To the Graduate Council:

I am submitting herewith a dissertation written by Sharlene Garber Bax entitled "Who Shall Hear Them Cry: A Study of the Variations in the State Level Judicial Lobbying Strategies of Interest Groups." I have examined the final copy of this dissertation for form and content and recommend that it be accepted in partial fulfillment of the requirements for the degree of the Doctor of Philosophy, with a major in Political Science.

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We have read this dissertation and recommend its acceptance:

Accepted for the Council

Associate Vice Chancellor and
Dean of the Graduate School

WHO SHALL HEAR THEM CRY:
A STUDY OF THE VARIATIONS IN THE STATE LEVEL JUDICIAL LOBBYING STRATEGIES OF INTEREST GROUPS

A Dissertation
Presented for the
Doctor of Philosophy
Degree
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Sharlene Garber Bax
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DEDICATION

For my high school chemistry teacher,

Mrs. Linda Kanipe

who taught me to combine my interest in social matters

and my talent in science

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ABSTRACT

This dissertation explores interest group strategy on the state level. It specifically focuses upon the decision to which institutions a group will lobby for favorable policy outcomes. Previous studies have recognized the important role played by interest groups in judicial politics. Lobbying the legislature, however, continues to be the dominant means of influence exercised by interest groups. This study examines the decision by some groups to expand their lobbying repertoire to include a judicial strategy while others do not. Whereas several scholars have examined the success interest groups enjoy when they appeal to the courts, this study centers on why all groups do not use this approach. Three theories of strategy decisions -- the political disadvantage theory, resources theory, and adaptation theory -- are explored using a multiple holistic case study approach. Six interest groups are examined as individual cases. Data gathered from public records, accounts in periodicals, interest group publications, and interviews with interest group leaders is used to determine the strategies used by each group. This study finds evidence which supports only one of the three theories, the resource theory. Interest groups which have not achieved their policy goals using the traditional lobbying strategies will appeal to the judiciary if the issue is judicable and they have the additional resources needed.

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CHAPTER 1: INTRODUCTION AND LITERATURE REVIEW

I. Introduction

The courts have become an important arena of public interest group activity. Interest groups seeking court favor sponsor litigation and/or *file amicus curiae* briefs. Both of these activities have risen in occurrence in recent years. Nevertheless, not all groups have chosen to enter the arena of judicial politics. Many public interest groups continue to pursue their policy goals in the more "classic" manner of only lobbying the legislature. This study looks at why some public interest groups have expanded their lobbying efforts to include the judiciary while others have not.

It has been suggested that interest groups turn to the courts when they cannot achieve success in the legislature (Vose 1959). A group's legislative failure may stem from several sources. First, the issue in question may appeal to a minority of the public, and therefore not be embraced by the public opinion driven legislature. As such the courts may be the best avenue. (O'Connor 1980; Sorauf 1976; Wenner 1984; Vose 1959). This is particularly true if there is significant public opposition to the issue promoted by the group. Second, a group may lack the resources needed to be successful. Lobbying is expensive (Hrebenar and Scott 1990). A group may decide that concentrating activity on a single branch of the government is a sound and effective strategy. Finally, a group may feel limited by recent restrictions and regulations on lobbying the legislature. This may force the group to "step out" into other arenas (Barker 1967; Berry 1977; Cortner 1968; Greenberg 1974, 1977; Peltason 1955; Vose 1959). When a group can no longer conduct business in the familiar manner, it begins testing new strategies.

In this study, I use case study analysis to examine the motives behind group strategy decisions. I explore why some groups pursue a judicial strategy and others do

not. Using seven interest groups, I examine three theories of lobbying strategies: the political disadvantage theory, resource theory, and adaptation theory. This means I compare groups on a number of dimensions including: political character, available resources, and political environment. Later in this chapter, I outline the reason I selected this mode of study, and describe the manner in which I conducted the case studies. First, however, I review the literature and research concerning interest group activity.

II. Literature Review

An interest group is defined as "an organized body of individuals who share some goals and who try to influence public policy"(Berry 1989, p. 4). Generally the interest pursued is economic or ideological. It is the interest group's goal to influence public policy in regards to the group's shared economic or ideological interest. There are many ways a group may seek to advance its interest (Berry 1989). Possible advocacy tactics include making campaign contributions, offering endorsements, running "get out the vote" campaigns, contributing volunteers, lobbying the legislature, lobbying the executive branches, engaging in litigation, filing briefs, making public statements about court cases, and influencing public opinion through marches, rallies, or advertisements. All of these advocacy tactics are forms of lobbying.

