionization as a fait accompli now resisted union bargaining elections. In 1965, when unions filed petitions to be recognized with the National Labor Relations Board (NLRB), 42 percent of companies immediately complied; by 1973, only 16 percent did.[29] Large companies also responded to the downturn by transferring operations to low wage areas abroad. This threat alone of the runaway shop-made credible by its growing incidence-weakened labor's bargaining position. Writing in *Foreign Policy* in 1997, Harvard economist Dani Rodrik argued that the new globalization had created an "asymmetry":

Employers can move abroad, but employees cannot. There is no substantive difference between American workers being driven from their jobs by their fellow domestic workers who agree to work 12-hour days, earn less than the minimum wage, or be fired if they join a union-all of which are illegal under U.S. law-and their being similarly disadvantaged by foreign workers doing the same.

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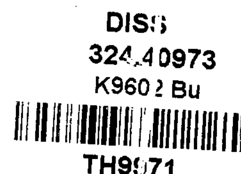
[28] John B Judis, Grand illusion: Critics and Champions of the American Century, New York, 1992, ch. ; and Robert C Angel, Explaining Economic Policy Failure, New York, 1991.

Business's newfound concerns about profits and unions provoked a counter-action. Labor unions became more militant. At General Electric, a coalition of unions went on strike in October 1969 and stayed on the picket line through the winter. The next year, 250000 postal workers went on strike, followed by 400000 General Motors workers. In each of these cases, unions were able to win concessions.

To business leaders, these strikes raised a political specter. Business leaders were disturbed by the support the GE and GM strikers received from new left activists. Earlier in the sixties, militant students had played a major role in United Farm Worker Caesar Chavez's grape boycott, but Chavez's campaign was linked to civil rights as much as labor. Now several hundred students, declaring their new found solidarity with workers, joined picket lines, held rallies on campuses in support of the strikes, and kept corporate recruiters off campus. In July 1969, *Nation's Business,* the magazine of the Chamber of Commerce, reported that "Students for a Democratic Society-SDS-is shifting this summer from the campuses it engulfed in violence to a new target: American business and industry." It offered instructions to employers to stop student militants from infiltrating their shops and offices.[30]

In a special December 1969 issue on the "Seventies," *Business Week* expressed common fears for the future of business:



[29] Robert Brenner, "The Economics of Global Turbulence," New Left Review, May-June 1998, p.229.
[30] Nation's Business, July 1969.

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In the America of 1969, political and economic power rests with two groups: the corporations and the middle and upper bracket earners. Challenging this power and the way it has been used are at least three identifiable groups: the blacks, the labor unions, and the young. The attacks, retreats, shifting alliances and internal dissension of these groups will make the Seventies one of the most tumultuous decades in U.S. history... And the U.S. Corporation...may well change most of all. As producer, market, and employer, it will be on the firing line throughout the decade...Business will still be business in 1980 but the meaning of the word may have undergone some significant changes.[31]

The rise over the next two or three years of the consumer and environmental movements only stoked these fears. Business leaders, suddenly facing factory inspections and lawsuits, became genuinely alarmed. Murray Wiedenbaum, who was an Assistant Secretary of the Treasury in the Nixon administration and would later chair the Council of Economic Advisers in the Reagan administration, recalled the case of the Occupational Health and Safety Act, which passed Congress easily in 1970. "Business ignored the debate," Weidenbaum said. "Then after it was enacted members of Congress started getting more letters on it than on any other subject."[32]

As the economy slowed, business and labor also came to blows over trade and international economic policy. Since World War II, business groups and labor unions had clashed periodically over social legislation, but top corporate leaders had worked together

[31] Business Week, Dec 6, 1969.
[32] John B Judis, The Paradox of American Democracy, New York, 2000., p.113.

in groups like the Council on Foreign Realtions to forge a common foreign and international economic policy. In 1962, the AFL-CIO had backed President Kennedy's Trade Expansion Act after the administration had agreed to aid workers who had lost their jobs because of imports and pledged to enforce rules against foreign companies "dumping" their products on the U.S. market at prices below their cost of production. But AFL-CIO leaders began to feel that they had been taken advantage of. Between 1962 and 1969, the Tariff Commission rejected all fifteen petitions for trade adjustment assistance for unemployed workers.

By 1969, the AFL-CIO was also becoming concerned not only about low-wage imports of shoes and textiles, but also an entirely new phenomenon: the American multinational firm that moved its operations abroad in search of lower wages and was now importing goods back into the United States-costing American jobs twice. AFL-CIO economist Elizabeth R Jager found that from 1966 to 1970, multinational firms' foreign investment had risen 26.5 percent and their American employment 7.6 percent, while their sales of goods back to the United States had increased 130 percent.[33] By 1970, imports from U.S. multinationals accounted for 34 percent of total imports.[34]

In 1971 the federation hired a Washington lawyer to draft a bill restricting the operation of multinationals, and got Senator Vance Hartke of Indiana and Representative James Burke of Massachusetts to sponsor it. The Burke-Hartke bill, as it became called, removed the tax breaks for companies that invested overseas-breaks that entitled them to

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[33] Elizabeth R Jager, "The Changing World of Multinationals," AFL-CIO papers, Silver Spring, Md.
[34] Kolko, America and the World of Capitalism, p. 43.

pay taxes only to income they brought back into the country. The bill also allowed the president to restrict the export of capital when it would threaten jobs in the United States. And it established quotas on imports that competed directly with American made goods.

Burke-Hartke was a flawed bill, particularly because of its quota on imports. But it opened debate over an entirely new era of public and democratic control of corporate behavior. It was based on the premise that the public had a right to regulate what an American corporation did internationally when American jobs were at stake. The government was already implicitly regulating the international flow of capital on behalf of corporations through its tax and monetary policies. Burke-Hartke wanted it regulated on behalf of the public and national interest. The debate over the Burke-Hartke bill foreshadowed the debates over the North American Free Trade Agreement, the World Trade Organization, and fast-track authorization during the Clinton administration.

The bill thoroughly alarmed business leaders. Businesses poured money into the Emergency Committee on Foreign Trade (ECAT), which had been established in 1967 by David Rockefeller of Chase Manhattan, Arthur Watson of IBM, James Linen of Time Inc., and First National City Bank's George Moore, to defend the multinationals.[35] ECAT ran full-page ads in newspapers warning, "Congress: Please don't declare a world trade war."[36] Rockefeller warned members of the Detroit Economic Club in a May 1972 speech that multinationals were "being hauled before the court of public opinion and

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[35] Richard L Barovick, "The Washington Struggle Over Multinationals," Business and Society Review, 1976.

[36] AL-CIO files, Silver Spring, Md.

indicted."[37] Both the Chamber of Commerce and the NAM made defeat of Burke-Hartke a major priority, and the administration had both the Commerce and State Departments do studies to invalidate the AFL-CIO's charges. Though Burke-Hartke didn't come up for a vote, both Republican and Democratic politicians endorsed its basic principle-that American multinationals should be regulated so that they acted in the national interest. Declared the GOP in its 1972 platform, "We deplore the practice of locating plants in foreign countries solely to take advantage of low wage rates in order to produce goods primarily for sale in the U.S. We will take action to discourage such unfair and disruptive practices that result in the loss of American jobs.[38]

In the early 1970s, labor's hostility to multinational corporations, together with the success of the consumer and environmental movements, the renewed militancy within the labor movement, and the looming threat of an alliance between students and striking workers –all occurring within a protracted economic downturn-prompted business not only to take a harder line at the workplace, but also to alter its basic approach to politics and government. This didn't happen immediately, however. It would take a disparate group of intellectuals, politicians, and lobbyists to put business's fear of anticapitalist revolution into words and to develop a counterrevolutionary strategy.

One of the men who played the leading role in articulating business's fear was Lewis D. Powell, a lawyer from Richmond, Virginia, whom Richard Nixon would appoint to the Supreme Court in the fall of 1971. Powell described Ralph Nader as the "single most

[37] David Rockefeller, "What is the Future of the Multinational Corporation?," May 1, 1972, Burton Historical Collection, Detroit Public Library.

effective antagonist of American business" and the campus as the "single most dynamic source" of opposition. But he warned that antibusiness sentiments had spread from college students to college faculties, especially in the social sciences, and from faculties to the media, Congressional staffs, and politicians themselves, who "stampede to support almost any legislation related to 'consumerism' or the 'environment.'

Business leaders, Powell charged, had proved no match for these enemies of the system, and he called on the Chamber and business to organize against the threat to their survival. He advocated not only more energetic lobbying, but business support for efforts to enlighten public thinking-not so much about the businessman and his individual role as about "the system which he administers, and which provides the goods, services, and jobs on which our country depends." Powell urged businesses, among other things to fund sympathetic professors on campus and to demand "equal time" for outside speakers to present their own point of view, to monitor closely school textbooks and the media, and to devote 10 percent of their advertising budget to combating critics of free enterprise (There should no hesitation to attack the Naders, the Marcuses and others who openly seek destruction of the system") and to "cultivate assiduously" political power.[39]

Powell's memorandum found an eager readership among the Washington lobbyists and among CEOs at company headquarters. It convinced businessmen that they had to become involved in national politics and in Washington policy making.

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[38] Journal of Commerce, Aug 31, 1972.
[39] Powell memorandum provided by U.S. Chamber of Commerce.

Irving Kristol, who was a columnist for the *Wall Street Journal* shared Powell's ideology. He warned of "state capitalism" and "anti-capitalist aspirations." He was not referring to state ownership of the means of production, but to the regulation of corporations favored by "environmentalism," "ecology," and "consumer protection."[40] Under the guise of resisting socialism, Kristol was in effect reasserting the older priorities of corporate individualism. What he objected to was government regulation of corporations on behalf of the public interest.

Kristol argued for a corporate offensive against the knowledge workers or what he called the "new class." These members occupied key places in foundations like Ford, in think tanks like Brookings, in social science departments at Harvard and Yale, on the editorial boards of the *New York Times* and *Washington Post,* and on Capitol Hill. Most of their research and publications were being funded by the same corporations that they were attacking. Kristol urged that corporations start funding their own thinkers and think tanks: "When you give away your stockholders' money, your philanthropy must serve the longer-term interests of the corporation. Corporate philanthropy should not be, and cannot be disinterested.[41]

Powell and Kristol's message was echoed by a handful of lobbyists and public officials in Washington. Financier William Simon, after serving as Ford's Secretary of Treasury, would head the Olin Foundation "to funnel desperately needed funds to scholars, social scientists, writers and journalists who understand the relationship between political and

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[40] Irving Kristol, Two Cheers for Capitalism, New York, 1978.
[41] Irving Kristol, Two Cheers for Capitalism, New York, 1978., p. 134.

economic liberty."[42] Bryce Harlow, Procter and Gamble's chief representative in Washington and an eminence grise among Washington lobbyists had been a speechwriter for both Eisenhower and Nixon. Nixon's Secretary of Defense Nixon Laird, an intellectually inclined former Congressman from Wisconsin, had backed Goldwater in 1964 and had championed the rise of conservative politics in the Republican Party. His Deputy Secretary, Charls Walker had been a lobbyist for the American Bankers Association before joining the Nixon administration and would later become Washington's most powerful tax lobbyist. If Powell and Kristol furnished the intellectual framework, Harlow, Laird and Walker would provide the organizational savvy and the fundraising connections to launch a new movement.

The CEOs of large banks and corporations helped to create during the 1970s a powerful network of national organizations, think tanks, trade associations, policy groups, and lobbies, headquartered in Washington. Blue-chip corporations like General Motors and banks like Chase Manhattan began contributing to conservative political groups. Bankers like Citicorp's Walter Wriston, who had backed President Johnson earlier, gravitated to the Republican right. Of course, there were still sharp conflicts among industries and business organizations, and between large and small business, over special provisions and bills. But business, believing that they faced common adversaries, created overlapping and interlocking organizations, which, when directed toward a single end, such as the revision of the tax code or the reduction of labor's influence on Capitol Hill, were irrepressible.

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[42] William Simon, A Time for Truth, New York, 1978, p.246.

The first efforts at reviving business's influences took place at the NAM and the Chamber of Commerce. Both organizations had become irrelevant during the 1960s, but in 1973, the NAM's new chairman, Bert Raynes, decided to move the NAM's headquarters from New York to Washington. Explained Raines, "The thing that affects business most today is government. The interrelationship of business with business is no longer so important as the interrelationship of business with government."[43] Raynes converted the NAM's twenty-eight person policy staff in Washington to lobbyists on Capitol Hill, established a full-time liaison with other corporate lobbyists in Washington. The NAM and the Chamber also discussed merging. It didn't happen, but they did establish a joint political action committee and began to work together for the first time on specific issues. By the late seventies both groups were being credited with helping to turn Congress around. The Chamber itself enjoyed a revival in the last half of the seventies. Its membership grew 30 percent a year; it went from a $20 million budget and 50,000 members to $65 million and 215000 members by 1983, with a staff of 1000.[44]

But the main thrust of business lobbying came from an entirely new organization. Two of the industries that first experienced the slump of the late 1960s were construction and steel. Construction companies found their profits eroded by the high wages they had to pay for hard-to-find skilled workers. Steel companies worried not only about a slowdown in construction but also about foreign competition. Foreign imports controlled less than 2 percent in 1958; by 1968, they accounted for almost 18 percent of American steel

[43] National Journal, Jan 5, 1974.
[44] Thomas B. Edstall, The New Politics of Inequality, New York, 1984, ch.3.

consumption. Steel company profits plummeted from 1968 to 1970.[45] At the instigation of former U.S. Steel president Roger Blough, one hundred steel and construction companies formed the Construction Users Anti-Inflation Roundtable in 1969 to pressure unions to hold down their wage demands.

Then in 1972, Fred Borch, the chairman of GE, and John Harper, the chairman of Alcoa and a member of Blough's group, went to Washington to meet with Secretary of the Treasury John Connally, Deputy Treasury Secretary Charls Walker, and Federal Reserve Board Chairman Arhur Burns about the growing hostility towards business. Connally, Walker, and Burns urged the executives to found a new organization that would be confined to CEOs and that would lobby Congress and the White House directly. With Bryce Harlow also advising them, Borch and Harper organized the March Group, which they intended to be a small, select body. But growing interest among CEOs persuaded them to merge with Blough's group to form the Business Roundtable in 1973. Within five years, the Business Roundtable boasted 192 member companies, including 113 of the Fortune 200. Together, the Roundtable's companies accounted for nearly half of the country's GNP.[46]

The Roundtable was different from past business organizations in several important respects. Unlike the Chamber of Commerce and the NAM, it was strictly limited to major corporations and to their CEOs. John Harper was the first president, followed by Thomas

[45] Thomas Howell, William A. Noelhart, Jesse G. Kreier, and Alan W. Wolf, Steel and the State, Boulder, 1988, ch.7.

[46] See Kim McQuaid, "The Roundtable: Getting Results in Washington," Harvard Business Review, May-June 1981.

Murphy of General Motors, Irving Shapiro of Dupont, and Borch's successor at GE, Reginald Jones. The CEOs actually did much of the lobbying. *Writing in Harvard Business Review* in 1981, Albro Martin commented:

> The Business Roundtable almost seems a belated recognition of the frequently demonstrated historical principle that royalty always commands more attention, respect and awe than the lesser mobility. Neither the National Association of Manufacturers nor the U.S. Chamber of Commerce can do what a uniquely conceived and specially powered lobby of the largest and most responsible economic interests in the country can achieve.[47]

The Business Roundtable differed from the Committee on Economic Development (CED), an organization that also attracted Fortune 500 CEOs. The CED was not a lobby, but a research organization that publicized its results in order to promote policies and directions. The Roundtable lobbied for and against specific initiatives. In its initial decades, the CED's businessmen and social scientists did not see themselves as members of an interest group. Business leaders like Paul Hoffman and Beardsley Ruml and economists like Herbert Stein attempted to be above both party and class. They framed their proposals in terms of the national interest and argued for their worth on the objective grounds of social science. The CED occupied a gray area between an interest group and an elite policy organization. The Business Roundtable was purely an interest group led by CEOs looking out for their own companies' balance sheets. It didn't employ intellectuals like Stein, but publicists and press flacks. Unlike the CED, it didn't respect the parameters of countervailing power. It had been founded by men who wanted to

quash government regulation of corporations. That remained its thrust, even while, on purely social matters that didn't threaten the power or profitability of their institutions, a few of the Roundtable's leaders might embrace the cause of the downtrodden.

The New Think Tanks

Kristol, Powell and Simon convinced many corporate leaders that it was important to wage a battle for public opinion. Businessmen and corporate foundations began steering their money to opponents of corporate regulation. They endowed free enterprise chairs for free enterprise studies, financed special business institutions, and gave money to new kinds of think tanks. These think tanks bore roughly the same relationship to Brookings that the Business Roundtable bore to the CED. They were not in Robert Brookings's words, "free from any political or pecuniary interest," but were expressions of political and economic interests.

The two most important new think tanks were the American Enterprise Institute (AEI) and the Heritage Foundation. The AEI had begun as an ideological trade association, founded as the American Enterprise Association in 1943 by Lewis H. Brown, the president of Johns-Manville, and a group of like minded businessmen. In 1954, a Chamber of Commerce economist, William Baroody was appointed as its executive vice president.* It is he who persuaded the trustees to change the name to American Enterprise Institute.

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[47] Harvard Business Review, July-August 1981.

* Marshall also recruited another Chamber of Commerce economist, Glenn Campbell, to become the association's research director. Campbell soon left to join the Hoover institution, where he eventually became the director. Campbell and Baroody would remain close friends and serve on each other's boards.

Baroody recruited token liberals and Democrats to justify his claim that the Institute was non-partisan.[48] He also got his staff to produce tortuously even-handed and often out-of-date legislative analyses of congressional bills.

Under Baroody, the AEI's funding rose steadily-from $230000 in 1960 to $600000 in 1965 to 900000 in 1970-but it was still less than the Brookings spent annually. Then in 1971, Harlow and Laird, who was an old friend of Broody and for whom Baroody's sonWilliam Jr. served as press secretary, kicked off a $25 million fund-raising dinner for the AEI at Laird's private Pentagon dining room. Over the next decade, AEI's annual budget climbed to $4.1 million in 1975 and $9.7 million in 1980, $500000 more than Brookings. AEI became the favorite cause of corporations that were worried about government regulation and the power of Nader and the AFL-CIO. By 1981, more than 600 corporations were contributing 40 percent of their annual budget. Baroody was now able to recruit the top CEOs to fund raising posts, including Walter Wriston of Citibank, Willard Butcher of Cahse Manhattan, David Packard of Hewlett-Packard, Thomas Murphy of General Motors, and Reginald Jones of General Electric. The AEI also enjoyed the support of corporate foundations, which, heeding the advice of Kristrol and Simon, began to concentrate their donations on organizations like AEI. These included Olin, the Sarah Mellon Scaife Foundation, the Smith Richardson Foundation, and the J. Howard Pew Freedom Trust. The Pew Foundation alone (based in Sun Oil stock) gave $6 million to AEI between 1976 to 1981.

[48] Daniel Balz, "Washington Pressures/AEI, Hoover Institution," National Journal, Dec22, 1973; and Myra McPherson, "The Baroody Connection," Washington Post, Aug, 17,1 975.

Baroody continued to insist publicly that the AEI was above politics, but beginning in November 1976, it became the government-in-exile for Ford and Nixon administration officials. Gerald Ford himself joined AEI, as did Robert Bork, Arthur Burns, and Simon. Its fellows and scholars produced hundreds of studies decrying government regulation of business and attacking legislation offered by the consumer, environmental and labor movements. Many of its studies on regulation were written by James C. Miller III, who would become head of the Federal Trade Commission in the Reagan administration, and Murray Weidenbaum, who also edited the AEI journal *Regulation.* Simon chaired its program on tax policy; former CEA chairman Herbert Stein put out the *AEI Economist.* Jude Wanninski wrote his primer of supply-side economics, *the Way the World Works*, as an AEI fellow; former Secretary of the Treasury George Schulz served on the board of advisors for regulatory policy; and Kristol and Michael Novak developed the political outlook that would be called neoconservative. When Reagan won the election in 1981, he would call on more than thirty AEI fellows to join his administration.

The Heritage Foundation, which opened its doors in 1973, sought to influence Congress and the White House not simply over the long term, but on a daily basis. Except in the strict legal sense, it was a lobby. It did not produce scholarship, but quick takes on policy and op-ed pieces. And it was the coordinated expression of a political faction within the Republican Party. Yet like Brookings, it sought to present itself as a think tank. Instead of presenting its experts as being above politics, it marketed them as a counterbalance tot the prevailing "liberal" opinion in Washington.

Heritage was the invention of two Capitol Hill political aides, Paul Weyrich and Edward Feulner. In the spring of 1971, two days after the Senate had defeated the Nixon administration's plan to fund a supersonic transport plane (SST), Weyrich, who was working for Colorado Republican Senator Gordon Allott, received an analysis of the SST plan from the AEI. When Weyrich called the AEI to find out why the report had arrived late, he was told that Baroody didn't want to be seen as influencing the actual vote. At breakfast the next day, Weyrich expressed his frustration to Feulner. and the two men decided the Republicans needed a research organization that would have what Feulner later called "quick response capability."[49]

That fall, Weyrich heard form Allott that beer magnate Joseph Coors wanted to help stem the tide of antibusiness sentiment in the country. Coors had been "stirred," he explained later, by Lewis Powell's call to arms against the critics of free enterprise and had become convinced that business was "ignoring" a crisis.[50] Weyrich persuaded Coors to give $250000 to begin an Analysis and Research Association on Capitol Hill. After a year, Weyrich and Feulner turned to the Schchman Foundation. Heritage was started as part of this foundation and then, when it received tax-exempt status, broke off on his own. In the process Weyrich and Sciafe turned to a new financial angel; Richard Mellon Scaife. Scaife initially put up $900000 for Heritage-more than triple Coor's contribution- and over the next eight years contributed at least $3.8 million.[51]

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[49] Lee Edwards, The Power of Ideas, Ottawa, 1997.
[50] Edwards, Power of Ideas, p. 9.

In 1973, Heritage was incorporated with Weyrich as its Director and Forrest Rettgers of the NAM as its Chairman. Edward Feulner succeeded him a year later and was elevated to the position of president. Edward Feulner was like William Broody, an extraordinary promoter and fund-raiser who appreciated the power of ideas. In his first eighteen months at Heritage, he raises its annual budget from less than one million dollars to $2.8 million. Feulner was not only able to lure foundations like Smith Richardson and Olin, but also Fortune 500 corporations and banks, including General Motors, Chase Manhattan, Pfizer, Mobil and Sears. One of Feulner's biggest catches was oilman Edward Noble and his Samuel Robert Noble Foundation.

Feulner also established Heritage's political style. Unlike the AEI, it defined itself openly as a "conservative" organization. Heritage hired Ph.D. candidates and aspiring journalists and publicists to produce "backgrounders" on current legislative battles and foreign policy issues, which were then mailed (and later faxed) to politicians, public officials and journalists. Unlike the AEI legislative analyses, Heritage's backgrounders took sides and recommended action. Journalist Burton Pines, whom Feulner made director of research and later vice president, said, "We're not here to be some kind of Ph.D. Committee giving equal time. Our role is to provide conservative public-policy makers with arguments to bolster our side."[52]

When the Reagan administration and Senate Republicans took power in 1980, Heritage, with its backlog of backgrounders, which it synthesized into a large volume, Mandate for

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[51] See Karen Rothmyer, "Citizen Scaife," Columbia Journalism Review, July-Aug, 1981.
[52] Easterbrook, Ideas Move Nations

Leadership 1980, was best positioned of all the new institutions to play a decisive role in Congress and the White House. By 1985, its annual budget would equal that of AEI and Brookings.

The Heritage, AEI, and such other think tanks and policy groups inside and outside Washington inundated the pages of magazines and newspapers and filled up the mailboxes of journalists and Congressional staff with their own version of social and economic reality. This version of reality pivoted on a simple formula: government rather than business was responsible for America's ills-from inflation and high energy prices to the slowdown of growth and the rise in unemployment. Inflation was caused by government deficits rather than by corporate greed or OPEC. Slow growth was caused not by overcapacity and a lack of demand, but by government regulations, which increased business costs, government spending, and taxes, which deprived the private sector of funds, and by rising wages. Faster growth could be achieved by eliminating costly environmental, workplace, and product regulations, reducing government welfare spending, cutting taxes, and easing wage growth. These measures could increase growth by increasing the "supply" of capital for investment. Wrote General Electric CEO Reginald Jones in *Harvard Business Review* in 1975, "Business must convince an indifferent and skeptical Congress that this country is facing a severe capital gap."[53]

This analysis was presented in articles in the AEI's Regulation and Kristol's The Public Interest and in books and studies published by AEI and other think tanks and policy groups. It reached America's business and professional classes through the editorial page

of the Wall Street Journal, Fortune, Forbes, and other business publications. It reached the general public through the Reader's Digest and the business and editorial pages of many newspapers, including the Washington Post.

Business won the public to its view of reality. American's distrust of government regulation and intervention began about 1973-at the same time when simultaneous unemployment and inflation, or "stagflation," was taking hold and when the think tanks, policy experts, and CEOs were beginning to make their opinions known. Distrust of government economic intervention rose steadily through the decade. By the early 1980s, it had begun to surpass the distrust of big business of big business or corporate power. That change in attitude was rooted in a change in economic reality, but it was reality as interpreted by Herb Stein, Murray Weidenbaum, and the AEI.

The Rise of K Street

To counter environmental and consumer movements and to influence Congress and the new regulatory agencies, the CEOs also hired thousands of lawyers and public relation specialists to lobby on their behalf. Together these hires created a new political culture in Washington dominated by the Gucci-shod lobbyist. They give business an enormous advantage in the policy and political arena over its adversaries.

In 1971, only 175 businesses had registered lobbyists in Washington. By 1982, 2445 had.[54] The number of corporate offices increased from 50 in 1961 to 500 in 1978 and to

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[53] Reginald Jones, Harvard Business Review, Sept-Oct. 1975
[54] Levitan and Cooper, Business Lobbies.

1300 by 1986.[55] By 1978, 1800 trade associations were headquartered in Washington, with 40000 employees; by 1986, there were 3500 associations employing 80000.[56] From 1973 to 1983, the number of lawyers grew more than threefold from 11000 to 37000.[57] By 1988, 1634 out of every 100000 Washingtonians was a lawyer, the highest proportion of any American city.[58] A few of these were public interest lawyers and lobbyists for women's, consumer, and environmental groups, but the great majority worked for businesses. By 1978, businesses were spending about $1 billion on lobbying in Washington and $1 billion on politics and public relations.[59]

Many of the new lawyers and lobbyists specialized in regulatory issues. From 1887 to 1963, fourteen new federal agencies and commissions had been established. From 1964 to 1975 alone, fifteen new federal agencies and commissions were added. As a result of the 1949 Administrative Procedure Act, these agencies were highly susceptible to pressure and review from lobbyists. Regulators from these agencies had to involve affected parties at every phase of the determination of rules; and almost every step in rule making could be subject to court challenge. Decisions were finally made not by an authoritative bureaucracy-but through what political scientist Hugh Heclo called "issue networks" that linked government officials, regulatory agencies, and cabinet departments.

[55] "Swarming Lobbyists," Time, Aug. 7, 1978; Robert H. Salisbury, "The Paradox of Interest Groups," The American Political System, ed. Anthony King., 1980.
[56] Hugh Heclo, "Issue Networks and the Executive Establishment ," The American Political System, ed. Anthony King, Wahington, D.C., 1980.
[57] Robert H Salisbury, "Washington Lobbyists," Interest Group Politics, ed. Allan J Cigler and Burdett A Loomis, Washington. D.C., 1986.
[58] Newsweek, June 20, 1988.
[59] "Swarming Lobbyists," Time, Aug 7, 1978.

These new lobbyists not only had to possess some technical expertise, they also had to master the complexities of the post-Watergate Congress. In the Eisenhower years, for instance, lobbyists had primarily relied on their connections to House Speaker Sam Rayburn, Senate majority leader Lyndon Johnson, and a handful of committee heads to make political deals. The speaker and majority leader would also tell a lobbyist whose campaigns to fund. But the political reforms of the 1970s made things more difficult. Partly in response to Watergate but largely as a result of the civil rights struggles of the 1960s, Democrats did away with the seniority system, which had vested power automatically in aged Southern members and senators who inherited control over key committees. After 1974, committee chairs had to be elected by the Democratic Caucus, and could no longer command the automatic loyalty of junior members. The House and Senate leadership could still control the appointment to committees, but the committees began to spawn scores of subcommittees, so that almost every politician who was reelected could command a position of authority. In 1945, there were 135 committees and subcommittees in Congress; by 1975, there were 313.[60] Each House member and senator had to develop his or her own position, which might often be at odds with leadership. The lobbyist could no longer simply rely on a connection to the majority leader or speaker; he or she had to establish connections with hundreds of legislators and be prepared to help, cajole, and if necessary pressure them from within their districts or states.

In 1974, Congress, in response to Watergate, passed campaign finance reform. It limited the amount of money that a candidate could receive from any contributor while authorizing corporations and unions to form political action committees to donate money

[60] Gerald Ford, A Time to Heal, New York, 1979, p. 259.

to candidates. The legislation made it less likely that a candidate would become the ward of a single large contributor. But after the Supreme Court in 1976 threw out the limits on candidate expenditures, while retaining the limits on campaign contributions, candidates had a much harder time raising enough money. Fund-raising became a major part of their job. And they looked for lobbyists for help-not so much for their own contributions, but for organizing fund-raising events and building donations. Thomas Boggs, one of Washington's most successful lobbyists, became known for hosting events for as many as 125 politicians during each election season.[61]

Few lobbyists could contact several hundred House members and a score of senators, draft complicated amendments, organize grassroots pressure in multiple districts, and raise money. So companies now hired teams of lobbyists, policy experts, public relation flacks, and pollsters. And the law firms themselves diversified. Arnold and Porter, one of the city's largest law firms, started its own lobbying firm, APCO Associates, which included nonlawyers in its management. Washington law firms also routinely hired economists, and in 1990 the District of Columbia Bar ruled that nonlawyers could become partners in law firms.[62] Several law firms, including Robert Strauss's Akin, Gump, Strauss, Hauer & Field, started their own political action committees.

There was an intimate relationship between the lawyers, lobbyists, policy specialists, and PR men of K Street and the new business think tanks and policy groups. They worked together to counter the consumer, environmental, and labor movements and to thwart or

[61] Carl Bernstein, "King of the Hill," Vanity Fair, March 1998.
[62] Marc Galanter and Thomas Palay, Tournament of Lawyers, Chicago, 1991, pp. 66-67.

subvert the new regulatory agencies. No lobbyist better symbolized the breadth of this relationship than Charls Walker, a voluble Texan who would later be credited with alchemizing Carter's efforts at tax reform into a business tax cut and with securing the bountiful business provisions of Reagan" 1981 tax cut. In 1973, frustrated that he would never become Secretary of the Treasury, he left the government to form a lobbying firm of his own, Charls Walker Associates. He immediately attracted high-profile corporate clients, including Harlow's Procter and Gamble, AT&T, General Electric, and the Business Roundtable itself, which he had helped to found.[63]

Walker understood that lobbying could not be confined to buttonholing legislators. In 1975 he took over a faltering organization called the American Council for Estate and Gift taxation and converted it into a coalition aimed at winning new tax breaks for business. Renamed the American Council for Capital Formation and housed initially on 1425 K Street, it stood for the view that American business's problems were due to a lack of capital to invest and could be solved by granting a range of very generous tax breaks, from a reduction of capital gains tax rates to accelerated depreciation on investment. Walker was the chairman; Robert Keith Gray, a Nixon White House official turned public relations expert, was the president. Walker quickly recruited a raft of *Fortune 500* members who contributed $200000 the first year of its operation. Walker also recruited powerful Democrats like Clark Clifford, former Secretary of the Treasury Henry Fowler, and super -lawyer Edward Bennet Williams on the board of directors.

[63] Ralph Nader and William Taylor, The Big·Boys, New York, 1986; and Elizabeth Drew, "Charlie," The New Yorker, Jan. 9, 1978.

The American Council also adopted a coalition strategy. Instead of trying to win individual concessions for companies, Walker got a group of them to back a common position. (The NAM and Chamber of Commerce were also coalitions, but they were so large that they could usually reach agreement on what to oppose.) The council engaged in influence peddling (Walker numbered among his friends Senate Finance Committee Chairman Russel Long), along with grassroots lobbying in the districts of members who resisted his entreaties. Walker pioneered the tactic of getting local company officials, armed with local job loss and gain figures, to meet directly with their House or Senate members.

Most important of all, Walker used the function of the "council"- a name suggesting an ordinary policy group or administrative body-to present self-interesting lobbying in the guise of social science. He appointed a board of scholars that included three future chairs of the Council of Economic Advisers-Murray Weidenbaum, Harvard's Martin Feldstein, and Stanford's Michael Boskin. The council's scholars issued studies-many of them subsidized by council-that purported to show that business tax breaks would benefit all Americans. Walker himself wrote op-eds in which he was identified not as a lobbyist, but as a chairman of a council or simply a former Treasury official. The ploy allowed the public to believe that the council's positions were based entirely on disinterested social science and on the knowledge and expertise gained from public service.

Walker's council summed up the multidimensional strategy of the business counteroffensive of the 1970s that Lewis Powell and Irving Kristol had helped to inspire.

He understood that it wouldn't be enough just to grab legislators in the Capitol Hill cloakrooms. Lobbyists had to organize political campaigns, raise money for candidates, and hire academics and other policy professionals to lend legitimacy to their positions. This strategy would eventually corrode the public's faith in elite opinion and encourage a perception of K Street as a viper's nest of corruption. But in the late 1970s it worked brilliantly.

From Alaska lands to zero population growth, every conceivable issue has attracted the attention of competing interest groups, and across the country they and their lobbyists have become a potent force in the political process. Their ranks include the traditional rich and the powerful Capitol Hill lobbies, as well as the many grassroots and coalitions that derive powers from their numbers and determination.

"America is no longer a nation. It is a committee of lobbies," wrote Charles Peters, editor-in-chief of the Washington Monthly. The goals these groups espouse are diverse and from their point of view, their causes just.

Although their objectives may differ, the various groups pressurizing Congress in the 1980s increasingly were using similar, often highly developed strategies to get what they wanted. At one time lobbying may have meant a persuasive soloist pleading his case to a Senator or representative, but as often as not the contemporary lobbyist depended far less than his predecessors on individualistic methods and more on coordinated, indirect techniques made possible by modern means of communication.

