JASON SMITH

LEGISLATION BY DONATION?

In the lobbies of congress, money matters. But not as much as you might think.

by Mark Derewicz

"Ten people who speak make more noise than ten thousand who are silent."
—Napoleon Bonaparte

They've been called hijackers of democracy, widely viewed as scoundrels who spend millions of dollars to curry favor with politicians while regular people go unheard outside of Election Day. In public opinion polls that rank honest professionals, lobbyists finish dead last—right behind car salesmen.

Each year, the antilobbying chorus gets louder, but each year lobbyists pack Washington, D.C.—there were 13,694 of them in 2009. Lobbyists are required to register with the federal government and release records that include how much money they spend: a record $3.5 billion in 2009, not including campaign donations. Most of that money is spent on salaries for lobbyists. They draft reports full of facts and opinions to support their arguments. They meet with politicians and other government officials. They create ad campaigns and spur public support for their causes. And, as the cliché goes, they wine and dine politicians, paying for junkets—including the occasional golf outing—across the country and around the world.

Most people agree there's a problem; the First Amendment right to petition the government shouldn't depend on cash flow. Even campaigning politicians often blame corruption on corporate slush funds. But Frank Baumgartner and four other political scientists found that almost every public policy debate can be boiled down to two sides, and the side with more lobbyists, more political action committee donations, and bigger budgets wins only half the time.

"It's not that money doesn't matter," Baumgartner says. Our political system is biased toward the wealthy, he says. But in the book *Lobbying and Policy Change: Who Wins, Who Loses, and Why*, Baumgartner's team reveals that there's a lot more to lobbying than just dollars.

"Lobbyists . . . woo lawmakers with facts."
—Jeffrey Birnbaum, lobbyist

You can't generalize about lobbying by reading newspapers, Baumgartner says. That's one lesson he learned from his team's research. The front page is filled with controversies and crises that journalists and scholars use for case studies about corruption. Think Jack Abramoff, the infamous lobbyist who defrauded his own clients. "But by definition those things are not normal," Baumgartner says. Or else they wouldn't be news.

To generalize about lobbying, Baumgartner's team randomly picked ninety-eight public policy issues for which there are many active lobbyists. Some issues, such as normalizing trade relations with China, involved thousands of people, including former President Bill Clinton. But many issues involved ten or fifteen people, some of whom were government officials. For each interest group—such as the U.S. Chamber of Commerce, Exxon Mobil, or the Sierra Club—researchers gathered all available public information, including annual corporate sales, number of employees, how many lobbyists the group had, and how many political action committee contributions it had made. Baumgartner's team, which included several graduate students, interviewed more than three hundred lobbyists, interest group advocates, government officials, and congressional chiefs of staff and aides who worked to change a policy or preserve the status quo between 1999 and 2002. The researchers studied twenty thousand lobbying reports.

"We did that for 2,221 major players in Washington," Baumgartner says. "Then we followed these issues for four years and asked, well, who won?" After analyzing the data for six more years, the researchers found that there was no correlation between money spent and which side won.

"We were all shocked," Baumgartner says. "Anyone who grew up in America would be shocked."

On average, each corporation, trade organization, or professional association spent two million dollars a year on lobbying between 1999 and 2002. That's five times as much as each citizen group and twice as much as each union. But there are many more corporations, trade groups, and professional associations; taken together they spent nineteen times as much as unions and twelve times as much as citizen groups. Those statistics don't include political action committee donations or groups with little lobbying power—college students, the poor, the uninsured. The vast difference in financial resources has helped shape portions of society through the decades.

The problem, Baumgartner says, is not that wealthy lobbyists pay to get policies in place that are advantageous to their industries; most major policies already favor rich corporations and major trade organizations. "The problem is the accumulation of bias already in the political system," he says. "Public officials are hearing a steady drumbeat of news and information that doesn't come from a random sample of citizens; it comes from the constitutional right to petition the government, which is used by professionals and corporations more than it's used or ever could be used by individual people."

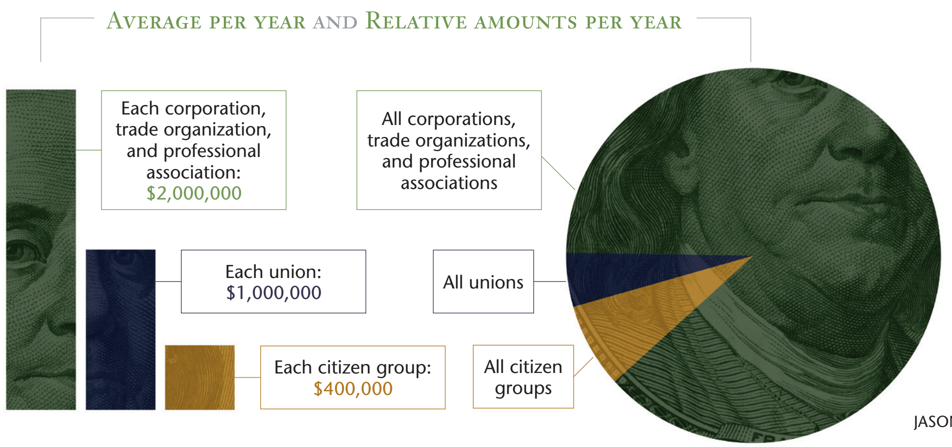
Still, there's this idea that lobbyists are all-powerful, that money *always* rules, he says. "And that's just not the case."

