Influence
The Business of Lobbying

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Inside Story

by the *Influence* Editorial Staff

Lobbying Leaders: A Look at Washington Advocates Who Took Charge in 2002

Some lobbyists pulled a win out of nowhere. Others were smart—and lucky—enough to get their pet provisions approved, even while related measures stalled. And some lobbyists waged war but came up empty-handed because of factors out of their control. Here's a look at some of Washington's lobbying leaders in 2002.

- Stephen Ubl and Pamela Bailey pulled off a health care coup
- Anti-abortion groups turned back the bankruptcy reform bill
- Alan Roth helped salvage a piece of the energy bill
- United Defense's John Mullett went to war for the Crusader
- All the stars came out for the Tauzin-Dingell slugfest
- Martha Burk played the game against Augusta National
- Business lobbyists hit the road for trade promotion authority
- Jeffrey Kurzweil stayed up late to land terrorism insurance
- James Burnley IV obtained a little homeland security
- Accounting lobby could not stop a runaway train

Medical Advice

This was not the year for significant health legislation. But **Advanced Medical Technology Association** President **Pamela Bailey** and chief lobbyist **Stephen Ubl** chalked up a big win for companies on the cutting edge of medical technology.

The Medical Device User Fee and Modernization Act was perhaps the only major medical measure signed by the president in 2002.

Initially, the device industry opposed paying a user fee to the Food and Drug Administration to speed up the approval process for new medical technology. A rift existed between large companies, which could afford fees of up to $154,000 to expedite the process, and smaller, entrepreneurial firms. "I think most of us were skeptical that we would be able to reach agreement because of how divisive the issue was," says Bailey, a one-time president of the Healthcare Leadership Council.

STACEY CRAMP

FAST REMEDY: Stephen Ubl and Pamela Bailey of AdvaMed pushed medical device firms, regulators, and members for quicker action from the FDA.

But user fees stayed on the front burner because of a budget crunch at the FDA and an uptick in the number of device applications pending.

"You had sort of a perfect storm," says Ubl. "More applications and more complex applications at FDA's doorstep." Ubl and Bailey coordinated negotiations with the FDA and lawmakers while herding industry leaders toward consensus.

Ubl remembers pulling near all-nighters, without air conditioning, at FDA headquarters around Memorial Day. At around 2 a.m. one day, the parties came to agreement on price tags for user fees as well as goals the FDA would have to meet, such as reducing the approval time for new devices from 409 days to 320 days.

"It was tens of hours in the making," says Ubl, whose group also tapped the **Duberstein Group** and **Bergner, Bockorny, Castagnetti, Hawkins & Brain** for outside help. "At least 50 hours of negotiating."

President George W. Bush signed the measure Oct. 26.

Ubl, who handled the Hill visits, credits Bailey's longstanding relationships with members, including Sen. Edward Kennedy (D-Mass.), for paving the way. One area where lawmakers raised a red flag was inspection of manufacturing plants. The proposal called for the FDA to accredit independent groups to do the inspections. But members were concerned about conflicts of interest, so a provision was added ensuring that inspectors would have no financial ties to companies they review.

Says Bailey: "We had the patience and took the time to understand where each member was coming from. We understood when it was important to compromise, and we made it clear when we couldn't compromise."

Life Force

"The financial services industry can generate tens of thousands of calls and letters," says **Thomas Lehner,** executive vice president of government affairs for the **American Financial Services Association.** "But [the anti-abortion movement] can probably do that 10 times over."

That, in a nutshell, is why bankruptcy reform legislation, supported by leaders of both parties in both houses, failed. Lehner and others thought they were set this summer after a joint House-Senate conference produced a bill. The catch: The so-called Schumer Amendment, stating that court-awarded damages against anti-abortion protesters could not be avoided by filing for bankruptcy.

As the August recess neared, **James Backlin,** legislative director for the **Christian Coalition of America**; **Eagle Forum** Executive Director **Lori Waters**; **Connie Mackey** of the **Family Research Council**; and **Michael Schwartz** of the **Concerned Women for America** warned lawmakers that the amendment was radioactive. A vote on the bill was postponed.