As it grew in size and sophistication, the lobbying profession lost much of the stigma attached to it from past scandals and the activities of unscrupulous influence peddlers. But concerns lingered that some individuals and groups, despite their polish and adherence to laws and proprieties, might be having too much sway in Congress, to the detriment of public health.

Peters continued in his article to say that "Politicians no longer ask what is the public interest, because they know no on else is asking. Instead they're giving each group what it wants..." In his farewell address to the nation delivered on Jan 14, 1981, President Jimmy Carter also expressed concern about the proliferation of single-interest groups, which he said was a "disturbing factor" that tends to distort our purposes, because the national interest is not always the sum of our single or special interests."

But comments like these have produced little in the way of restrictions on lobbies or the way in which they operate. The dilemma for would-be reformers was that lobbying derives from basic American rights, any efforts to control it must avoid any entanglement with those rights.

Before we examine in some detail how and why lobbying takes place in the United States Congress, it would be important to understand what lobbying is. In the words of the eminent political scientist Lester Milbraith, lobbying may be defined as:

"The stimulation and transmission of a communication, by someone other than a citizen acting on its own behalf, directed at a governmental decision maker with the hope of influencing his decision".

Many scholars draw a clear distinction between pressure groups (the term "pressure group" is interchangeably used with the term "interest group"). A pressure group is defined as "a group of people with a common interest or issue, who seek to influence a government without themselves aspiring to direct political representation". And lobbying is one of the important means that these pressure groups use to achieve their objectives.

Lobbyists are, with rare exceptions, paid representatives of groups seeking to influence public policy. The majority of lobbyists represent organized interests, although there are many instances when lobbyists are hired by an individual to work on their behalf.

An individual who contacts legislators on his own behalf is generally not paid, nor would this person be required to register as a lobbyist. Such an individual would be considered a citizen exercising his constitutional rights, rather than a lobbyist.

Interest groups have become the primary link between citizens and their government. As a channel of access through which people can present their views to public officials, interest groups afford people an efficient opportunity to take part in the political process. Since American political culture stresses that participation is a virtue and apathy a vice, such groups have gained wide acceptance throughout American history.

While organized special interests are not new in American politics, a number of trends have developed within the last three decades that have dramatically changed the way these groups operate and the manner in which they seek to affect public policy.

The majority of groups currently seeking to influence political decisions came into existence since World War II. Group formation has accelerated substantially since the early 1960s. As the scope of federal policymaking has grown, more interest groups have established offices in Washington. Obviously, it is best to "hunt where the ducks are."

There are more than 17,000 individuals listed in Washington Representatives, which is a compilation of representatives of the major national associations, labor unions, and U.S. Companies registered foreign agents, lawyers, law firms, and issue oriented groups. This volume also lists their clients and areas of legislative and regulatory concern. This means that there are nearly 30 times as many individuals seeking to influence the government, as there are members of the House and Senate!

For the sake of this study, four categories of special interest groups will be discussed: trade associations; individual corporations and unions; issue oriented groups; and, representatives of foreign concerns.

Trade associations tend to represent a profession or an industry. The National Trade and Professional Associations of the United States lists approximately 7,500 active national

trade associations. Most, although not all, have offices in Washington, D.C. and are involved in lobbying on federal legislation of interest to their membership.

An example of the first type of trade association, namely one that represents a profession, is the American Medical Association (AMA). In addition to the services it provides to its members, the AMA actively lobbies on health care-related issues. Similarly, the National Education Association (NEA) and American Federation of Teachers (AFT) both represent teachers. They seek to promote better education for America's children and improve working conditions in schools through various programs, projects and by lobbying the government.

The high technology industry provides good examples of trade associations whose members are all companies in a similar field. High technology companies range from such giants as IBM, Microsoft, Hewlett Packard (HP) and Motorola to small software companies that may have only a few employees.

Regardless of their size, most firms in this industry face many federal issues including reducing tariffs and other trade barriers; copyright, encryption, and patent reforms; government support for research and development including federal funding of such projects and tax credits for company endeavors; legislation dealing with the Year 2000 problem; reforms in how the government procures high tech equipment and services; and, establishing policies to increase the number of H1-B visas available for foreign high tech workers to obtain employment in the United States.

These are not just technical or legal issues. They are high stakes business and political concerns. The outcome of each of these political disputes can affect the earnings of individual firms in the high technology field.

While companies compete fiercely with each other in the market place, they tend to have similar views on many of these issues. In an effort to promote their common agenda, most corporations in this industry choose to join one or more of the trade associations that represent the industry in Washington. The best of these associations include the American Electronics Association (AEA), Information Technology Industry Council (ITI), Information Technology Association of America (ITAA), Computer and Communications Industry Association (CCIA), and the Computing Technology Industry Association (CompTIA). Each of these trade associations has professional lobbyists on their permanent staff to lobby on behalf of issues supported by the associations' members.

A second type of interest group represented in Washington consists of individual corporations or unions.

Continuing to use the example of the high tech industry, larger companies, like IBM and HP, in addition to belonging to a number of trade associations also maintain their own Washington, D.C. offices. They have full-time lobbyists on staff to monitor government actions and to present their company's specific interests to government officials.

Mid-size high tech companies, like Tektronix, Inc., also tend to join one or more trade associations; but rather than support a full-time office in Washington, they establish long term relations with a lobbying firm to look out for their interests and lobby on their behalf. Smaller firms, which to do not have the resources to support a fulltime office or a permanent relationship with a lobbying firm, usually rely upon a trade association to lobby on their behalf and they may hire a separate lobbyist on a case-by-case basis.

Just as most businesses have recognized the importance of having Washington representatives, labor unions also have offices in the nation's capital with full-time lobbyists on staff.

The third type of interest group with offices in Washington having lobbying capabilities are those organized around a specific theme. These are generally member organizations and are commonly referred to as "issue-oriented" groups; the group's members pay dues that allow the organization to exist. Naturally, these members share a strong interest in the organization's particular concerns. The members may be motivated by public policy issues that affect the entire country or only by those affecting the organization's members. For example, the Sierra Club is devoted to protecting the nation's environment; the National Rifle Association focuses on gun control; Planned Parenthood's emphasis is on family planning and women's reproductive freedom; and, the American Heart Association and American Cancer Society each seek to direct federal funds toward researching cures for or prevention of these diseases.

An organization like the American Association of Retired Persons (AARP) works specifically to promote the interests of its own membership. While AARP had originally been formed to provide the elderly with adequate insurance, it is now an active political group that seeks to protect Social Security, provide health care benefits, and oppose mandatory retirement based on age considerations. Similarly, the American Israel Public Affairs Committee (AIPAC) works on behalf of Americans who believe that pro-Israel foreign policy initiatives are in the best interests of this country. Such issue-oriented groups have developed reliable bases of grass roots lobbying support over many years.

The most effective groups have national membership networks that they can instantly activate to contact every Member of Congress.

The fourth type of special interest consists of foreign entities that hire Washington representatives to assist them. Just over 12% of Washington representatives work for foreign interests, including both foreign businesses and individual foreign governments.

With the end of the Cold War and the United States' emergence as the world's only superpower, most foreign governments recognize that American policies will have direct impact upon their future. They realize that actions by the State Department, United States Trade Representative (USTR), Agency for International Development (AID), and the Congress can be of enormous consequence to their countries.

Embassies tend to have individuals who monitor the activities of the American government, yet embassies have increasingly resorted to using Washington insiders to assist them in their efforts in the nation's capital. Such Washington representatives frequently have better access than their foreign clients. In addition, they understand the often-arcane political processes better than those who were not brought up in the U.S., especially those who do not have years of experience working in Washington D.C.

Similarly, most foreign firms with offices in Washington hire lobbyists to join their staffs or contract out for lobbying assistance. Foreign firms who do not have a permanent presence in the nation's capital, often hire lobbyists to represent their interests.

Firms like Bannerman & Associates, headed by former Senate Foreign Relations Committee staff director Graeme Bannerman, and the Washington Group, which includes David Springer, former staff director to a number of Congressmen, are among the best firms with foreign governments as clients, while others specialize in representing foreign businesses.

Besides these four types of special interest groups, individual people can also utilize the services of lobbyists in Washington. President Bill Clinton, for example, reached out to a network of lobbyists to assist him in his fight against impeachment. Prominent lobbyists including Thomas Hale Boggs, Jr., Jody Powell, Joseph P. O'Neill, and Anthony Podesta participated in frequent conference calls to plot strategy. These sessions were organized by Steve Richetti, who returned to the White House staff after having left to be a lobbyist.

Essentially, lobbying has become a virtual industry in Washington, whose practitioners are called upon by anyone wishing to see specific legislation passed or defeated.

While all four types of interest groups may have lobbyists on their staff, all four also utilize the services of outside lobbyists to augment their activities.

Trade associations, individual companies, and issue-oriented groups may hire lobbyists on a case-by-case basis when they need assistance on a given piece of legislation, or they may use the services of lobbyists with whom they have had long term working relationships. For instance, when the Congress considers major trade legislation, such as the North Atlantic Free Trade Agreement or fast track authority for the President, business oriented trade associations and individual companies hire lobbyists to assist them in promoting this legislation. Conversely, environmental groups and labor unions may also hire additional lobbying support to oppose the passage of these legislative initiatives.

There are also pure lobbying firms, which provide a range of services including direct contact with Members of Congress and staff, monitoring legislation and activating grass-roots support on an issue.

Many lobbyists are former Members of Congress or former congressional staffers. The number of Members of Congress who turn to lobbying as a profession after they leave the legislature has increased in recent years. Only three-percent of those who left in the

1970s are lobbyists in Washington; 12% who left in the 1980s; and 22% of those who left Congress in the 1990s are now lobbyists. In fact, at least 128 former Members are currently working as lobbyists.

While most Members of Congress who become lobbyists wait until their terms are completed or even until they are defeated for re-election, some Members are so enticed by the potentially lucrative incomes that they resign in mid-term to begin new careers as lobbyists. For example, former Representatives Willis Gradison (A-Ohio) and Glenn English (D-Oklahoma) left Congress before their terms ended in order to become lobbyists.

FORMER MEMBERS TURNED LOBBYISTS

When most members of Congress are first elected, they pledge to look out for the interests of their constituents. When they leave office, members of the House and Senate are bombarded with lucrative offers to look out for the interests of major corporations. Former members of Congress are often considered the most valuable commodity a lobbying firm can have. For example, in his first year as a registered lobbyist, former Appropriations Committee Chairman and almost-Speaker of the House Bob Livingston (R-La.) was able to collect over a million dollars in lobbying fees.[64] As a result, firms are willing to pay seven-figure salaries to retain well-connected former members of Congress as lobbyists.

[64] Influence Inc. "Lobbyist Spending In Washington", 2000 ed. Center for Responsive Politics, Washington D.C.

In 1999, the Center for Responsive Politics identified 129 former members of Congress who were active as lobbyists. This is down slightly from 1998, when there were 138 former Congress people active on K Street. Despite the Republican takeover of Congress, 66 former members who lobby are Democrats, compared with 62 Republicans and one independent.

Currently, a member of Congress must wait one year after leaving office before lobbying former colleagues directly. Executive branch officials faced a five-year ban in 1999, although that has since been reduced to one year. However, members are often hired by lobbying firms as consultants or advisors immediately upon leaving Congress, then begin lobbying once the year-long 'cooling off' period is over.

The number of former congressional staffers who become lobbyists after leaving the Hill is even greater. These trends are only natural. Former Members and staffers have direct knowledge of the issues they worked on when they were in Congress. Their first hand experience provides them with a better understanding of the legislative process than anyone could obtain by studying or merely observing the Congress. Finally, they still have contacts and friendships with Members and staff who continue to work on the Hill. This gives those who left instant access to current Members and staff.

A ban was imposed in 1995 upon former Members and most staff preventing them from lobbying their former colleagues for one year after they leave the Hill. This ban does not,

however, prohibit them from devising strategies and then sending others in their firms to do the direct lobbying.

Successful lobbyists provide at least five important services.

First, they provide legislators with information that can assist in the legislative process; this can be of a technical or general nature and can affect the outcome of policy decisions. Members of Congress constantly need accurate and useful information in order to fulfill their legislative role appropriately. They rely on a combination of media, staff, Congressional research services, and lobbyists to obtain this information.

Second, they are a conduit though which their clients can present their views most effectively to legislators. The lobbyist may communicate this information directly or activate the membership to contact members of Congress through phone calls, letters, e-mails or personal meetings. Most groups seek to have at least one gathering in Washington where their members can meet directly with many, and sometimes all, Members of Congress. The group's Washington office arranges these meetings, which often includes briefing both the grass-roots membership and the congressional offices.

Third, they enable legislators to communicate efficiently to the group's members, especially those that are constituents or supporters.

Fourth, by carefully monitoring the status of legislation and the content of bills passed into law, lobbyists enable their clients to be fully compliant with the laws of the land.

Fifth, lobbyists have assumed some of the tasks formerly within the domain of political parties, including assisting candidates to develop positions on issues and also to raise campaign funds.

In sum, lobbyists can assist Members of Congress in the performance of their legislative responsibilities as well as in their efforts to seek reelection.

Regardless of the specific issue to be lobbied, most successful lobbyists use similar techniques, strategies and tactics. Many of these are outlined in Bruce Wolpe's, Lobbying Congress: How the System Works. "Wolpe declares that there are five basic rules, which must be employed by all

(1) **Tell the truth**: Wolpe states that a lobbyist is only as good as his or her word. Legislators rely upon the lobbyist for information. Providing inaccurate information would harm that lobbyist's reputation.for the remainder of his or her career.

(2) **Never promise more than you can deliver**. For example, if grass-roots contacts are promised, the telephone calls, mailgrams, and letters must be generated; if political support is offered, it must be forthcoming.

(3) **Know how to listen so that you accurately understand what you are hearing.** Knowing legislators and staff firsthand and being able to discern their rhetoric is important to success in the legislative arena.

(4) **Staff is there to be worked with and not circumvented.** Unlike parliamentary forms of government, staff in the American legislature are key players and should not be ignored. Staff may often be as important as a Member of Congress since they may prepare the final briefing for a Member prior to a vote, or even draft the legislation.

(5) **Spring no surprises.** Members and staff need to know the source and degree of opposition or support for any given piece of legislation. All significant facts and arguments should be provided to them so that they can reach informed decisions.

In addition to Wolpe's guidelines, there are a number of other fundamentals of lobbying.

A good lobbyist must be thoroughly familiar with the legislative process. It makes little sense to approach a Member of a subcommittee or committee if that committee is not directly involved with the legislation in question. Similarly, it is of little help to approach committee members after the committee in question has already acted. In essence, the lobbyist must know the appropriate subcommittees and committees, their timetable for action, and the legislative concerns of its members.

Members of Congress rely on lobbyists for information. The information should be provided accurately, quickly, and in a useable manner. As Members of Congress deal with dozens of issues in a given day, the information provided to the Member of Congress should usually be presented on one-page of paper with additional background materials made available if necessary. If dealing with a specific piece of legislation, the lobbyist must know the background of the entire bill and the specific clauses that affect the concerns of the interest group.

A successful lobbyist will have a good understanding of the opposition. It is important to understand the arguments presented by opposing groups. This will enable the lobbyist to present counter arguments to allies in the legislature.

Lobbyists should develop access to as many Members of Congress as possible. Since there are over 17,000 other registered lobbyists in Washington, this can be a daunting proposition. Members of Congress and their staff simply do not have the time to see every lobbyist who wishes an audience. A mark of a good lobbyist is the access they are able to develop, particularly with Members key to the legislation of concern. Access to Members and staff is also a reflection of the respect a lobbyist is able to earn for personal integrity and the quality of information provided.

Successful lobbyists are able to generate activity from grass-roots supporters. When an issue of concern comes before Congress, the interest group's Washington, D.C. office should be able to affect public opinion through media campaigns, advertisements, and

monitoring the members of the special interest. This, in turn, should result in numerous letters, phone calls, and e-mails to the congressional office encouraging the Member to take a particular course of action.

The New York Times reported that "in their costs and in their reliance on television, polling and grass-roots constituency building, these efforts most resemble presidential campaigns. And they are now so pervasive and sophisticated that it has become difficult to distinguish between a lobbying effort, an issue advocacy campaign and a citizens movement."

Technology makes it easier to organize and send political messages across the country at warp speed. E-mail, computer data bases, computerized fax-machines, and mass constituent contacts all generate grass-roots appeals to legislators urging them to take specific actions. The goal of these campaigns and efforts is to convince ordinary voters to "serve as the front-line advocates for the paying clients." Public policy experts even debate whether these new high-tech lobbying methods have made the system more democratic by involving more people in each legislative issue or if the growing reliance on grass roots lobbying has made it even harder for interests without significant financial resources to compete in the public policy arena.

A related technique to use is the "grass-tops" method of having a few, elite people reach out to individual Members of Congress. Successful lobbyists are either able to convince a Member directly due to their own personal relations with that Member or they know

people with good ties to that Member who can make the appeal directly. Thus, lobbyists keep databases of "key contacts" on whom they can call to reach each Member of Congress. These key contacts might include relatives, former employees, friends, neighbors or political contributors; basically, people whose appeals the Member would likely consider sympathetically.

Lobbyists have also become an integral part of the political campaign system. Their lobbying work is, obviously, enhanced if they are also able to assist a Member of Congress to secure much needed campaign funds. They must become expert in campaign finance laws so as not to violate restrictions on the source or amount of funding that can be provided to any political campaign.

Success in politics often consists of coalition building. A good lobbyist finds allies to assist on a given piece of legislation, even if these allies differ from positions the lobbyist represents on other issues. Thus, lobby coalitions may be issue specific or cover a wide range of concerns.

One of the most successful lobbying techniques is to encourage legislators who support a given issue to work as a defacto legislative lobby. They might form a formal or informal caucus within the Congress or simply form alliances around a given piece of legislation. Such alliances are most effective when they cross party lines.

Having legislators promote legislation is even more effective than having this done by a paid lobbyist. Members can speak with their colleagues in the congressional chambers or in more informal settings such as the gym or restaurant. The role of the paid lobbyist, in such cases, is to provide the Member allies with information and support. The legislators can publicize their support for an issue by co-sponsoring a bill, sending "Dear Colleague" letters to other Members of Congress, or by statements in the chamber which are then published in the Congressional Record.

Essentially, government has become deeply involved in most aspects of life, regulating business, taxes, social policies, health care, education, preserving the environment, and foreign policy. Lobbyists have become almost a "fourth branch" of the government by providing useful information in a timely fashion to assist in the development of all public policies.

Lobbying: Recent Trends[65]

At first blush, it appears that lobbyists had a down year in 1999. The roaring 13 percent growth of lobbying expenditures in 1998 slowed to a 2 percent trickle in 1999. The tobacco industry, which had accelerated the lobbying boom, slashed its spending from $67.4 million to $23.7 million. Congressional and federal authorities made headway in their corruption case against lobbyist Ann Eppard, while a lobbyist in Maryland allegedly solicited clients from the phone at the prison where he was serving time for fraud.

[65] Influence Inc. "Lobbyist Spending In Washington", 2000 ed. Center for Responsive Politics, Washington D.C.

Yet despite it all, at $1.45 billion K Street's economy is bigger than Mongolia's, but without the yurts. Since 1997, lobbying expenditures has grown by a robust average of 7.3 percent annually. The collapse of tobacco spending was compensated by strong growth in pharmaceutical and computer industry lobbying. Lobbying firms were still able to find 129 former members of Congress willing to lobby on everything from postal rates to defense appropriations. Former Rep. Bob Livingston (R-La.), who was once days away from becoming Speaker of the House, drummed up $1.14 million in business in his first year as an independent lobbyist.

THE BIG PICTURE

The result is a mixed bag. The total lobbying expenditures of $1.45 billion are only a slight rise over the 1998 figure of $1.42 billion, but still a notable increase over the 1997 figure of $1.26 billion. However, the pattern of lobbying spending changed in 1999 as several large players cut back their presence in Washington while the number of smaller spenders proliferated. As a result, the falloff in big fees didn't stop Gucci Gulch from flowing along.

The number of lobbyist-client relationships (either an interest lobbying on its own behalf or paying an outside firm to lobby for it) grew faster than lobbying expenditures in 1999. The number of relationships grew nearly 6.9 percent to 14,205 in 1999, eclipsing the 6.3 percent rise in 1998. The fact that the number of relationships grew faster than overall spending in 1999 reflects a combination of cutbacks by big spenders and the growth of lobbying by small groups. In 1999, 281 groups spent more than $1 million on lobbying—

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a substantial increase over the 261 groups that spent a million dollars or more in 1998. However, the number of groups spending more than $5 million fell from 39 to 36 and the number spending more than $20 million fell from three to zero.

The number of active lobbyists rose from 11,043 in 1998 to 12,113 in 1999. The most popular issue for lobbyists was tax policy—nearly a quarter of all lobbyists spent time lobbying on taxes in 1999. On average, there were more than 22 active lobbyists and $2.7 million in lobbying expenditures for each member of Congress in 1999.

The biggest industries in the lobbying game remained basically the same, with the pharmaceuticals and health products industry edging out the insurance industry at the top. Only one of the top 25 spending industries in 1998 failed to make the 1999 list. However, the stability of this group's composition masks large shifts in the ordering of the top 25. Tobacco remained one of the top industries even though its total lobbying expenditures plummeted by nearly two-thirds. This $40 million falloff is also the primary reason why agribusiness fell from the sixth largest sector to eighth. Although it moved up only two places, the health sector increased its spending by more than $30 million in 1999 after growing by less than $5 million in 1998. The jump in health spending reflected increased congressional attention to a patient's bill of rights as well as lobbying to extend soon-to-expire copyrights for various medications. For example, Schering-Plough, a pharmaceutical firm which was attempting to extend the life of its patent on the allergy drug Claritin, leapt from the 51st spot on the top spender list in 1998 to the ninth spot in 1999, when it spent $9.2 million.

MEANWHILE, ON K STREET

Smaller clients did not dampen the growth prospects for Washington's biggest lobbying firms. Firms reporting over $1 million in grew from 117 in 1998 to 130 in 1999. The number of firms with lobbying income of more than $5 million rose from 14 to 21, and for the first time, one firm (Cassidy & Associates) broke the $20 million barrier.

Changes in the dynamics of lobbyist spending had a significant impact on the makeup of the K Street corridor. Three of 1998's top 25 lobbying firms dropped off of that list in 1999; two dropped from inside the top 25 to outside the top 40. The changes were largely driven by the collapse of the tobacco industry's spending. Lobbying firms that were dependent on tobacco lobbying in 1998 were hit hard in 1999. Overall, tobacco fell from the fourth biggest spending industry to 23rd. British-American Tobacco, 1998's largest individual spender at $25.2 million, fell to 107th in 1999 with total expenditures of $2.4 million.

For lobbying firms, the moral of the story is that diversification pays. Cassidy & Associates, which led all lobbying firms in 1999 income, has clients ranging from Adelphi University to Major League Baseball to United Space Alliance. As a result, it is well placed to ride out the booms and busts in each industry's lobbying needs.

Other firms were not as fortunate. In a year when overall lobbying expenditures grew, Verner, Liipfert, Bernhard, McPherson & Hand, Washington's third biggest lobbying firm, reported a drop of nearly 15 percent in its lobbying income. The biggest cause of

Verner Liipfert's drop was a sharp reduction in its income from tobacco firms. In 1998, the firm received a total of over $7.5 million from five tobacco companies. In 1999, it received a mere $160,000 from three tobacco clients. One of its clients, Philip Morris, slashed its contract with Verner Liipfert from $3.6 million to $80,000—a whopping 98 percent reduction.

Likewise, groups with a variety of interests, such as the Chamber of Commerce of the United States, tend to remain among the top spenders year in and year out. In 1999, the Chamber was the largest spender, with 75 lobbyists working on a host of issues ranging from the Juvenile Justice Act to U.S. aid to Kyrgystan.

The gridlock that has gripped Capitol Hill over the last few years has actually been a boon for lobbyists. Many lobbyists feel that their worth actually increases when partisan fighting grinds Congress to a halt. Their logic is that with few bills passed each session, someone who promises to drive legislation important to a client through Congress can be extremely valuable. At the same time, there are more opportunities to kill legislation harmful to a client.

More than anything else, the changes in lobbying expenditures reflect Congress's legislative agenda. When an issue that directly affects an industry is discussed, that industry mobilizes a lobbying effort to pursue its interests. For example, when Congress was considering legislation to regulate or fine cigarette manufacturers in 1997-98, the

tobacco industry was spending over $50 million a year on lobbying. In 1999, with federal tobacco legislation effectively dead, tobacco companies spent less than $25 million.

Lobbying expenditures can fluctuate wildly in a short period of time. MBNA, the nation's largest credit card firm, spent $860,000 in the last six months of 1998, $640,000 in the first six months of 1999, and $800,000 in the last six months of 1999. By and large, MBNA's lobbying followed the fortunes of legislation to deregulate the financial services industry and to change bankruptcy laws.

IT DEPENDS ON WHAT YOUR DEFINITION OF 'LOBBYIST' IS

The figures listed here are based on the semiannual lobbying reports that are mandated by the Lobbying Disclosure Act (LDA) of 1995. The LDA requires that each registrant disclose its total expenditures or income for lobbying activity as defined by the Act. The LDA defines lobbying to include salaries for individuals who contact members of the legislative or executive branches and their staffs; overhead, support staff, and other office expenses; expenses for background preparation and coordination of lobbying; and payments to outside firms.

However, such expenditures hardly tell the whole story on lobbying. Grassroots campaigns, such as an effort by the National Rifle Association to get its members to write their members of Congress, are not covered under the LDA. Fees that are received as part of a judicial proceeding—for example, lobbying the White House for a pardon—are excluded from the Act. Money spent on preparation and presentation of testimony to

Congress is excluded. Even a public relations campaign designed to pressure Congress falls outside the LDA's reporting requirements.

The LDA also requires firms to list the registered lobbyists they have hired. However, the definition of lobbying established by the LDA does not cover 'strategic advisors' and consultants who devise lobbying strategies. This class of individuals often includes former members of Congress who are prohibited from lobbying their former colleagues for a year after leaving office. For example, former Senate Majority Leader and presidential candidate Bob Dole works for the lobbying firm Verner Liipfert, but since he does not contact officials covered under the Act, he does not have to register.

Another loophole in the reporting requirements means that the lobbying expenditures reported by each organization are not strictly comparable. Filers get three options for accounting expenditures; one method laid out in the Lobbying Disclosure Act and two others defined by the Internal Revenue Code (IRC). The dissimilarities among lobbying definitions in each piece of legislation affect the quality of disclosure. For example, 1999's top two spenders—the Chamber of Commerce of the U.S. and the American Medical Association—both used the IRC definition. As a result, their disclosure forms include state, local, and grassroots lobbying. The IRC also has a far more circumscribed list of 'covered' officials, so the Chamber of Commerce and American Medical Association numbers do not include contact with a number of executive branch officials. On the other hand, Philip Morris and the American Hospital Association both used the Lobbying Disclosure Act definition. Thus, neither organization had to report state or

grassroots lobbying expenditures, while they did have to report contacts with the Clinton administration.

Even with IRC definitions, lobbyists find ways to skirt the law. Pharmaceutical makers, for example, provide seed money to small activist groups around the country. In turn, these organizations tend to push the drug makers' agenda to both their members and their Congresspersons. According to the New York Times, in 1994 the Pharmaceutical Research and Manufacturers of America (PhRMA), a drug industry trade group, provided seed money and expertise in order to create Citizens for the Right to Know, a consumers group opposed to managed care. In turn, Citizens for the Right to Know pushed for more prescription drug benefits in managed care plans—a potential bonanza for PhRMA's members. PhRMA also contributes to a number of non-profit public policy institutions, many of which have subsequently come out against generic drugs or in favor of prescription drug benefits. None of these contributions to non-profits are included in PhRMA's lobbying disclosure forms.

POLITICAL POWER FLOWS FROM THE BARREL OF A CHECKBOOK

Contributions are not limited to non-profit groups. Contributions to political campaigns constitute a parallel track to gaining influence on the Washington lobbying game. In the 1999-2000 election cycle, nearly $3 billion was spent on federal elections, or $1.5 billion per year. At $1.45 billion, lobbying expenditures in 1999 were virtually identical to the annual average for campaign expenditures.

However, industries that spend money on lobbyists do not necessarily spend on campaign contributions. The $90 million spent on lobbyists by the pharmaceuticals and health products industry in 1999 is more than the industry's combined campaign contributions for the last decade. By contrast, lawyers and law firms donated over $108 million in the 1999-2000 election cycle despite spending a meager $12 million on lobbyists.

Lobbyists themselves are big players in the money game. In 1999-2000, lobbyists donated over $15.5 million to federal campaigns. However, this figure masks lobbyists' true influence, since many are also key party fundraisers. For example, the Dutko Group's late chairman Daniel Dutko not only donated over $10,000 in hard and soft money to the Democrats in 1999, he also was a major fundraiser for the Democratic Party. Lobbyists deny that their campaign donations are a quid pro quo for congressional votes. Instead, they claim that contributions ensure access to congresspeople—in other words, campaign contributions get a lobbyist's foot in the door to allow them to make his or her client's case.

For some groups, campaign contributions and lobbying are only peripheral extensions of political power. For example, the Christian Coalition dramatically slashed its Washington presence from $8.0 million in 1997 to just $1.3 million in 1999. Since the Christian Coalition's real power lies in its ability to get its members to the polls on election day, a decline in lobbying spending hardly reflects a drop-off in the group's political power. Similarly, labor spending remained virtually constant from 1998 to 1999 despite a series of trade measures opposed by the unions. However, labor's power is in the votes its

members possess and, to a lesser extent, in its campaign contributions. Thus, its lobbying expenditures bear little relation to its real power. Groups like the American Association of Retired Persons, the American Israel Public Affairs Committee, and the Sierra Club all fall into the category of groups whose lobbying power is greatly magnified by their membership base.

The result is that there is little correlation between campaign contributions and lobbying expenditures by businesses or industries. Among the 20 industries that spent the most in 1999 on lobbying, 12 also were among the top 20 political contributors in 1999-2000. Of the 20 organizations that spent the most on lobbyists in 1999, only four were also on the top 20 list of contributors to federal campaigns in 1999-2000.

TABLE 1 SECTORAL LOBBY SPENDS

Rank	Sector Name	1999 Lobbying Expenditures	1998 Lobbying Expenditures	1997 Lobbying Expenditures	Average Growth	Camp Contr ons19 2000#
1	Finance/Insurance/Real Estate	214,653,777	190,573,235	$177,429,007	10.0%	293m
2*	Health	$197,303,944	$144,009,816	$162,706,208	10.1%	92mn
3	Misc Business	$192,260,502	$153,603,018	$149,552,146	13.4%	166m
4	Communications/Ele	$191,512,687	$178,276,819	$153,530,791	11.7%	129m

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5	Energy & Natural Resources	$157,691,350	$134,266,618	$143,306,956	4.9%	65mn
6*	Transportation	$117,391,121	$105,062,143	$111,767,240	2.5%	55mn
7	Other	$89,061,134	$31,943,930	$66,917,170	15.4%	147m
8	Agribusiness	$82,824,122	$113,392,772	$85,885,021	-1.8%	58mn
9	Ideology/Single Issue	$76,373,181	$69,174,276	$72,671,331	2.5%	69mn
10	Defense	$53,154,702	$47,158,502	$48,012,053	5.2%	14mn
11	Labor	$23,876,961	$23,401,009	$20,700,990	7.4%	84mn
12	Construction	$23,852,552	$20,812,322	$17,094,570	18.1%	53mn
13	Lawyers and Lobbyists	$17,684,015	$14,490,099	$13,450,626	14.7%	124m

Note: Lobbying figures are for calendar year 1999; campaign contributions figures are for the 1999-2000 election cycle and reflect data released by the Federal Election Commission by April 1, 2001.

1999-2000 campaign contributions are in millions of U.S. Dollars.

*These areas in the service sector are the focus of this research.

CHAPTER II

LOBBYING: TECHNIQUES, LAWS

Techniques of lobbying

A Washington lobby group wants results. It pursues them wherever they are likely to be found in the governmental process. Many organizations, directed by professionals in the act of government, focus major efforts at key points where decisions are made and policy interpreted into action. They use the methods they deem appropriate for the circumstances within the limits of their resources, group policies and ethical outlook.

If a group loses a round in Congress, it can continue the fight in the agency charged with execution or in the courts. A year or so later, it can resume the struggle in Congress. The process sometimes continues indefinitely. On a long-range basis, groups strive to build up what they consider a sympathetic or at least neutral attitude in places of power where their particular interests are affected.

The techniques of lobbying are discussed in some detail in the following paragraphs:

Coalition Building

The concerted exercise of lobbying is as old as government itself, but most lobbyists agree that during the 1970s and into[i] the 1980s coalition lobbying became a commonplace ritual in Washington. The ad hoc coalition, the working group, the alliance, the committee----- these became the routine format of most lobbying campaigns.

While the movement towards coalitions had accelerated after World War II, it was far from new even then. As early as 1950, the House Select Committee on lobbying activities said in a report: "The lone-wolf pressure group, wanting nothing more than other groups than to be left unmolested, is largely a thing of the past."

Cooperative Efforts

The explosion of the lobbying business, aimed at comprehending and staunching the flow of governmental activism, meant many voices competing for the ear of Congress. One advantage for lobbyists and members alike was that collective lobbying allowed a sorting out of competing aims before going to Congress, almost like lawyers settling a case out of court.

And so although at one time a lobbyist may have individually pleaded his case, by the 1980s a person with a cause found his first task was to persuade members of his own organization or group to support him, then to line up help from natural allies in other interest groups. These ad hoc coalitions often are composed of a mix of corporate, association and business federation lobbyists, as well as unions and other interests that can be enticed into a marriage of convenience. Allies on one issue sometimes become opponents on the next one.

These temporary alliances do their initial work off Capitol hill, in a community possessing its own committees, leadership, staff, communications network, service

organizations and culture. Participants contribute time, legal help, printing and mailing costs according to their resources and stake in the battle.

Ideally, before a lobbyist approaches a member, compromises within the coalition have been made, congressional sponsors for the bill have been identified, legislation has been drafted to satisfy a wide range of allies, priorities have been assigned, and a strategy has been mapped out. When a lobbyist finally goes down to Congress, he is likely to be in a team of two or three—perhaps with one individual representing a member's district—selected to dramatize the breadth of support for, or opposition to, the legislation.