Lobbying the Legislature

Almost all interest groups lobby the legislature (Hrebenar and Scott 1990). A simple examination of *Public Interest Profiles* (Foundation of Public Affairs 1992, 1996) -- an index of national public interest groups—shows the preeminence of legislative lobbying. Ninety-two percent of the groups listed report some form of legislative lobbying. The literature indicates that several different tactics are used to lobby the

legislature (Rosenthal 1993). These tactics include providing information, entertaining, and offering campaign contributions. The success of these various tactics has been a source of immense, although not concordant, research (Donovan and Vernon 1993; Sabato 1984; Smith 1995; Wright 1985). Some have asserted that the group's size, wealth, cohesion and the amount of information it can provide determine its strength. The legislator's perception of the group's importance and reliability also affects the strength of the group. The type of interest a group represents also helps to define the status accorded to it by a legislator. In addition, whether the group is attempting to push through or block legislation can affect its success. Groups tend to be more successful blocking legislation. The strength and cohesion of the political parties on the issue can also detract from the group's ability to influence. Finally, competition from other groups can affect the amount of influence and success a group has (Donovan and Vernon 1993; Sabato 1984; Smith 1995; Wright 1985).

Regardless of the disparate legislative success of interest groups, almost all groups lobby the legislature. They meet with legislators, provide information on issues, offer testimony, and mobilize constituents to pressure lawmakers. In recent years, both the number of groups lobbying the legislature and the amount of legislative lobbying conducted by groups have increased (Loomis and Cigler 1991). The public has reacted to this proliferation by demanding lobbying reform. Reform was one of the major issues in the 1996 Presidential election, and continues to be a topic in Congress and various state assemblies (See Maples 1996; Murphy 1996; Sidener 1996).

Expanding Lobbying Strategies

Despite its preeminence, lobbying the legislature is only one interest group activity. As Loomis and Cigler state: "More groups are engaged in more forms of

lobbying than ever before." (1991, p. 26) Interest groups now commonly approach the President and his Administration, conduct media outreach and mount grassroots campaigns. Many also participate directly or indirectly in litigation.

In an essential piece on lobbying, Schlozman and Tierney (1983) examined the range of lobbying activities used by interest groups. Based upon a survey of 175 groups, Schlozman and Tierney concluded that although the "classic" forms of lobbying such as drafting legislation and testifying before congressional committees predominate, more groups than ever are using "unconventional" activities (such as litigation) to influence government policy. Table 1 contains their findings.

With the return of extensive regulatory authority and fiscal responsibility to the states in the 1980's, scholars noted a similar expansion of interest group activity on the state level (Hrebenar and Thomas 1992). Relatively little research, however, has been done on interest group activities and strategies on the state level. Rosenthal (1993) found that state groups had become more active and professional than ever before. Recently, Nownes and Freeman (1997) conducted a study similar to Schlozman and Tierney's at the state level. They found that that the most common strategies used by groups in the states were "classic" strategies of testifying at hearings, contacting government officials directly, and drafting legislation. They also found that a number of other activities were common, such as inspiring letter writing campaigns, talking to the media, and entering into coalitions. Most of the groups (75%) reported using 13 or more of the 23 techniques outlined by Schlozman and Tierney (1983).

Table 1. Percentage of Groups Using Each Lobbying Technique at the State Level.

Strategy	**U.S. in 1983**[1]	**States in 1997**[2]
Testifying at legislative hearings	99	99
Contacting government officials directly to present point of view	98	97
Helping to draft legislation	85	88
Alerting state legislators to the effects of a bill on their districts	75	94
Having influential constituents contact legislator's office	80	92
Consulting with government officials to plan legislative strategy	85	84
Attempting to shape implementation of policies	89	85
Mounting grassroots lobbying efforts	80	86
Helping to draft regulations, rules or guidelines	78	81
Shaping government's agenda by raising new issues and calling attention to previously ignored problems	84	83
Engaging in informal contacts with officials	95	81
Inspiring letter-writing or telegram campaigns	84	83
Entering into coalitions with other groups	90	93
Talking to the media	86	74
Serving on advisory commissions and boards	76	76
Making monetary contributions to candidates	58	45
Attempting to influence appointment to public office	53	42
Doing favors for officials who need assistance	56	36
Filing suit or otherwise engaging in litigation	72	40
Working on an election campaign	24	29
Endorsing candidates	22	24
Running advertisements in media about position	31	21
Engaging in protests or demonstrations	20	21