In the fall, with the election looming, members opted not to take up such a divisive measure. Schwartz says he worked with banking lobbyists to find a way around the Schumer Amendment, perhaps by packing the bulk of the reforms into an appropriations bill. While Schwartz says relations were "friendly," the financial sector had little incentive to bargain away "a bird in hand."

Finally, the November session promised a payoff for Lehner at AFSA; his predecessor, **Jeffrey Tassey,** and others at **Williams & Jensen,** who represented several banking concerns; **Mallory Duncan** of the **National Retail Federation**; and **Gary Kohn** of the **Credit Union National Association.**

But anti-abortion organizers generated an avalanche of calls and faxes. Kohn says CUNA's grass-roots efforts were no match. "Our members were told by congressmen that they were getting inundated with folks opposed" to the Schumer Amendment, he says.

In a Nov. 15 procedural vote required to take up the bill, Chris Smith (R-N.J.) and Joseph Pitts (R-Pa.) led 87 Republican lawmakers who defied party leaders and voted to pass the bill without the amendment. Days later, Senate leaders opted not take up the measure.

The Eagle Forum's Waters credits Pitts and Smith with "the courage to fight their own leadership. . . . The downfall of the bankruptcy bill is not our fault," she says. "It is Charles Schumer's fault."

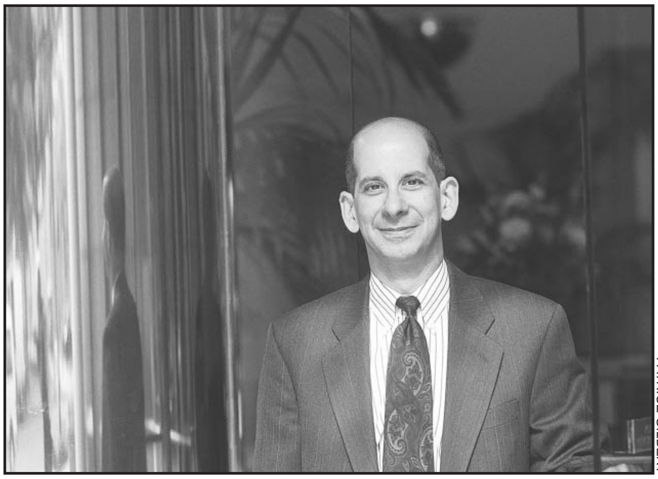
In the Pipeline

The two-year effort to craft an omnibus energy bill collapsed of its own weight, foundering on hard-fought issues such as vehicle fuel economy standards, drilling in Alaska's Arctic National Wildlife Refuge, and a perennial fight between makers of two oxygenates—ethanol and MTBE.

But one piece of the bill, reauthorization of the Pipeline Infrastructure Protection to Enhance Security and Safety Act, did make it through. "There were so many different moving parts" to the energy bill, says **Alan Roth,** who with colleagues at **Lent Scrivner & Roth** played a big role for the **Association of Oil Pipe Lines.** "It was a big sleeper success story buried inside a giant failure."

Though pipeline safety was just a footnote in what could have been one of the decade's major pieces of legislation, it was still four hard years in the making and the subject of compromises from both sides.

In the end, the industry got a provision for streamlining environmental permit reviews, while safety advocates were happy with new inspection timetables. Roth was key in dealing with Rep. John Dingell (D-Mich.), who chaired the House Energy and Commerce Committee when Roth was its chief counsel and was one of the oil industry's toughest critics.


PATRICE GILBERT

PIPE FIXTURE: Lent Scrivner & Roth's Alan Roth helped ensure passage of the only part of the massive energy bill that became law.

"Dingell has had a near and dear spot for pipeline safety since he was a young kid," says one person familiar with the issue. "So they worked him to reach a compromise on the number of years between inspections. [Environmentalists] wanted five, and we wanted 15. We ended up with 10 and [mandatory reinspections at] seven."

Carl Biersack, a former legislative director for Sen. Trent Lott (R-Miss.) now at **Barbour Griffith & Rogers**, and Association of Oil Pipe Lines' Executive Director **Benjamin Cooper,** a former staff director for then-Energy and Natural Resources Chairman J. Bennett Johnston (D-La.), also worked the issue.