Although labor, consumer groups, environmentalists, arts and education advocates, charities and many other groups merge into short term alliances, business groups clearly demonstrate superior mastery of the technique, helped along by money and a generally and a naturally cohesive political outlook. A historic example of the broad coalition was the protectionist bloc, which was effective in raising protective U.S. tariffs to their highest point ever in 1930. More recently, coalitions during the 97th Congress labored to protect programs from the Reagan budget cuts, to extend the Voting Rights Act and to protect the Clear Air Act.

Enacting Legislation

Traditionally, the best known coalitions have been directed primarily at stopping new government initiatives—a federal consumer protection agency, a common situs picketing bill or labor reform legislation. Successfully ushering legislation through Congress

always has been a much more ambitious task than preventing passage, which can be accomplished by a single subcommittee blockade or a crippling amendment.

This developed by design. The bicameral structure of the legislative branch and the constitutional separation of powers gave a considerable a natural advantage to defensive lobbying efforts. Political Scientist David B. Truman wrote that these structures "operate as they were designed, to delay or obstruct action rather than to facilitate it." He added: "Requirements of extensive majorities for particular kinds of measures and the absence of limits on the duration of debate have alike effect as do numerous technical details of the parliamentary rules. Finally, the diffuseness of leadership, and the power and independence of committees and their chairmen, not only provide a multiplicity of points of access....but also furnish abundant activities for obstruction and delay, opportunities that buttress the position of defensive groups." By combining their knowledge and resources, members of coalitions improve their chancing of overcoming the natural obstacles to new legislation, and they have a better chance of killing bills they oppose. In the 1980s lobby coalitions were on the offensive to move legislation and to roll back existing laws.

"Up until now, you didn't have a chance to get things passed. All you were trying to do was to put out the fires your opponents started," said R. Hilton Davis, vice president of legislative and political affairs for the U.S. Chamber of Commerce. Davis said he believes the arrival of a Republican administration and Senate majority in 1980, along with several years of practice of team building, are responsible for that chance.

A notably successful collective effort was one mounted by the Alaska coalition, which in 1980 won passage of the lands bill that preserved much of the state from development. More recently, the political environment created by Reagan's leadership contributed to the success of a formidable business coalition, the Carlton group that worked to gain passage of the so called 10-5-3 capital depreciation tax write-off. The 10-5-3 proposal became law as part of the Economic Recovery Tax Act of 1981.

Direct Lobbying

The changes in Congress that occurred in the 1970s worked to enlarge the job of Washington lobbyists. They not only had to become more active—to communicate their messages to a much broader range of members and their staff-but they also had to adopt more effective techniques. As access to members became more available, more groups formed to protect or enlarge their turf and competition between lobbyists increased. Lobbyists using the direct approach continue to meet with members of Congress and their staffs, provide in-depth information and give testimony at congressional hearings. But their methods are more sophisticated, relying more on information than on personal connections.

One legislative aide observed: "I think there's a new breed of lobbyist around. There's less of the slap on the back. "I've been dealing with you for 15 years, let's go duck-hunting kind of approach. Now it's 'Here's a 20 page paper full of technical slide, charts showing the budget impact, a table on how it meets the threat situation and some language in case you'd like to introduce an amendment.' "

Access Prerequisite

A lobbyist's strategy focuses on the interaction between his group and those on Capitol Hill and in the executive branch. To communicate with the power brokers the advocate first needs access. So whether he is a partner in a Washington law firm or an in-house employee of a union, trade association or business, more often than not the lobbyist already have close ties with Congress. Many lobbyists have spent time as staff aides on Capitol Hill, and some have been members of Congress.

A consensus never has existed on whether it is contacts that ultimately count, but many people believe that insider credentials are a good investment. Charles Black, a one time campaigner for presidential candidate Reagan and a member of a political consulting firm, put it this way: "No. 1 is the access—to get them in the door and get a hearing for the case. The second thing is the development of the case and how to present it. Knowing the individual personally, knowing their staffs and how they operate and the kind of information they want... that kind of personal knowledge can help you maximize that help you maximize the client's hearing.

It is also possible to gain access by taking part in the Washington social circuit. Some lobbyists become well known, even notorious, for giving lavish dinner and cocktail parties. Until his downfall in the 1977-78 Koreagate scandal on Capitol Hill, South Korean lobbyist Tongsun Park was a noted Washington host. "His flamboyant social style earned him enormous goodwill and access in the Washington political community,"

noted a Washington commentator. "That could often be used for reciprocal goodwill and generosity towards the country he represented."

Another help in opening doors is the sheer size of the interest group represented, such as senior citizen's lobby. According to Norman Ornstein and Shirley Edler in their book entitled *Interest groups, Lobbying and Policy Making*: "Beyond the direct political translation of size into votes, a large group representing many citizens has a built-in legitimacy; it speaks for a sizeable part of America, not just for a handful of individuals." When a large group speaks loudly and vehemently, as the National Rifle Association does, its cause must be taken seriously by lawmakers.

Prestige alone provides a strong incentive for members and staff people to listen. The Business Roundtable, a group composed of the chief executive officers of major corporations such as General Motors, IBM and AT&T, can feel confident that their leaders will be heard when they present their opinions and requests on Capitol Hill.

Information and Expertise

Access is crucial, but knowledge and technique are just as critical because lobbyists traditionally have provided information as well as expertise to hard-pressed members and committees. According to Ornstein and Elder, political expertise and reputation are essential to the successful lobbyist: "Knowledge of the ins and outs of the legislative process—including the important stages of the process, the relevant committees and subcommittees, the key actors, the best moments to act or withdraw, the personal

characteristics or strengths, and weaknesses of members and staff---is vital to a group's legislative success..."

Direct lobbying most often begins at the committee or subcommittee level, as approval of a measure by a congressional panel usually ensures final passage. Except on highly controversial issues, committee decisions are almost always upheld by the full chamber. A thorough lobbyist provides to the committee and its professional staffers extensive background and technical information on the issue of interest, precise information, precise legislative language for a proposed bill or amendment, lists of witnesses for the hearings and the name of a particular sponsor for the bill.

The decentralization of power in Congress resulting in the expansion in the number and importance of subcommittees directly affected the lobbyist's job. As the number of people having power increased, so did the number of pressure points. It became advantageous for an interest group to have a supporter in power. Thus in the Congress of the 1980s it was not unusual for a lobbyist to back a particular member for a slot on a favored committee, or for a leadership position on a panel.

Also, as "sunshine" laws and rules opened markup sessions, hearings and conferences to the public, the lobbyist no longer was left hovering outside the closed door excluded from the action; rather he could be right there watching every move—in many cases suggesting legislative language and compromise positions. This kind of help is especially useful during consideration of highly technical legislation. Also, recorded votes on

amendments, and open knowledge on who introduced them, makes it easier for the lobbyist to monitor the action and apply the pressure where most needed.

Political scientist Lester W. Milbraith in his book *The Washington Lobbyists* noted that "failure to locate such key persons (members and staff) may result in the sending of many superfluous messages, and if the key members cannot be persuaded, there is a high likelihood that the decision will go adversely."

It also behooves the successful lobbyist to be accurate and complete, alerting the member to any negative aspects of the legislation he seeks to advance. Former White House aide Douglas Cater said in *Power in Washington*: "The smart lobbyist knows….he can be most effective by being helpful, by being timely, and, not least by being accurate. According to the testimony of lobbyists themselves, the cardinal sin is to supply faulty information which puts a trusting policy maker in an exposed position."

Ornstein and Elder expressed a similar opinion: "A group's or lobbyist's political reputation—as an honest political broker and honest information source, as well as the general reputation for political influence—is a crucial element in political success."

Most contemporary lobbyists carefully avoid approaches that the member could interpret as threatening or as constituting excessive pressure. An adverse reaction by a member could lead to unfavorable publicity or even a damaging congressional investigation.

Political Scientist Donald R Matthews described the lobbyist as a "sitting duck—their public reputation is so low that public attack is bound to be damaging…To invite public attack, or worse a congressional investigation, is, from the lobbyist's point of view clearly understandable." Matthews added: "It is the threat of and use of these countermeasures which explain why so little lobbying is aimed at conversion. A lobbyist minimizes the risks of his job, the cause which he serves, and his ego by staying away from those senators clearly against him and his program. For, of all types of lobbying, attempts to conversion are most likely to boomerang."

Indirect Lobbying or Grass-Roots Techniques

In conjunction with direct lobbying, many organizations seek to mobilize constituents into pressuring senators and representatives. High election turnovers gradually have created a Congress less wedded to old loyalties and more skittish about constituent pressures. This trend contributed to the current prominence of indirect, "grassroots lobbying---including constituents back home bring pressure on Congress.

Constituent Power

Confirming what has come to be conventional wisdom in the lobbying trade, the public relations firm of Burson-Marsteller interviewed 123 congressional staffers and found that constituent letters, telegrams and calls counted more than anything else in influencing their bosses.

Nearly every trade association or public interest group of any stature has developed its own grass-roots network to ensure that what its Washington lobbyists say is reinforced by an outpouring from back home. For those interests that do not have such a network, a thriving intermediate industry has grown up that promises clients it can take a whisper of public interest and amplify it into a roar of public pressure.

Traditional grass-roots pressure methods include maintaining a steady stream of correspondence with the lawmaker, even when nor demanding a specific favor; arranging recess visits to local establishments; and dealing frequently and skillfully with local newspapers and television. These tools are not new to established groups; what is new is the magnitude and sophistication of them.

Modern Techniques

A fact of modern lobbying is that home-district pressure frequently does not spring spontaneously from the public. The genuine grass-roots support often is enhanced by the highly technical orchestration of a special-interest group, the more subliminal stimulation of a professional public relations campaign, and occasionally the persuasion of an employee or a union.

Still the oldest and favorite instrument of the organized grass roots lobbying campaign remains the postage meter. Computer technology and high-speed, low-cost telegram services enabled interest groups in the 1970s and the 1980s to target mailings where they would do the most good.

Some lobby experts maintain that grass-roots pressures might not change a lawmaker's mind, but concede that they do attract attention to issues. According to political scientists Roger H Davidson and Walter Oleszek in their book *Congress and Its Members*, "Legislators understand that lobby groups orchestrate "spontaneous outpourings of letters and postcards. Pressure mail is easily recognized, because each piece is identical to all the others. Members may discount the contents of such mail, but its volume is sure to attract their attention as they think about the next election."

Richard A Viguerie, a conservative widely recognized as the pre-eminent expert on mass mail, said that contrary to his image as primarily a fund-raiser—most of his work was grass-roots lobbying. Viguerie said that 90 percent of the 60 million-70 million pieces of mail that his computers would disgorge in 1982 for groups such as the National Right to Work Committee and the Conservative Caucus would urge the recipient to do something other than contribute—sign a petition, write a letter to Congress, send a post card or boycott a product.

In a departure from the general belief that personalized letter writing campaigns are more effective, Viguerie used the technique of bombarding Congress with thousands of pre-printed post cards or clip-out coupons. He admitted that members of Congress would recognize his campaigns as orchestrated and that they did not value the opinions expressed in a standardized post card as much as a thoughtful, individual letter. But neither could they ignore them, he argued.

His view was supported by the Burson- Marsteller study, which found that "orchestrated mail," while not so effective as spontaneous "constituent letters, ranked "surprisingly high" as an influence on lawmakers.

Another grass roots lobbying technique involves gaining attention through mass-media campaigns—on the radio, television, or in newspapers and magazines. Thoughtful editorials in well-known or more obscure newspapers in members' districts often stimulate readers to writer their congressman. John Shattuck, executive director of the American Civil Liberties Union (ACLU), said that many lobbyists underestimated the importance of developing close relationships with newspaper editors and editorial writers, whose influence upon constituents, and thereby among members could be pivotal on controversial issues.

Attention is also purchased through paid advertising. According to Ornstein and Elder, "Nearly every day, *The Washington Post*—a popular outlet for lobbying appeals, because of its universal circulation among Washington politicians—has full or half-page ads placed by groups., either urging public or congressional support for or opposition to a particular legislative proposal, or promoting a general viewpoint on a broad public policy issue.

The technological age also offers the contemporary lobbyist to a backdoor into the public print through "media distribution services". North American Precis Service, the largest of its kind, claimed it could "generate tons of legislators " by getting clients' views placed in

smaller newspapers, and on radio and television stations. North American would package a company or trade group pitch as an editorial or light feature, with a title such as "Washington Wants to Know" or "Capitol Ideas." The firm's brochure promised the articles would be run verbatim in hundreds of outlets without being labeled as paid public relations. One North American brochure promised: "Our IBM 5120 computer will address your material to the editors who are most likely to print it."

Some newspapers including the *Washington Post,* viewed such products as propaganda masquerading as news and barred them from their news or editorial columns. They refused to use editorial pieces written by public relations or media distribution firms. The President of North America defended his company's releases as always fair and accurate, aimed at "increasing public awareness of the truth so that you generate massive public support."

Current IRS regulations identify two kinds of lobbying activities: ***Direct Lobbying*** and ***Grassroots Lobbying***. This terminology frequently lends itself to confusion since what we call "grassroots" and what the IRS regulations mean by "grassroots" are two completely different animals.

Simply put, ***Grassroots Lobbying*** as the IRS defines it is really indirect lobbying, as opposed to direct lobbying. It does not refer to lobbying that takes place, say, in Lubbock instead of in Washington; both direct and grassroots lobbying can take place anywhere at

all. Instead, it refers to activities directed at the general public instead of legislators or members of one's organization.

Direct Lobbying is defined as "any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of the legislation."

Grassroots Lobbying is defined as "any attempt to influence any legislation through an attempt to affect the opinions of the general public or any segment thereof."

Under these definitions, then, funds used to send delegations to lobby Congress people on an appropriation bill would be considered direct lobbying expenses; money used for TV or radio ads urging citizens to write their Congress people on the same bill would be grassroots lobbying.

There is one very important clarification to these definitions: If organizations sends out a mailing urging citizens to lobby on a certain issue, this would appear to be a grassroots lobbying expense.

However, if such communications are made to bona fide members of the organization, the activity is considered to be direct, not grassroots, lobbying.

For example: if a group sends out a legislative alert to all of its members asking them to call their Senators and encourage them to vote "no" on a handgun control bill, that's still direct lobbying. If, on the other hand, the group sends out exactly the same mailing to the general public, it's grassroots lobbying.

Referenda voted on by the public are special cases. In most instances, work on public policy referenda is considered to be direct lobbying, since the public is the body enacting the legislation.

Campaign Support

Campaign contributions to members of Congress serve two important functions for lobbying organizations. Political support not only can induce a congressman to back the group's legislative interests, but can also help to assure that members friendly to the group's goals remain in office.

While corporations have been barred since 1907, and labor unions since 1943, from making direct contributions to campaigns for federal office, contributors have found numerous ways to get around the restrictions. Labor pioneered in setting up separate political arms, such as the AFL-CIO's Committee on Political Education (COPE) that collects voluntary contributions from union members and their families and use the money to help elect Senators and representatives favorable to their cause. It is also legal for unions to endorse candidates.

Similarly, corporations can organize Political Action Committees (PACs) to seek contributions from stockholders and executive and administrative personnel and their families. Corporate PACs have proliferated, especially after the Federal Election Commission's SunPAC decision in 1975, and their influences have come to rival, if not surpass those of labor. The SunPAC decision allowed Business PACs to solicit employees and not just stockholders, vastly expanding their potential to raise money.

Twice a year union and corporate Political Action Committees are allowed to seek anonymous contributions from mail from all employees, not just those to which they were initially restricted.

The same general resources for political support and opposition are available to members of citizen groups and indeed, to a wide range of organizations seeking to exert political pressure on members of Congress.

In approaching the typical member, a pressure group has no need to tell him outright that future political support or opposition depends on how the member votes on a particular bill or whether, over a long period, the member acts favorably toward the group. The member understands this without being told. The member knows that when the vital interests of some group are at stake, a vote supporting those interests normally would win the group's friendship and future support and a vote against them would mean the group's enmity and future opposition.

Lobbyists themselves frequently deny this is the case. But lobbyists do admit that political support gives them access to the legislator that they otherwise might not have.

Lobbying Disclosure Act Guidance

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Section 1

Introduction

Section 6 of the Lobbying Disclosure Act ("LDA"), 2 U.S.C. § 1605, provides that: "The Secretary of the Senate and the Clerk of the House of Representatives shall (1) provide guidance and assistance on the registration and reporting requirements of this Act and develop common standards, rules and procedures for compliance with this Act; [and] (2)

review, and, where necessary, verify and inquire to ensure the accuracy, completeness and timeliness of registrations and reports [.]"

The LDA does not provide the Secretary or the Clerk with the authority to write substantive regulations or issue definitive opinions on the interpretation of the law. The Secretary and Clerk have, from time to time, jointly issued written guidance on the registration and reporting requirements. This document is both a compilation of previously issued guidance documents and our interpretation of the changes that were made to the LDA as a result of the Lobbying Disclosure Technical Amendments Act of 1998 ("TAA"). The revised format addresses problems that the filing community has experienced to date in using the guidance documents, i.e., the lack of a "subject index" that quickly finds the answers to their specific topical questions and the need to refer to more than one source to research filing advice.

This compilation supersedes all previous guidance documents. This combined guidance document does not have the force of law, nor does it have any binding effect on the United States Attorney for the District of Columbia or any other part of the executive branch. To the extent that the guidance relates to the "accuracy, completeness and timeliness of registration and reports," it will serve to inform the public as to how the Secretary and Clerk intend to carry out their responsibilities under the LDA.

Section 2

What is new?

Lobbying Disclosure Technical Amendments Act of 1998

The TAA, enacted on April 6, 1998 (P.L. 105-166), amends the Lobbying Disclosure Act of 1995 in four areas. These changes were made in response to questions that had been raised during the first year of experience under the LDA.

Definition of Covered Executive Branch Official

The application of coverage of Section 3(3)(F) of the LDA ("who is a covered executive branch official?") was intended for "Schedule C" employees only. Senior Executive Service employees are not covered executive branch officials as defined in the Act unless they fall within one of the categories below. Covered executive branch officials are:

The President

The Vice President

Officers and employees of the Executive Office of the President

Any official serving in an Executive Level I-V position

Any member of the uniformed services serving at grade 0-7 or above "Schedule C" employees.

Clarification of Exception to Lobbying Contact

Section 3(8)(B)(ix) excepts from the definition of "lobbying contact" communications "required by subpoena, civil investigative demand, or otherwise compelled by statute,

regulations, or other action of the Congress or an agency." The TAA clarifies that communications that are compelled by the action of a Federal agency would include communications that are required by a Federal agency contract, grant, loan, permit, or license.

Example: Contractor "A" has a contract to provide technical assistance to Agency "B" on an ongoing basis. Technical communications between Contractor "A's" personnel and covered officials at Agency "B" would be required by the contract and therefore would not constitute "lobbying contacts."

Note, however, that this exception would not encompass an attempt by "A" to influence covered officials regarding either matters of policy, or an award of a new contract, since such communications would not be required by the existing contract.

The TAA also expands the definition of "public official" in Section 3(15)(f) to add a "group of governments acting together as an international organization." The purpose of the provision is to ensure those international organizations, such as the World Bank, would be treated in the same manner as the governments that comprise them (communications made by the expanded class of "public officials" acting officially would be exempt from the definition of "lobbying contact," and therefore exempt from potential registration and reporting requirements of the LDA).

Estimates Based on Tax Reporting System (See Sections 4 and 5 also)

The TAA does not change the optional expense reporting methods available to an organization employing in-house lobbyists. For all other LDA purposes, the TAA clarifies that registrants making a Section 15 election must use the IRC definitions for executive branch lobbying, and the LDA definitions for legislative branch lobbying.

We are reading the TAA to extend the group entitled to use the "safe harbor" established under section 15(b) of the LDA to a small number of trade associations not required by the IRC to report nondeductible lobbying expenses to their members (i.e., those whose members are tax exempt).

Finally, the TAA eliminated the option of filing IRS Form 990 with LD-2.

Exemption from FARA based on Registration under the LDA

The Foreign Agents Registration Act ("FARA") was amended by the TAA to clarify that any agent of a foreign principal engaged in lobbying activities (other than an agent of a foreign government or foreign political party) who registers under the LDA would be exempt from the requirements of FARA. Such lobbyists could register under the LDA even if their lobbying activities did not meet the registration threshold under the LDA. The change corrects an anomaly in which less active foreign commercial lobbyists (those not meeting the de minimis thresholds for registration under the LDA) were subject to the more rigorous reporting requirements of FARA, while more active foreign commercial lobbyists registered and reported under the LDA.

Revised Forms, Instructions and Format

LD-1, the registration form, and LD-2, the reporting form, have been revised. Previous editions of these forms are obsolete.

Instructions for both LD-1 and LD-2 have been updated to correspond with the new forms.

LD-1U, the former update form, has been eliminated and shall not be used. Updated registration information is reported on LD-2 on a semiannual basis only (unless the Secretary or the Clerk notifies a registrant of an error and requests a correction immediately).

LD-1 Changes

The revised LD-1 (6/98) closely resembles the obsolete LD-1 (1/96). The changed content is discussed below.

The lines are renumbered.

Effective Date of Registration: The registrant is required to enter the date the registrant was retained to lobby for the client or first makes a lobbying contact for the client, whichever is earlier. This entry will assist the Secretary and the Clerk in assessing the timeliness of the registration.

Identification Number: This line is left blank for an initial registration. The numbers are assigned by the Office of Public Records and the Legislative Resource Center after the registration is processed and will be unique to each registrant-client relationship.

Optional e-mail address: The contact person may include his/her e-mail address if he/she wishes to receive electronic correspondence.

A "Self" box has been added on Line 7 ("Client name").

A lobbyist's job title is no longer required. His or her status as a former covered executive or legislative branch official is the only information required other than the lobbyist's name.

"Yes" and "No" boxes for Affiliated Organizations and Foreign Entities are added. One of the most common errors on the registrations that have been filed under the LDA is leaving the affiliated organization and foreign entity lines blank. The "Yes" and "No" boxes signal to the registrant that entry is required.

Every line on LD-1 must be completed. If the space on LD-1 is insufficient for any of the required information, attach additional pages as needed, clearly stating the names of the registrant and client and identifying the line number(s) to which the information pertains.

LD-2 Changes

The revised LD-2 combines the previous version of LD-2 and the former LD-1U. The reasons for this change are twofold: first, it appeared redundant to require registrants to disclose new information (such as new lobbyists and issue codes) in two different places in the same filing; and second, rather than follow the LDA's requirements to update registration information on a semiannual basis, many registrants were filing unnecessary and excessive amounts of paper to report relatively minor changes mid-reporting cycle. Specific refinements to LD-2 are discussed below.

The new LD-2 allows a registrant that has no lobbying activity to file a one-page report. The registrant must complete the income or expense information as well as marking the "No Lobbying Activity" box. This is a change from the previous form and guidance.

If a registrant's name changes, the registrant should include a note or memorandum that identifies the new as well as the former name, so that the change is apparent.

Signature lines have been added to every page to provide registrants with options for filing differing lengths of reports. The report need only be signed once on the last page of the document.

The lines of the form have been renumbered.

Registrants now must provide their address on LD-2 in order to ensure that the Secretary and the Clerk have up-to-date address information. If a registrant's contact wishes to receive electronic correspondence, a space for an e-mail address is provided.

A "Self" box has been added to Line 7 ("Client Name").

LD-2 adds a space to supply a termination date (see section below on the completion of termination reports).

The income or expense reporting format has been modified to guide registrants into completing only the section pertinent to them. Lobbying firms (including the self-employed) complete only the income section. Organizations employing in-house lobbyists complete only the expense section and must select which method of expense reporting that they are utilizing.

The lobbying activity reporting page emphasizes that only one general issue area code per page must be used. The addition of "Check if None boxes" for the Houses of Congress and Federal agencies contacted and for the foreign entity interest were added because registrants left them blank when there was nothing to report. This practice led to a public record that was incomplete and subject to interpretation in lieu of clarity regarding the lobbying activity of the registrant. As discussed above, new lobbyists may be disclosed on this page by marking the "New" box and providing the information (if

applicable) regarding previous employment within the last two years as a covered executive or legislative branch official.

The registration information update page should be filed only if registration information is changed. This page is not intended to be a "stand alone" filing. Section 5 of the LDA does not require or encourage the submission of mid-reporting cycle registration information changes, unless a registrant is specifically requested to do so by the Secretary or the Clerk.

Section 3

Definitions

Affiliated Organization: Any entity other than the client that contributes in excess of $10,000 toward the registrant's lobbying activities in a semiannual period, and in whole or in major part plans, supervises, or controls such lobbying activities.

Client: Any person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of the person or entity. An organization employing its own lobbyists is considered its own client for reporting purposes.

"In whole or major part": The term "in major part" means in "substantial" part. It is not necessary that an organization or foreign entity exercise majority control or supervision

in order to fall within Sections 4(b)(3)(B) and 4(B)(4)(B). In general, 20 percent control or supervision should be considered "substantial" for purposes of these sections.

Lobbying Activities: Lobbying contacts and any efforts in support of such contacts, including preparation or planning activities, research and other background work that is intended, at the time of its preparation, for use in contacts and coordination with the lobbying activities of others.

Lobbying Contact: Any oral, written or electronic communication to a covered official that is made on behalf of a client with regard to the enumerated subjects at 2 U.S.C. § 1602(8)(A). Note the exceptions to the definition at 2 U.S.C. § 1602(8)(B). See Discussion at Section 5 below.

Lobbying Firm: A person or entity consisting of one or more individuals who meet the definition of a lobbyist with respect to a client other than that person or entity. The definition includes a self-employed lobbyist.

Lobbying Registration: An initial registration on Form LD-1 filed pursuant to Section 4 of the Act (2 U.S.C. § 1603).

Lobbying Report: A semiannual report on Form LD-2 filed pursuant to Section 5 of the Act (2 U.S.C. § 1604).

Lobbyist: Any individual who (1) is either employed or retained by a client for financial or other compensation (2) for services that include more than one lobbying contact; and (3) whose "lobbying activities" constitute 20 percent or more of his or her services on behalf of that client during any six-month period.

Person or Entity: Any individual, corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, group of organizations, or state or local government.

Registrant: A lobbying firm or an organization employing in-house lobbyists that files a registration pursuant to Section 4 of the Act.

Section 4

Lobbying Registration

Who Must Register and When

Lobbying firms are required to file a separate registration for each client. A lobbying firm is exempt from registration for a particular client if its total income from that client for lobbying activities does not exceed and is not expected to exceed $5,500 during a semiannual period.

Note: A lobbyist is not the registrant unless he/she is self-employed. In that case, the self-employed lobbyist is treated as a lobbying firm.

Organizations employing in-house lobbyists file a single registration. An organization is exempt from registration if its total expenses for lobbying activities do not exceed and are not expected to exceed $22,500 during a semiannual period.

Registration is required no later than 45 days after a lobbyist first makes a lobbying contact or is employed or retained to make a lobbying contact.

Preparing to File a Registration - Threshold Requirements

In order to determine the applicability of the LDA, one must first look at thedefinition of "lobbyist" under Section 3(10). Under this definition, an individual is a "lobbyist" with respect to a particular client if he or she makes more than one lobbying contact and his or her "lobbying activities" (as defined in Section 3(7)) constitute at least 20 percent of the individual's time in services for THAT client over any six-month period.

More than One Lobbying Contact

"More than one lobbying contact" means more than one communication to a covered official. Note that an individual falls within the definition of "lobbyist" by making more than one lobbying contact over the course of services provided for a particular client (even if the second contact occurs in a later semiannual period).

Example 1: Lobbyist "A" telephones Covered Official "A" in the morning to discuss proposed legislation. In the afternoon she telephones Covered Official "B" to discuss the same legislation. Lobbyist "A" has made more than one lobbying contact.

Example 2: Under some circumstances a series of discussions with a particular official might be considered a single communication, such as when a telephone call is interrupted and continued at a later time. Discussions taking place on more than one day with the same covered official, however, should be presumed to be more than one lobbying contact.

Do Lobbying Activities Constitute 20% Or More of an Individual's Time?

Lobbying activity is defined in Section 3(7) as "lobbying contacts and efforts in support of such contacts, including background work that is intended, at the time it was performed, for use in contacts, and coordination with the lobbying activities of others." If the intent of the work is to support ongoing and future lobbying, then it would fall within the definition of lobbying activities. Timing of the work performed, as well as the status of the issue, are also pivotal. Generally, if work such as reporting or monitoring occurs at a time when future lobbying contacts are contemplated, internal reporting and monitoring should be considered as a part of planning or coordinating of lobbying contacts, and therefore included as "lobbying activity." If, on the other hand, a person reports back to the relevant committee or officer regarding the status of a completed effort, that activity would probably not be included as a lobbying activity, if reports are not being used to prepare a lobbying strategy the next time the issue is considered.

Communications excepted from the definition of "lobbying contact" under Section 3(8)(B) of the LDA may be considered "lobbying activities" under some circumstances.

Communications excepted by Section 3(8)(B) will constitute "lobbying activities" if they are in support of other communications which constitute "lobbying contacts."

Example: Under Section 3(8)(B)(v), the term "lobbying contact" does not include "a request for a meeting, a request for the status of an action, or any similar administrative request, if the request does not include an attempt to influence a covered executive branch official or a covered legislative branch official." However, a status request would constitute "lobbying activity" if it were in support of a subsequent lobbying contact.

Is it Lobbying Contact or Lobbying Activity?

If a communication is limited to routine information-gathering questions and there is not an attempt to influence a covered official, the exception of Section 3(8)(B)(v) for "any other similar administrative request" would normally apply. In determining whether there is an attempt to influence a covered official, the identity of the person asking the questions and her relationship to the covered official obviously will be important factors.

Example 1: Lobbyist "A," a former chief of staff in a congressional office, is now a partner in the law firm retained to lobby for Client "B." After waiting one year to comply with post-employment restrictions on lobbying, Lobbyist "A" telephones the member on whose staff she served. She asks about the status of legislation affecting Client "B's" interests. Presumably "B" will expect the call to have been part of an effort to influence the member, even though only routine matters were raised at that particular time.

Example 2: Company "Z" offers temporary employment to recent college graduates. The graduates are hired to conduct surveys of congressional staff by reading prepared questions and recording the answers. The questions seek only information. These communications do not amount to lobbying contacts.

Lobbying Contacts and Activities Using Section 15 Election (Alternate Reporting Methods)

Section 15 of the LDA permits those organizations that are required to file and do file under Sections 6033(b)(8) of the Internal Revenue Code and organizations that are subject to Section 162(e) of the IRC to use the tax law definitions of lobbying in lieu of the LDA definitions for determining "contacts" and "lobbying activities." Registrants should note that the tax definition of lobbying is broader with respect to the type of activities reported, while they are narrower with respect to executive branch officials contacted.

Registrants who make such an election must use the Internal Revenue Code definition for executive branch lobbying and the LDA definition for legislative branch lobbying. This may result in the registrant reporting fewer lobbying contacts with fewer executive branch officials since the IRC definitions are narrower than the LDA definitions. Also note that definitions under the tax code include "grass-roots," "state" and "local" lobbying, while the LDA excludes those types of lobbying from the definition of "lobbying activities." The LDA does not permit modification of the tax code definition to exclude such expenditures when reporting lobbying expenses.

Relationship Between 20% of Time and Monetary Threshold

If the definition of "lobbyist" is satisfied with respect to at least one individual for a particular client, the potential registrant (either a lobbying firm or an organization employing the lobbyist, or a self-employed individual lobbyist) is not required to register if it does not meet the monetary thresholds of Section 4(a)(3)(A)(I), in the case of a "lobbying firm," or of Section 4(a)(3)(A)(ii), in the case of an organization employing in-house lobbyists. Note that the monetary exemption is computed based on the lobbying activities of the potential registrant as a whole for the particular client in question, not simply on the lobbying activities of those individuals who are "lobbyists."

Example 1: A law firm has two lawyers who perform services for a particular client. Lawyer "A" spends 15 percent of the time she works for that client on lobbying activities, including some lobbying contacts. Lawyer "B" spends 25 percent of the time he works for the client on lobbying activities, but makes no lobbying contacts. Neither lawyer falls within the definition of "lobbyist," and therefore the law firm is not required to register for that client, even if the income it receives for lobbying activities on behalf of the client exceeds $5,500.

Example 2: Employee "A" of a trade association is a "lobbyist" who spends 25 percent of his time on lobbying activities on behalf of the association. There are $13,000 of expenses related to Employee "A's" lobbying activities. Employee "B" is not a "lobbyist" but engages in lobbying activities in support of lobbying contacts made by Employee "A." There are $10,000 of additional expenses related to the lobbying activities of

Employee "B." The trade association is required to register because it employs a "lobbyist" and its total expenses in connection with lobbying activities on its own behalf exceed $22,500.

Example 3: Same as Example 2, except the expenses related to the lobbying activities of Employees "A" and "B" total only $18,000, but the trade association also pays $10,000 to an outside firm for lobbying activities. Registration is still required because payments to outside contractors (including lobbying firms that may be separately registered under the LDA) must be included in the total expenses of an organization employing lobbyists on its own behalf.

Timing

The registration requirement is triggered at the earlier of the date a lobbyist is employed or retained to make more than one lobbying contact on behalf of the client, or the date a lobbyist in fact makes a second lobbying contact. In either case, registration is required within 45 days.

Examples: Lobbying Firm "A" is retained to monitor an issue, but whether or not lobbying contacts will be made depends on future legislative developments. In another case, Corporation "B," which employs an in-house lobbyist, knows that its lobbyist will make contacts but reasonably expects its lobbying expenditures will not amount to $22,500 in a semiannual period. However, issues of interest to "B" turn out to be more controversial than expected, and the $22,500 threshold is in fact met two months later.

Lobbying Firm "A" has no registration requirement at the present time. The requirement to register is triggered when and if the firm makes contacts, or reasonably expects that it will make contacts. Corporation "B's" registration requirement arose as soon as it knew, or reasonably expected, that its lobbying expenditures will exceed $22,500. "B" needs to register immediately.

Section 5

Special Registration Circumstances

Lobbying Firms Retained Under A Contingent Fee

Law other than the LDA governs whether a firm may be retained on a contingent-fee basis. There is, for example, a general prohibition on the payment of contingent fees in connection with the award of government contracts. Assuming, however, that the agreement is not contrary to law or public policy, an agreement to make lobbying contacts for a contingent fee, like other fee arrangements triggers a registration requirement at inception. The fee is disclosed on LD-2 for the semiannual period that the registrant becomes entitled to it.