[1] Taken from Schlozman and Tierney (1983), Table 1, p.357.
[2] Taken from Nownes and Freeman (1997), Table 2, p. 36.

Lobbying the Judiciary

Lobbying the judiciary by filing suit or otherwise engaging in litigation is less common than other lobbying activities at both the national or state levels. Schlozman and Tierney (1983) found that 72% of their sample engaged in such lobbying. Thirty-eight percent of the groups claimed that litigation had recently become more common, but only 4% of the groups claimed that litigation consumed a "large part" of their time. Schlozman and Tierney explained

> Sponsoring litigation is not a step that all organizations are eager to take. Although the benefits may be substantial in the event of a legal victory, the planning and execution of litigation can be extraordinarily difficult, expensive, and time consuming . . . Not surprisingly, organizations vary widely in their inclination to litigate." (1986, p. 364)

In their study of state lobbying, Nownes and Freeman (1997) found that 40% of groups interacted with the judiciary, while approximately half of all the groups and lobbyists said the judiciary was an "unimportant" target of activity." (Nownes and Freeman 1997, p. 15) In short, lobbying the judiciary has become one manner in which interest groups have expanded their lobbying activities but it has not become a major activity.

Despite the fact that both interest groups and scholars have traditionally focused their efforts on the legislature, the courts remain an important arena for interest group activity (Bentley 1908; Truman 1951). Interest groups lobby the courts much the same way they lobby the legislature or the executive -- they undertake certain costs to gain access and potential influence. In return, the courts gain valuable information. This information is given to the courts in several ways -- most importantly, through sponsored litigation and *amici curiae*. In both instances, an interest group must incur substantial costs. Much like the other branches, the judiciary is open to group involvement and is perceived as such by many groups (Caldiera and Wright 1989).

It is important to understand, however, that the political character of the courts is more constrained than that of other governmental institutions. A lobbyist may personally approach a state legislator or a member of the executive branch. Such personal contact is considered unprofessional in judicial matters. Justice Hugo Black ended a life long relationship after a friend attempted to lobby him on the behalf of a private corporation (Epstein 1991). In addition, for a group to sponsor litigation it must have "standing to sue" (O'Brien 1986; Stephens and Scheb 1988; Stumpf 1988). Originally, the "standing to sue" standard, which determines if an individual has legal reason to stand as plaintiff or defendant, precluded most interest groups from litigating. Only groups with a direct stake in the outcome (because direct and substantial injury) had standing. In the 1960's and 1970's, however, the national courts loosened the "standing to sue" standard. As a result, groups could organize and sponsor suits. The result was a plethora of class action suits and an expanded role for interest groups in judicial politics (Orren 1976). Throughout the 1970 and 1980's, environmental groups, religious groups, and women's organizations all used the courts to further their goals (O'Connor 1980; Sorauf 1976; Wenner 1984).

Research has suggested that interest groups have since met with a great deal of success as litigants in court. Several case studies have shown instances of interest group success. One such study examined the NAACP's success in *Brown v. Board of Education* (Kluger 1976). Other studies have examined a series of cases or particular types of groups (O'Connor 1980; Sorauf 1976). For example, Epstein (1991) examined group success rates in discrimination cases before the Supreme Court in 1987. She found that when groups sponsored discrimination cases, they won 80% of the time. In contrast, alleging parties not sponsored by groups won only 69% of the time. In addition, she

found that when the defending party was sponsored by a group it won 50% of the time, compared to only 22% for parties not sponsored by groups.