On a Crusade

Defense lobbyists often spend their time deep in the shadows. This year, though, advocates for weapons maker **United Defense** and several allies in Congress waged a very public battle to try to save the Crusader, a rapid-fire cannon system cancelled by Defense Secretary Donald Rumsfeld.

John Mullett, vice president of government affairs for United Defense, led the high-stakes effort, according to Hill staffers. Mullett declined to comment, but Hill aides say he was instrumental in working up a compromise that—while it didn't save the Crusader—won Defense Department funding for a slimmed-down system.

Mullett "recognized rather quickly that we weren't going to win the battle straight up," says a Hill aide familiar with the negotiations. "So he advocated for the compromise."

Staffers and defense lobbyists say **James Ervin** of **Ervin Technical Associates** and **Townsend Van Fleet** of the **Van Fleet-Meredith Group** also played key roles.

Several lawmakers tried to protect the Crusader and the jobs that would have come with it. Retiring Rep. J.C. Watts (R-Okla.), a member of the Armed Services Committee, was among the Oklahoma lawmakers lobbying hard to keep the Crusader because it would have meant more manufacturing jobs in the state. But, as one defense lobbyist says, "this was played out at big levels," and there was no changing the administration's mind about Crusader.

"The secretary of defense flexed his muscle," says the congressional aide, "and killed it. . . . There was simply no way of competing with him or the president.

"It was a very uphill battle, a very stacked deck," the aide continues. "It was like a high school football team playing the Chicago Bears."

Phone Lines

If there is a candidate for legislation attracting the greatest number of lobbyists, the House bill to deregulate high-speed Internet access by the Baby Bells would surely be a contender. "Everyone came in from all sides, long distance, the CLECs [competitive local exchange carriers], the trade associations, the Bells, from the lowest to the highest, at the subcommittee level and the full committee," says one key House staffer. "It was almost like holding court."

It was a tough vote for House members. They were forced to go on record opposing either the Bells or AT&T—all the while knowing that the bill had no chance of passage in the Senate. In the end, the bill sponsored by Reps. Billy Tauzin (R-La.) and John Dingell (D-Mich.), passed by a whopping 273 to 157 majority. It was never even voted on in the Senate.

John Windhausen Jr. of the **Association for Local Telecommunications Services,** a Commerce Committee counsel during the chairmanship of Ernest Hollings (D-S.C.), was one of "the most visible persons pounding shoe leather," says one staffer.

In-house lobbyists who worked the legislation hard included **Lyndon Boozer** at the **BellSouth Corp., Peter Jacoby** at the **AT&T Corp., Timothy McKone** at **SBC Communications Inc., Edward Sen** at **Verizon Communications,** and **Richard Fruchterman III** at **WorldCom Inc.** Outside lobbyists for **AT&T** included the **Cormac Group**'s **Patrick Williams** and **James Derderian,** as well as **Earl Comstock,** a partner at **Sher & Blackwell** and former legislative director to Sen. Ted Stevens (R-Alaska).

Representing one or more of the Bell companies were former House Commerce Committee telecommunications staffer **David Leach,** now a partner at **Dewey Ballantine**; **Bernard Wunder Jr.** of **Wunder & Lilly**; and former BellSouth lobbyist **Dan Mattoon** of **PodestaMattoon.**

Why was the lobbying so fast and furious on a bill that had no chance of passage? Many House staffers believe the answer is simple: The Bells needed cover for legislative dealings with the Federal Communications Commission as its considers further deregulation.

Women to the Fore

Martha Burk has become a media darling for trying to force Augusta National Golf Club, home of the prestigious Masters Tournament, to admit female members.

The president of the **National Council of Women's Organizations** is riding a wave of media interest in her dispute with William "Hootie" Johnson, chairman of Augusta National.

In a statement early in the debate, Johnson listed the pressure tactics that he expected Burk to use, such as contacting high-profile members fearful of being portrayed as bigots and going after corporate sponsors of the Masters.

He was right. Burk has used both.

"We know what we're doing," says Burk, whose association includes 160 women's groups, such as the National Organization for Women and Business and Professional Women/USA. "But if we didn't, we would've just looked at his response."

Burk says efforts paid off early when Johnson dropped the Masters' four big television sponsors—the Coca-Cola Co., Citigroup, the General Motors Corp., and the IBM Corp.