Example: On January 1, 1998, Lobbying Firm "G" agrees to lobby for Client "H" for a fee contingent on a certain result, and the agreement is permitted under other applicable law. Lobbying activities begin. "G" is required to register by February 14, 1998. The result is not obtained and "G" is not entitled to any fee during the first semiannual period. "G" must report its lobbying activities for the first semiannual period; the income reported is "Less than $10,000." The desired result does occur in the second semiannual

period of 1998. In the report for that period, "G" discloses its lobbying activities for that period and the total contingent fee.

Registration for Entities with Subsidiaries Or State and Local Affiliates

Assuming a parent entity or national association and its subsidiary or subordinate are separate legal entities, the parent makes a determination whether it meets the registration threshold based upon its own activities, and does not include subordinate units' lobbying activities in its assessment. Each subordinate must make its own assessment as to whether any of its own employees meet the definition of a lobbyist, and then determine if it meets the registration threshold with respect to lobbying expenses.

Example: Lobbyist "Z" is an employee of Company "A," which is a wholly owned subsidiary of Company "B." "Z's" lobbying activities advance the interests of both. Which company is responsible for registering and reporting under the LDA?

The registration and reporting requirements apply to the organization of which Lobbyist "Z" is an employee. Therefore, Company "A" would register and file the semiannual reports.

If Company "B" contributes $10,000 or more to "Z's" lobbying activities during a semiannual period and plans, supervises, or controls the lobbying activities in whole or significant part, Company "B" must be listed on Company "A's" Form LD-1, Line 13. A contribution may take any form, and may be direct or indirect. For example, if Company

"B" established Company "A" with an initial capital contribution of $1,000,000, which "A" draws upon for employee salaries, including "Z's," and to pay for office space used by "Z," a $10,000 contribution probably has been made.

If Company "B" is a foreign entity, and the facts are otherwise the same as above, "B" would be listed on Line 14 of the Form LD-1 filed by Company "A." "B's" interests in specific lobbying issues would also be disclosed on Line 19 of Form LD-2.

The LDA does not make any express provision for combined or consolidated filings. We are of the view, however, that a single filing by a parent corporation may be appropriate in some cases, especially when there are multiple subsidiaries and the lobbyists address the same issues for all and act under the close control of the parent. In this regard, we note that the LDA does not contain any specific definition of "employee" (there is only the general definition of Section 3(5)), and the policy of the LDA is to promote disclosure of real parties in interest.

In circumstances in which multiple subsidiaries each have only a fraction of the lobbyist's time and little control over his work, the parent which in fact exercises actual control can be regarded as the "employer" for LDA purposes. In such cases, the parent may file a single registration, provided that Line 10 of Form LD-1 discloses that the listed lobbyists are employees of subsidiaries and the subsidiaries are identified as affiliated organizations on Line 13.

Effect of Mergers and Acquisitions on Registrations

The following examples serve to illustrate hypothetical situations regarding mergers and acquisitions:

Example 1: Corporation "C" registered under the LDA during 2001. Effective upon close of business on December 31, 2001, "C" merged with Corporation "D." "D," the surviving corporation, had no lobbyist-employees before the merger and is not registered. How and when should this information be reported? Assuming that "D" retains at least one of "C's" lobbyist-employees and will incur lobbying expenses of at least $22,500 during the January-June semiannual period, Corporation "D" is required to register. The 45-day period in which its initial registration must be filed begins to run on December 31, 2001, the date "D" first had lobbyist-employees, and the registration is due by February 14, 2002. On the other hand, if "D" will not be lobbying after the merger, it is not required to register. In pre-merger discussions, Corporation "C" might have agreed to terminate its registration and file its final lobbying report before ceasing its corporate existence. If, however, "C" did not do so, Corporation "D" should terminate the registration and file the outstanding lobbying report in "C's" name. "D" may simply annotate the signature block on Form LD-2 to indicate that it is filing as successor-in-interest to "C."

Example 2: Lobbying Firm "O" is a registrant under the LDA. It merges with Lobbying Firm "P," which is also a registrant. The new entity will be known as Lobbying Firm "T." How and when should this information be reported? The answer depends on the particular facts. If Lobbying Firm "T" is a newly created legal entity, it should file a new

registration within 45 days. The registrations of both "O" and "P" should be terminated, and separate final lobbying reports filed for each. But if "T" is simply the new name adopted by "O" following the merger with "P," with "P" going out of existence, "O" should report its new name and other updated information (such as the names of lobbyist-employees of "P" who are retained or hired by "T") on Form LD-2, with a cover note explaining the nature of the change. "P's" registration should be terminated, and a final report for "P" only should be filed.

Example 3: Corporation "J," a registrant, acquired Corporation "K," a non-registrant. At the time of the acquisition, "J" changed its name to "J & K." How and when should this information be reported? For LDA purposes, this is simply a change in the name of the registrant. The change should be reported on Line 1 of the next semiannual report (LD-2) with a cover memo noting the name change.

Associations or Coalitions

The LDA provides that "[i]n the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is the coalition or association and not its individual members" (Section 3(2)). A bonafide coalition that employs or retains lobbyists on behalf of the coalition may be the client for LDA purposes, even if the coalition is not a legal entity or has no formal name. A registrant lobbying for an unnamed informal coalition needs to adopt some type of identifier for Line 7 of Form LD-1, and indicate "(Informal Coalition)" or another applicable description. For all coalitions and associations, formal or informal, the LDA requires further disclosures, e.g.,

of organizations other than the client which contribute more than $10,000 toward the lobbying activities of the registrant in semiannual period, and in whole or major part plan, supervise or control the lobbying activities (Section 4(b)(3)). Such organizations are identified on Line 13 of Form LD-1. Further, in some cases it may be advisable for a registrant to identify members of a coalition who are not otherwise disclosed on Line 13 or Line 14 of Form LD-1. Consider, for example, an informal coalition consisting of only a few members who each pay a lobbying firm at least $5,500 in fees. Arguably, the coalition members could be viewed as separate clients for LDA purposes. The lobbying firm treating the coalition as the client could protect itself by disclosing the names of the coalition members. Giving the coalition some formal organization may also be considered in this type of case.

Note that a coalition with a foreign entity as a member must identify the foreign entity on line 14 of LD-1 if the foreign entity meets the test of either Section 4(b)(3) or 4(b)(4).

Churches, Integrated Auxiliaries, Conventions or Association of Churches and Religious Orders - Hiring of Outside Firms.

Although the definition of a lobbying contact does not include a communication made by a church, its integrated auxiliary, convention or association of churches and religious orders (Section 3(8)(B)(xviii)), if a church hires an outside firm that conducts lobbying activity on their behalf, the outside firm must register if registration is otherwise required.

Registration of Professional Associations of Elected Officials

The Section 3(15) definition of "public official" includes a professional association of elected officials who are exempt from registration. If the association retains an outside firm to lobby, the lobbying firm must register if otherwise required to do so, i.e., the firm employs a lobbyist as defined in Section 3(10) and lobbying income exceeds $5,500 in a semiannual period.

Section 6

Semiannual Reporting of Lobbying Activities

When and Why a Report is Needed

Each registrant must file a semiannual report on Form LD-2 no later than 45 days after the end of the semiannual period beginning on the first day of each January and the first day of July of each year in which a registrant is registered. If a registrant engaged in lobbying activities during the semi-annual period preceding their registration, a Form LD-2 should be filed disclosing such activities. Lobbying firms file separate reports for each client for each semiannual reporting period, while organizations employing in-house lobbyists file one report covering their in-house lobbying activities each semiannual reporting period. The Clerk and Secretary consider reports as filed timely if they are postmarked by February 14 or August 14. In the event that either of the aforementioned dates occur on a weekend or a federal holiday, the next business day postmark is also considered timely. Registrants should keep in mind that their reports are date-stamped by the House Legislative Resource Center and the Senate Office of Public Records on the dates they are actually received, and that inquiries regarding any discrepancy between the

date stamp and the mailing date will be directed to the registrant. The Secretary and Clerk do not have the authority under the LDA to grant extensions to registrants.

The obligation to report under the LDA arises from active status as a registrant (i.e., a registration on file that has not been validly terminated). Section 5(a) of the LDA requires a registrant to file a report for the semiannual period in which it incurred its registration requirement, and for each semiannual period thereafter, through and including the reporting period for which it terminates its registration. A timely report using Form LD-2 is required even though the registration was in effect for only part of the reporting period. So long as a registration is on file and has not been terminated, a registrant must report its lobbying activities even if those activities during a particular semiannual period would not trigger a registration requirement in the first instance (e.g., a lobbying firm's income from a client amounted to less than $5,000 during a particular semiannual period). A registrant with no lobbying activity during a semiannual period completes, signs, and files the first page (only) of Form LD-2.

Example 1: "A" is the only lobbyist of Lobbying Firm "Z" listed in the registration filed for Client "Y" on February 14, 1998. During January-June 1998, A lobbied for "Y" nearly full-time. During the July-December period in 1998, however, A spent less than 20 percent of her time for "Y" in lobbying activities, all in July and August, and lobbying fees for those two months were $20,000. For the July-December semiannual period, Lobbying Firm "Z" must report the fees, and must report "A's" lobbying activities.

Example 2: Lobbying Firm "Z" is retained by Client "X" on June 1, 1998 for thirty days to lobby on a particular issue that is on the legislative calendar and the issue is settled prior to the departure of House and Senate Members for the July 4th recess. Firm "Z" must file its registration by July 15, and its termination report by August 14.

Preparing to File the Semiannual Report - Income or Expense Recording

The LDA does not contain any special record keeping provisions, but requires, in the case of an outside lobbying firm (including self-employed individuals), a good faith estimate of all income received from the client, other than payments for matters unrelated to lobbying activities. In the case of an organization employing in-house lobbyists, the LDA requires a good faith estimate of the total expenses of its lobbying activities. As long as the registrant has a reasonable system in place and complies in good faith with that system, the requirement of reporting bottom line expenses or income would be met. Since Section 6(5) requires the Secretary and Clerk to "retain registrations for a period of at least 6 years after they are terminated and reports for a period of at least 6 years after they are filed," we recommend registrants retain copies of their filings and supporting documentation for the same length of time.

Lobbying Firm Income

Lobbying firms report income earned or accrued from lobbying activities during a semiannual period, even though the client may not be billed or make payment until a later time. For a lobbying firm, gross income from the client for lobbying activities is reportable, including costs or disbursements that are in addition to fees and separately

invoiced. Line 12 of LD-2 provides boxes for a lobbying firm to report income of less than $10,000, or of $10,000 or more. If lobbying income is $10,000 or more, a lobbying firm must provide a good faith estimate of the actual dollar amount rounded to the nearest $20,000.

Organization Expenses using LDA Expense Reporting Method

Organizations that employ in-house lobbyists may incur lobbying-related expenses in the form of employee compensation, office overhead, or payments to vendors which may include lobbying firms. Organizations must report expenses as they are incurred, though payment may be made later. Line 13 of LD-2 provides for an organization to report lobbying expenses of less than $10,000, or $10,000 or more. If lobbying expenses are $10,000 or more, the organization must provide a good faith estimate of the actual dollar amount rounded to the nearest $20,000. Organizations using the LDA expense reporting method mark the "Method A" box on Line 14.

To ensure complete reporting, the Secretary and Clerk have consistently interpreted section 5(B)(4) to require such organizations to report all of their expenses incurred in connection with lobbying activities, including all payments to outside entities, without considering whether any particular payee has a separate obligation to register and report under the LDA. Logically, if an organization employing in-house lobbyists also retains a lobbying firm, the expense reported by the organization should be greater than the fees reported by the lobbying firm of which the organization is a client.

All employee time spent in lobbying activities must be included in determining the organization's lobbying expenses, even if the employee does not meet the statutory definition of a "lobbyist."

Example: The CEO of a registrant, "Defense Contractor," travels to Washington to meet with a covered DOD official regarding the renewal of a government contract. "Defense Contractor" has already determined that its CEO is not a "lobbyist," because he does not spend 20 percent of his time on "lobbying activities" during a semiannual period. Nonetheless, the expenses reasonably allocable to the CEO's lobbying activities (e.g., plane ticket to Washington, salary and benefit costs, etc.) will be reportable.

Similarly, all expenses of lobbying activities incurred during a semiannual period are reportable. The Section 3(7) definition of lobbying activities is not limited to lobbying contacts.

Example: A research assistant in the Washington office of the registrant, "Defense Contractor" (described in the example above) researches and prepares the talking points for the CEO's lobbying contact with the covered DOD official. Likewise, the expenses reasonably allocable to the research assistant's lobbying activities will be included in "Defense Contractor's" expense estimate for the semiannual period.

The examples below are intended to be illustrative of the possibilities of LDA expense reporting, and are not intended to require detailed accounting rules.

Example 1: An organization employing in-house lobbyists might choose to estimate lobbying expenses by asking each professional staffer to track his/her percentages of time devoted to lobbying activities. These percentages could be averaged to compute the percentage of the organization's total effort (and budget) that is devoted to lobbying activities. Under this example the organization would include salary costs (including a percentage of support staff salaries), overhead, and expenses, including any third party costs attributable to lobbying.

Example 2: Another organization, which lobbies out of its Washington office, might avoid the need for detailed breakdowns by including the entire budget of its Washington office.

Organizations Reporting Expenses under Section 15 (Optional IRC Reporting Methods)

Section 15(a) of the LDA allows entities that are required to report and do report lobbying expenditures under section 6033(b)(8) of the Internal Revenue Code ("IRC") to use IRC definitions for purposes of LDA Sections (4)(a)(3) and 5(b)(4). Charitable organizations, as described in IRC Section 501(c)(3), are required to report their lobbying expenditures under Section 6033(b)(8) of the IRC. They may treat as LDA expenses the amounts they treat for "influencing legislation" under the IRC.

Section 15(b) of the LDA allows entities that are subject to section 162(e) of the IRC to use IRC definitions for purposes of LDA Sections (4)(a)(3) and 5(b)(4). The eligible

entities include for-profit organizations (other than lobbying firms) and tax-exempt organizations such as trade associations that calculate their lobbying expenses for IRC purposes with reference to Section 162(e) rules. We believe that this reporting option is available to include a small number of trade association registrants not required by the IRC to report non-deductible lobbying expenses to their members (i.e., those whose members are tax-exempt).

If an eligible organization elects to report under Section 15, it must do so consistently for both reports covering a calendar year. The electing organization also must report all expenses that fall within the applicable Internal Revenue Code definition. The total that is ultimately reportable to the Internal Revenue Service is the figure that would be used for Line 13 reporting. Line 13 of LD-2 would require any organization to report if the amount of lobbying expenses were less than $10,000, or $10,000 or more. If the expense amount is $10,000 or more, it should be rounded to the nearest $20,000. Line 14 of LD-2 requires the electing organization to mark as applicable, either the "Method B" box (IRC Section 6033(b)(8)) or the "Method C" box (IRC Section 162(e)). The Secretary and Clerk are aware that IRC and LDA are not harmonized in terms of expense reporting, and registrants are advised that backing out grass roots and state and local lobbying expenses that would alter the IRS reportable total is not permitted.

Semiannual Reporting of Lobbying Activities - Contents of Report

The two core disclosures required by Section 5(b) and © of the LDA and incorporated into Form LD-2 are: (1) lobbying income or expenses; and (2) lobbying issues. LD-2 has

been designed to allow registrants the greatest flexibility in terms of document length to correspond with varying amounts of information relating to the core disclosures. The following examples illustrate how the natures of the core disclosures build the form.

Example 1: Registrant "A" represents Client "B" to monitor an issue of interest to B and make occasional lobbying contacts as necessary. During the Mid-Year 1998 reporting period, "A" received $7,000 from "B," but had no lobbying activity because "B's" issue was dormant. "A" would complete the top portion of page 1 of LD-2, mark the boxes labeled "No Lobbying Activity" and "Less than $10,000," sign and date the first page, and file the report.

Example 2: Same circumstances as above, except that "A" has two lobbyists who make lobbying contacts on a single lobbying issue with the Senate and the House. In this case, the second page of LD-2 would have to be completed, "A" would sign and date page 2, and file the report.

Example 3: Same circumstances as example 2, but one of the lobbyists retires during the reporting period. In this case, a third page of LD-2 would be required as well as the first two completed pages reflecting the removal of the lobbyist's name (his/her retirement) from A's registration and reports.

Section 5(b) requires specific information on the nature of the lobbying activities. Page 2 of Form LD-2 requires the registrant to:

- Disclose the general lobbying issue area code (list 1 code per page)
- Identify the specific issues in which the lobbyist(s) engaged in lobbying activities
- Identify the Houses of Congress and Federal Agencies contacted
- Disclose the lobbyists who had any activity in the general issue area
- Describe the interest of a foreign entity if applicable

When reporting specific lobbying issues, some registrants have listed only House or Senate bill numbers on the issues page without further indication of their clients' specific lobbying issues. Such disclosures are not adequate, for several reasons. First, Section 5(b)(2)(A) of the LDA requires disclosure of "specific issues upon which a lobbyist employed by the registrant engaged in lobbying activities, including... bill numbers[.]" As we read the law, a bill number is a required disclosure when the lobbying activities concern a bill, but is not in itself a complete disclosure.

Further, in many cases, a bill number standing alone does not inform the public of the client's specific issue. Many bills are lengthy and complex, or may contain various provisions that are not always directly related to the main subject or title. If a registrant's client is interested in only one or a few specific provisions of a much larger bill, a lobbying report containing a mere bill number will not disclose the specific lobbying issue. Even if a bill concerns only one specific subject, a lobbying report disclosing only a bill number is still inadequate, because a member of the public would need access to information outside of the filing to ascertain that subject. In our view, the LDA contemplates disclosures that are adequate to inform the public of the lobbying client's

specific issues from a review of the LD-2, without independent familiarity with bill numbers or the client's interest in specific subject matters within larger bills. The disclosures on Line 16 must include bill numbers, where applicable, but must always contain information that is adequate, standing alone, to inform the public of the specific lobbying issues.

Example: Client "A's" general lobbying issue area is "Environment." During the second half of 1997, lobbyists for "A" made contacts concerning the Department of Defense appropriations for environmental restoration. For fiscal 1998, the Department of Defense Appropriations Act was part of the Omnibus Consolidated Appropriations Act for 1998, H.R. 3610, a lengthy and complex bill that did not have numbered sections throughout. Title II contained separate but unnumbered provisions making appropriations for "Environmental Restoration, Army," "Environmental Restoration, Navy," "Environmental Restoration, Air Force," "Environmental Restoration, Defense-Wide," and" Environmental Restoration, Formerly Used Defense Sites." Lobbying contacts for Client "A" addressed all environmental restoration funding within the Defense Department bill. An appropriate disclosure of the specific lobbying issue would read as follows: H.R. 3610, Department of Defense Appropriations Act for 1998, Title II all provisions relating to environmental restoration.

The Houses of Congress and Federal agencies contacted by lobbyists during the reporting period must be disclosed on Line 17 of Form LD-2. The LDA adopts the Administrative Procedure Act definition of agency found in 5 U.S.C. 551(1). Therefore, disclose the

specific agency contacted whether or not it is part of an executive branch department. It is not necessary to report the offices within the agency that were contacted. If lobbyists were engaged in lobbying activities that did not involve lobbying contacts, then the registrant must mark the "Check if None" box.

Previously identified lobbyists and new lobbyists for this reporting period must be listed on Line 18 of LD-2 if they had any lobbying activities during the reporting period, whether or not they made lobbying contacts. The issue page is only intended to reflect lobbying activity by lobbyists, and not activity of those who are not lobbyists. Once an individual has met the definition of a lobbyist and has been disclosed or identified as such, he or she does not need to meet that standard every reporting period in order to trigger disclosure of his or her lobbying activities. The registrant does not report the names of individuals who may perform some lobbying activities, but who do not and are not expected to meet the LDA definition of a lobbyist.

Example: Lobbying Firm "A" filed its initial registration for Client "B" on February 14, listing Lobbyists "X," "Y" and "Z." From January through June, Lobbyists "W" (hired in April) and "X" and "Y" made contacts for "B," while Lobbyist "Z" was assigned work for other clients. Lobbyist "Z" is expected, however, to be active on behalf of Client "B" after Labor Day until adjournment. In its Form LD-2 for Client "B," filed on or before August 14, Lobbying Firm "A" lists "W," "X" and "Y" on Line 18. "W" is also identified as "new," and Firm "A" would disclose if "W" occupied a covered position within the last two years. "Z" is not listed on the Form LD-2 filed for Client "B" for the January - June

semiannual period, but because of the current expectation that he will lobby during the July - December period, his name is not deleted as a lobbyist for "B."

New lobbyists should be disclosed on the appropriate issue(s) page(s) for the reporting period in which the individual first meets the definition of lobbyist. We are aware that there will be situations in which a registrant expects an individual to become a lobbyist and wishes to disclose the name of that individual for a matter of public record. Section 5 of the LDA, however, provides that updated registration information is contained in the registrant's next semiannual report. Therefore, there may be a period of time in which an individual is legitimately making lobbying contacts but is not be identified on the public record until the next semiannual report is filed. In such cases, the registrant reports updated information as the LDA requires.

A foreign entity is reported on Line 19 if both of two circumstances apply: 1) the foreign entity must be an entity that is required to be identified on Form LD-1 or on the registration information update page. That, in turn, depends on whether the entity meets one of the three conditions of Section 4(b)(4) of the LDA; and 2) the entity must have an interest in the specific lobbying issues listed on Line 16. If a foreign entity has an interest in the specific issues, Line 19 requires a description of that interest. For the sake of clarity the registrant should indicate whether the foreign entity(s) is/are the same as identified on the registration.

Example: "[Name of foreign entity], identified on LD-1, exports [type of product] to United States and would benefit from [specific desired outcome]."

Section 7

Termination

Termination of a Lobbyist

The LDA is not specific as to how far into the future the registrant should project an expectation that an individual will act as a lobbyist. It seems neither realistic nor necessary to expect registrants to make such projections beyond the next succeeding semiannual reporting period. Accordingly, if a registrant reasonably expects an individual to meet the definition of lobbyist in either the current or next semiannual period, the lobbyist should remain in an "active" status. If a registrant does not believe this to be the case, the lobbyist can be removed form the list of lobbyists for the registrant. Line 23 of LD-2 is used to delete names of employees who are no longer expected to act as lobbyists for the client, due to changed job duties, assignments, or employment status.

Example 1: Lobbying Firm "Y" registers for Client "Z" on March 15, 1998, listing employees "A," "B," "C," and "D" on line 10 of Form LD-1. For the first semiannual period in 1998, "Y" will list "A," "B" and "C" on Line 18 of LD-2. "D" has no lobbying activities for that semiannual period, so he would not be listed. During the second half of 1998, "D" leaves firm "Y" to start his own lobbying business. For the second semiannual period, "Y" will report that "D" no longer meets the definition of "lobbyist" for Client "Z" on Line 23 of LD-2.

Example 2: Lobbying Firm "Y" registers for Client "Z" as above listing the aforementioned "A," "B," "C," and "D" as lobbyists on March 15, 1998. One month after registration, "C" and "D," who engaged in lobbying activities for "Z" as partners of "Y," decide to leave the partnership effective June 1, 1998. On the Mid-Year Report for 1998, "Y" would report any lobbying activity for "C" and "D" on Line 18 of LD-2. "Y" would also reflect "C" and "D's" departure by listing them on Line 23 of LD-2 in the same filing.

Termination of a registrant/client relationship

Under Section 4(d) of the LDA, a lobbying firm may terminate a registration for a particular client when it is no longer employed or retained by that client to conduct lobbying activities and does not anticipate further lobbying activities for that client. An organization employing in-house lobbyists may terminate its registration when in-house lobbying activities have ceased and are not expected to resume. Similarly, in situations in which a registration is filed in anticipation of meeting the registration threshold that is never met, a registrant also has the option of termination. Just as we have been interpreting that the obligation to report semiannually under the LDA arises from active status as a registrant (Sections 5(a), 5(b)(2), 5(b)(3), 5(b)(4)), we believe that a report disclosing the final lobbying activity of a registrant is mandatory. In order to terminate the registration, the registrant must file Form LD-2 by the next semiannual filing date, checking the "Termination Report" box, and supplying the date that the lobbying activity ended. A valid termination report discloses lobbying income or expenses and any lobbying activity by lobbyists during the termination period.

Example 1: Lobbying Firm "A" accepted a contract with Client "B" on January 1, 2001, began lobbying activities, and timely registered on or before February 14. On March 31, the contract with "B" ended. Lobbying Firm "A" must file Form LD-2 by August 14, 2001, disclosing the lobbying income from and lobbying activity for Client "B" that took place between January 1 and March 31. The firm will check the "Midyear" box on Line 8, the "Termination Report" box on Line 10, and fill in "3/31/01" in the termination date space (also on Line 10).

Example 2: Corporation "C" filed its registration on February 14, 2001, listing employee "E" as its only lobbyist. Through June 30, "E" spends less than 20 percent of her total time in lobbying activities. "C" would not have filed a registration if it had foreseen that its lobbying activities would be so limited, and there is no expectation that "E" or any other employee of "C" will meet the Section 3(10) definition of "lobbyist" for the July-December semiannual period nor that lobbying expenses will exceed $22,500. While Corporation "C" as a registrant must file a report for January-June 2001, "C" will check the "Termination Report" box on Form LD-2, write in 6/30/01, disclose the amount of expenses for the reporting period and "E's" lobbying activity for the reporting period.

Section 8

Relationship of LDA to Other Statutes

LDA and FARA

The technical amendments to the LDA reflected a determination that the FARA standards are appropriate for lobbying on behalf of foreign governments and political parties, but that LDA disclosure standards should apply to other foreign lobbying (also refer to the

section in this document entitled "What is New?"). An agent of a foreign commercial entity is exempt under FARA if the agent has ngaged in lobbying activities and registers under the LDA. An agent of a foreign commercial entity not required to register under the LDA (such as those not meeting the de minimis registration thresholds) may voluntarily register under the LDA. The amendments reaffirm the bright line distinction between governmental and non-governmental representations, and are not meant to shroud foreign government enterprises. Questions relating to the Foreign Agents Registration Act must be directed to the Department of Justice Foreign Agent Registration Unit at (202) 514-1231.

LDA and IRC

The LDA and the IRC intersect in three different ways. Restrictions on lobbying by tax-exempt organizations are governed by the definitions in the IRC, not those of the LDA.

First, Section 15 defines which registrants are eligible for the "safe harbor." Section 15 allows entities that are required to report and do report lobbying expenditures under section 6033(b)(8) of the IRC to use IRC definitions for purposes of LDA Sections (4)(a)(3) and 5(b)(4). Section 15(b) of the LDA allows entities that are subject to section 162(e) of the IRC to use IRC definitions for purposes of LDA Sections (4)(a)(3) and 5(b)(4).

Second, Section 15 advises registrants regarding how they should use IRC definitions. Prior to the technical amendments the statute was not clear as to the extent to which

eligible organization could use IRC definitions for other reporting and disclosure requirements of the LDA. As a result of the amendments, registrants who make the Section 15 election must use IRC definitions (including the IRC definition of a covered executive branch official) for executive branch lobbying, and LDA definitions for legislative branch lobbying.

Third, Section 15 allows electing registrants to plug in the amount that is ultimately reportable to the Internal Revenue Service for LDA semiannual reports.

LDA and False Statements Accountability Act of 1996

The False Statements Accountability Act of 1996, amending 18 U.S.C. § 1001, makes it a crime knowingly and willfully (1) to falsify, conceal or cover up a material fact by trick, scheme or device; (2) to make any materially false, fictitious, or fraudulent statement or representation; or (3) to make or use any false writing or document knowing it to contain any materially false, fictitious, or fraudulent statement or entry; with respect to matters within the jurisdiction of the legislative, executive, or judicial branch. The False Statements Accountability Act does not assign any responsibilities to the Clerk and Secretary.

LDA and Prohibitions on the Use of Federal Funds For Lobbying

The LDA does not itself regulate lobbying by federal grantees, or contractors, though other laws, as well as contractual prohibitions may apply. Questions concerning lobbying

activities of federal grantees or contractors should be directed to the appropriate agency or office administrating the contract or grant.

Note, however, that Section 18 of the LDA prohibits 501(c)(4) organizations who engage in lobbying activities from receiving federal funds through an award, grant or contract.

Section 9

Public Availability

The Act requires the Secretary of the Senate and the Clerk of the House of Representatives to make all registrations and reports available to the public as soon as practicable after they are received.

Section 10

Review and Compliance

The Secretary of the Senate (Office of Public Records) and the Clerk of the House (Legislative Resource Center) must review, verify, and request corrections in writing to ensure the accuracy, completeness, and timeliness of registrations filed under the Act.

Section 11

Penalties

Whoever knowingly fails: (1) to correct a defective filing within 60 days after notice of such a defect by the Secretary of the Senate or the Clerk of the House; or (2) to comply

with any other provision of the Act, may be subject to a civil fine of not more than $50,000.

LOBBYING FIRMS & LOBBYISTS[66]

This chart shows the top 20 of the 128 lobbying firms that reported at least $1 million in income for 1999. Some of these organizations have a handful of employees, while others are Washington outposts of major out-of-town law, accounting, or public relations firms. Two major factors shook up the list of the top lobbying firms. First, the collapse of tobacco spending hit some firms much harder than others. Verner, Liipfert was heavily dependent on tobacco money in 1998; as a result, its reported income dropped 15 percent in 1999. By contrast, Cassidy & Associates had very little tobacco income in 1998; as a result, it maintained its strong growth in 1999.

The second factor is the rise of lobbying firms with GOP affiliations. With both houses of Congress in Republican hands since 1994, firms that hire former GOP lawmakers or donate to Republican congressional candidates have boomed. Since 1997, firms that gave over 60 percent of their donations to Republicans saw their revenues increase by over 20 percent; the figure for firms that donate 60 percent or more to Democrats was slightly less than 8 percent.

In compiling these figures, the Center counted all clients reported by each lobbying firm. Reports stating that the lobbying firm received "less than $10,000" for a six-month period were counted as zero. Earnings of less than $10,000 do not have to be itemized.

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[66] Influence Inc. "Lobbyist Spending In Washington", 2000 ed. Center for Responsive Politics, Washington D.C.

TABLE 2. TOP LOBBYING FIRMS AT A GLANCE

Rank	Lobbying Firm	1999 lobbying receipts	1998 Lobbying Receipts	1997 Lobbying Receipts	Average Growth
1	Cassidy & Assoc	$20,840,000	$19,890,000	$17,754,425	8.3%
2	Patton Boggs LLP	$17,790,000	$14,390,000	$9,980,000	33.5%
3	Verner, Liipfert et al	$15,950,000	$18,775,000	$18,798,000	-7.9%
4	Akin, Gump et al	$13,280,000	$11,800,000	$10,165,000	14.3%
5	Preston, Gates et al	$11,620,000	$10,150,000	$9,517,000	10.5%
6	PricewaterhouseCoop	$10,130,000	$6,500,000	$1,840,000	134.6%
7	Williams & Jensen	$8,820,000	$7,060,000	$6,340,000	17.9%
8	Washington Counsel	$7,251,000	$7,251,000	$6,377,000	17.1%
9	Hogan & Hartson	$8,353,056	$6,546,111	$6,618,646	12.3%
10	Van Scoyoc Assoc	$8,090,000	$6,480,000	$5,160,000	25.2%
11	Barbour,Griffith& Ro	$7,460,000	$7,410,000	$5,200,000	19.8%
12	Podesta.com	$6,700,000	$5,360,000	$3,590,000	36.6%

13	Dutko Group	$6,502,450	$4,632,031	$4,176,500	24.8%
14	Arnold & Porter	$6,265,000	$4,660,000	$2,860,000	48.0%
15	Hooper, Owen et al	$3,796,000	$3,796,000	$3,270,000	36.5%
16	Timmons & Co	$5,930,000	$5,940,000	$5,260,000	6.2%
17	Alcalde & Fay	$5,550,000	$4,720,000	$3,653,000	23.3%
18	Clark & Weinstock	$5,470,000	$3,680,000	$2,253,500	55.8%
19	Capitol Assoc	$5,300,000	$4,350,000	$3,690,000	19.8%
20	Wexler Group	$5,270,000	$4,080,000	$2,900,000	34.8%

Note: Lobbying figures are for calendar year 1999; campaign contributions figures are for the 1999-2000 election cycle and reflect data released by the Federal Election Commission by April 1, 2001.

TOP SINGLE FEES[67]

In 1997, each of the top five single fees paid by single clients to individual lobbying firms were related to tobacco. In 1999, with the collapse of tobacco legislation on Capitol Hill, only three of the top 25 single fees were from tobacco firms. As tobacco spending has fallen, the size of lobbying's biggest contracts has fallen. The top fee in 1998 was worth $3.62 million; in 1999 it was worth half a million dollars less at $3.12 million. In 1998, the 50th largest fee was worth $584,600; in 1999; it fell to $520,000.

Despite the dropoff in spending by the biggest firms, some lobbying practices remain heavily dependent on a handful of large clients. Shea & Gardner, for example, reported

[67] Influence Inc. "Lobbyist Spending In Washington", 2000 ed. Center for Responsive Politics, Washington D.C.

contracts with four clients, but it received 94 percent of its lobbying income from just one of them—the Center for Claims Resolution. Three of the top 20 fees and four of the top 50 went to Preston, Gates. These four fees accounted for over 58 percent of Preston Gates' income. John T. O'Rourke's law office received nearly half of its lobbying income from International Game Technology.