The success enjoyed by groups in litigation has been attributed to several factors. First, groups tend to be "repeat players"; that is they tend to make multiple appearances in court (Galanter 1974). With experience comes knowledge which often leads to success. Second, groups tend to have different goals than individual private litigants. Groups are policy-oriented whereas individuals are case-oriented. Groups tend to select litigation that offers the best probability of policy victory (Kobylka 1987). Third, groups tend to be more aware of the importance of coalition building. It is not unusual for a case to be sponsored by multiple groups with yet other groups filing *amicus curiae* in support. Such a consolidated front may lead the court to see the significance of the case to parties who are external to the courtroom (Barker 1967). Finally, groups attempt to prepare the courts in advance for their arguments by flooding law reviews with articles presenting constitutional arguments for their policy goals (Newland 1959). These factors--experience, policy orientation, coalition building, and use of law reviews to prime the court--determine the success of litigants supported by an interest group.

Success, however, does not necessarily always mean victory. Groups have various reasons for sponsoring litigation, and they also have multiple goals. Winning is one way to steer policy in a certain direction (Barker 1967). Another goal of group litigation, however, may be to gain public attention and mobilize interest. Stewart and Sheffield (1987), for example, found that when civil right groups participated in litigation, the mobilization of African-Americans increased. They found that group litigation positively affected voter registration, support for black candidates, and the number of black candidates running for office. Groups seek to advance their policy

priorities by sponsoring litigation. The desired policy change may come from a favorable court decision or from public reaction to the case.

Litigation is only one method used by interest groups to lobby the judiciary. Another method is the *amicus curiae* brief. The *amicus curiae* ("friend of the court") brief is a statement issued by an individual or a group who is not a party to the case, but who has some interest in the outcome. *Amici curiae* may be filed at two stages in judicial proceedings. First, *amici* may be filed at the *certiorari* stage. Such briefs usually offer an argument as to why the court should or should not review a case. Caldiera and Wright (1990) found that an *amicus* at this point helps groups fill an agenda-setting role. An *amicus* can also be filed once the case has been accepted for review. An *amicus* filed at this point states the substantive interest of the filing party, relies upon particular point of law, and is in support of one of the parties to the case.[3]

Evidence suggests that the use of *amici curiae* by groups is growing (Caldiera and Wright 1990; Comparato 1994). The overall number of *amici* has increased, and more types of groups than ever now file. This increase in *amici* activity may be due to the perception among interest group leaders that the *amicus curiae* is a potential method for policy change and success (Caldiera and Wright 1989). There is some evidence that this perception is well founded. For example, Caldiera and Wright (1988) found that the court's decision to grant *certiorari* was significantly related to whether or not a group had filed an *amicus* brief. They conclude that the amount of *amici* filed signal the amount of public discontent or conflict. In other words, the more *amici* filed, regardless of argument, the more likely the court is to review. In a similar study, Songer and Kuersten (1994) used a matching pairs' design to examine *amici* success in state court decisions on the merits. They examined pairs of cases in which several attributes matched, but in

[3] Although this distinction is quite important on the national level, it is not as prominent on the state level because most *amici* filed at the state level are of the latter type.

which one case an interest group had filed a supporting *amici* and in the other case no such *amici* was filed. They found that litigants who were supported by *amici* were substantially more likely to win than those who were not supported by *amici*.

Groups do not file briefs in all cases of interest, however. Filing a brief can be extremely expensive. Preparation of a brief is done by an attorney. Caldiera and Wright in 1988 found that it tends to cost $15-20 thousand dollars. (We can assume the cost is even greater today.) As mentioned earlier, groups tend to carefully select their cases. Several factors may induce a group to be a "friend of the court". The issue before the court is one factor. Epstein (1991) found that in 100% of the religion, labor relations, freedom of expression, property/boundaries cases reviewed by the Supreme Court, *amici* briefs were filed, but in only 50% of the immigration cases were briefs filed.

It is important to note that the judicial issue under review is not the only factor which determines if a group uses a judicial strategy. In one survey of interest group leaders, Caldiera and Wright (1989) found that several other "cues" are also important factors in a group's decision to file an *amicus curiae* brief. The significance of the case to the group's members is one cue -- the more important the case is to the membership, the more likely the group is to get involved. Group leaders referred to a constant need to use case participation to satisfy members. Another significant factor is the group's past success. If a group has been successful in the past, filing *amici* is more likely to be viewed as an efficient use of resources than if it has not been successful. Finally, the existence of conflict is also a determining factor. Groups are more likely to participate if opposing groups were participating.