"You can have all the money in the world behind you. But if public perception cuts against you, it's an awful major hurdle to overcome."
—David Levinthal, Center for Responsive Politics

Baumgartner says that studying lobbying is like studying the stock market. One day a company's stock might fare well; another day its value might drop. But fluctuations occur for all kinds of reasons that don't speak to the stock's true value. Same with lobbying—sometimes wealthy lobbyists fare well and get their way in Congress, and sometimes they don't. But their stock is always high; their influence is always greatly felt.

Consider the oil lobby. Big Oil already has most of what it wants, including an economy based on its product. So it works

Spending on lobbying, 1999 to 2002



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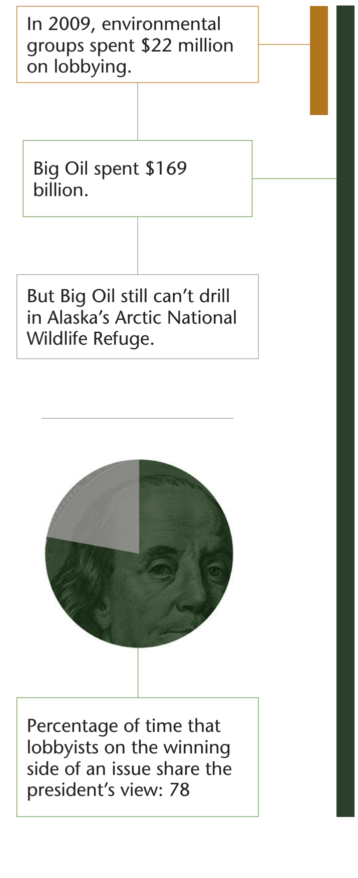
Some things money can't buy



hard to maintain the status quo. In 2009 oil companies spent $169 million on lobbying. Environmentalists spent $22 million. Yet the oil industry has always lost the battle to drill in Alaska's Arctic National Wildlife Refuge.

In 2010 President Barack Obama lifted the moratorium on drilling in federal waters. Oil companies rejoiced. Come summer, though, the BP oil spill forced the president to reinstate the moratorium, and few politicians were eager to give oil companies anything. Big Oil's stock was down. But the stock's value—the industry's overall influence—remained higher than that of all the alternative energy companies combined.

Baumgartner knew that politics and current events can hinder even the richest lobbyists. But he found another reason why the rich win only half the time: lobbyists have strange bedfellows. Coalitions of interest groups form on each side of just about every issue, and the rich ones don't always lobby with wealthy allies. Sometimes poor interest groups team up with a rich corporation. Sometimes a powerful trade organization supports a policy change for one reason while another trade group supports it for a different reason. And sometimes small but typically disparate interest groups band together to battle a huge trade organization.

Such was the case in 1999 when ACT UP—a tiny AIDS activist group with no lobbyists, no staff, and no money to give to politicians—squared off against the Pharmaceutical Research and Manufacturers of America (PhRMA).

ACT UP wanted Congress to allow companies to produce generic AIDS drugs for patients in Africa without paying high fees to the pharmaceutical companies that created the original drugs. PhRMA, which had constituents who would lose millions in profits if Congress passed such a provision, was by far the richest of its small coalition of lobbyists. ACT UP, meanwhile, called on hundreds of other interest groups and players in Washington, D.C.

"PhRMA still had more resources, but the discrepancy wasn't as big as you'd think," Baumgartner says. "And that's because ACT UP had powerful allies." Congress sided with ACT UP.

Baumgartner was surprised at how often diverse coalitions formed on two sides of even the most complicated issues. There might have been seven ways to address an issue, he says, but instead of each interest group arguing separately for specific policy changes, they often joined together to fight for policy change in a general direction. And Baumgartner points out that an issue that brings together, say, corporations may also unite environmentalists, citizen groups, labor unions, and government officials in opposition.

Because of this coalition building, only nineteen of the ninety-eight issues that the researchers studied were heavily skewed in terms of financial support and lobbying power. Maybe that's nineteen too many, but Baumgartner had predicted a much wider gulf between the haves and have-nots. The rich won most of those nineteen but not all of them. And Baumgartner's research shows that if given the choice, those richest lobbyists would trade their sizable advantages for the support of one particular man.