TABLE 3. TOP LOBBYING FEES

Rank	Client	Lobbying Firm	Receipt
1	Mississippi Band of Choctaw Indians	Preston, Gates et al	$3,120,000
2	Global Crossing	Bingaman, Anne K.	$2,520,000
3	Allegiance Healthcare	Ungaretti & Harris	$2,260,000
4	FMC Corp	EOP Group Inc	$1,840,000
5	Western Pacific Economic Council	Preston, Gates et al	$1,800,000
6	Government Devel Bank of Puerto Rico	McDermott, Will & Emery	$1,798,113
7	GAF Corp	MWW Group Inc	$1,440,000
8	Puerto Rico Industrial	Verner, Liipfert et al	$1,380,000

	Development		
9	Pacific Lumber & Shipping	Patton Boggs LLP	$1,240,000
10	AT&T	Akin, Gump et al	$1,200,000
11	International Game Technology	Law Offices of John T. O'Rourke	$1,140,000
13	Consumer Mortgage Coalition	Canfield & Assoc	$1,120,000
13	Fast Ship Atlantic Inc	Dyer, Ellis & Joseph	$1,120,000
13	Evans International Ltd	Verner, Liipfert et al	$1,120,000
15	Ad Hoc Coalition of Commercial & Investm	Williams & Jensen	$1,020,000
16	Lorillard Inc	Dickstein, Shapiro & Morin	$1,000,000
16	PwC Leasing Coalition	PricewaterhouseCoopers	$1,000,000
16	Contract Manufacturing Coalition	PricewaterhouseCoopers	$1,000,000
16	Channel One Network	Preston, Gates et al	$1,000,000

20	Network Solutions Inc	Wilmer, Cutler & Pickering	$970,000
21	Coalition for Fair Lumber Imports	Dewey Ballantine	$940,000
22	Japan Iron & Steel Exporters Assn	Willkie, Farr & Gallagher	$900,000
22	Nextel Communications Inc	Dow, Lohnes & Albertson	$900,000
24	Cyprus Amax Minerals Co	Thomas D. Campbell & Assoc	$896,450
25	Brown & Williamson Tobacco	Hecht, Spencer & Assoc	$880,000
26	Pitney Bowes Inc	Preston, Gates et al	$840,000
26	Assn of Trial Lawyers of America	Patton Boggs LLP	$840,000
28	Associated Financial Corp	Greenberg, Traurig et al	$800,000
29	Uniform Standards Coalition	Mayer, Brown & Platt	$780,000
30	Boston University	Cassidy & Assoc	$760,000
30	Civil Justice Reform Group	Arnold & Porter	$760,000

32	Dunn-Edwards Corp	Kessler & Assoc	$720,000
33	Limited Inc	Law Offices of John T. O'Rourke	$690,000
34	Credit Suisse First Boston	Williams & Jensen	$680,000
34	Computer Systems Policy Project	Infotech Strategies	$680,000
36	Martin-Baker Aircraft	Burdeshaw Assoc	$640,000
37	Microsoft Corp	Barbour, Griffith & Rogers	$620,000
37	Mars Inc	Patton Boggs LLP	$620,000
39	Merrill Lynch	Washington Counsel	$600,000
39	Lockheed Martin	Verner, Liipfert et al	$600,000
40	United Parcel Service	Hogan & Hartson	$580,000
41	Lambert-St. Louis International Airport	Brown & Assoc	$560,000

41	Pohang Iron & Steel	Akin, Gump et al	$560,000
41	Visa USA	Verner, Liipfert et al	$560,000
41	American Standard Inc	Baker, Donelson et al	$560,000
45	Automobile Manufacturers R&D Coalition	PricewaterhouseCoopers	$550,000
46	Gila River Indian Community	Akin, Gump et al	$540,000
47	Philip Morris	Baker, Donelson et al	$520,000
47	Qualcomm Inc	Powell, Goldstein et al	$520,000
47	ASCAP	Palumbo & Cerrell	$520,000
47	Electronic Financial Services Council	Goodwin, Procter & Hoar	$520,000
47	Coalition for Encryption Reform	Arnold & Porter	$520,000

Note: Lobbying figures are for calendar year 1999; campaign contributions figures are for the 1999-2000 election cycle and reflect data released by the Federal Election Commission by April 1, 2001.

METHODOLOGY

The lobbying data that form the basis of this report were compiled using the 1999 mid-year and year-end lobbying disclosure reports filed under the Lobbying Disclosure Act of 1995. The filings were largely obtained on microfilm from the Secretary of the Senate's Office of Public Records. A nearly identical set of reports is on file with Clerk of the House's Legislative Resource Center; the House records were used in cases where the Senate records were unavailable. Year-end reports for 1999 were due on February 15, 2000. Reports covering the first half of 1999 were due on August 15, 1999. Late filings and amendments filed by mid-April 2000 are included in this report. Data are subject to change as new amendments are filed.

Lobbying firms are required to provide a good-faith estimate rounded to the nearest $20,000 of all lobbying-related income in each six month period (lobbying firms sometimes double as law, accounting, or public relations firms — the income for non-lobbying activity is excluded from the lobbying reports). Likewise, organizations that hire lobbyists must provide good-faith estimates rounded to the nearest $20,000 of all lobbying-related expenditures in a six-month period. An organization that spends less than $10,000 in any six-month period does not have to itemize its expenditures. In those cases, the Center treated the figure as zero.

In cases where the data appeared to contain errors, official Senate and House records were consulted and, when necessary, the Center telephoned lobbying organizations for clarification. The Center has standardized variations in names of individuals and

organizations to clearly identify them and more accurately represent their total lobbying expenditures.

In most cases, the Center attributed lobbying spending and campaign contributions of affiliates and subsidiaries to their parent organizations. Therefore, the lobbying totals reported by the Center for a parent organization may not reflect its original filing with the House and Senate but rather the combined expenditures of all related entities.

However, to calculate lobbying expenditures and campaign contributions by sector and industry, each subsidiary was counted within its own sector and industry, not those of its parent. The Center made this distinction when it had the information necessary to distinguish some or all of the subsidiary's lobbying expenditures from either the subsidiary's own filing or from the receipts reported by outside lobbying firms.

For example, the tobacco company Philip Morris owns both Kraft Foods and Miller Brewing. Although Philip Morris' filing included lobbying for Kraft and Miller in its expenditures, the Center isolated Kraft's and Miller's payments to outside lobbyists and included them in 'food and beverage' and "beer, wine and liquor," respectively.

When companies merged during 1999, their lobbying expenditures were combined and attributed to the new entity. For example Exxon and Mobil Oil's separate mid-year filings were combined and attributed to Exxon-Mobil. In comparing last year's lobbying expenditures with those in 1998 and 1997 for companies that merged in 1999, the

combined total of all merged entities was used. Thus, the 1997 and 1998 totals are for the combination of Exxon's and Mobil's lobbying expenditures.

The exception is for lobbying firms. While there has been a wave of consolidation on K Street, most lobbying firms have retained the same names as subsidiaries that they once held as independent firms. Totals for each lobbying firm are separated by the subsidiary name.

There are three different filing methods. Two options are largely identical (one for for-profit groups, the other for non-profits) and use a definition of lobbying provided by the Internal Revenue Code (IRC). The third follows the definition of lobbying contained in the LDA. Filers using the IRC methods must report state and grassroots lobbying costs, which are not included in LDA reports. However, the list of covered public officials under the IRC is much narrower than the set covered by the LDA. Thus, lobbying expenditures reported by each organization may not be strictly comparable. For example, the National Association of Manufacturers reported its state and grassroots lobbying in its total, but Philip Morris did not.

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Occasionally, income that an outside lobbying firm reported receiving from a client was greater than the client's reported lobbying expenditures. Many such discrepancies could

be explained by the fact that the client and the outside firm used different lobbying methods. When both organizations used the same method, discrepancies were generally due to inaccurate filings by clients. In cases not already resolved in previous reports and where the discrepancy exceeded the $20,000 that could be attributed to rounding, the Center contacted the organizations involved to resolve the apparent discrepancies. If telephone calls and e-mails failed to resolve the question, the client's expenditures — the smaller amount — rather than the lobbying firm's reported income were used. The only exception was when a client reported no lobbying expenditures, while the outside lobbying firm listed an actual payment. In such cases, the figure reported by the lobbying firm was used.

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Information on campaign contributions for the 1999-2000 election cycle is based on data downloaded from the Federal Election Commission on March 1, 2001. The data were then standardized and categorized by the Center. Lobbying expenditures were similarly standardized and categorized. Contribution totals listed for specific organizations that

lobby include any political action committees connected with the organizations; individual families; and soft money donations made by the organization or its employees and their immediate families to political parties. Sector and industry contribution totals in this report reflect all donors of each category and are not limited to those who lobbied.

Most groups understand the need to have representatives in Washington to protect their interests and to affect policy. Furthermore, not having such representation places groups at a distinct disadvantage. This explains the increasing reliance on lobbyists by virtually every segment of society.

CHAPTER III

LOBBYING AND POLITICAL CAMAPIGNS

Historical Context

The origins of campaign financing in the United States date back to 1791, when groups supporting and opposing Alexander Hamilton published competing newspapers designed to sway the electorate. These minimal expenditures set the tone for campaigns over the next several decades.

In the Presidential election of 1832, however, the financing of campaigns changed. The Bank of the United States, whose charter-renewal was threatened by President Andrew Jackson, spent heavily to elect Henry Clay, who supported renewal of the bank's charter. The bank's tactics backfired, however, when Jackson characterized it as a "money monster," and won reelection.

During the 1840s and 50s, the size of the electorate grew and so did the amount of campaign spending. Still, during the pre-Civil War period, "costs were relatively moderate, corruption...was the exception rather than the rule, fundraising was conducted in an amateur fashion, and the alliance between economic interests and politicians, though growing, was loose and flexible." (Thayer, Who Shakes the Money Tree, p. 35) By contrast, the postwar years have been called the most corrupt in U.S. history.

Historian Eugene H. Roseboom describes financier Marcus A. Hanna's fundraising for President McKinley's 1896 campaign:

"For banks the [campaign finance] assessment was fixed at one quarter of one percent of their capital. Life insurance companies contributed liberally, as did nearly all the great corporations. The Standard Oil Company gave $250,000 to Hanna's war chest. The audited accounts of the national committee revealed collections of about $3,500,000." (CQ, Dollar Politics, p. 3)

Early Reform

The drive to institute comprehensive campaign finance reform began around the turn of the century, when the muckrakers revealed the financial misdeeds of the 1896 election.[68] Their stories of corporations financing candidates' campaigns in hopes of influencing subsequent legislation prompted President Theodore Roosevelt to proclaim: "All contributions by corporations to any political committee or for any political purpose should be forbidden by law." In 1907, Congress passed the Tillman Act, which prohibited corporations and national banks from contributing money to federal campaigns. Three years later, Congress passed the first federal campaign disclosure legislation. Originally, the law applied only to House elections, but Congress amended the law in 1911 to cover Senate elections as well, and to set spending limits for all Congressional candidates.

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[68] The first campaign finance law actually predates these practices. Congress passed legislation in 1867 that prohibited Federal officers from soliciting Navy Yard workers for contributions.

The Federal Corrupt Practices Act of 1925, which applied to general election activity only, strengthened disclosure requirements and increased expenditure limits. The Hatch Act of 1939 and its 1940 amendments asserted the right of Congress to regulate primary elections and included provisions limiting contributions and expenditures in congressional elections. The Taft-Hartley Act of 1947 barred both labor unions and corporations from making expenditures and contributions in federal elections.

These legislative initiatives, taken together, sought to:

- Limit contributions to ensure that wealthy individuals and special interest groups did not have a disproportionate influence on federal elections;
- Prohibit certain sources of funds for federal campaign purposes;
- Control campaign spending, which tends to fuel reliance on contributors and fundraisers; and
- Require public disclosure of campaign finances to deter abuse and to educate the electorate.

None of these laws, however, created an institutional framework to administer the campaign finance provisions effectively. As a result, those provisions were largely ignored. The laws had other flaws as well. For example, spending limits applied only to committees active in two or more states. Further, candidates could avoid the spending limit and disclosure requirements altogether because a candidate who claimed to have no knowledge of spending on his behalf was not liable under the 1925 Act.

When Congress passed the more stringent disclosure provisions of the 1971 Federal Election Campaign Act (FECA), the shortcomings of the earlier laws became apparent. In 1968, still under the old law, House and Senate candidates reported spending $8.5 million, while in 1972, after the passage of the FECA, spending reported by congressional candidates jumped to $88.9 million.[69]

The 1971 Election Laws

The Federal Election Campaign Act of 1971 (P.L. 92-225), together with the 1971 Revenue Act (P.L. 92-178), fundamentally changed the federal campaign finance laws. The FECA, effective April 7, 1972, not only required full reporting of campaign contributions and expenditures, but also limited spending on media advertisements and limited spending from candidates' personal funds.[70] (These limits were later repealed to conform with judicial decisions.)

The FECA also provided the basic legislative framework for corporations and labor unions to establish separate segregated funds[71], popularly referred to as PACs (political

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[69] Congressional Quarterly Weekly Report, Vol. xxvii, No. 49, December 5, 1969, p. 2435; Clerk of the House, "The Annual Statistical Report of Contributions and Expenditures Made During the 1972 Election Campaigns for the U.S. House of Representatives" (1974), p. 161; Secretary of the Senate, "The Annual Statistical Report of Receipts and Expenditures Made in Connection with Elections for the U.S. Senate in 1972" [undated], p. 33.

[70] ."Contribution" and "expenditure" are defined in 2 U.S.C. and 11 CFR.

71."Separate segregated fund" is described in 2 U.S.C. and 11 CFR

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action committees). Although the Tillman Act and the Taft-Hartley Act of 1947 banned direct contributions by corporations and labor unions to influence federal elections, the FECA provided an exception whereby corporations and unions could use treasury funds to establish, operate and solicit voluntary contributions for the organization's PAC. These voluntary donations from individuals could then be used to contribute to federal campaigns.

Under the Revenue Act-the first of a series of laws designed to implement federal financing of Presidential elections-citizens could check a box on their tax forms authorizing the federal government to use one of their tax dollars to finance Presidential campaigns in the general election.[72] Congress implemented the program in 1973 and, by 1976, enough tax money had accumulated to fund the 1976 Presidential election-the first publicly funded federal election in U.S. history.

Like its predecessors, the Federal Election Campaign Act of 1971 did not provide for a single, independent body to monitor and enforce the law. Instead, the Clerk of the House, the Secretary of the Senate and the Comptroller General of the United States, head of the General Accounting Office (GAO), monitored compliance with the FECA. The Justice Department was responsible for prosecuting violations of the law referred by the three

[72] In 1966, Congress enacted a law to provide for public funding of Presidential elections, but suspended the law a year later. It would have included a taxpayers' checkoff provision similar to that later embodied in the 1971 law.

supervisory officials. Following the 1972 elections, however, the Justice Department prosecuted few of the 7,100 cases referred to it.[73]

1974 Amendments

In 1974, following the documentation of campaign abuses in the 1972 presidential elections, a consensus emerged to create an independent body to ensure compliance with the campaign finance laws. Comprehensive amendments to the FECA (P.L. 93-443) established the Federal Election Commission, an independent agency to assume the administrative functions previously divided between Congressional officers and GAO. The Commission was given jurisdiction in civil enforcement matters, authority to write regulations and responsibility for monitoring compliance with the FECA. Additionally, the amendments transferred from GAO to the Commission the function of serving as a national clearinghouse for information on the administration of elections.

Under the 1974 amendments, the President, the Speaker of the House and the President pro tempore of the Senate each appointed two of the six voting members of the newly created Commission. The Secretary of the Senate and the Clerk of the House were designated as nonvoting, ex officio Commissioners. The first Commissioners were sworn in on April 14, 1975.

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[73] Comptroller General of the United States, "Report of the Office of Federal Elections of the General Accounting Office in Administering the Federal Election Campaign Act of 1971" (February 1975). pp. 23 and 24.

The 1974 amendments also expanded the public funding system for presidential elections. The amendments provided for partial federal funding, in the form of matching funds, for presidential primary candidates and also extended public funding to political parties to finance their presidential nominating conventions.

Federal Election Campaign Act of 1974 with historical background

The FEC and the Federal Campaign Finance Law

As early as 1905, President Theodore Roosevelt recognized the need for campaign finance reform and called for legislation to ban corporate contributions for political purposes. In response, Congress enacted several statutes between 1907 and 1966 which, taken together, sought to:

- Limit the disproportionate influence of wealthy individuals and special interest groups on the outcome of federal elections;
- Regulate spending in campaigns for federal office; and
- Deter abuses by mandating public disclosure of campaign finances.

In 1971, Congress consolidated its earlier reform efforts in the Federal Election Campaign Act (FECA), instituting more stringent disclosure requirements for federal candidates, political parties and political action committees (PACs). Still, without a central administrative authority, the campaign finance laws were difficult to enforce.

Federal Election Campaign Act of 1974

Following reports of serious financial abuses in the 1972 presidential campaign, Congress amended the FECA in 1974 to set limits on contributions by individuals, political parties and PACs. The 1974 amendments also established an independent agency: the Federal Election Commission (FEC) to enforce the law, facilitate disclosure and administer the public funding program. Congress made further amendments to the FECA in 1976 following a constitutional challenge in the Supreme Court case Buckley v. Valeo; major amendments were also made in 1979 to streamline the disclosure process and expand the role of political parties.

Public funding of federal elections originally proposed by President Roosevelt in 1907 began to take shape in 1971 when Congress set up the income tax checkoff to provide for the financing of Presidential general election campaigns and national party conventions. Amendments to the Internal Revenue Code in 1974 established the matching fund program for presidential primary campaigns.

The FEC opened its doors in 1975 and administered the first publicly funded presidential election in 1976.

Commissioners

The FEC has six voting members who serve staggered six-year terms. The Commissioners are appointed by the President with the advice and consent of the U.S.

Senate. No more than three Commissioners may belong to the same political party. The Commissioners elect two members each year to act as Chairman and Vice Chairman.

Public Meetings

The Commission normally holds a public meeting each week. At this meeting, the Commissioners adopt new regulations, issue advisory opinions, approve audit reports concerning presidential campaign committees, and take other actions to administer the campaign finance law. In addition, the Commissioners meet regularly in closed sessions to discuss pending enforcement actions, litigation and personnel matters.

Complementing these provisions, Congress also enacted strict limits on both contributions and expenditures. These limits applied to all candidates for federal office and to political committees influencing federal elections.[74]

Another amendment relaxed the prohibition on contributions from federal government contractors. The FECA, as amended, permitted corporations and unions with federal contracts to establish and operate PACs.

Buckley v. Valeo

The constitutionality of key provisions of the 1974 amendments was immediately challenged in a lawsuit filed by Senator James L. Buckley (Conservative Party, New York) and Eugene McCarthy (former Democratic Senator from Minnesota) against the

[74] "Political committee" is defined in 2 U.S.C. and 11 CFR.

Secretary of the Senate, Francis R. Valeo. The Supreme Court handed down its ruling on January 30, 1976. Buckley v. Valeo, 424 U.S. 1 (1976).

In its decision, the Court upheld contribution limits because they served the government's interest in safeguarding the integrity of elections by preventing even the appearance of corruption of public officials. However, the Court overturned the expenditure limits, stating: "It is clear that a primary effect of these expenditure limitations is to restrict the quantity of campaign speech by individuals, groups and candidates. The restrictions...limit political expression at the core of our electoral process and of First Amendment freedoms." Acknowledging that both contribution and spending limits had First Amendment implications, the Court stated that the new law's "expenditure ceilings impose significantly more severe restrictions on protected freedoms of political expression and association than do its limitations on financial contributions." The Court implied, however, that the expenditure limits placed on publicly funded candidates were constitutional because Presidential candidates were free to disregard the limits if they chose to reject public financing; later, the Court affirmed this ruling in Republican National Committee v. FEC. 445 U.S. 955 (1980).

The Court also sustained other public funding provisions and upheld disclosure and recordkeeping requirements. However, the Court found that the method of appointing FEC Commissioners violated the constitutional principle of separation of powers, since Congress, not the President, appointed four of the Commissioners, who exercised

executive powers.[75] As a result, beginning on March 22, 1976, the Commission could no longer exercise its executive powers.[76] The agency resumed full activity in May, when, under the 1976 amendments to the FECA, the Commission was reconstituted and the President appointed six Commission members, who were confirmed by the Senate.

1976 Amendments

In response to the Supreme Court's decision, Congress again revised the campaign finance legislation. The new amendments, enacted on May 11, 1976, repealed most expenditure limits (except for candidates who accepted public funding) and revised the provision governing the appointment of Commissioners.

Among the 1976 amendments were provisions to limit the scope of PAC fundraising by corporations and labor organizations. Preceding this curtailment of PAC solicitations, the

[75] Similarly, in 1993, the U.S. Court of Appeals for the District of Columbia ruled that the Commission's two Congressionally-appointed ex officio members "violate[d] the Constitution's separation of powers." In compliance with the court's decision, the Commission reconstituted itself as a six-member body, comprising only the Presidentially appointed Commissioners. As a precaution, the reconstituted Commission ratified all of its previous decisions to ensure uninterrupted enforcement of the FECA. The Commission petitioned the Supreme Court for a writ of certiorari in the case, but in December 1994, the Court dismissed the Commission's petition, concluding that the agency lacked statutory authority to seek Supreme Court review on its own, in cases arising under the FECA. The Court's decision left standing the appeals court ruling. (FEC v. NRA Political Victory Fund)

[76] The Supreme Court stayed its judgment concerning Commission powers for 30 days; the stay was extended once.

FEC had issued an advisory opinion, AO 1975-23 (the SunPAC opinion), confirming that the 1971 law permitted a corporation to use treasury money to establish, operate and solicit contributions to a PAC. The opinion also permitted corporations and their PACs to solicit the corporation's employees as well as its stockholders. The 1976 amendments, however, put significant restrictions on PAC solicitations, specifying who could be solicited and how solicitations would be conducted. In addition, a single contribution limit was adopted for all PACs established by the same union or corporation.

1979 Amendments

Building upon the experience of the 1976 and 1978 elections, Congress made further changes in the law. The 1979 amendments to the FECA (P.L. 96-187), enacted on January 8, 1980, included provisions that simplified reporting requirements, encouraged party activity at state and local levels and increased the public funding grants for Presidential nominating conventions.

Subsequent Amendments

Since 1979, Congress has adopted several amendments of more limited scope, including provisions to:

- Ban honoraria for federal officeholders;
- Repeal the "grandfather clause" that had permitted some Members of Congress to convert excess campaign funds to personal use (see page 22); and
- Increase funding for national nominating conventions.

In addition, Congress enacted legislation that:

Assigned significant new administrative duties to the Commission under the National Voter Registration Act; and increased the tax checkoff for the Presidential Election Campaign Fund from $1 to $3.

Although Congress has continued over the years to consider major reform of the current election laws, in recent years relatively few changes to the law have occurred. The focus of activity has, in effect, shifted from legislative initiatives to administrative and judicial actions. New developments have occurred at the Federal Election Commission, as it has attempted to implement and enforce the law, and in the courts.

Political Action Committees

Political Action Committees constitute an integral part of the lobbying process in the Congress. To some, Political Action Committees (PACs) represent a healthy new way for individuals and groups to participate financially in the political process. To others, they are an insidious outgrowth of Watergate inspired legislation. But all aides agree that PACs are an increasingly important force in the financing of congressional races.

The term "PAC" is not precisely defined in the Federal Election Campaign Act (FECA), the law that provides the basic ground rules for the financial conduct of federal campaigns. ***FECA does define a non-political party committee as any committee, club, association or other group of members that has either receipts or expenditures in a calendar year of at least $1000, or operates a separate, segregated fund to raise or***

disburse money in federal campaigns. Committees that fit this definition are known as PACs.

Because corporations and labor unions are prohibited by law from using corporate and union treasury funds for political contributions, PACs have become a tightly regulated vehicle for political involvement by business and unions. Campaign contributions from Political Action Committees must come from voluntary gifts to the PACs. But corporate and union funds may be used to administer PACs and solicit money for them.

Most PACs are affiliated with corporations and labor unions. But there are a large number of PACs associated with trade, membership and health organizations and a growing number of independent, non-connected PACs set up by groups interested in a particular cause, such as the environment or abortion.

Impetus for PACs

Labor unions began forming political action committees nearly 6 decades ago to maximize their influence in the political process. But the real impetus for PAC formation did not come until the 1970s when the federal campaign finance laws were overhauled. Crucial were the 1974 amendments to the FECA, ***which clamped a $1000 limit on the amount an individual could contribute to a House or Senate candidate in a primary or general election. PACs were permitted to give $5000 per election with no limit on how much a candidate could receive in combined PAC donations.***

Overnight the political landscape was changed. Before 1974, little need existed for PACs outside the labor movement. Individuals-whether business executives or wealthy political philanthropists –could give unlimited amounts to the candidates of their choice. But the 1974 legislation ended this era of unbridled giving and forced wealthy individuals, corporations and other organizations to seek new outlets to remain financially involved in the political process.

In the United States, political action committees (PACs) are organizations established by private groups to support candidates for public office. Labor unions began forming PACs during the 1940s, but corporations were barred from doing so until the passage of the Federal Campaign Act of 1971 (FECA). By lifting the prohibition against using corporate money to set up PACs, the FECA and its 1974 and 1976 amendments legitimized a new and much larger role for trade associations and corporations in politics. Thus, the FECA spawned a dramatic change in the way political money is raised and fostered an enormous growth in the numbers of PACs involved in active politics. As the number of PACs has increased, so has the amount of PAC money spent in elections. In 1974 about 600 PACs contributed $12.5 million to congressional candidates.

In the 1995-96 election cycle about 4,500 PACs distributed $201.4 million to congressional candidates, most of them incumbents. This amount--representing an increase of 12 percent from the 1993-94 level--was more than one-third of the funds raised by these candidates and underscored increasing concern about the influence of

special-interest groups. As public criticism mounted, Congress in the early 1990s examined proposals to eliminate PACs altogether, but no legislation was enacted.

The New Relationship of Commerce to Politics: Reexamining Political Action Committees

The history of American antagonism toward commercial engagement in politics is long and deep. Half a century before cartoonists and editorialists railed against robber barons and the Standard Oil trust, Americans were fighting over the corruption of a national bank and the political bribery generated by canal companies.

This long history of antagonism is beginning to change. Today, commerce interacts with politics through political action committees, or PAC's.

Most Americans believe that they understand PAC's and their role in our political life. Public opinion falls into two general categories: One-third strongly believe that PAC's represent undesirable domination of our political life by elite and powerful commercial groups; the remaining two-thirds hold a weak opinion that PAC's are acceptable, merely providing a voice for special interests.

A third group, numbering less than 100,000 people, is actively involved in the operation of PAC's. These people have more complex views about the role of PAC's and seldom discuss their views in public.

Because PAC's represent a new mode of commercial interaction with politics, and because public opinion may be diverging from historic norms, this is a historic issue.

PAC's Have Historic Significance

The historic significance of PAC's has been overlooked because their entry into the political domain was surreptitious. There was never a single vote or a single decision that created them. The functioning of PAC's has moved political donations out from under a veil of secrecy into the light of published accounting and public scrutiny. Furthermore, political contributions now support campaigns rather than serving as personal bonuses for elective officials. These changes signify shifts in power.

PAC History

The PAC in its present form was not invented intentionally. Rather, it grew out of collective political wisdom (or ignorance, as taste may dictate). In 1936, the Congress of Industrial Organizations, a coalition of unions, was the first incarnation of and the earliest model for PAC's. The CIO had a political arm and was vigorous in educating its members on the issues of elective politics, but it didn't have the funds to support candidates. Unlike corporations, which could hit up their senior employees with impunity, unions could not quietly solicit donations from their members to turn over to political candidates. In order to legitimize solicitation for this purpose as an openly administered process, unions sought and won authorization to form PAC's.

The first official PAC, the CIO&endash;PAC, was founded in 1943; in 1944, it raised $1.2 million. Slowly, other organizations recognized the value of turning to their own members for funds to support political action and formed PAC's of their own. In 1964, there were 11 business PAC's and hundreds of union PAC's. By 1974, there were 608 registered PAC's: 201 were unions, 89 were corporations, and the rest were trade associations. PAC contributions in 1974 totaled $19.1million&emdash; and nearly half of that amount was from labor.

The PAC became the contemporary vehicle with which we are familiar as a result of three events that occurred in the 1970s, the first two of which were supported by unions:

1. The Federal Elections Campaign Act (FECA), enacted in 1971, significantly tightened disclosure laws for federal candidates.

2. Post&endash; Watergate political reform amendments were added to FECA in 1974, permitting PAC's to contribute generously to campaigns and setting an upper limit on individual donations of $1,000 per candidate per election.

3. Corporate solicitation of PAC funds from employees and the public was allowed pursuant to a third FECA amendment and Federal Elections Commission decision (SUN&endash;PAC).

With these step by step changes, the modern PAC was born.

By 1983, there were 3,525 PAC's; 1,658, or nearly half, were corporate. Their total expenditures were $220 million. Today, the number is many times larger.

Commerce, Large Institutions, and Political Representation

When the U.S. Constitution was drafted and debated by the Federalists and anti&endash; Federalists, there were only a few institutions more important than the family. These included state governments, monarchies, a small selection of political entities, churches, guilds, and associations such as the Freemasons (a combination of church and guild). In the United States in 1800, there were only 40 corporations and an estimated 3,500 partnerships. Nonagricultural income accounted for less than 25 percent of total GNP. By the 1990s, agricultural income had declined to 4 percent of total GNP.

The Constitution has been changed on seven occasions so far, but one change that constitutional amendment has not yet accommodated is the growth of commercial, nonagricultural institutions to their current magnitude.

In today's world, when we think of commerce, we think of large corporations. Other large institutions, such as universities and membership associations, also have commercial and political interests. For example, the University of California has more than 120,000 employees and no vote. Neither does the Red Cross have a vote, nor the U.S. Navy. Their employees and members do not vote as a block and cannot be counted on to vote primarily in their institutions' self-interest. Undeniably, however, these nonvoting entities do have strong political and policy interests.

Stability

Could any government survive long if commercial interests had little or no significant influence on that government? The answer has to be no. In the past decade, we have seen business as a revolutionary actor in causing the reform of governments that threatened economic interests. Two examples of domestic businesses taking control of a national government that had ignored their interests are Chile in the 1970s and Colombia in the late 1980s. Similarly, American business used American power to overthrow, or "reorient," the governments of Grenada and Nicaragua in the 1980s, and Japanese business used the government of Japan to redirect the governance in Thailand in 1993.

The way the political process was designed in the U.S. Constitution, power was given only to voters, and that power was further weighted in favor of landowners. In the founding period, voting and the control of capital were viewed as congruent. After two centuries, the power of voting has not retained equal influence with the power associated with control of capital. A few million Americans, each with one vote, control 90 percent of the commercial power in America, while the remaining 95 million voters control only 10 percent of the commercial power. The discrepancy in our Constitution, in other words, is that it assigns a minor direct voting role to the small percentage of people who today yield great commercial power, leaving the commercially weak super majority with the potential for unrestrained control of the society.

The Significance of PAC's

The modern PAC has become a socially acceptable equalizer. It enables commerce to exercise power in the political realm, in order to compete with the political power of citizen voters. Before the modern PAC, commercial power ,exerted its influence on the political realm surreptitiously and largely through institutions such as Tammany Hall.

What is interesting is that this phenomenon has gone from covert to overt in only two decades, gaining the acquiescence of a stunning two&endash;thirds of the voting public. It would be naive to think that previously covert activity is now 100 percent overt, but a rough personal guess would put it at more than 75 percent overt, representing a radical reversal since the first half of this century.

To recapitulate: PAC's annually spend hundreds of millions to billions of dollars to influence legislation and government policy. They do this openly, with nearly every dollar publicly accounted for. They are blatant in their behavior, giving inordinate sums to longtime incumbent congressional committee chairmen and trivial amounts to flyweight newcomers from nowhere.

Accepted but Unappreciated

Public acceptance of the modern PAC has come about for two interacting reasons. First, Americans have a history of acknowledging and, uncomfortably, tolerating corruption. It is part of our tradition. Periodically, there have been organized bursts of voter outrage on a national scale. The two largest occurred in periods from 1890 to 1915 and from1964 to

1980. Outside these two periods, public intolerance of corruption seethed but had little impact. Resignation to political corruption has been an American norm.

Second, Americans define corruption as payment to officials for political behavior that is contrary to the public interest or in violation of the officials' legal responsibilities, in deference to individual or special .interests. The operative phrase in this definition is payment to officials &emdash; in a word, bribery.

Since 1975, the reliance on PAC's has all but eradicated the large-scale bribery of elected officials, at least as a standard operating procedure. This should have prompted great huzzahs and a sense that our country had turned toward a righteous path. That didn't happen, because petty bribery continues to crop up in the news (for example, Abscam), fueling Americans' lack of confidence in the political process. In addition, the one&endash;third among us who still consider PAC's corrupting &emdash;the Ralph Naders and Alexander Cockburns&emdash;are outspoken and adamant.

The modern PAC is a significant development in American political life. It is an open mechanism for allowing commerce and important institutions to engage overtly in politics, and it is vitally important that we attempt to understand these issues.

HARD AND SOFT MONEY

Hard and soft money describe the two types of funds raised by political parties. The Federal Election Campaign Act of 1974 (FECA) created the distinction between the two

types of funds. (Note: These terms, as commonly used, do not apply to money donated to and spent by non-party non-profit organizations. Money raised and spent by non-profits is overseen by the Internal Revenue Service, which grants the groups tax-exempt status.) ***Hard money is intended for express advocacy activity on behalf of candidates. Thus, contributions of hard money are limited and regulated by the FEC. Contributions to Political Action Committees come under the ambit of Hard Money.***

Soft money describes funds taken in by political parties for the purpose of "party-building" and covering other non-election related costs. Corporations and unions may contribute soft money to parties in unlimited amounts, but cannot contribute hard money. Because issue advocacy activity does not constitute election activity, under current law, soft money may be used on issue advocacy advertising campaigns.

Current Laws for Campaign Finance

Introduction

Since Congress started legislating the financing of national elections, a number of provisions have come and gone. The provisions no longer on the books have either been superseded by congressional action or been declared unconstitutional by the Supreme Court.

The following provisions regulating presidential campaigns, listed in order of the progress of the nomination and general election campaigns, are still on the books. The

provisions are followed by a reference to the appropriate legislation or ruling. When one year's amendments superseded previous law, both citations are listed.

The Provisions

Federal regulation

The Federal Election Commission (FEC) is the federal agency responsible for enforcement of campaign laws (Federal Election Campaign Act of 1971 [FECA], amendments of 1976).

Disclosure

Presidential candidates must file regular reports listing campaign contributions and expenditures (1971). Donors of $200 or more must be listed on the reports (1971,1979 amendments). Any organization spending more than $5,000 on campaigns must establish formal political committees (FECA 1971,1979). Those reports go to the FEC (1974,1976 amendments). Candidates must establish a single organization for their campaigns (1974). The name of the candidate must be listed on campaign materials (1979).