Amicus curiae briefs are an increasingly important tool for interest groups. The use of these briefs has increased, and they are now seen by many groups as fruitful mechanisms for change. Moreover, litigation has proven to be a successful mechanism of

change for several groups. It is hard to imagine how the civil rights movement would have progressed without the sponsored litigation of groups such as the NAACP (Vose 1959).

Summary

A great deal of research has addressed groups' use of litigation and briefs to influence court decisions. Much of the research conducted, however, is severely limited. First, most is confined to federal courts. There is relatively little written on state courts. This is partially due to the relative accessibility and availability of federal court reports. State courts, however, have become an arena of increasing litigation. In response to an increasingly conservative federal court, Justice Brennan urged groups to turn to the states, particularly in the area of civil liberties (*Michigan v. Moseley*, 423 U.S. 96). Research suggested that cases filed in state courts, as well as *amici*, have significantly increased over the past 15 years (Comparato 1994). In addition, *amici* now rely more upon state constitutions than on the traditional constitutional arguments. It would seem, therefore, that state courts and interest group involvement in state court proceedings warrant further study.

One shortcoming of extant research is that it does not reconcile the different methods an interest group might use to exert influence. There has been a reasonable amount of research in the techniques used to influence the courts, but virtually no research connecting the use of litigation and *amici*. It is unlikely that a group uses only one judicial strategy. Furthermore, most groups lobby the judiciary in addition to other branches of government.

Finally, a third shortcoming of previous research is that it focuses almost entirely on court success. Few studies focus on what motivates interest groups to lobby the courts

in the first place. The legislature is considered the most traditional and obvious target of interest group activity. More and more groups, however, are choosing to pursue their goals by employing more than one strategy, such as lobbying the judiciary and the legislature. Some exploratory research has been conducted regarding this phenomenon, and it has produced some hypotheses about why interest groups choose to participate in the courts. But, there has been limited research testing these hypotheses (Barker 1967; Berry 1977; Greenberg 1974, 1977; Peltason 1955; Vose 1959). Furthermore, the research done has yielded mixed results.

III. Lobbying Strategy Theories

This study seeks to fill some of these gaps in the literature on lobbying in general, and judicial lobbying in particular. It examines why some interest groups choose to pursue a judicial strategy, whereas others do not. Both litigation and *amici* will be considered. This study investigates three theories of lobbying strategy – the political disadvantage, resources and adaptation theories.

Political Disadvantage Theory

The political disadvantage theory focuses upon the high rate of litigation and briefs filed by minority groups. First implied by Vose (1959), and later articulated by Cortner (1968),the political disadvantage theory holds:

> (Some groups) are highly dependent upon the judicial process as a means of pursuing their policy interests, usually because they are temporarily, or even permanently, disadvantaged in terms of their abilities to attain successfully their goals in the electoral process, within the elected political institutions or in the bureaucracy. If they are to succeed at all in the pursuit of their goals, they are almost compelled to resort to litigation. (p. 287)

The political disadvantage theory assumes that elected officials are more responsive to majority opinion than appointed officials. As a result, interest groups that represent unpopular positions may fail to gain access to these institutions. Because they are disadvantaged, groups representing unpopular causes cannot gain access (and thereby employ the more "classic" lobbying strategies) and thus they revert to alternative means such as lobbying the judiciary.

The political disadvantage theory has been severely criticized for to its limited nature. Specifically, Olson (1990) argues that it is time-bound. He points out that today blacks and other minority groups have access to all policy-making processes and pursue their goals through a variety of political strategies. In fact, the current President of the NAACP, the group for which Vose first implied the political disadvantage theory, resigned a U.S. House seat to become the group's President.

Resources Theory

A second theory -- one adopted by some of the critics of political disadvantage theory (Olson 1990) -- points to resources as determinative, and suggests that variations in resources result in variations in strategy. For example, Schlozman and Tierney (1986) state, "Perhaps the most important factor affecting an organization's strategic choice of lobbying techniques is its resources." (p. 161) The research on the relationship between a group's resources and its decision to employ judicial lobbying strategies has yielded mixed results. Schepple and Walker (1989) suggested that groups with greater resources were more likely to pursue a judicial strategy. They implied that groups with extensive resources add judicial lobbying as one of the many lobbying strategies in their overall scheme. Bruer (1988), however, suggested that the opposite may be true. He argued that groups with limited resources abandon legislative strategies for judicial strategies. In

other words, groups with limited resources decide that a judicial approach is the most effective method and concentrate all of their resources on lobbying the judiciary rather than the legislature.