According to Burk, three of the sponsors had indicated they were going to pull out, and Johnson simply preempted the move by dropping them first. Burk says she is now working to get Augusta members to offer public support for changing the club's policy and has already had success with the CEOs of Citigroup, the Ford Motor Co., and the American Express Co. Burk scored another victory when Thomas Wyman, the former CEO of CBS Worldwide Inc., recently resigned from Augusta.

Burk says this fight is very different from the Hill campaigns the NCWO is used to. The last few years, the NCWO has focused on getting the Senate to ratify the Convention on the Elimination of Discrimination Against Women (CEDAW), a treaty signed by the United State more than 20 years ago. "We finally got it out of committee, and then it stalled," Burk says, "but we're ready to try again with the new Congress."

Trade Time

Trade promotion authority gives the president a free hand to make import and export deals around the world without congressional second-guessing. In order to get the Trade Act of 2002 through Congress, business lobbyists had to expand their horizons beyond the Beltway.

"We devoted a considerable amount of time—more than ever before—to working outside of Washington, D.C.," says **William Morley,** vice president of congressional affairs for the **U.S. Chamber of Commerce.** "We did a lot of meetings with members of Congress. We met them here in D.C. and met them in their districts. We did a number of fly-ins. We were giving them information on a daily basis."

Trade groups spent millions on issue ads and grassroots work as well.

"We realized this was going to be one of our closest votes ever," says Mildred Webber, director of coalitions in the Office of the House Majority Whip. "We knew we'd need support inside and outside. We called [**PodestaMattoon**'s] **Dan Mattoon** and had him head up our outside coalition."

Staffers from the Office of the U.S. Trade Representative, the Commerce Department, the Treasury Department, and the White House met with a private sector coalition called U.S. Trade that included the Chamber (represented by Mattoon), **Brigitte Gwyn** of the **Business Roundtable, R. Scott Miller** of the **Procter & Gamble Co., Theodore Austell** of the **Boeing Co., William Lane** of **Caterpillar Inc.,** and representatives from the **Emergency Committee for American Trade,** the **Grocery Manufacturers of America,** the **National Association of Manufacturers,** and the **National Foreign Trade Council.**

Going back to 2001, Webber and Mattoon were among key players at meetings held up to four times a week in H-107, the whip's office.

Sarah Thorn, international trade director for the Grocery Manufacturers, gives a lot of credit to Webber and the whip's operation, adding, "It was one of the most sustained and concerted efforts I've seen—grass roots, federal [lobbying], media."

Says Morley: "The turning point was the administration. I was in the whip's office at 3 a.m. on a Saturday [July 27] when the final vote was on the House side. [Commerce Secretary] Don Evans and [U.S. Trade Representative] Bob Zoellick were both there. Legislative affairs was all there. You had a complete commitment from the administration."

Insuring a Win

Venable's **Jeffrey Kurzweil,** the longtime chief outside lobbyist for **Marriott International,** calls it "the most important work he's done in his life." And clearly the most time-consuming. "I worked round the clock," he says. "I may have done 20 all-nighters. People were getting e-mails from me at three, four o'clock in the morning."

Kurzweil was one of the lobbying world's "pile drivers" as he describes it, on one of this year's most difficult legislative journeys. The terrorism insurance bill, the

Terrorism Risk Protection Act, which turns the federal government into a backstop for the insurance industry in cases of extreme loss due to terrorism, was signed by the president on Nov. 26. The lobbying community chose a two-pronged attack: The first was a large, very public 66-group coalition of policyholders, which conspicuously avoided the insurance industry. Then there were the insurers, working more quietly behind the scenes.

"The insurance industry, by necessity, pulled back," says one real estate lobbyist. "They knew they would be the wrong voice."