"The president is the people's lobbyist."
—Hubert Humphrey, former vice president

Trying to regulate lobbyists isn't the problem, Baumgartner says. "The problem is trying to educate politicians so they can recognize the difference between what they're hearing constantly from lobbyists and what's happening out there in society."

According to public opinion polls, the most pressing issue at the end of the Clinton administration was the state of the economy—the unemployment rate in particular. "But there weren't any lobbyists lobbying on the issue of increasing jobs," Baumgartner says. "Even labor unions don't focus on that."

Of the ninety-eight issues in the study, seventeen heavily involved health-care lobbyists. "But they weren't lobbying to improve health care for you and me; they lobbied to protect the financial interests of professionals in the health-care industry," Baumgartner says. There's a huge disconnect between what the public needs and what lobbyists work for.

Still, following the richest lobbyists didn't help the researchers figure out which ones were most influential. But they found one person lobbyists always wanted on their side—the president. About 78 percent of the time, the lobbyists on the winning side shared the president's view. In fact, when party leaders didn't already share an interest group's view, that interest group was rarely successful in swaying politicians, according to Baumgartner.

"That's one of our nondepressing findings," he says. "Elections do matter." And lobbyists know this, which is why their money finds its way into our electoral process, too.

THIS IS THE CRUX OF THE MONEY PROBLEM: cash doesn't decide short-term policy outcomes, but you still need money to get on the policy agenda. You need money to make noise.

"The only way to stop the system of legalized bribery is to cut it off at its roots."
—Robert Reich, former secretary of labor

Baumgartner found that most lobbyists work tirelessly to maintain the status quo. And 60 percent of the time they're successful. As a result we see a lot of gridlock in Washington.

But 40 percent seems like a lot of policy change over the course of four years. "It *is* a lot," Baumgartner says. "And had we extended our study ten or twenty years, we might have seen a lot more."

Of the policies that changed between 1999 and 2002, seventy percent were substantial shifts, such as when President George W. Bush revoked President Clinton's ergonomics reform to improve workplace safety.

"Sometimes we think that people in Washington aren't doing anything, but that's not really true," Baumgartner says. In a typical two-year congressional term, eight thousand bills are introduced, and four hundred are passed. Between 1999 and 2002, bills addressing forty-seven of the study's ninety-eight issues never reached the floor of the House or Senate for a vote; "died in committee" is a common refrain on Capitol Hill. Many proposals never got any attention because there was no time—even issues that had no active opposition, such as a proposal to mandate hearing tests for all newborns. Advocates for that bill did not have much lobbying support, and Congress never voted on it.

This is the crux of the money problem: cash doesn't decide short-term policy outcomes, but you still need money to get on the policy agenda. You need money to make noise. Baumgartner doesn't think the government should limit lobbyist money. But he thinks the government can reduce the advantage that money gives lobbyists. The best big step, he says, would be election finance reform.

"Politicians are just constantly begging for money," Baumgartner says. "They have to raise tens of millions of dollars in small bits. It's humiliating. And at worst it's corrupt, because people will say, 'I'd be happy to give you money if you do *this* for me.' That's illegal." But it still happens, and not all corruption boils down to quid pro quo deals. Political action committees and lobbyists can bundle small donations to amplify an interest group's voice. "The system lends itself to extra access to the wealthiest among us," Baumgartner says. And politicians often ask donors not to give money to opponents. "So we end up with underfinanced challengers."

What about term limits? The idea is that if a senator only has two six-year terms, then the pursuit of a Senate seat would be viewed as a public service instead of a career choice dependent upon raising huge sums of cash. But Baumgartner thinks term limits would be a big mistake. "We'd have citizen legislators, but lobbyists are not citizen lobbyists," he says. "They're real pros. The learning curve on these issues is huge." He says Congress needs people who know policies inside and out, who were there when policies were created, who have experienced staffs.

Some critics say a system that allowed Senator Ted Kennedy to keep his seat for forty years is a system that's broken. Baumgartner, though, says that such long tenures are rare. And, more importantly to Baumgartner, Kennedy's staffers had become real health-care experts. "When his staff made a proposal it was taken seriously. They were as expert as insurance company lobbyists. They could go toe-to-toe. That's an important thing people don't think of."

If our government were full of fresh faces and naïve staffers, then our leaders would be even more susceptible to the arguments of lobbyists who, as Baumgartner says, will always have more information and money: "It would be like babes versus wolves." e

Frank Baumgartner is the Richard J. Richardson Distinguished Professor of Political Science in the College of Arts and Sciences. The coauthors of Lobbying and Policy Change *are Jeffrey Berry from Tufts University, Marie Hojnacki from Penn State University, David Kimball from the University of Missouri-St. Louis, and Beth Leech from Rutgers University. They received funding from the National Science Foundation. You can see the full report on the web at lobby.la.psu.edu/.*