Part of the disagreement may lie in the different measures of resources used by each study. Whereas Schepple and Walker used staff size as an indicator, Bruer used budget size. Regardless, both studies indicated that the amount of resources available to a group affects its strategy decisions.

Adaptation Theory

A third theory suggests that interest groups appeal to the judiciary when the path to other branches is closed or blocked (Barker 1967; Berry 1977; Greenberg 1974; Jacob 1978; Manwaring 1962; O'Connor 1980; Peltason 1955; Sorauf 1976; Truman 1971). Based on organizational theory, the adaptation theory suggests that as its external environment changes, an organization will adapt its strategy to meet those changes (Heffron 1989). In an interest group context, the adaptation theory simply suggests that as the traditional paths become too difficult, groups look for alternative strategies.

In particular, the adoption of lobbying laws and limitations pose an important change in the political environment for interest groups. It is reasonable to assume that an interest group might respond to these changes by altering its strategies. Thomas considered a state's public disclosure requirements an important factor in determining the make-up, operating techniques, and impact of interest groups in the states. He states: "Disclosure appears to have little effect on reducing the overall power of the group system . . . However, these laws do appear to change group tactics." (Hrebenar and Thomas 1992, p. 16) If a state passed a law, which made it more difficult for a group to

lobby the legislature, he concluded that groups would seek out new means of influence elsewhere.

A cursory examination of *Public Interest Profiles* (Foundation of Public Affairs 1992) tentatively supports both the political disadvantage theory and the resources theory. A majority (51%) of minority groups[4] listed participated in judicial activity. In addition, non-economic groups were more likely to conduct judicial activity than economic groups. Only 20% of the economic groups reported taking judicial measures whereas 52% of other groups[5] reported doing so. In short, *Public Interest Profiles* supports both the political disadvantage theory and the resources theory. However, because this data is cross-sectional, it does not address the adaptation theory.

IV. Conclusion

Research shows that almost all groups lobby the legislature, but many groups have expanded their lobbying repertoire to include other activities. Only a small portion of the groups, however, have expanded their lobbying strategies to include judicial activity such as sponsoring litigation and filing *amici* briefs. Extant literature suggests three possible factors that may affect whether or not a group chooses to employ a judicial strategy –the political advantage/disadvantage it holds, the resources available to it, and the political environment in which it operates. According to the political disadvantage theory, a group with unpopular objectives will be unlikely to gain access to the public opinion conscious legislature, so they will appeal to the judiciary instead. According to the resource theory, a group with extensive resources will make different strategy

[4] The minority grouping was achieved by combining the civil rights groups and the religious groups as defined by the Foundation of Public Affairs.

[5] This designation includes those groups considered to fall in the following categories according to the Foundation of Public Affairs: civil rights, grassroots, health, environment, public interest law, and religious.

decisions than a group with limited resources. Finally, according to the adaptation theory environmental changes (such as the adoption of lobbying laws) cause interest groups to lobby the judiciary.

This paper is designed to examine the strategy decisions of public interest groups. It uses the three theories outlined here to investigate interest group activity in the judiciary. It seeks to explain why some groups expand their lobbying strategies to include judicial lobbying and others do not. In the following chapter, I more fully discuss how I intend to study this question.

CHAPTER 2: DATA AND METHODS

I. Case Studies

There are several ways a researcher can set out to study a given topic. Case studies, however, are the preferred method when one is addressing questions of "how" and "why" certain contemporary phenomena occur in an environment over which the investigator has very little control (Yin 1994.) There are two conditions under which the case study approach is considered appropriate. First, case studies are appropriate for research on explanatory questions of "how" and why". Several theorists have noted the crucial role case studies play in exploratory research and theory development (Allison 1971; Latane and Darley 1969; Lupo 1971; Yin 1981, 1994). In fact, exploratory research is often conducted using case studies because the case study allows for important operational links to be traced over time, whereas other methods do not (Yin 1994). Case study research is especially useful when descriptive and explanatory information is needed. Case studies tend to be more common in areas where there is little accumulation of knowledge (Yin 1994). The case study can be used to gather information about the phenomena, and then that information can help generate explanations for the phenomena.