Expenses of local party organizations

Certain expenses, such as get-out-the-vote drives and voter education activities, do not have to be reported (1979). Up to $1,000 in voluntary services, such as lending a home for meetings and lodging, do not have to be reported as contributions (1979).

Independent spending

Independent spending of $250 or more must be reported to the FEC (1971,1979). Organizations without formal ties to campaign organizations do not have to adhere to spending limitations (1974).

Lowest-unit rule

Broadcasters can charge campaigns only as much as they charge other advertising clients for spot commercials (1971).

Political action committees (PACs)

Corporations and labor unions may establish separate units to promote political ends and not be in violation of federal prohibitions on direct contributions (1971).

Equal time

Broadcasters selling or giving time to a federal candidate must provide equal time to the candidate's campaign opponents (Section 315 of the Federal Communications Act). Typically, this law gives spokespersons for both parties a chance to respond to the remarks of the other. After a State of the Union address, for example, a representative of the other party delivers a statement. Hollywood movies featuring Ronald Reagan were not permitted to be aired on television during his 1976,1980, and 1984 campaigns because of this provision.

Taxpayer checkoff

Citizens may indicate on their tax forms that they would like $1 ($2 for joint filings) of their tax money to be put into the Presidential Election Campaign Fund. This fund has been used to help finance nomination and general election campaigns (1971).

Matching funds during primaries

Candidates may receive federal matching funds if they raise at least $100,000 in 20 or more states. Each of those states must contribute a total of $5,000 to the candidate in individual donations of $250 or less (1974).

Limits on contributions

Citizens may contribute only $1,000 to each primary or general election campaign, a total of $25,000 to federal candidates overall, and $20,000 to committees of national parties (1976). Candidates may spend only $50,000 of their own or their family's money on their campaigns if they accept federal funding (1971,1976).

Multicandidate committees

Multicandidate committees- most commonly PACs-may contribute only $5,000 per candidate and $15,000 to committees of the national parties (1976).

Federal funding of national conventions

The parties receive $3 million each for their summer conventions (1974,1979).

Spending limits

Candidates receiving federal matching funds may spend limited amounts during the nomination season and other limited amounts in each of the states (state limits are determined by population). The limit in 1976, the first year this provision was in effect, was $10 million; the limit has been adjusted to account for inflation.

Federal funding of general election campaigns

The federal government offers the nominee of the major parties equal sums of money for the general election campaign. Candidates who accept the money may not raise or use additional campaign funds. The figure was $17 million in 1976; the amount has been adjusted each election year according to the inflation rate (1974).

The Effect of Campaign Finance Legislation on Presidential Campaigns: Campaign Finance Rules Governing Presidential Nominations

Like the alteration in delegate selection rules, campaign finance legislation has had a significant effect on presidential nominations. The sources and techniques for raising funds have radically changed. Rather than depending upon a few "fat cats" to finance their campaigns (in 1968 insurance executive W. Clement Stone gave $2.8 million to Richard Nixon's campaign), candidates now raise funds from a large number of small individual contributors, primarily through direct mail solicitation. [N.B.: Although Political Action Committees can help finance nomination campaigns, their contributions are not matched by federal funds as are those of individuals.]

Public funds also make it possible for persons who formerly could not afford to mount a nomination campaign to do so. Sen. Fred Harris had to abandon a presidential bid in 1972 because he could not raise money from large contributors; but with federal matching funds available, he was able to run in 1976. Moreover, even single-issue Right to Life candidate Ellen McCormack was able to qualify for federal funds that year.

At the same time, the new method of raising funds from a large number of individuals and thereby qualifying for federal matching money means that candidates tend to start their campaigns earlier than they formerly did. Finally, as election specialist Herbert Alexander suggests, public funding also helps "free each candidate's personal organization from the party hierarchy."

Campaign Finance Rules Governing the General Election

The legal provisions for financing the general election differ considerably from those governing presidential nominations. For the general election, complete public financing is provided to nominees of the major parties (those that won 25 percent or more of the popular vote in the last presidential election). In the 1984 presidential election, the federal government gave each candidate $40.4 million and each national committee $6.9 million. But to be eligible for that money, nominees must agree not to accept other contributions to their campaign. Candidates of minor parties (those that won between 5 and 25 percent of the vote in the previous election) receive partial public financing. Candidates of parties ineligible for public financing (those that won less than 5 percent of the vote in the

previous election) can be partially reimbursed after the current election if they receive at least 5 percent of that vote.

Two provisions of the campaign finance law permit the major party candidates to benefit from campaign expenditures besides those they make themselves from public funds. As is true of the nomination process, there is no limitation on independent campaign expenditures, that is, those made by individuals or political committees that advocate the defeat or election of a presidential candidate but that are not made in conjunction with the candidate's own campaign. (Again, however, such individuals and committees must file reports with the Federal Election Commission and must state under penalty of perjury that the expenditure was not made in collusion with the candidate.) In addition, an amendment to the campaign finance law enacted in 1979 permits state and local party organizations to spend money for any purpose except campaign advertising and the hiring of outside personnel; this means that they can engage in grass-roots activities such as distributing campaign buttons, stickers, and yard signs, registering voters, and transporting them to the polls to vote. Thus, like the provisions for financing presidential nomination campaigns, those governing the general election have brought significant changes in the funding of fall presidential campaigns. The two major party candidates no longer need to depend on wealthy contributors and other private sources to finance their campaigns. (They may still benefit, however, from the independent expenditures of such sources as well as from grass-roots activities by state and local parties.) The law also has the effect of limiting and equalizing the expenditures made by the two major party candidates, which is a distinct advantage for the Democrats because, historically,

Republican presidential candidates have spent more than their opponents. Finally, the law benefits the candidates of the two major parties, who receive full public financing of their general election campaigns, in contrast to minor party candidates, who are entitled to only partial financing, if any at all.

Campaign Finance Reform

What's the Issue?

It's no secret that the cost of running for office is rising. The total price of the 2000 congressional and presidential elections was at least $3 billion, up from $2.2 billion in 1996 and $1.8 billion in 1992. All indications are that the cost of the 2004 elections will far exceed the amount spent in 2000. TV ads, political consultants, and other major sources of campaign spending have driven up the cost of running for office, and there are no signs of a slowdown in the fast-rising need for campaign cash among candidates and parties.

Critics of the current campaign finance system fear that the growing amount of money pouring into elections is having a corrupting influence on politics. The more money that is involved in running for office, critics say, the more influence that donors-wealthy individuals companies, labor unions, interest groups-have over elected officials and public policy. These concerns have given rise to several finance bills, the most prominent of which is the McCai-Fiengold bill (S27) named for its primary sponsors, Sens. John McCain (R-Ariz.) and Russel Fiengold (D-Wis.) –which would reform the campaign finance system and seek to reduce the influence of money in the electoral system.

The crux of the McCain-Fiengold bill is a ban on soft money-unlimited contributions to the national political parties for "party building" activities. The bill also would place restrictions on outside groups airing "issue ads" that tout or criticize a candidate's position on an issue without explicitly telling viewers to vote for or against that candidate.

How it may affect you

To say that the McCain-Fiengold bill's ban on soft money would have a significant impact on the campaign finance system is probably an understatement. After all, the Democratic and Republican parties raised nearly half a billion dollars in soft money for the 2000 elections. Because it may be given in unlimited amounts of $100,000, $250,000, or more soft money allows corporations, labor unions, and wealthy individuals to wield tremendous influence over the political process-much more influence than the average voter.

With their generous contributions, soft money donors are doing more than "supporting the democratic process," as they often claim after the checks have been written. They are making an investment. Many of them are hoping that their contribution will pay off in the form of a policy decision r a bill endorsement at some later date. Supporters of reform say soft money has made large contributors indispensable to the Democrats and Republicans, and at the same time reduced the power of the broader electorate.

The parties use soft money to help pay for critical voter-registration campaigns, get out the vote drives, and the all important issue ads. But donors don't have to send money to their party of choice to influence an election. They can spend it themselves-or give it to an interest group to send-on issue ads of their own. Chances are, one has seen hundreds of these ads around election time-and if you've thrown your arms in exasperation because of them, then you're not alone.

Some recent studies have documented the dramatic rise in issue advocacy. That's one reason the McCain-Fiengold bill would ban ads within 60 days of a general election that are paid for by outside groups and identify a particular candidate. Additionally, the legislation would require groups spending more than $10,000 a year on TV ads to disclose who paid for them.

How the Interest Groups See It

They say politics makes strange bedfellows, and campaign finance reform is no exception. An odd coalition of liberal groups, including the AFL-CIO and the American Civil Liberties Union, and conservative groups such as the U.S. Chamber of Commerce and the Christian Coalition, is fighting the provision in McCain-Fiengold prohibiting issue ads funded by outside groups in the final days of a campaign. They feel that the provision would infringe on the rights to free speech and ability to weigh in on elections, and significantly weaken the political parties.

Campaign finance reform groups including Common Cause, Public Citizen, and the Brennan Center for Justice feel that the McCain-Feingold bill is necessary to salvage a political system in which the concerns of voters have been usurped by the money and influence of powerful industries and interest groups. Although none of the reform groups see McCain-Feingold as a perfect bill, they are united in their belief that the bill is a necessary start down the road of campaign finance reform.

How It All Began

Congress in 1971 passed the Federal Election Campaign Act (FECA), a consolidation of previous reform efforts that limited the influence of wealthy individuals and special interests on the outcome of federal elections, regulated campaign spending, and mandated public disclosure of campaign finances by candidates and parties. Following serious abuses of the campaign finance laws in the 1972 presidential elections, Congress amended the FECA in 1974 to set limits on contributions by individuals, political parties and political action committees (PACs). These amendments also established an independent agency-the Federal Election Commission (FEC)-to enforce the law, facilitate disclosure, and administer the public funding program of presidential campaigns. Congress made further amendments to the FECA in 1976, followings the Supreme Court case of Buckley v. Valee, and in 1979.

By most accounts, federal campaign finance laws have not achieved their desired goal of limiting the influence of well-funded special interests and deep-pocketed individuals on elections. Political parties and outside groups have taken advantage of loopholes in the

law-soft money being among the biggest of them-in ways that reformers say have all but eviscerated the campaign finance system of its ability to control the flow of money.

The Money

With most issues, a discussion of money would look at where the special interests stand on a given issue, and how they have used campaign contributions to bolster support for their position among elected officials. In the case of campaign finance reform, of course, money is the issue.

According to the Federal Election Commission, the Democratic and Republican parties raised $1.2 billion in the 1999-2000 election cycle, a 36 percent increase over the 1995-96 total of $881 billion. The increase is particularly dramatic in party soft-money fund raising. Democrats raised $243.1 million in soft money for the 2000 elections, a whopping 99 percent increase over the 1995-96 total of $122.3 million. Republicans didn't do much worse, raising $244.4 million in soft money for 2000, up from $141.2 million for 1996, an increase of 73 percent.

The Bill

As stated above, the core of the McCain-Feingold bill is its ban on soft-money contributions to the parties. The bill as introduced in the Senate also contained the following provisions:

- Require state parties to use hard money, instead of soft money, on activities that benefit federal candidates (federal candidates include candidates for Congress and president);
- Prohibit advertising 60 days before a general election and 30 days before a primary election that is paid for by an outside group and identifies a candidate (named the "Snowe-Jeffords" provision after Sens. Olympia Snowe [R-Maine] and James Jeffords [R-Vt.])
- Double from $5,000 to $10,000 the amount of hard money that can be contributed to state party committees;
- Broaden the definition of "coordinated" activities between campaigns and outside groups, requiring more activities to be paid for with limited hard money contributions, rather than unlimited soft money contributions;
- Codify the Supreme Court's Beck decision, which permits non-union members to request a refund for the portion of the fees they pay to the union that is used for political activities unrelated to collective bargaining
- Prohibit political fundraising on federal property and campaign contributions by foreign nationals. The bill also would prohibit candidates from using campaign funds for personal expenses.

McCain, owing in part to his vast popularity following a spirited presidential run in 2000, negotiated a deal with Republican leaders to debate the bill on the Senate floor for two weeks in March 2001.

President Bush, who is no friend of the McCain-Feingold bill and is, at best, lukewarm to campaign finance reform, offered his own set of reform principles just days prior to the Senate debate. He proposed to ban soft money contributions from corporations and labor unions (but not from individuals) and require those groups to gain permission before using shareholder or member funds for political activities.

THE ISSUE IN CONGRESS

The Senate

The Senate debate on McCain-Feingold promised to pit a sturdy group of anti-reformers against a shaky coalition of supporters. Conservative Republicans, led by Sen. Mitch McConnell (R-Ky.), oppose virtually any limitation on campaign fund raising or spending as an infringement on the First Amendment's protection of free speech. They are dead set opposed to the McCain-Feingold bill or any other proposal that would restrict the ability of individuals or groups to participate in the political process.

Though McCain and Feingold had introduced their bill in the Senate before, it had never been debated-much less voted on-in large part because McCain and his allies filibustered the bill. This year, as part of a deal worked out between McCain and GOP leaders in the Senate, the bill was to be debated without the threat of filibuster.

Senate Democrats have strongly supported McCain-Feingold in the past, using Republican opposition to reform as a political and public relations weapon. McCain and Feingold knew that continued Democrat support was crucial to the bill's success. But

would a soft money ban hurt the Democrats more than it would help the system? In the weeks leading up to the Senate debate, a growing number of Democrats said they weren't so sure, especially given that Democrats and Republicans are roughly even in soft money fund-raising, but the GOP is way ahead in hard money fund-raising.

On March 19, 2001, the Senate began its debate of McCain-Feingold. Backers of the bill were concerned about "poison pill" amendments that, if added to the bill, would drain support and doom the legislation. One such amendment, sponsored by Republican Sen. Chuck Hagel (Neb.), would have allowed corporations, labor unions, and individuals to make soft money contributions to national party committees of up to $60,000 per year. McCain and Feingold argued this would institutionalize soft money, which they were trying to ban.

Another potentially troublesome amendment, introduced by Republican Sen. Orrin Hatch (Utah), promised to dissolve union support for the bill if adopted. Dubbed "paycheck protection," it would have required unions to get the permission of individual members to use union dues for political activity.

A third "poison pill" provision involved the fate of the bill if the courts found parts of it unconstitutional. The amendment, introduced by Sen. Bill Frist (R-Tenn.), would have made the bill "non-severable," meaning that the whole bill would be thrown out of any part of t is ruled unconstitutional. McCain-Feingold supporters fought to preserve the bill's severability, so that the bill would survive if the courts reject a part of it.

In the end, McCain-Feingold supporters beat back the most controversial amendments to the bill. Following two weeks of intense debate, the Senate on April 2 voted 59-41 in favor of the legislation, an historic achievement considering that previous versions of McCain-Feingold had never gotten as far as a Senate vote because of filibusters by report opponents.

The House

The issue now goes to the House of Representatives, which in 1999 passed a bill similar to McCain-Feingold by a vote of 252-177. Reps. Christopher Shays (R-Conn.) and Martin Meehan (D-Mass.), who reintroduced the bill in the 107th Congress, are trying to have the measure considered before Labor Day. But with the success of McCain-Feingold in the Senate, foes of reform are more determined than ever to derail it in the House.

TABLE 4 CAMPAIGN FUND-RAISING, 1992-2000*

	2000	**1996**	**1992**
Democrats Hard Money** (in million $)	269.9	210.0	155.5
Democrats Soft Money (in million $)	243.1	122.3	36.3
Republicans Hard Money (in million	447.4	407.5	266.3

$)			
Republicans Soft Money (in million $)	244.4	141.2	49.8
Grand Total	1204.8	881.0	507.9

*Source: Federal Elections Commission. Totals for 2000 are not yet final.

**The parties use hard money for direct contributions to candidates and other activities that advocate election or defeat of a candidate. They use soft money for "issue ads" and other supposed "party building activities."

POLITICAL ADVERTISING NEARLY TRIPLED IN 2000 WITH HALF A MILLION MORE TV ADS

Few Issue Ads Adhered to Intent, Interpretation of Campaign Finance Laws: Dramatic Affect Envisioned by Passage of McCain –Feingold, Snowe Jeffords

Most Ads Negative

Fueled by an avalanche of soft money advertising and by competitive elections at all levels, political parties and interest groups nearly tripled from only two years ago the number of political ads aired on broadcast television in the 2000 campaign. In the top 75 media markets in 2000 campaign, these players in federal campaigns buried Americans in 839243 ads, nearly three times the number (302,377), with over one half-million more

than aired in all of 1998, according to a new analysis by the University of Wisconsin-Madison.

The tremendous growth in advertising between these two election cycles is the result of an explosion in the number of ads by congressional candidates (314023 compared to 235791 in 1998), commercials in 2000 (115724), and a huge increase in party and interest group activity (409496 in year 2000 ads to only 66586 in '98). Virtually all party and group ads were issue ads.

While most of this astonishing growth from 1998 to 2000 is, of course, attributable to action around the presidential election, the number of ads seeking to influence congressional elections also rose in this two year period from 302377 to 420656 and expenditures nearly doubled. Most of this upsurge came from parties and interest groups. Conservative estimates of the total spending on all these ads in 1998 exceeded $177 million and well exceeded half a billion dollars ($623 million) in 2000.

These findings are the latest in a study of political television advertising by political scientist Kenneth Goldstein of the University of Wisconsin-Madison and the Brennan Center of Justice at NYU School of Law. Using data from the Campaign Media Analysis Group ("CMAG") to monitor political advertising in the nation's top 75 media markets, reaching over 80 percent of the U.S. population, Professor Goldstein and the Brennnan Center analyzed political advertising throughout the 2000 campaign. Every poitical ad aired in these media markets was reviewed, quantified and coded along an extensive

array of variables. Jonathan Krasno, a visiting fellow at Yale university's Institution for Social and Political Studies, provided additional analysis.

Democrats had a slight advantage in issue advocacy in 2000, the Republicans in 1998. In both years, Democratic-leaning interest groups were more active than Republican allies, though the differences were not large. Neither party would therefore appear to gain much direct comparative advantage from the disappearance of issue ads, a move envisioned by several campaign finance proposals.

Less than ten percent of ads by candidates in either year directly urged viewers to vote for or against particular candidates, the current definition of electioneering campaign appeals (even though 100 percent of candidate ads are legally classified as electioneering). Express advocacy, or hard money ads are supposed to be mainly be discernible from other political messages by their use of so-called magic words, such as "vote for," "support, "elect," "defeat" or "Jones for Senate," a test developed by the Supreme Court in Buckley v. Valeo.

"The narrowness of this definition has allowed parties and groups to sponsor ads indistinguishable from those run by candidates," says Krasno. "Their ads escape the obligations of campaign finance law. With so few ads using these terms (9.6 % in 2000), the magic words test proves entirely meaningless."

The part of the McCain-Feingold legislation related to issue ads would have affected relatively few genuine ads in 1998, but would have affected most issue ads seen by coders as promoting or opposing particular candidates. The Snowe-Jeffords provision in McCain-Feingold would bring under current campaign finance electioneering laws any ads broadcast within 60 days of an election that clearly refer to a federal candidate.

Issue ads sponsored by political parties have virtually nothing to do with parties (just 15 percent in 1998 and seven percent of these ads in 2000 mentioned either the Democratic or Republican party by name) and virtually everything to do with candidates (more than 95% in both years refer to particular candidates). As a result, there is little evidence that soft money ads make any attempt to "build" parties. One of the rationales for unlimited and unregulated party expenditures was their use in "party building." Meanwhile, nearly 100 % of party ads mentioned either one or both candidates for an office.

"As a political scientist, I'm obviously a big believer in building strong political parties," says UW's Professor Goldstein. "But this type of advertising does nothing to strengthen parties; it's all about electioneering on behalf of specific candidates."

Candidate and issue ads in the year 2000 discussed nearly the same issues and were all concentrated in the period after Labor Day. Thirty one percent of all ads aired dealt in one way or another with health care. Education was a topic in 27% of the ads. And both taxes and Social Security each found its way into 22% of all ads. Yet issue ads were generally unrelated in either content or timing to actions in Congress.

"The reason why parties focus so little on activities that would require organizational muscle," explains analyst Krasno, "is that they prefer to use their soft money on these so-called 'issue advertisement,' television commercials that supposedly promote issues that Democratic and Republican politicians care about, rather than the politician themselves. Unfortunately, those ads really speak about the politicians, not the issues," Krasno says.

University of Wisconsin coders did not find the 2000 political air wars particularly funny, either. Only 1.3 percent of all ads coded were considered humorous.

And not suprisingly, candidates looked to others to do their dirty work. The largest group of party ads attacked the opposing parties' candidates, while a majority of candidate ads promoted the virtues of their sponsors. Overall, 54% of all TV advertising in federal races was negative, with nearly 72% of interest group ads directly attacking one of the candidates.

"There has emerged recently a very clear division of labor in federal campaigns," says Goldstein. "But a number of new factors may well make the 2002 campaign worse, still," Goldstein warns. "Between congressional redistricting and an evenly divided Senate a seven-seat margin house, without a change in campaign finance laws, we will only see a continued and dramatic increase in soft money television advertising of every kind."

Note: Dollar figures are surely conservative, as stations routinely charged political advertisers premium rates for guaranteed placements and other considerations not

required by law, only federal candidates themselves-not political parties or groups-were entitled to "lowest rate" spots during limited periods of time, and data includes top 75 markets (covering 80% of the U.S.) but not cable TV-an increasing part of congressional campaign advertising strategies.

CHAPTER IV

Service Sector Lobbying on Capitol Hill in the post-Cold War Period

The service sector has assumed importance in the U.S. economy in the last three decades. It has pipped the manufacturing sector as the primary employment generator as well as the main contributor to the U.S. GNP. The following account delves into the unique characteristics of this sector. This would give a better insight into the dynamics of the service industries, their problems and how lobbying has been instrumental in formulating, moderating and influencing public discourse and public policy in this area.

Service industries span a wide variety of enterprises from hamburgers to high technology. The service sector accounts for about 74 percent of the U.S. GNP and 76 percent of employment. In 1988, the service sector also accounted for slightly more than two-thirds of all self-employed persons.

Internationally, a similar change has taken place. World trade in services grew in the past decade at an average rate of 5 percent a year to constitute approximately 20 percent of overall world trade today. In some countries, the share is much higher. Spain reports a 39 percent share; Austria, 36 percent. The leading exporter of services, the United States, shows services accounting for 18 percent of all merchandise and services trade and, unlike the situation with trade in goods, has had a surplus in services trade for decades.

The income generated and the jobs created through the sale of services abroad are just as important to the U.S. economy as income and jobs resulting from the production and export of goods. In view of the shift toward services both domestically and internationally and the substantial competitive advantage of the United States in the services field, those who have services to offer can become major participants in world trade.

Technology and Its Effect on the Service Sector

A large part of the unemployment afflicting the U.S. is due to a centuries-old drive by companies to replace workers with technology.

Top management sees technology as a way to dump workers-who make demands and question authority-and replace them with machines, which have not been known to form unions.

The trend is evident when you consider that employment in the U.S. manufacturing sector has declined over the past 30 years from 33 percent of the total workforce to less than 17 percent, even though our manufacturing sector has steadily increased output. As this trend continues we will see the elimination of most U.S. manufacturing jobs.

Contrary to common belief, the service sector (telecommunications, banking, insurance, real estate, retail and wholesale trade) will not replace the jobs lost in the manufacturing sector. First, the pay tends to be lower in the service sector. And second, technology is

also replacing workers in the service sector. Whole layers of white-collar office workers are being replaced by small, highly skilled teams using the latest computer technology. Thousands of postal workers have been made redundant by optical scanners and computerization. Between 1983 and 1993 banks in the U.S. replaced 179,000 human tellers with automated teller machines, and even more bank employees will be cut in years to come. It's not that technology is bad, but when technological innovation is used to get rid of workers, with no systematic program to create meaningful replacement jobs, the result is widespread insecurity that saps worker morale. It is not a coincidence that the U.S. Postal Service has imposed years of high-tech speedup on its workers-thus boosting profits to record levels-yet is also notorious for its workers being among the most severely alienated in the world.

The common sense definition of unemployment-people wanting a job but unable to get one-puts the number of unemployed in 1994 at 15.9 million, or 12.5 percent of the workforce. The official rate (6.1% in 1994) is reached by not counting the 6 million workers who want jobs but are so discouraged they've stopped looking, and counts as fully employed some 30 million who are only working part-time.

Although employers may no longer need Americans as workers, they do need them as consumers. As a recently laid-off veteran of Bendix Corp. put it: "If they had their way, management would have robots doing everything in the plant, but they forget that robots don't buy anything." If each individual corporation stays focused on climbing the profit ladder in an increasingly global marketplace, it will shed workers for any reason that

makes the company more profitable. At the micro-economic level of the company this makes sense. But when all these micro-economic decisions to cut workers are added up, the macro-economic impact is stagnation and all the social ills that go with it.

Toward a Learning Economy

More Americans now work in physicians' offices than in auto plants. Roughly as many work in retailing as in all of manufacturing. The service sector now encompasses three-quarters of U.S. jobs, and the share will only grow. However, productivity is growing much more slowly in services than in manufacturing, wages in services lag those in manufacturing, and income inequality in services is much greater. Unless the United States shifts its focus to strengthening the service sector, the nation's productivity, wages, and standard of living will wither in the 21st century.

Since the Civil War, manufacturing has served as the mainspring of U.S. economic growth. The manufacturing economy did not deliver sustained prosperity, however, until corporate organization and public policy were adapted to support mass production and achieve economies of scale. The final pieces of the puzzle were put in place after the Great Depression that caused wages and purchasing power to rise along with the newfound capacity to produce. Unemployment insurance, social security, and the minimum wage ensured that the jobless, the retired, and working poor would do their part to stoke the economic engine. Most critical to sustaining mass consumption, unions won middle-class pay for their members, with spillover effects pulling up the wages of many managers and nonunion workers.

Productivity and wages rose in tandem until the 1970s, when foreign competitors began to challenge U.S. manufacturers. Since that time, the service sector has continued to expand. In the future, manufacturing, although still important, will be too small to drive the U.S. economy. Services are the new driver. The people who fill service jobs may not wear blue collars, but they are the counterparts of those on the factory floors of the industrial age. How they fare in the coming decades will determine whether the fruits of the information age benefit all Americans or only those at the top of the income distribution. And how productively they work will determine whether U.S. economic performance improves at a healthy clip.

The problem is that the United States is using old manufacturing approaches to manage service production, and they are not working. Gains in manufacturing productivity came largely through inexorable improvements in hardware. But gains in service industry performance come largely from improvements in "humanware"-a term borrowed from the Japanese auto industry that refers to the organization of work and the skills of service managers and workers. One might expect that service firms would be leaders in humanware, but that seems not to be the case. Service firms have been even slower than manufacturing firms to adopt practices associated with high-performance work organization.

The services need a new model for improving productivity, which includes new policies to support it. For the model to take root and spread, the United States must emulate the system building that helped generate prosperity in the past. The new economy demands a

new institutional framework-a New Deal for the service economy-that meshes with service jobs and industries in the same way that the post-World War II framework suited the manufacturing economy. Several federal and state public policy initiatives could jump-start the nation toward productivity gains in the service economy.

These new policies could lead the way to a new "learning economy" that will sustain U.S. prosperity in the 21st century. This learning economy would systematically and continuously promote improvement in service workers' abilities. The alternative is a future in which a minority of well educated, highly-skilled workers monopolize the gains from a slowly growing economic pie, while too many Americans cycle among jobs that pay relatively little and offer limited prospects for advancement.

Finding competitive advantage

The service sector is much larger than most people realize. It includes transportation, communication, and utilities; finance, insurance, and real estate; retailing; professional services; and public administration-in short, everything other than goods-producing industries. As in manufacturing, higher productivity provides the foundation for higher wages. Productivity growth in the service economy, however, has averaged barely more than 1 percent per year, whereas productivity growth in manufacturing has remained at about 2.5 percent annually in recent years. Not surprisingly, median wages in services ($10 per hour in 1996) lag those in manufacturing (about $11.50).

To understand how productivity might improve, we must look closely at how services are produced. Production systems have three basic elements: hardware, software, and humanware. Hardware consists of equipment, machinery, and computers of all types. Software includes applications and systems programs. Humanware refers to the social system of production -the organization of work, management, and the skills of the labor force.

Whereas most goods-producing industries depend on specialized hardware, the hardware in much of the service sector, notably computers, is generic. Because the same technology is readily available and widely used by others, it is difficult to translate that technology into competitive advantage. Banks, for example, are rarely able to differentiate their services on the basis of their automatic teller machines. Grocery stores rarely differentiate their services because of barcode scanners. In the service sector, the differences among companies are found largely in humanware.

In contrast to manufacturers such as Alcoa, which established its dominant position in the aluminum industry through proprietary technology, airlines or hospitals buy equipment on a more-or-less turnkey basis. A hospital may differentiate its services by offering unique capabilities such as heart transplants, but it is not the transplant hardware that sways a consumer, it is the physician's expertise. Even where custom hardware is found in the services, it is rarely as necessary for production as a good blast furnace is for producing steel.

Service organizations may also use software that can be highly specialized, such as airline reservation systems, the order-entry system for lab tests in a hospital, or the routing and scheduling algorithms used by trucking companies. But the computers on which these programs run are universal machines, and with the rise of shrink-wrapped software for ever-more-specialized functions, these once custom capabilities are also becoming commoditized. Although software may still provide a service company with some competitive advantage, it is lessening in importance.

With hardware and software being less of a distinguishing factor between successful and unsuccessful service organizations, humanware is elevated in importance. Despite this, service firms have been slower than manufacturing firms in adopting practices associated with innovative work organization and human resource management.

One reason for slow adoption is that few service firms face the kind of foreign competition that has been common in manufacturing since the late 1960s. Although domestic competition has become more intense, much of the change nationally, such as the rise of managed health care or retail" category killers" such as Home Depot, has been relatively recent. Furthermore, local firms that provide face-to-face services that must be consumed and produced in the same place get some protection because of geography. Yet firms we have studied (including a building supply company, two insurers, and a major credit card issuer) are succeeding and distinguishing themselves largely because of the attention they pay to humanware; specifically, the organization of work, training, and the application of information technology. As competition expands, especially as the World

Wide Web makes it easier for foreign competitors to offer services locally, improving productivity with better humanware will become even more important.

A new productivity model

In the manufacturing era, performance improvement was driven by application of an "engineering model." This has two major elements: the definition of a product (the chemistry of a grade of steel or the design of an electronic circuit) and specifications fixed in advance of production, and the application of technology to make a finished product that conforms as closely as possible to the specifications at the least cost. Production can be viewed as the (often very complex) solution to a technical engineering problem. In this mass manufacturing, "scientific management" generated steady improvement through a highly refined division of labor coupled with specialized hardware and software.

Recent innovations in high-performance work organization, such as total quality management and self-managed teams, partially reverse this dynamic by giving workers more discretion and responsibility. Yet they remain anchored in the scientific management tradition.

Although the engineering model is applicable to some standardized production processes in service industries, the basic assumption of a well-defined product with attributes independent of the production process applies only partially, poorly, or not at all to other service processes. In most services, the "product" differs depending on the customer: a

nurse's patient, a teacher's student, and a waitress's diner. For each provider, a slightly or largely different process-a different model of production-applies from one customer to the next. Each process is interpretive, depending on a customer's desires or the needs of the situation-the idiosyncrasies of the copier being repaired, the mysteries of the computer program that won't function, the specifics of the legal case. In contrast to the engineering model, in which production operations are specified through blueprints or other exact scripts, there is a substantial discretionary component in the interpretive model. Product definition and production occur simultaneously and are interdependent.

Succeeding in this environment depends largely on humanware. In the interpretive model, workers first develop an initial understanding of customer needs or the needs of the situation. They then translate that understanding into the service provided (a haircut, a legal brief, an advertising campaign). As the service begins to be delivered, they modify the services or method of delivery or interpretation of the customer's needs. Over time, performance gains follow from improvement in the ability of workers, individually or collectively, to elicit, understand, and respond to a situation; to select and follow work practices from an available repertoire; and to learn or invent new practices as required.

Medical diagnosis and treatment is the exemplary case. Through dialogue with the patient, examination, and perhaps specialized tests or consultations with specialists, the physician explores symptoms, elicits a medical history, develops a tentative understanding of the patient's condition, and seeks to verify and if necessary correct that diagnosis. Subjective judgments by physician and patient are part of the process, as the

patient collaborates by describing or recalling symptoms and his or her history. Treatment may lead to further detective work and perhaps a change in diagnosis and an altered treatment regimen (which the patient may or may not follow). The goal, sometimes achieved and sometimes not, is to bring symptoms and treatment into congruence.

Medicine illustrates the interpretive model in its most complete form, but interpretive skills are just as important in many service jobs that do not require high levels of formal schooling or training. Even basic services call for similar interactions: helping a customer select telephone services, financial planning for a couple approaching retirement, troubleshooting the local area network in an office. In these cases too, diagnosis and treatment are intertwined. Iteration and feedback, often in real time, are essential, and the product or end point may change many times. In other cases, such as a fast food restaurant or telemarketers who follow a script, production may combine features of the engineering and interpretative models.

Because service products are so individualized, performance by the service provider can be difficult to gauge in terms of productivity. Many managers in service firms still think reflexively in engineering model terms, whether or not this is appropriate to their operation. Managed health care, with its reliance on accounting measures and decision-making hierarchies, follows the engineering model. This is not surprising, because there are no widely accepted measures of wellness. For example, when we visited managers in different hospitals, we were surprised to find that they invariably responded to questions

about performance measures by referring to surveys of patient satisfaction (how's the food?) or to vague future plans for collecting and analyzing data from medical records.

Likewise, much of what is meant today by terms such as data mining, knowledge management, and enterprise intelligence connotes little more than formulas derived from the old engineering model: Simplify and standardize, manage and manipulate, keep the tasks simple so anyone can do them. Such approaches may help sell credit cards or telephone calling plans. But they quickly bump up against fundamental limitations when service products are nonstandard. In one insurance company we studied, each of 70,000 business customers can have disability policies tailored specifically to their needs. The company's workers must translate these wishes into the technical language of a policy and set an appropriate price. Heterogeneous and multidimensional service products cannot be viewed in terms of the "engineering model" associated with manufacturing.

Economies of depth and coordination

The interpretive model does not solve the measurement problem for service companies, but it does indicate how service productivity can be improved. There are two complementary pathways to performance gains: economies of depth and economies of coordination.