The policyholders group was known as the Coalition to Insure Against Terrorism. Its steering committee included **Martin DePoy,** chief lobbyist of the **National Association of Real Estate Investment Trusts** and its president, **Steven Wechsler;** the **Real Estate Roundtable,** where President **Jeffrey DeBoer** and lobbyist **Clifton Rodgers Jr.** did much of the work; **Rolf Lundberg Jr.,** lobby head of the **U.S. Chamber of Commerce**, and the Chamber's **Joe Rubin,** who handled the tricky details of tort reform; Kurzweil; former Rep. **Steve Bartlett** (R-Texas) of the **Financial Services Roundtable**; and **Martin Gold** of **Covington & Burling,** long an outside lobbyist for the **National Football League.**

The nation's insurance interests were led by the **American Insurance Association** and its chief lobbyist, **Leigh Ann Pusey.** The AIA also turned to **Washington Council Ernst & Young** lobbyists **Bruce Gates** and **Martin McGuinness.**

Security Force

Former Transportation Secretary **James Burnley IV** focused on only a small piece of the massive homeland security package. But securing the language he wanted took Burnley and his **Venable** colleagues months of work.

Representing **CNF Inc.,** a freight company based in Palo Alto, Calif., Burnley zeroed in on a provision giving the new Transportation Security Administration emergency rule-making powers. This means that the TSA could skip the review-and-comment procedures that burden other agencies in implementing new policies, even though Congress had provided for a review panel to evaluate TSA emergency policies and had endowed it with the authority to revoke them.

In the first six months of 2002, Burnley says, TSA used its authority about half a dozen times, on subjects ranging from private air charter security procedures to the transfer of powers from the Federal Aviation Administration to the TSA. But no review panel ever weighed in.

"Unfortunately, there were no deadlines" for review of the directives, says Burnley. "Not a single one of them was ever reviewed."

That caught the attention of CNF Inc. "They came to us and said, "We don't understand why this Cabinet-level review panel has never been activated," says Burnley. "Could you take a look at it?"

Burnley notes that "Congress gave that agency very broad power, [and] I am not quarreling with their need to have that power." But, he adds, transportation companies need a chance to comment on rules that could have a serious impact on business.

Joined by advocates from the **American Association of Airport Executives-Airports Council International,** the **American Trucking Associations,** the **Air Transport Association of America,** and the **International Council of Cruise Lines,** among others, Burnley pushed for a 30-day deadline for the review panel to act on new TSA directives. If it failed to do so, the new regulation would be suspended.

On Nov. 19, as Venable lobbyists tuned in on C-SPAN, Congress passed an amendment providing for a 90-day deadline. Not exactly what Burnley sought, but, he says, "I'm happy with that."

Taking Account

There are limits to even the best lobbying. The day after the June 25 revelation that WorldCom Inc. had misled investors with $3.9 billion in faulty accounting, what had been a tepid corporate accountability bill suddenly turned into a serious effort to regulate the accounting industry. Ultimately, the Sarbanes-Oxley bill became the most sweeping corporate regulatory reform since the Depression. "Lobbying effectively stopped the day WorldCom hit," says one lobbyist heavily involved in the bill. "I had a meeting on the Hill that day, and people were literally calling me, saying, 'Do you still want to meet?' "

The accounting industry was led by **J. Thomas Higginbotham,** chief lobbyist for the **American Institute of Certified Public Accountants,** and its chief outside lobbyist, **Ed Kutler,** a managing director at **Clark & Weinstock** and former adviser to former House Speaker Newt Gingrich (R-Ga.). Kutler, who headed a coalition representing the accounting industry, was aided by the top in-house lobbyist at each of the remaining Big Four accounting firms: **Stephen Allis** at **KPMG**; **Allen Weltman** at **PriceWaterhouseCoopers**; **William Ezzell** at **Deloitte & Touche**; and **Lester Brorsen** at **Ernst & Young.** They, in turn, were helped by several outside lobbyists working either for one or more of the Big Four and sometimes the AICPA as well: **Quinn Gillespie & Associates, Jay Velasquez** of **Public Strategies**; former Securities and Exchange Commissioner **Richard Roberts** of **Thelen Reid & Priest**; **David Metzner** of the **American Continental Group**; and **Steve Clark** of **Steve Clark & Associates,** a solo lobbyist who formerly headed Ameritech's Ohio office and is close to the Ohio delegation, including Michael Oxley, chairman of the House Financial Services Committee.

A raft of other lobbyists worked on ancillary matters, such as the thorny issue of how best to account for stock options in a company's balance sheet. The focus, though, was on the accountants. "They were politically hot," notes one lobbyist. "They were the target of that legislation." ■