Case studies are also useful when the researcher has little or no control over the behavioral events he or she is attempting to study. Although the social sciences often view the experiment as the ultimate in research, the practical and ethical side of researching "social " phenomena prevents them from reaching this zenith. Many scholars, however, argue that the case study -- if conducted properly -- can serve as an appropriate means to address questions regarding social phenomena (King, Keohane and Verba 1994; Marshall and Rossman 1989; Yin 1994).

It is for these reasons I employ case study methodology here. Both conditions exist. The question I address -- why do some interest groups take a judicial approach to further their state policy goals while other groups do not? -- is an exploratory one. It seeks to explain the behavior of state interest groups. In order to explain the strategic decisions of interest groups, a great deal of information about groups and their decision-making processes is needed. The explanation for variations in interest group strategies is probably extremely complex. Its investigation requires extensive data gathering and comparison among groups. This is best accomplished through a series of case studies in which information about each group is collected and cases are compared. It is through such research that motivations and strategies can best be explored and ascertained. In addition, researchers in this area are afforded little or no control over the phenomena being studied in this area. The researcher cannot assign minority status, allocate resources among groups, or alter the external environment in order to test the effects of these factors upon group strategy. The researcher, instead, is compelled to work and study within a previously established context. For these reasons, the research will be conducted using a case study methodology in this analysis of group strategy. Finally, it is important to note that many scholars believe that the interest group sub-field would benefit from further case study research (Crotty, et al, 1994).

This analysis consists of a series of case studies of interest groups in Tennessee. The activities examined are those conducted within Tennessee with the intent of influencing state policy. As previously mentioned, this study assumes state government as its focus because of the lack of information on this topic. Moreover, research suggests that interest group activity is increasing at the state level (Comparato 1994). Only one state is examined because the question of interest is the difference in group strategies – not the differences between states. One of the theories I explore, the adaptation theory,

claims that the environment in which a group operates influences its strategy decisions. In order to study this properly it was necessary to ensure that the external environment is constant across groups. Because states differ on a multiplicity of factors, I decided to conduct the case studies in the same context.

A multiple case holistic case study design is employed here . In other words, there are several case studies conducted over a period of time. In each case, the group is the unit of analysis. All observations are made at the group level. If deemed appropriate, embedded research is conducted and a situational comparison is made within the group. This is done when a group chose to pursue a legislative strategy for one issue while pursuing a judicial strategy for another. Embedded researched is aimed at discerning the reasoning behind the different strategies.

II. Definitions

Here, I define "interest group" as an organized body of individuals who share some goals and who try to influence public policy (Berry 1989, p. 4). I study six groups, which are drawn from a working list of interest groups in Tennessee. This list was constructed from the state's list of registered lobbyists and *Public Interest Profiles* -- a listing of national public interest organizations. Each source possesses a deficiency that rendered it less than representative on its own. The registered lobbyist list focuses upon legislative lobbying and thus groups that engaged solely in lobbying the judiciary are not included. *Public Interest Profiles* fails to inform us whether the organization operates within Tennessee. Thus, in order to construct a representative sample both sources were consulted. The result is a list containing national interest groups with affiliates registered in Tennessee. The national character of the groups chosen suggests that similar groups are likely to exist in other states.

It should be noted that this study does not include, nor is this study interested in, private groups, corporations, or trade associations. Also excluded are groups specified by *Public Interest Profiles* as public interest law groups. Public interest law groups tend to pursue only a judicial strategy, have a limited membership, and exist simply as a source of legal advice and assistance (Schlozman and Tierney 1986). In many cases, they are branches of larger organizations (for example, the NAACP has a legal defense fund that is listed as a public interest law firm). In addition, I exclude groups listed as foundations. Foundations direct funds to other interest groups, and do not directly engage in lobbying.

III. Case Selection

Yin (1994) suggested that two things should direct case selection. First, cases should be selected for replication purposes. This increases the external validity of each case. Second, cases should be selected with the intent of producing contrasting results for predictable reasons. Both purposes direct the case selection in this study. A total of seven groups are studied. Two of the cases selected are economic interest groups. Five of the cases selected are public interest groups -- two conservative groups, two liberal groups, and one non-ideological group (See Table 2). Including the different types of interest groups allows me to test the political disadvantage theory. Groups that ideologically differ from the government are expected to react as politically disadvantaged. Groups which ideologically agree with the government will not.