When workers or groups of workers improve their skills in interpreting and responding to situational needs, economies of depth result. When two or more people mutually adjust their efforts in order to define and achieve a common goal (as when nurses and

physicians collaborate about a patient), economies of coordination result. Economies of depth and coordination are the principal means of improving performance in much of the service sector.

Hardware and software improvements play supporting roles.

Formal education contributes to economies of depth, but competence depends heavily on experience. Individuals build up their know-how and skill incrementally and iteratively through trial and error and trial and success, as they move from school to work and from one set of tasks to the next.

Research in cognitive science indicates that achieving high levels of expertise in any demanding occupation or avocation, whether radiology or chess, takes something like a decade. Over this period, the learner develops a store of previously encountered problems, patterns, good and bad solutions, rules of thumb, and heuristics from which he or she can draw when encountering a new problem.

When the lessons of experience can be passed to others, depth-related benefits multiply. For example, team meetings at insurance companies, during which policy workers discuss difficult or unusual cases, help spread economies of depth. Despite claims about "artificial intelligence," insurers can automate only routine underwriting with knowledge-based systems that embody the accumulated experience of skilled underwriters. At present, the software cannot match senior underwriters in assessing risks and determining pricing.

A steadily growing fraction of the workforce finds itself employed in an interpretive context. Even though many of these jobs are relatively low skilled, as in much of retail sales, they cannot be effectively automated. As a manager at a large New York bank put it: "More [careers] are going to be geared toward the analytical. The technology will accommodate the operational aspects. Looking forward, you'll be left with a human being making a decision on extending credit when the computer goes through agency criteria and still can't make the decision. Then there's the creativity part of it. Getting someone to use your credit card, instead of one of a hundred others . . . You'll still need people."

Economies of coordination will help in many production settings where workers must mesh their efforts to achieve a common goal. They may be part of a small team, as in a restaurant, or a loose aggregation of people working for different organizations, as in a distribution network. Economies of coordination result when the ability of a work group or network to function as a unit improves. Gains may come from faster, more accurate communication and decision-making, sharing of tasks within and among multi-skilled work groups, and processes of continuous improvement that are invisible to untrained observers (as in surgical teams). Although a bit of the gain will stem from better communications hardware and software, most of it will come from improved work practices.

Policy for a learning economy

Economic growth accompanied by steady increases in wages and living standards requires continuous growth in labor productivity. The path to greater productivity in

manufacturing has been well marked: Companies rationalize production by subdividing labor processes, then mechanize and automate operations where this is cost-effective. Rationalization and mechanization lower costs and thus consumer prices. With lower prices, the market expands, allowing further rationalization and automation. This cumulative process continues to generate reasonably strong productivity growth in U.S. manufacturing.

The experience of the services has been poor by contrast. Often, gains seem to be one-time or sporadic. One food distribution company we visited had recently started tracking basic indicators of wholesaler and manufacturer performance (such as on-time delivery), and had achieved a few easy and inexpensive gains. But there was little indication that management knew what to do next. No foundation for continuous improvement had been put in place.

By applying an interpretive model, instead of an engineering model, cumulative gains in service productivity are possible. What is needed are policies that will foster economies of depth and economies of coordination. Putting such policies in place is the first step toward what might be called a learning economy. Because interpretive skills are essential throughout most of the service sector, a learning economy would be one that systematically and continuously promoted improvement in workers' interpretive abilities, regardless of occupation or level of responsibility.

Formal schooling is a part of the foundation. All Americans should have opportunities to pursue education throughout their lives. But a learning economy is not necessarily one in which most people would have two or four years of college. Because so much of the learning in the interpretative model is experiential, Americans need richer opportunities to learn in the workplace.

Service workers must also be able to advance as a result of learning and experience. In the old economy, learning and advancement went together. Large hierarchical firms such as AT&T, Caterpillar, General Motors, and IBM provided at least the implicit promise of well-developed job ladders and long-term employment. Banks and department stores also invested in their employees. Before deregulation of financial services encroached on safe havens in local markets, banks were full of vice presidents who had started as tellers or platform workers. In the days before competition from discounters and category killers, a salesperson at Macy's might become a buyer.

Those days are gone. Few companies of any size in any industry provide training for nonprofessional, non-managerial workers, other than that for immediate job tasks. The disincentives are especially strong in services.

Service firms and establishments are considerably smaller than in manufacturing (averaging 14 people per establishment, as compared with 47 in manufacturing). Business networks such as health care are more fluid, and annual worker turnover in services sometimes exceeds 100 percent, as it does in nursing homes. In such settings,

performance improvement is likely to be slow or nonexistent without institutions outside the firm that can support careers as well as make workers more productive over time.

Because society as whole, and not just employers, benefits from performance improvement, it makes sense for society to support the propagation of economies of depth and coordination. If workers can communicate their knowledge across organizational boundaries, benefits will spread more widely. Individuals, even those working in seemingly identical jobs, will accumulate differing stocks of knowledge; some physicians will have seen hundreds of cases of appendicitis, others dozens. Thus they need to share their experience. Some professional workers develop their economies of depth in large part through their associations- physicians and lawyers share information, mentor younger colleagues, steer friends and acquaintances to jobs. For other professionals, however, including teachers at primary and secondary levels, such mechanisms are poorly developed and knowledge diffusion is slow. For many other service workers, occupational communities are almost nonexistent. To fully exploit economies of depth and coordination, workers must be able to exchange the lessons of success and failure. Because institutions for promoting economies of depth and helping workers build fulfilling careers are underdeveloped in so many service industries, the potential payoffs are high.

Diffusion of know-how across company boundaries is especially important in an economy of smaller firms. Few small companies can give their workers the training and support needed to achieve economies of depth, if only because they lack a critical mass of

employees for delivering training effectively. Small companies are also likely to be wary about putting workers in direct contact with counterparts at other companies for training, because they are afraid their employees may unwittingly give away know-how that could help a competitor. Still, service employers have less to lose than manufacturers, because humanware is not as subject to reverse engineering.

One building supply company we studied, the Wolf Organization, has successfully combined training, information technology, work organization, and profit-sharing. It realizes that another company can learn what the Wolf Organization does well without knowing where to start in copying Wolf (see sidebar Leveraging Information Technology). Furthermore, like any good learning organization, Wolf has figured out how to be a better borrower than its rivals.

Avenues of learning that can strengthen interpretive skills range from apprenticeships to occupational conferences (in cyberspace as well as face to face). Industry associations could become an important vehicle. In the United States, they have often been perceived primarily as interest groups seeking to influence government through lobbying, but many business group already play a substantial role in helping their members improve performance.

One example of how associations could do more comes from the food industry. Over the past half decade, retail grocery chains, their suppliers, and leading food manufacturers have launched a movement called "efficient customer response": their version of

manufacturing's "just-in-time" and "quick response" practices. Their goal is to keep pace with food warehouse stores and other food discounters. A half dozen industry associations cooperated in the development of methods to increase labor productivity in trucking, warehousing, and distribution; to speed restocking of stores; and to increase inventory turns. Teams working on pilot projects drew members from manufacturers, distributors, and retailers.

Other associations have also supported innovation. In Pennsylvania, about 40 county nursing homes that are members of a statewide association hold quarterly meetings at which administrators and directors of nursing can compare notes, enhancing prospects that they will collectively challenge prevailing assumptions that nursing home work cannot be performed in any new way and hence cannot improve. The Wolf Organization is part of a nationwide group of 16 building supply companies that meet for several days at regular intervals, in part to benchmark against one another.

Each of these cases is unusual. The cooperating food stores and distributors were afraid of discounters. The nursing homes are publicly owned and face pressure to provide quality care to the low-income elderly in their communities. The regional markets of the building supply companies do not overlap greatly, so competition does not interfere with cooperation. Where firms may be reluctant to share knowledge, more of the burden for improving performance will fall on professional societies and occupational associations. They can develop consensus on best practices and help members improve their own abilities through mentoring as well as formal credential programs.

Modernizing public policy

The few cooperative efforts under way to improve economies of depth and coordination in service industries, and the many more that could develop, would be greatly accelerated by modernizing public policy. At a minimum, public policy should encourage industry and occupational associations. The U.S. Department of Commerce's manufacturing extension centers could be adapted to the needs of service firms. Occupational associations, multifirm training, and best-practice partnerships of employers and worker representatives could be supported with seed money from government employment and training budgets. Support for national R&D to improve service industries would help as well.

Another step would be to shift the emphasis of the Commerce Department's Malcolm Baldrige awards. These awards have helped influence what leading-edge companies regard as best practices, but although service firms are eligible, the awards go mostly to manufacturers. Indeed, the award criteria have been shaped by the engineering model and pay little attention to the interpretive model. And because only companies are eligible, the awards cannot recognize multiemployer institutions for their contributions to performance.

Federal and state governments can also help by making small grants to document the ways in which exemplary multiemployer institutions help improve performance among their members. After accumulating examples of excellence in this endeavor, government should diffuse the results and develop awards for subsequent successful applications.

Government at all levels can do still more to encourage productivity gains in the service economy. Fundamentally, what must change is the country' s outlook on where to apply assistance. The business press speaks frequently of learning organizations, but this label does not capture the possibilities inherent in the new economy. The label combines an appreciation of the importance of workers' knowledge with a presumption, rooted in the old economy, that performance and hence prosperity depends on what happens inside the individual firm (implicitly, inside big firms). But in a dynamic service economy, performance and prosperity depend just as much on the institutions that link companies to companies in similar businesses and workers to workers who have similar jobs and expertise.

When policies are put in place to achieve this level of interaction, we will move from a set of learning organizations to an actual learning economy. That will be the New Deal for services. U.S. workers in the service industry will enjoy better-paying jobs and career advancement. They will steadily raise productivity at rates that will propel the country forward. The economic health of the United States will lead the world into the 21st century.

Leveraging Information Technology

Hardware and software are less of a factor than humanware in improving productivity at service companies. But if implemented with the right employee training, they can still raise worker productivity and enhance a company's economies of depth and coordination.

Wolf Organization Inc. operates a chain of building supply outlets that sell primarily to contractors. A Wolf manager described the company's strategy by saying, "In our business, management of information is just as important as management of product. If we can help contractors manage their information-for example, let them place orders in the evening, when our yards are closed-we'll get their business." (Small contractors often do their paperwork at home in the evening.) To this end, Wolf is putting in place an intranet that will allow customers to·tap into the company's information system.

During the 1980s, Wolf installed computer terminals in each of its yards. The terminals ran proprietary point-of-sale (POS) software. The only data communication between yards and headquarters was an end-of-day "dump" via dial-up modem. Sales personnel relied on phone calls and faxes to check on orders and to see if a particular item was in stock at a warehouse. New price lists were sent to the yards on disk. Wolf's information technology staff spent a good deal of time traveling to yards to take care of glitches when new software was installed. There was no networking of the POS terminals because, at the time, that would have required costly dedicated phone lines between the various locations.

Since the early 1990s, Wolf has replaced its old terminals with much cheaper Windows-based PCs. A consulting firm adapted Wolf's many custom programs to run on the PCs. One manager told us, "We had hundreds of old, dead, and dying terminals. Even if the new system didn't do anything but introduce new hardware it would be a huge advance." In fact, the new system does much more. Yards now connect directly with headquarters

over the Internet, allowing instant, up-to-the-minute updates on customer orders, stock, and prices. Wolf places orders with its suppliers electronically. Another manager said, "We want to turn our yard employees from paper pushers into customer-service animals."

Many Wolf employees have no more than a high school education. Training covers matters ranging from the information system to quality management practices, business philosophy, and the company's profit-sharing system. One third of annual profits are passed back to employees according to a formula that includes the profitability of the yard or business unit to which each worker is attached. "Part of . . . the problem was to explain to workers where profit comes from, why it varies, and to give them the means to improve profitability," one manager said. Employees can now check the latest profitability figures on their PCs.

Looking ahead, Wolf managers foresee yards staffed by half as many people as today, perhaps four instead of eight or ten, thanks to its new lean inventory management and electronic communications. The company believes that some of its yards will become little more than order desks, with direct delivery from a central warehouse to the construction site. And if enough contractors take to electronic ordering, most of the active selling will probably take place through site visits by Wolf employees.

National R&D Needed in Services

Many manufacturing industries depend on a technology base that is closely linked with traditional fields of science and engineering. Throughout this century, the technical

knowledge used in product and process design co-evolved in national innovation systems that linked industries in each advanced industrial country with R&D conducted in universities and government laboratories. These patterns have few counterparts in the services.

Organized R&D in service industries has been increasing but is still very small. Manufacturing firms account for three-quarters of U.S. industrial R&D. Large manufacturers devote substantial resources to R&D because they see it as a route to competitive advantage. Since the early 1900s, companies such as General Electric and Alcoa have even established protected market positions and sometimes monopolies through proprietary technology. The anomaly in the service industry was AT&T, which delivered its products using self-manufactured hardware.

AT&T's strategy could not survive deregulation, however, and efforts by other service firms to establish advantages through hardware have rarely succeeded. In banking, ATMs quickly became commodities, and early returns suggest that home banking will do little to set a bank apart or improve its productivity.

As these examples suggest, the knowledge base for most services is less tightly linked to science and engineering. Despite this, more engineers and scientists in the United States now work in the services than in manufacturing. Service employers appear to value engineers and scientists for their reasoning ability and mathematical skills more than for their disciplinary knowledge.

The Post-Cold War Environment

In the post-cold war period of the 1990s, global competition in the service industries threatened U.S. domination, the phase of consolidation and industry megamergers reached a new high and the need for deregulation and domestic industry-friendly policies necessitated an active role of the government and thus gave a new fillip to the lobbying process in service industries. The end of the Cold War resulted in domestic politics relegating U.S. Foreign Policy to a backseat as the Cold-War era Soviet Empire had dismembered and the Communist edifice that it supported across Eastern Europe had collapsed.

In this chapter, we will examine the role of one major service sector lobby, namely Healthcare. The period covered would be the 1990s. Central issues that these sectors have been grappling with over this ten-year period would be highlighted, as would the lobbying efforts mounted by the respective lobbies in achieving their ends and purposes.

The basic approach to this study is empirical. Lobbying on Capitol Hill will be examined as a dependent variable whereas the particular aspects of the services industry would constitute the independent variables in this research endeavor. The dependent variable, e.g. the techniques of lobbying, the kind of lobbying viz. direct or indirect would in good measure be a function of the issues, challenges and policy parameters concerned with the services sector. From a research perspective, the interplay between these variables would be of special interest.

HEALTH CARE REFORM

Before the healthcare lobby is discussed, it would be important to understand the federal health insurance program Medicare. This would help in understanding the issues the healthcare industry is confronted with.

Along with Medicaid, Medicare is one of the nation's primary health insurance programs and, in many ways, it has been one of the federal government's most significant success stories. It provides coverage to nearly 39 million people, or about 14 percent of Americans and nearly every senior aged 65 or older. By comparison, before Medicare was enacted in 1965 just 56 percent of seniors had hospital insurance.

In recent years, however, Medicare's long term finances have come into question. While several proposals have been made to significantly alter its finances and structure, only relatively modest changes have been enacted into law. This may change in the coming year, however. The Bush administration is expected to push for major reforms in the coming session of Congress.

Medicare Basics

Medicare is managed by the Health Care Financing Administration (HCFA), a division of the U.S. Department of Health and Human Services which also administers Medicaid. Medicare is divided into two parts, Parts A and B. Part A, also known as Hospital Insurance (HI), covers health care provided in hospitals, nursing facilities, and hospices, and some care provided by home health services. It is financed by a payroll tax of 2.9

percent, which is divided equally between employers and employees. In fiscal year (FY) 1999, Part A provided coverage to 33.6 million seniors and 5.3 million people with disabilities. About 22 percent of those covered actually received medical services through Part A in 1999.

Part B, also known as Supplementary Medical Insurance (SMI), provides optional additional coverage for doctor's visits and other out-patient services such as those provided by physician assistants, nurse practitioners, and clinical laboratories. Part B is financed through a combination of monthly premiums ($45.50 in 2000) and general tax revenues. In FY 1999, 32.3 million seniors and 4.6 million people with disabilities were enrolled in part B.

The coverage provided by Medicare is not comprehensive. Neither Part A nor Part B covers prescription drugs, long-term nursing care, or basic vision, dental, hearing-related care. Medicare recipients desiring such coverage usually purchase supplemental policies from insurance companies.

Medicare's Finances - Short and Long Term

While Medicare's long term financial prospects have been questioned, its short-term financial prospects are solid. In FY 1999, the Hospital Insurance Trust Fund (Part A) collected $153.0 billion in revenues, most of which ($134.4 billion) was from payroll taxes paid by approximately 155 million covered workers. The rest was from interest accrued by assets in the Hospital Insurance trust fund ($9.5 billion), taxation of Social

Security benefits ($6.5 billion), and other miscellaneous revenue. In FY 1999 the program spent $131.4 billion ($129.4 billion on medical services), for a surplus of $21.6 billion. The year's surplus brought total Part A trust fund reserves to $138.7 billion at the end of the fiscal year.

The short-term finances for Supplementary Medical Insurance (Part B) are similarly good. In FY 1999, the program took in $85.3 billion in revenues, most of which represented transfers from the U.S. Treasury ($62.2billion). Other revenues came from monthly premiums paid but enrollees ($20.2 billion) and trust fund interest and other income ($2.9 billion). That year the program spent $80.5 billion, most of which ($79.0 billion) was for medical services. The year's surplus was $4.8 billion, which brought total Part B trust fund reserves to $45.6 billion at the end of the fiscal year.

Altogether, $212.0 billion was spent on Medicare in FY 1999, making it one of the federal government's largest programs.

Medicare's long term prospects are less rosy. According to the Medicare trustees, the Hospital Insurance trust fund will continue to run a surplus until 2017, when it will begin to run a deficit and start drawing down trust fund reserves. Absent any policy changes, the trustees estimate that the trust fund will be depleted in 2025. Over the next 75 years (2000-2074), the trustees estimate a programmatic financial shortfall equal to 1.21 percent of taxable payroll. In other words, immediately raising the combined payroll tax

on employers and employees from 2.9 percent to 4.11 percent would be sufficient to cover long term shortfalls.

Recent Reform Proposals

The most significant legislation affecting Medicare that has been enacted in recent years was the 1997 Balanced Budget Act, which President Clinton signed into law on August 5 of that year. The legislation's primary goal was to balance the federal budget by 2002, which at the time was still operating in a deficit. It included language trimming growth in Medicare spending by $116.4 billion over five years, most of which was due to reductions in payments to health care providers (hospitals and doctors). The legislation also increased Medicare Part B premiums, established new Medicare+Choice managed care plans, and created a bipartisan commission to study Medicare's long-term finances and report back to Congress.

The commission, also known as the National Bipartisan Commission on the Future of Medicare, was chaired by Sen. John Breaux (D-LA) and Representative William Thomas (R-CA), now chairman of the House Ways and Means Committee. In March of 1999 the commission disbanded, unable to achieve sufficient unity to forward an official recommendation to Congress. The commission did not go out without controversy, however. A plan backed by Sen. Breaux fell one vote short of the required majority needed to endorse an official set of recommendations. Among other provisions, the Breaux plan would have transformed Medicare into a premium support system, where instead of Medicare directly covering beneficiaries or underwriting their participation in

HMOs, beneficiaries would be given a fixed amount of money to purchase private health insurance. Breaux's plan would also have raised the age of eligibility from 65 to 67, as has already been done with Social Security, and provided prescription drug coverage for low-income individuals with incomes of up to $10,568 and couples with incomes of up to $13,334. Partly because the plan ignored his call to transfer Medicare some of the budget surplus expected over the next ten years, however, Clinton refused to urge his own nominees on the commission to support the Breaux plan.

Instead, Clinton released his own set of recommendation on June 29, 1999. The central feature in Clinton's plan was a transfer of $794 billion in surplus
general tax revenues to the Medicare program from 2000 through 2014, extending the program's insolvency date. Clinton's plan would have also created a new prescription drug benefit and eliminated copayments and deductibles for preventive care.

Following this impasse, and facing increased political pressure from health care providers, Congress began to reverse some of the spending cuts in the 1997 Balanced Budget Act. In late 1999, Congress enacted legislation restoring $35 billion in Medicare and Medicaid funding to hospitals, nursing homes and health plans over five years. In 2000 Congress restored another $16 billion in Medicare funding to various providers. Significant structural reforms, however, were put off until the coming session of Congress.

In his campaign for the presidency, George W. Bush criticized the Clinton-Gore administration for failing to lead on Medicare and other issues. Bush is expected to appoint a new bi-partisan commission to review Medicare's long-term finances and other possible changes, such as the inclusion of a new prescription drug benefit. After the commission issues its recommendations, Bush may submit a proposal to Congress in late 2001 or early 2002.

Earlier Efforts at Healthcare Reform

One of the first items on the Senate's agenda when it returns from recess in two weeks will be S. 1028, the Health Insurance Reform Act. Cosponsored by Senate Labor and Human Resources Chair Nancy Kassebaum (R-Kan.) and Ranking Member Edward M. Kennedy (D-Mass.), the bill requires insurance companies to offer coverage to people when they lose or change their jobs. The legislation has bipartisan Senate support as well as wide endorsement by the business and health communities.

But press reports last week predicted that the Senate debate may grow more controversial if some lawmakers attempt to expand the bill with provisions sought by medical and insurance interests.

That, after all, is what happened last week when the House passed H.R. 3103, the Health Coverage Availability and Affordability Act of 1996, by a near party line vote of 267 to 151.

The House bill caps medical malpractice awards for pain and suffering at $250,000, a provision favored by doctors. Another section allows creation of tax-deductible medical savings accounts, long lobbied by Golden Rule Financial Corp.

Six of the top 10 House recipients of doctors' PAC and individual contributions ($200+) during the first half of 1995 were Republican freshman. They were favored over their more senior colleagues: on average, Republican freshman received $5,644 from doctors, compared to the $2,772 received by senior Republicans. Only one Republican voted against the bill, eight-term veteran Marge Roukema (R-N.J.), who received $1,000 from doctors in the first half of last year.

TABLE 5-Top 10 Senate Recipients of Health Insurance PAC Contributions, January 1989-June 1995

Rank	Senator	Next Election	Amount in US $
1	Bob Dole (R-Kan) Majority Leader	1998	169,167
2	Kent Conrad (D-ND)	2000	133,750
3	Daniel R Coats (R-Ind.)	1998	133,750
4	Christopher J Dodd (D-Conn.)	1998	133,469
5	Daniel Patrick Moynihan (D-NY)	2000	101,500
6	Tom Daschle (D-SD)Minority Leader	1998	101,480

7	Max Baucus (D-Mont.)	1996	98,625
8	Alan K Simpson (R-Wyo.)	retiring	93,750
9	John H Chafee (R-RI)	2000	89,400
10	Mike DeWine (R-Ohio)	2000	87,000

Bold italics show cosponsors of S. 1028

TABLE 6-Top 10 House Recipients of Doctor Contributions, PAC and Individual ($200+), January - June 1995

Rank	Member	Vote 3/28*	Amount in US $
1	Charlie Norwood (R-Ga.)	Y	32,350
2	Greg Ganske (R-Iowa)	Y	28,947
3	Newt Gingrich (R-Ga.) Speaker	Y	28,406
4	Dave Weldon (R-Fla.)	Y	27,150
5	John Ensign (R-Nev.)	Y	26,600
6	Jim McCrery (R-La.)	Y	24,700
7	Joe Scarborough (R-Fla.)	Y	19,500
8	Gephardt (D-Mo.) Minority Leader	N	17,000
9	Peter Deutsch (D-Fla.)	N	15,900
10	Fred Heinemann (R-NC.)	Y	14,900

*March 28, 1996 vote on H.R. 3103, Health Coverage Availability and Affordability Act of 1996, Y= Vote For, N= Vote Against Bold italics show freshmen.

Lobbies, lawmakers Pitch their Messages

Healthcare special interest groups and sympathetic lawmakers last week began a final push for revisions to Medicare payment policies and managed care regulation as Congress neared consideration of key healthcare legislation.

In a week heavy on political spin and light on substance, Sen. Kay Bailey Hutchison (R-Texas) led the latest charge to aid hospitals that say they are struggling under Medicare payment policies imposed by the Balanced Budget Act of 1997.

Her legislation was the second measure to propose increases in Medicare inpatient payments and the first sponsored largely by the Republicans. It would increase the inpatient update by 0.5 percentage points in each of the next three federal fiscal years, which are the last three years of cuts mandated by the budget law.

Hutchison's legislation follows a bill that Rep. Nita Lowey (D-New York) proposed and New York Democrats largely sponsored. The measure calls for an increase of 0.7 percentage points next year.

The Hutchison bill was part of an effort to divert $1 billion more to Medicare providers in federal fiscal 2000.

Hutchison said her legislation was following the recommendations of the Medicare Payment Advisory Commission.

MedPAC, however, recommended the 0.5% increase only for fiscal 2000, which begins Oct. 1, to help hospitals eliminate any year 2000 problems from their information systems.

The MedPAC annual report on Medicare Payment said of the Y2K adjustment, "This increase is not considered a permanent part of the allowance, and we will reconsider the level of this adjustment in subsequent fiscal year analyses."

But Hutchison and her GOP cosponsors said HCFA overreached in implementing the Balanced Budget Act and a result put hospitals "on their knees."

However, regarding Medicare inpatient payment, Congress specifically laid out the update formula: 1.8 percentage points less than the hospital inflation index in 2000 and 1.1. percentage points less than the index in 2001 and 1.1 percentage points less than the index in 2001 and 2002.

But Huchison justified the charges against HCFA by saying the agency's interpretation of the budget law as it applies to some health agencies and outpatient departments has resulted in larger payment reductions than Congress intended.

In seeking an extra $1 billion, Hutchison was in step with Senate Finance Committee Chairman William Roth (R-Del.), who made public a letter to Senate Majority Leader

Trent Lott (R-Miss.) asking for $1 billion to $1.5 billion of the federal budget surplus to be used for Medicare fee increases in fiscal 2000.

The introduction in Hutchison's bill was just one of several events during the week that prodded Congress to change Medicare payment policies.

The American Healthcare Association, which represents nursing homes, gathered about 200 people on the Capitol steps to push for increased skilled-nursing reimbursement.

"The fact of the matter is that the current reimbursement levels as developed by Medicare simply are not enough to preserve and ensure access to quality nursing home care for seniors," said Sen. Orrin Hatch (R-Utah), who is sponsoring a bill that would increase Medicare payments to nursing homes.

Thirty senators have signed onto Hatch's bill as co-sponsors.

"I would like to see 60 co-sponsors by the end of next week, and I hope you will help me reach that goal," Hatch told the nursing home employees.

Elsewhere on the Capitol grounds, the American Association of Health Plans rallied at least 50+Choice employees, who also met with members of Congress to ask for increases in Medicare payments to HMOs. They said more health plans would withdraw from the Medicare market if the rates weren't increased.

Their health plans paid for their travel and hotel expenses as they lobbied Congress.

But Medicare + Choice plans were targets of criticism from the Clinton Administration.

Appearing before an annual government affairs meeting of American Medical Association members, Vice President Al Gore slammed Medicare HMOs for reducing their prescription drug benefits. He released an HHS report that said 21% of pans have limited their drug benefits to $500 or less.

He used the report to justify the administration's call for a broad prescription drug benefit.

"The need for affordable prescription drugs is only going to be more important in the future," Gore said. "That's why we ought to ensure that all beneficiaries have a drug benefit."

Republicans responded with their own prescription drug plan. Addressing the same meeting. Rep. Michael Bilirakis (R-Fla.), chairman of the House Commerce Committee's healthcare subcommittee, announced that he had introduced legislation based on a plan he outlined in August.

Under his plan, the federal government would help the states subsidize drug purchases for low-income beneficiaries. In addition, seniors with high drug costs would receive a government subsidy when their purchases exceeded a set threshold.

The pharmaceutical industry didn't take it lying down under. In a report released before Gore, Citizens for Better Medicare, a group largely sponsored by drug companies, said between 6 million and 9 million Medicare-eligible retirees would lose their employer-paid prescription drug coverage if President Clinton's Medicare reform plan were enacted.

The group, which is financing an advertising blitz against the Clinton plan, said employers would drop their drug coverage or encourage retirees to join the government plan. The plan would displace from $3 billion to $5 billion in current employer spending, according to the report which Price WaterhouseCoopers prepared for Citizens for Better Medicare.

The AMA meeting was also a site for the promotion of patient-rights legislation. Members of Congress urged physicians to keep the heat on Congress to pass legislation sponsored by Reps. John Dingell (D-Mich.) and Charlie Norwood (R-Ga.).

"My advice is, in the next couple of weeks, talk to a lot of patients and tell them to phone your congressman," said Rep. Greg Ganske (R-Iowa), a physician, who's also a sponsor of the legislation.

Campaign launched against Healthcare 'Bill of Rights"

A major coalition representing large employers, small employers and insurance groups has launched a nationwide campaign to oppose new federal mandates on health plans.

A campaign by the Washington-based Health Benefits Coalition will include a grassroots lobbying effort as well as more than $1 million for advertising in Washington-area media and selected congressional districts.

The campaign's targets are proposals by the Clinton administration and some members of Congress, both Democratic and Republican, to create a federal healthcare "bill of rights."

At a press briefing in Washington, the Patient Access to Responsible Act (PARCA)-sponsored by Rep. Charles Norwood, R-Ga. And Sen. Alfonse D'Amato, R-N.Y.-was singled out for criticism.

PARCA would establish a variety of new federal standards on managed care health plans, both fully ensured and self-ensured, which would cover such issues as information disclosure, grievance procedures, access to care, emergency services and privacy.

Moreover, PARCA would impose new liability on self-insured plans. Medical liability would attach to third party administrators or to employees of self-insured plans for decisions held to be negligent.

Jerry Jasinowski, president of the Washington based National Association of Manufacturers, called the legislation a "disaster," adding that whoever put the bill together did not think clearly about the expenses it would impose on employees.

Bruce Josten, executive vice president of the Washington based U.S. Chamber of Commerce, said the legislation flies in the face of efforts to make health insurance more affordable by enriching trial lawyers," he said.

Insurance related groups joining the coalition include Aetna U.S. Healthcare, the American Association of Health plans, the American Insurance Association, the Blue Cross and Blue Shield Association, the Council for Affordable Health Insurance, the Health Insurance Association of America, the National Association of Health Underwriters, New York Life, Prudential and the Self-Insurance Institute of America.

In a letter to members of Congress, the Coalition said PARCA includes hundreds of costly new federal mandates as well as alarming expansion of medical malpractice liability for both health plans and employers.

This, the letter said, takes PARCA well beyond the bounds of sound and reasonable legislating.

"It is our firm belief that the market can bring consumer protections to health plans without spiking premiums, without excessive government micromanagement and without new legal fees for employers and health plans alike," the letter said.

George Pantos, Washington counsel for the Irvine, California based SIIA, says that it is hard to gauge how this effort compares to the effort to oppose President Clinton's healthcare reform plan in 1993 and 1994, because the new campaign is only just getting started.

However, he said, it is a serious effort to mobilize the private sector threatened by the legislation and there will be a very hard fought campaign between the legislation's supporters and opponents. But already, he said the SIIA knows from its contacts on Capitol Hill that many of the co-sponsors of PARCA were not aware of all the consequences of the legislation when they signed on to it.

However, supporters of federal standards blasted the coalition's efforts. Ron Pollack, executive director of the Washington based Families of USA Foundation charged that the insurance and managed care industries and their allies are trying to kill consumer protections despite strong bipartisan support to them.

"I don't know how many hundreds of thousands of dollars the insurance industry and managed care companies are spending on this campaign," Mr. Pollack said. "But if they truly cared about improving the health and well being of America's families, they would

be spending this money improving healthcare quality, not on print ads and other propaganda."

A $1 Million Operation

Profile of Blue Cross: The Blue Cross & Blue Shield Association and its affiliates have already made $1 million in contributions to federal candidates and the national parties with nearly four out of every five dollars going to Republicans. This total does not include donations to congressional leadership PACs. The health care giant and its state affiliates -- which are fighting proposals to regulate managed care -- are the number one PAC donors to leadership committees so far in the 1997-98-election cycle. Leadership PACs are set up by congressional leaders -- separate from campaign committees -- and are used to support colleagues on Capitol Hill or finance other political activities. But they can also be used as a way for contributors to maximize influence with lawmakers. So far this cycle Blue Cross has contributed $65,250 to leadership PACs -- more than twice its donations in the entire 1995-96 election cycle.

Top recipients include political action committees established by Senate Majority Leader Trent Lott (R-Miss), head of the GOP's Senate health care task force Don Nickles (R-Okla), and Chairman of the House Republican Conference John Boehner (R-Ohio). Overall, managed care PACs donated $77,250 to leadership PACs -- all but $1,500 to Republicans. This is almost double what members of the Patient Access to Responsible Care Alliance (PARCA) contributed to leadership committees. The alliance is a group of

non-physician specialists that want more patients to be covered for their services under health plans.

Blue Cross's PAC was busy in May 1998 participating in fund-raisers, breakfasts, receptions, events, and dinners for more than 30 lawmakers, including three members of the House GOP health care task force: Chairman Dennis Hastert (R-Ill), Rep. Deborah Pryce (R-Ohio), and Rep. James Talent (R-Mo). The task force unveiled a proposal last month that patient advocacy groups sharply criticized for not going far enough to protect consumers.

Blue Cross's generosity to Republicans is not limited to candidates. GOP party committees are being showered with Blue Cross donations too. On Feb. 27, 1998, the health insurance giant made $200,000 in soft money contributions to the Republicans; $100,000 to the 1998 Republican Senate/House Dinner Trust, $50,000 apiece to the National Republican Senatorial Committee and the National Republican Congressional Committee.

The association's aggressive lobbying comes at a time when one of its members, the Blue Cross and Blue Shield of Illinois is in trouble for Medicare fraud. The Illinois Blue Cross pleaded guilty last week to defrauding Medicare and will pay $144 million in civil and criminal penalties.

TABLE 7-Leadership PAC Recipients of Blue Cross political action committee contributions, 1997-98 Election Cycle

Leadership PAC	Lawmaker	Total in US$
Republican Majority Fund	Sen. Don Nickles (R-Okla.)	10000
New Republican Majority Fund	Sen. Trent Lott (R-Miss.)	10000
Freedom Project	Rep. Joe Boehner (R-Ohio)	10000
Fund for a Responsible Future	Rep. Thomas Bliley (R-Va.)	7000
Adam Smith PAC	Sen. Connie Mack (R-Fla.)	5000
Empire Majority Leadership Fund	Rep. Bill Paxon (R-NY)	4500
Keep Our Majority PAC	Rep. Dennis Hastert	3500
Majority Leader's Fund	Rep. Dick Armey (R-Texas)	2000
Pioneer PAC	John R Kasoch (R-Ohio)	2000
Americans for a Republican Maj.	Rep. Tom Delay	2000
Monday Morning PAC	Rep. Newt Gingrich (R-Ga.)	2000
Capitol Committee	Sen. Orrin Hatch	1750
Bayou Leader PAC	Rep. W J Tauzin (R-La.)	1500
Leadership 21	Rep. John Tanner (D-Tenn.)	1500
Leadership for America Commite.	Rep. Gerald Solomon (R-NY)	1000
Bluegrass Committee	Sen. Mitch McConnel (R-Ky.)	1000

98' Leadership PAC	Rep. Bill Oxley (R-Ohio)	500
		Total: $65,250/ 98 percent to Republicans

The following summary figures for the key players in the health care debate include PAC, soft money, and individual contributions to federal candidates and parties. Donations are based on data downloaded from the Federal Election Commission on July 1, 1998 (Contributions are inclusive from Jan. 1997 through March 1998 with some contributions from April and May.)

Managed Care Industry (Includes HMOs, Blue Cross and its affiliates, and the Health Insurance Association of America) $1,817,484 70 percent to Republicans

Members of PARCA (Patient Access to Responsible Care Alliance) (A group of non-physician specialists that want more patients to be covered for their services under health plans.) $2,353,56154 percent to Democrats

American Medical Association & its affiliates $1,163,470 69 percent to Republicans

Note: The American Medical Association's political action committee distributed $555,076 to federal candidates from Jan. 1997 through March 1998. During the period that action on managed care proposals heated up -- March 1998 through May 1998 -- the group's PAC gave $511,485 to federal candidates.

Association of Trial Lawyers of America $1,444,586 89 percent to Democrats

MANAGING CARE

The House and Senate have yet to reconcile their versions of Medicare and Medicaid reform, but consumer and health advocacy groups are weighing in on several contentious provisions affecting the managed care industry. Health Maintenance Organizations (HMOs) distributed nearly $900,000 in PAC and soft money contributions to federal candidates and parties, 55 percent to Republicans, in the 1996 cycle.* The House and Senate differ in their definitions of which claims filed by Medicare beneficiaries in managed care plans are covered in emergency situations. The House defines an emergency medical condition as a "medical condition manifesting itself by acute symptoms of sufficient severity such that a prudent layperson" could expect that without care, the consequences would endanger the individual's life. The Senate added three extra words that are now the focus of the debate "including severe pain." Proponents of the "prudent layperson" measure argue the House's omission was no accident and claim that without the severe pain clause, HMOs could continue to stick Medicare recipients with bills for emergency room examinations when tests show no life-threatening problems.

Health advocacy groups also are concerned about House language that would no longer subject accredited HMOs providing coverage to Medicare and Medicaid beneficiaries to outside review. Groups like the Consumer Coalition for Quality Health Care argue that monitoring of HMO practices by an outside party is crucial to holding managed care plans accountable and guaranteeing quality service. Most of these reviews are conducted

by Quality Improvement Organizations, which spread information among health plans and identify long-term health care patterns.

A provision supported by doctors and consumer groups would prohibit managed care plans from using "gag rules," which restrict the information doctors can provide to Medicare and Medicaid beneficiaries about treatment options. After much opposition, lawmakers dropped similar legislative language in the 104th Congress. Although the main trade group for managed care plans, the American Association of Health Plans, came out with voluntary guidelines requiring doctors to inform patients about all their choices, lawmakers argue that federal law is necessary to hold managed care accountable.

AN AILING DEBATE.

Another hot health item on Congress' agenda is overhauling the way the Food and Drug Administration (FDA) approves drugs and medical devices a reform effort that failed in the 104th Congress. This year's debate again pits pharmaceutical and drug manufacturing companies against consumer and patient advocacy groups.

Pharmaceutical and drug manufacturing companies gave $9.2 million in PAC and soft money contributions to federal candidates and parties, 72 percent to Republicans, in the 1996 election cycle. But lawmakers are hoping that attaching the bill, S. 830, to the renewal of a popular provision requiring manufacturers to pay a user fee for FDA operations will force both sides to reach an agreement.

Several contentious issues remain, including a provision that would allow pharmaceutical companies to use third-party reviews. That means they could seek approval for their drugs and medical devices from an accredited organization suggested by the FDA. Supporting this measure are industry groups and Citizens for a Sound Economy, a non-profit, free-market oriented group, which say they want to see drugs and medical devices reach the market and patients faster. Consumer groups argue that the provision will weaken FDA standards. "We don't want any drugs that could harm patients and wouldn't want safety and efficacy compromised," said Adrian Mitchum of Consumers Union. Still on the drug industry's wish-list for inclusion in the bill is a highly-contested measure that would allow manufacturers to publicize second uses for already approved FDA drugs without getting the agency's green light.

Another controversial provision would allow government agencies, besides the FDA, to approve food labeling claims. Leading the lobby to let agencies like the National Institutes of Health and the Centers for Disease Control authorize health claims is the National Food Processors Association, which distributed nearly $137,000 in PAC and soft money contributions in the 1996 cycle, 92 percent to Republicans. The trade group argues the FDA is too slow in reviewing health claims. Advocacy groups like the Center for Science in the Public Interest are opposing the measure claiming consumer protections could be weakened because none of these outside bodies can hold companies accountable if they misuse these claims.

*PAC and soft money contributions are based on data downloaded from the Federal Election Commission on 5/1/97 and are inclusive through 12/31/96.

Preventive Medicine: Citizens for Better Medicare & Prescription Drug Coverage

Hoping to quelch what could be a divisive issue this Election Day, House Republicans this week are expected to push a final vote on a prescription drug benefit for the elderly. The issue has been among the most hotly debated of late, the subject of an intensive showdown between the pharmaceuticals industry and insurance companies.

Among the most visible lobbies on the issue is Citizens for Better Medicare, a coalition founded and largely financed by the pharmaceutical industry. Over the last year, the group has sponsored television and newspaper ads that lobby against efforts to add a drug benefit to Medicare. Several ads feature "Flo," an arthritic bowler who warns Congress not to let "big government" into her medicine cabinet. Another ad portays a tour bus on route from Canada to the US in search of a better deal on prescription drugs. The group also has unveiled "callyourgrandma.com," a website specifically geared toward mobilizing the youth vote on the prescription drugs issue. (Click here to play CBM's snazzy, interactive bowling game.)

Though many congressional districts, including the Washington, D.C. area, have been saturated with such lobbying, just how much Citizens for Better Medicare is spending on the effort goes largely undisclosed. The group reportedly is a 527-organization, a reference to a section of federal tax law under which it was formed. As long as they do

not directly intervene in an election, as in endorsing a candidate, the group can raise and spend unlimited sums of money, all without disclosing anything to the Federal Election Commission.

What is known, however, is how much members of Citizens of Better Medicare have spent on campaign contributions this election cycle. Though the group's website lists no corporations and just a variety of associations among its membership, Citizens for Better Medicare was founded by members of the Pharmaceutical Research and Manufacturers Association of America -- an industry trade group for the nation's drug industry – and the Healthcare Leadership Council — a coalition of nearly 50 drug companies, health care providers and hospitals.

All told, Citizens for Better Medicare's members have made more than $9.9 million in soft money, PAC and individual contributions to federal parties and candidates this election cycle. Three-quarters of that money went to Republicans, who are spearheading a drug proposal they like.

Citizens for Better Medicare and the drug industry have argued that any drug benefit should come from the private sector, which is the key provision of the GOP bill. Under the Republican plan, the government would give private insurance companies subsidies to cover drug benefits for senior citizens. The pharmaceuticals industry has rejected the Democrats' proposal to add the benefit to Medicare, fearful that a government-run system could lead to price controls, thereby driving a wedge in profits.

But the Health Insurance Association of America, which represents that nation's largest health plans, rejects the GOP proposal. HIAA contends that even with subsidies, an affordable drug benefit would be hard to come by because rising drug prices would cut into an insurance company's profit, thus keeping premiums high. HIAA has contributed $106,581 in soft money, PAC and individual contributions this election cycle, while the insurance industry overall has contributed roughly $20.2 million. Both favor Republicans.

Nevertheless, the GOP drug bill last week easily passed the House Ways and Means Committee. The 23 members voting in favor of the bill received an average of $16,500 in contributions from members of Citizens for Better Medicare, while the 14 members who voted against the plan took in an average of $6,000. The bill could come to a floor vote as early as Tuesday.

Click here for a look at CBM Members and their soft money, PAC & Individual Contributions, 1999-00. Click here to see top recipients of that money in the House and Senate.

A Second Opinion: The Shifting Lobby on Managed Care Reform

Roughly six months after House lawmakers approved a landmark bill that would revamp the nation's managed care system, congressional negotiators last week remained at an impasse in their attempts to hash out a compromise on the so-called Patients' Bill of Rights, even as a target date for the legislation came and went.

But that doesn't mean the intense lobbying over managed care reform has cooled, especially on the issue of whether patients will be able to sue their health plans for negligence. If anything, the contentious battle between business interests, insurance companies, trial lawyers and doctors seems to be heating up, as members of the joint House/Senate conference committee on managed care work toward a final bill.

Just days before House and Senate lawmakers neared their initial March 31 deadline for legislation, the American Association of Health Plans unveiled a new round of issue ads, aimed at focusing the debate over patients rights toward medical errors, as opposed to HMO lawsuits. "Medical mistakes can kill," one spot claims. The two-week ad campaign, according to the Associated Press, will cost the AAHP at least $200,000. Last year, the AAHP reported nearly $2.5 million in lobbying expenditures — an increase of nearly half a million dollars over spending in 1998.

The AAHP isn't the only group running ads aimed at affecting the debate. The Health Benefits Coalition, of which AAHP is a member, also has targeted Congress with dozens of print ads inside the Beltway that attack provisions that would open health plans to legal liability. "It's war!" one ad warns. "Don't let the Patients' Bill of Rights become the Lawyers' Right to Bill."

All told, members of the Health Benefits Coalition accounted for at least $3.9 million in soft money, PAC and individual contributions to federal parties and candidates in 1999,

75 percent to Republicans. That's an increase of nearly 40 percent since 1995, the last presidential election cycle.

Though complete information for 1999 has not yet been posted by the Secretary of the Senate, preliminary analysis of lobbying expenditures for some members of the Health Benefits Coalition show spending was slightly up last year compared to 1998.

In addition to the AAHP's increase, Aetna reported $2.1 in lobbying expenditures in 1999, a 15 percent increase over 1998. The Chamber of Commerce of the U.S. reported $18.2 million in lobbying expenditures last year, up nearly $1.2 million from '98. And Cigna spent nearly $1.6 million lobbying members of Congress and the Clinton administration last year, an increase of 20 percent over 1998.

Such spending likely will increase in coming months, as the GOP hopes to bring a final bill to vote before summer. One goal: to keep the issue from becoming a hot topic on the campaign trail, where Democrats would like to paint Republicans as a friend of big business and a foe to consumers.

TABLE 8-Health Benefits Coalition

Member Soft Money, PAC & Individual Contributions, 1999*

Organization	Total in US$	Dems share	Reps share
Blue Cross Blue Shield	797652	245685	551467
Prudential Insurance	542075	267375	271900

National Restaurant Association	370853	42300	323533
Associated Builders & Contractors	327500	5500	321500
New York Life Insurance	296100	153700	141900
Cigna Corp.	263274	26499	235525
Food Marketing Institute	242557	14000	228557
American Insurance Association	186222	16528	169694
Nat. Fed. Of independent Businesses	174067	9500	163567
Aetna Inc.	172250	60450	111800
United Healthcare Corp.	168405	65180	103225
National Retail Federation	101426	19500	81926
Chamber of Commerce of the U.S.	93947	1000	92147
Food Distributors International	80700	250	80450
Health Insurance Ass. of America	63160	8241	54911
American Ass. Of Health Plans	49640	1500	48140
National Ass. Of wholesaler/distribut	40832	1500	39342
Humana Inc.	19450	200	19250
Nat. Ass. Of Health Underwriters	10825	2500	8325
Ass of Private Pension Welfare Plans	7223	1500	5723

International Mass Retail Asso.	5250	0	5250
Business Roundtable	4950	0	4950
Citizens for a Sound Economy	2550	0	2550
Healthcare Leadership Committee	1000	500	500

*Based on FEC data downloaded 3/1/00.

TABLE 9-Top Senate Recipients of HBC Member

PAC and Individual Contributions, 1999*

Rank	Senator	Amount in US$
1	Joseph Liebermann (D-Conn.)	46999
2	Jon Kyl (R-Ariz.)	34250
3	Bill Frist (R-Tenn.)	33999
4	James Jeffords (R-Vt.)	33000
5	Rick Santorum (R-Pa.)	32155
6	Trent Lott (R-Miss.) Majority Leader	30000
7	William Roth (R-Del.)	29522
8	Orrin Hatch (R-Utah)	29157
9	John Ashcroft (R-Mo.)	28500
10	Rod Grams (R-Minn.)	27500

*Based on FEC data downloaded 3/1/00.

TABLE10-Top House Recipients of HBC Member

PAC & Individual Contributions, 1999*

Rank	Name	Amount in US$
1	Nancy Johnson (R-Conn.)	42265
2	Dennis Hastert (R-Ill.)	28640
3	John Isacson (R-Ga.)	26500
4	Bill Thomas (R-Ca.)	25250
5	James Rogan (R-Ca.)	20750
6	Roy Blunt (R-Mo.)	20397
7	Mark Foley (R-Fla.)	19571
8	Jennifer Dunn (R-WA)	19500
8	Heather Wilson (R-NM)	19500
9	Ernest Fletcher (R-Ky.)	19000
10	Phil English (R-Pa.)	17766

*Based on FEC data downloaded 3/1/00.

Drug War: Citizens for Better Medicare and the Prescription Drug Debate

Though the issue likely won't be taken up by Congress anytime soon, President Clinton's plan to revamp Medicare to include coverage of prescription drugs has prompted the most visible lobbying campaign of the year. Citizens for Better Medicare, a coalition founded and largely financed by the pharmaceutical industry, has sponsored a series of television and newspaper advertisements featuring "Flo," an arthritic bowler who warns Congress not to let "big government" into her medicine cabinet.

The advertising campaign, which debuted in late July, is slightly reminiscent of "Harry and Louise," a series of commercials sponsored by the health insurance industry that helped kill Clinton's major revamp of health care in 1994. But like that campaign, the cost of such advertisements goes largely undisclosed, as do many of the expenditures on other so-called issue ads.

However, according to records recently filed with the Federal Election Commission, the members of Citizens for Better Medicare are supplementing their advertising campaign with generous campaign contributions to members of Congress. During the first six months of 1999, the group's members made just over $1 million in PAC contributions to federal candidates, more than two-thirds to Republicans. That's a 25 percent increase over contributions made during the same period in 1997, the last election cycle.

While the group's website reports only 30 members, Citizens for Better Medicare was founded by the Pharmaceutical Research and Manufacturers of America – an industry trade group for more than 100 drug companies – and the Healthcare Leadership Council – a coalition of nearly 50 drug-makers, health care providers and hospitals.

An expansion of prescription drug benefits to Medicare recipients is a contentious issue for both drug companies and health care providers. More than a dozen bills have been introduced in Congress to supplement drug benefits for senior citizens, the group that needs prescriptions the most. But lawmakers, also faced with solving Medicare's

financial woes, have struggled with how to pay for such coverage. One of the leading proposals would discount the cost of prescription drugs for the elderly.

Drug companies fear the addition of prescription drug benefits to Medicare might lead to price controls throughout the industry, a move that consumer groups long have advocated. The pharmaceutical industry has proposed that health plans step up their coverage of prescription drugs for the elderly. In turn, health plans, led by the Health Insurance Association of America, have proposed tax credits for Medicare recipients and federal funding for state drug programs, rather than an expansion of Medicare or their prescription drug policies.

Both industries are among Capitol Hill's biggest players. During 1998, insurance interests topped the list of industries that spent money-lobbying members of Congress and the Clinton Administration, reporting more than $77.2 million. The pharmaceutical industry ranked a close second, spending nearly $74 million in 1998.

TABLE 11-Members of Citizens for Better Medicare

PAC Contributions, 1/1/99 to 6/30/99*

Organization	Amount in US$	Dems share	Reps share
Glaxo Wellcome Inc.	161700	38500	123200
Pfizer	157850	40100	117750
Merck & Co	96132	23470	72662
Cigna Corp.	92950	14000	78950

Brystol Myers Squibb	86000	22000	64000
Eli Lily & Co.	78850	19000	59850
Prudential Insurance	63500	28500	35000
Schering-Plough Corp.	59000	36500	23000
Abbot Laboratories	57000	11500	45500
Hoffman La Roche	31000	12000	19000
Johnson & Johnson	30000	8000	22000
Baxter Healthcare	27850	6500	21350
Amgen Inc.	20832	4000	16832
Pharmace Rsrch & Mfrs of America	19037	4500	14537
Tenet Healthcare	16500	3500	13000
CVS Corp.	8925	4300	4625
Mallinckrodt Inc	6400	0	6400
Guidant Group	6000	1000	5000
United Staes Surgical Corporation	5000	0	5000
United Seniors Association	3000	0	3000
American Home Products	2750	0	2750

*Based on data downloaded from the FEC 9/1/99. CBM members include members of the Healthcare Leadership Council.

TABLE 12-Top Senate Recipients of CBM Member PAC Contributions, 1/1/99 to 6/30/99*

Rank	Name	Total in US$
1	Orrin Hatch (R-Utah)	48965
2	Bill Frist (R-Tenn.)	41307
3	Joseph Lieberman (D-Conn.)	37000
4	James Jeffords (R-Vt.)	36000
5	Bob Kerrey (D-Neb.)	28000
6	Robert Torricelli (D-NJ)	20000
7	Rick Santorum (R-Pa.)	19000
8	Mike DeWine (R-Ohio)	18000
8	Peter Fitzgerald (R-Ill.)	18000
9	Spencer Abraham (R-Mich.)	15000
10	Kent Conrad (D-ND)	14500

*Based on data downloaded from the FEC 9/1/99. CBM members include members of the Healthcare Leadership Council.

TABLE 13-Top House Recipients of CBM Member PAC Contributions, 1/1/99 to 6/30/99*

Rank	Name	Total in US$
1	Bill Thomas (R-Ca.)	31000
2	Dennis Hastert (R-Ill.) Speaker	26000
3	Rick Lazio (R-NY)	17500

4	Nancy Johnson (R-Conn.)	14841
5	Robert Menendez (D-NJ)	11856
6	Michael Oxley (R-Ohio)	11500
7	Howard Coble (R-NC)	11250
8	Richard Burr (R-NC)	10000
8	Bob Franks (R-NJ)	10000
9	Anne Northup (R-Ky.)	9500
10	Jim Nussle (R-Iowa)	8900

*Based on data downloaded from the FEC 9/1/99. CBM members include members of the Healthcare Leadership Council.

Bitter Pills: The Battle Over Prescription Drug Prices

The rising cost of prescription drugs in American health care has set the stage for a showdown in Washington over whether the federal government should help make medicine more affordable for the nation's elderly by including such costs in Medicare coverage. The issue, which has suddenly emerged as major topic on Capitol Hill, has proven to be among the more divisive debates facing lawmakers these days. Congressional Democrats, eager to attract the senior citizen vote into their corner for the 2000 elections, have introduced dozens of proposals to extend prescription drug benefits to the elderly, the group that needs medicines the most. Such proposals, however, have drawn the ire of Republicans and the pharmaceuticals industry, which has launched a massive counterattack against efforts to expand benefits. Drug companies – which spent over $111 million lobbying Congress and federal agencies between January 1997 and

June 1998 – say they share the goal of ensuring senior citizens receive the medicines they need. However, the industry opposes government price controls, which could curb company revenues. Republicans, meanwhile, contend expanding Medicare is not the answer, as lawmakers from both parties already are mired in disputes over how to solve the program's long-term financial problems.

Drug companies have specifically targeted bills that address pricing issues, as any proposal that seeks to give discounts to the elderly, the industry's biggest customers. could mean billions of dollars in revenue losses. The pharmaceutical industry has instead supported legislation that would require HMOs and private insurers to increase prescription drug coverage and lower premiums for elderly patients. But with both parties promising some sort of action on the issue, the drug industry is readying itself for a lengthy and contentious war. Long one of the most powerful lobbies on Capitol Hill, the pharmaceuticals industry spent more than $13 million in soft money, PAC, and individual donations during the 1997-98 elections – a 53 percent increase over contributions during the last mid-term elections. Republicans, the chief allies of drug companies in the battle over prescription drug prices, received 67 percent of contributions.

More than one-third of the 39 million people enrolled in Medicare have no coverage for the prescription drugs they use outside hospitals, according to a report commissioned for a congressional panel studying ways to save the federal program. Since its creation in 1965, Medicare has covered only the drugs given to patients in hospitals or other medical facilities. Many elderly people, as a result, have turned to private insurance companies or

health maintenance organizations to supplement such costs. However, such help is drying up, as some insurance companies and HMOs recently have imposed yearly limits on prescription drugs because of the soaring costs of pharmaceuticals. Prescription drug costs rose by 14 percent in 1997, compared with only 5 percent for overall health services. As a result, Medicare patients who foot the entire bill for their prescription medicines increasingly are feeling the financial pinch.

Hoping to close a conspicuous gap in Medicare coverage, Democrats have taken the lead in trying to secure prescription drug benefits for the elderly. More than a dozen different pieces of legislation attempt to tackle the problem, with almost all promoting an expansion of Medicare benefits. A leading proposal, sponsored by Sen. Edward Kennedy (D-Mass.), calls for patients to pay a tax-deductible $200 per year in drug expenses while Medicare would pay 80 percent of the cost of each prescription. The proposal – which would be funded through budget surpluses or money from estate taxes -- also calls for the government to pay $1,200 of the first $1,700 in annual drug expenses. Other proposals, meanwhile, call for pharmaceutical companies to sell their drugs at lower prices to senior citizens. The costs for the elderly, according to the legislation, would be rolled back to match the same pricing scale offered to federal government agencies – like the Department of Defense – and insurance companies, which often receive substantial discounts because they are favored and frequent customers.

TABLE 14-Top 10 Soft Money, PAC, & Individual Pharmaceutical Company Campaign Contributors, 1997-98*

Rank	Company	Total in US$	Democrats share	Republicans share	1997 lobby total	1998 lobby total
1	Pfizer	1103180	210850	892330	10000000	8000000
2	Bristol Myers Squibbs	827324	216650	610674	3780000	2820529
3	Eli Lily & Co.	712173	205824	505849	3836442	5160000
4	Glaxo Wellcome Inc	687751	146825	539726	3774000	3120000
5	Novartis	638592	179250	459342	1560000	1160000
6	Schering-Plough Corp	486919	109362	377557	2682508	4268000
7	Rhone-Poulenc Inc	467575	169500	298075	1640000	1220000
8	Merck & Co.	351228	93496	257732	5140000	5000000
9	Abbot Laboratories	312971	56672	256049	893000	1743785

10	American Home Products	310225	75439	225261	2500000	2210000

*Contributions based on data downloaded from the FEC on 4/1/99. Totals include contributions from subsidiaries. Lobbying data based on documents filed with the Secretary of the Senate's office, 5/11/99.

TABLE 16-Top 10 Senate Recipients of Pharmaceutical

PAC and Individual Donations, 1997-98*

Rank	Name	Amount in US$
1	Orrin Hatch (R-Utah)	191037
2	Arlen Specter (R-Pa.)	186580
3	Bill Frist (R-Tenn.)	166366
4	Frank Lautenberg (D-NJ)	130322
5	Christopher Dodd (D-Conn.)	120300
6	Rick Santorum (R-Pa.)	112120
7	Richard Lugar (D-Ind.)	102150
8	Robert Torricelli (D-NJ)	99700
9	Kay B Hutchison (R-Texas)	92734
10	Tom Harkin (D-Iowa)	90250

*Contributions based on data downloaded from the FEC on 4/1/99. Totals include contributions from subsidiaries. Lobbying data based on documents filed with the Secretary of the Senate's office, 5/11/99.

TABLE 17-Top 10 House Recipients of Pharmaceutical PAC and Individual Donations, 1997-98*

Rank	Name	Amount in US$
1	Nancy Johnson (R-Conn.)	64500
2	Bill Thomas (R-Ca.)	47100
3	Joe Barton (R-Texas)	46150
4	Gephardt (D-Mo.) Minority Leader	44000
5	Thomas Bliley Jr. (R-Va.)	41250
6	David McIntosh (R-Ind.)	38000
7	John Dingell (D-Mich.)	34000
8	Fred Upton (R-Mich.)	31025
9	John Kasich (R-Ohio)	30752
10	Michael Bilirakis (R-Fla.)	30062

*Contributions based on data downloaded from the FEC on 4/1/99. Totals include contributions from subsidiaries

Preventive Medicine:

The Managed Care Debate and Political Contributions

As Congress returns this week from a two-week Easter recess, the almost-perennial fig over managed care reform will be pushed to center stage, with both Democrats and Republicans jockeying for legislative momentum in the year before the 2000 elections. Lawmakers have already resuscitated a spate of bills-introduced in one form or another over the last several years-which aim to revamp the nation's troubled healthcare system.

However, each party offers a different prescription to cure the system's woes, a conflict could frame campaign policy leading into next year's presidential race.

Managed healthcare providers, already suffering at the hands of negative public opinion, don't want to see healthcare become a major issue among presidential candidates. The industry's trade group, the American Association of health Plans, has already launched a lobbying effort in key primary states like New Hampshire and Iowa to persuade GOP presidential aspirants to ignore policy that would hand more rights over to patients enrolled in managed health plans. And such lobbying efforts are stretching to Capitol Hill, where the AAHP hopes to quelch an attempted overhaul of healthcare by Democrats and some Republicans. Last year, the AAHP spent at least $2.1 million lobbying members of Congress and the Clinton administration, and according to recent press accounts is prepared to spend a similar amount or more in an attempt to frame this year's debate over health care reform.

During the 1998 elections, scores of congressional legislators campaigned on promises to revamp managed care, and so far, members of both parties appear poised to deliver on such commitments. But as a new year of debate begins, the parties have conflicting ideas about the role that government should play in rethinking healthcare. Last week, President Clinton and Democratic leaders launched a grassroots campaign in favor of their version of the Patients' Bill of rights, which allows consumers to sue their healthcare providers for malpractice or other issues. Democrats say the provision is necessary to make HMOs more accountable, but Republicans contend such guidelines would only make already

costly healthcare more expensive. The GOP, meanwhile, has its own patient protection legislation. The bill-approved in a party line vote last month by the Senate Health, Education, Labor and Pensions Committee-would make it easier for managed care patrons to visit doctors outside their medical networks, get their emergency room visits reimbursed, and appeal when HMOs won't pay for treatment they need. House Republicans have revived a similar measure; however, Democrats are critical of GOP efforts, contending HMOs are still given too much veto power over what's medically necessary for a patient. Democrats, in their bill, specify that doctors, not health plans, should determine what constitutes obligatory medical care.

With a partisan war brewing over health care reform, HMOs are positioning for a heated battle over their regulatory future. No stranger to Capitol Hill politics, managed care companies and their interest groups made more than $3.4 million in soft money, PAC and individual contributions during the 1997098 election cycle-roughly twice what they spent during the last mid-term elections. Republicans captured 69 percent of the donations.

Jeffords switch shakes up healthcare agenda

Vermont Republican Senator James Jeffords' announcement Thursday that he is leaving the party--and in so doing, turning control of the chamber over to the Democrats--is not expected to have a major impact on what does or does not become law in the health arena, observers say. But, they add, it will have a major impact on the process by which health policy is made.

The most immediate impact on health policy will be at the Health, Education, Labor and Pensions Committee, which Jeffords has chaired for the past 5 years. Sen. Edward Kennedy, (D-Mass.), who chaired the panel from 1987 to 1995, will now resume the chair, where he can use it as a forum to push his pet issues like a patients' bill of rights and expansion of health insurance coverage.

Incoming Senate Majority Leader Tom Daschle, (D-S.D.), said Thursday that the full Senate would take up the patients' rights bill as soon as the chamber finishes work on the pending education bill, when it returns from a week-long Memorial Day recess in June.

But while Democrats can now bring their favored bills to the floor, they are not much more able to get them passed than they were before. 'They don't have 60 votes and they don't have 67,' summed up Families USA executive director Ron Pollack about the chances for a patients' rights bill, which he supports. Pollack was referring to the number of votes needed to cut off a filibuster by bill opponents, and the number needed to override a promised veto by President Bush, respectively.

Phil Blando of the American Association of Health Plans agreed that prospects for a patients' bill of rights--which his and most other insurance organizations oppose--have not changed much.

'In the Senate it's always been apparent that to move healthcare legislation forward there has to be a bipartisan approach, and that's unlikely to change,' no matter which party sets the agenda, he said.

One issue on which Jeffords' switch is likely to have an impact is abortion--something abortion-rights backer Jeffords himself mentioned first in his list of differences with President Bush.

Not only will the change in leadership at the Senate Judiciary Committee mean that President Bush will have difficulty appointing strongly anti-abortion federal judges, said Alison Herwitt, director of government affairs for the National Abortion and Reproductive Rights Action League, but that committee is also charged with approval of a raft of free-standing abortion bills the House has vowed to pass--and President Bush has promised to sign.

Conclusions

The present work has attempted to provide an answer to the history, processes and institutionalized structures pertaining to lobbying in the United States Congress. Lobbying is a vast area and it may not be possible to go into all these questions in minute detail. However, the paper shows the importance and contemporary relevance of lobbying in the American political process. For a democracy to thrive and survive the myriad groups and interests must find a political voice and lobbying is the precise vehicle to achieve just that.

Some interesting conclusions emanate out of this work. Firstly, the practice of lobbying in the services sector has grown quite appreciably in the 1990s. This is manifest both in terms of aggregate lobbying expenditures sector wise as well as in PAC, Soft Money and Individual Contributions by different Service Sector Industries. The different lobby groups have therefore witnessed an accretion in their political power by virtue of their influence on financing of federal congressional campaigns, influence on formulation and execution of policy, and hold over drafting of legislation suiting their commercial interests.

Secondly, the cost of political campaigns and use of broadcast media for campaigning and electioneering has proliferated rapidly through the 1990s. This has necessitated the increased expenditure on elections. The service sector lobbies have seen this as an opportunity to participate in the political sphere through increased contributions to candidates and political parties.

Thirdly, the services sector has grown in importance in the U.S. economy both in terms of GNP and total employment and this is reflected in its growth as a potent lobbying force. The healthcare sector has seen a war of attrition, more a battle o nerves between the healthcare providers and insurance companies on one hand and the patients on the other. Patients' rights advocates on Capitol Hill have been pushing for increased coverage and prescription drug benefits in the federally administered Medicare program while the Insurance Companies and Health Maintenance Organizations are against these because of the bloated costs the implementation of these measures would entail.

Fourthly, the Democratic Party has moved to the political center and has seen amongst its ranks a swelling of pro-big business congressmen. This has resulted in the service sector lobby groups to donate in large amounts to the Democratic Candidates and the Democratic National Congressional and Senatorial Congress Committees. It is important to note that in terms of soft money contributions, the Democrats are at par with Republicans as far as fund-raising activity goes. Beefed with this parity in money power, Senate Democrats have regained control of the U.S. Senate after a six-year hiatus.

Fifthly, the clash between big business on one hand and consumer, environmental, and labor groups on the other, has been part of the services sector lobbying game as much as it was during the days where the manufacturing sector was the most prominent. Big business has always clamored for greater deregulation and a reduced governmental role in business affairs, often in utter disregard for the interests of the consumer, labor, and

environmental groups. More often than not, most of the lobbying and legislative wars have resulted out of both these sides fighting for their own programs and priorities.

Sixthly, the importance of political party affiliation and ideology has given way to the sway of media consultants, campaign strategists, lobbyists, pollsters, and other political consultants of varied hues which drive modern day campaigning and legislative enactments. Candidates have become hostage to media exposure and TV appearances. With both the major political parties very much adopting moderate views on most issues, party loyalty is not as important as the charisma and other personal qualities of a candidate running for political office.

Seventhly, the era of Speakers Sam Rayburn and Tip O'Neil and Senate Majority Leader Lyndon Baines Johnson is become a distant memory. These congressmen wielded enormous clout in setting and moving the legislative agenda in the 1950s, 1960s and 1970s. But due to procedural changes in the 1970s legislative power got diffused among Committee Chairmen and Members. What ensued was an increase in the number of pressure points in Congress and targeting of these by industry lobbyists. In today's Capitol Hill environment, the lobbyists and their clients contribute heavily to the campaigns of Committee Chairmen and Committee members and even chairmen and members of Sub-Committees.

The Healthcare Lobbying Activity is essentially centered around the twin issues of Medicare reform, a patient's bill of rights and Medicare prescription benefits for

Medicare beneficiaries. The Republicans, buoyed by the American Medical Association funds and health insurance companies' dollars have been advocating the interest of the medical practitioners and health insurance providers. The Democrats on the other hand, have consistently championed the interests of the patients' as regard expanded Medicare coverage and prescription drug benefits for the elderly. Healthcare is one issue where the ideological battle lines are more clearly drawn and the period of the 1990s and beyond has clearly witnessed the political divide manifesting itself in initiation and stymieing of efforts at healthcare reform. Since roughly fourteen cents of every dollar goes into meeting healthcare costs, the importance of this sector need hardly be overemphasized. This is clearly reflected in the frenetic activity and money involved in the healthcare lobbying process.

Public disenchantment with the electoral process and the ever increasing clout of money through business and other lobby groups has prompted politicians to make attempts at campaign finance reform. These attempts have been scuttled by politicians, who are beholden to the same business interests for financing of their election campaigns. Thus it appears that the political machinery has been subverted by the moneyed groups and the citizen's vote does not count for much. Despite these problems, the McCain-Feingold Campaign Finance Reform Bill has been passed in the Senate and is slated for discussion in the House.

Lobbying techniques-direct and indirect are both important in today's lobbying agenda. In the industries studied in this research effort, both direct lobbying through trade

associations and lobbying firms and indirect lobbying through grassroots efforts have met with moderate success.

This research effort could serve as a useful basis to understand the business lobbying process in the United States and any further research in the area could further enrich our understanding of the subject.

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