Four of the groups examined have large budgets, while three have more limited budgets (see Table 2). This variation in resources allows me to test the resources theory. Although scholars disagree upon whether the relationship between resources and judicial strategy is positive or negative, within the context of this case study I can test the validity of the proposed relationship. If all of the "resource poor" groups select the same

Table 2. Interest Groups Selected by Nature and Resources.

	Availability of Resources	
Type of Group	**Resource Poor**	**Resource Rich**
Conservative Public Interest	**Eagle Forum**	**National Rifle Association**
Liberal Public Interest	**National Organization for Women**	**National Wildlife Federation**
Non ideological Public Interest	**None**	**Mothers Against Drunk Driving**
Economic Interest	**Tennessee Business Roundtable**	**Wine and Spirit Wholesalers of Tennessee**

strategies, and all of the "resource rich" groups pursue a different strategy, then the resource theory is supported. If the "resource rich" groups all vary or the "resource rich" groups vary in their strategies, then the theory is not confirmed. In a similar manner, I can test the adaptation theory. If all of the groups demonstrated an increase in judicial activity after the passage of restrictive lobbying legislation, then the theory was confirmed. If all groups did not demonstrate this increase, however, then the theory failed to be confirmed and should be questioned.

These case studies were conducted and observations were made with the intention of testing the theories discussed in Chapter 1. To this end, pattern matching was used. The patterns that were matched included patterns within the (socially liberal, socially conservative, non-ideological and economic) categories, and the resources categories that I discussed above.

IV. Data Collection

In a case study, several sources of evidence should be used. This allows the researcher to address questions of validity (Yin 1994). For this study, there were three main sources of evidence -- interviews, documentation in periodicals, and archival records.

To begin with, a basic profile of each group was composed using the information available in *Public Interest Profiles* and the Tennessee registry of registered lobbyists. Using this information, the basic outline of an interview was written. "Basic outline" is emphasized because I attempted to remain flexible, and conduct open-ended interviews (McCracken 1988; Sudman 1982; Yin 1994). Some basic questions, however, were written beforehand (Appendix A lists tentative interview questions used.). These questions served as the foundation for the interviews, but the interviews were not limited

to these questions. At least three individuals from each organization were interviewed. This allowed for corroboration of the data collected. In addition, it allowed for a more detailed portrait of each organization. The interviews were taped (with permission of course). Consent to be taped was recorded at the beginning of the interview. (A copy of the informed consent form can be found in Appendix B.)

To further corroborate the information collected, the activities conducted by the groups were followed in local, state, and national newspapers and magazines. This offered a secondary point of information about each group's activities, and served to either confirm or disconfirm information collected in the interviews. Finally, government records such as legislative proceedings, votes on issues around which a sample group mobilized, and court cases in which a group was involved, were examined. A case synopsis was composed from all of the sources. This synopsis offered a basic outline of the goals, resources and structure of the organization. It included a basic summary of a group's activities. This synopsis was used in the final case analysis and pattern matching.

V. Conclusion

Case study analysis is the most appropriate method for the research conducted here. The nature of the research question is exploratory, and basic data gathering is needed. Finally, it is clear that the study of interest groups will benefit from case studies like this one.

I selected seven interest groups to study. Information about each group was collected in interviews and from a variety of public documents. A four-step process was used in the data collection. First, a basic description of activities was constructed from media reports, group publications, the Internet, and *Public Interest Profiles*. Second, interviews were conducted. Third, remaining data sources were investigated. Finally, a

case synopsis was constructed. All of the data collected were constrained to the same environment -- Tennessee. It is for this reason that the basic nature of Tennessee government and politics is discussed in the next chapter.

CHAPTER 3: TENNESSEE GOVERNMENT AND POLITICS

Anyone who studies state politics immediately notices the different shapes assumed by governments in each state. These variations in government are the result of differing histories and cultures. It therefore goes without saying that to understand the government of a state, one must understand the context in which that government exists. That context includes the geographic composition, history, economy, and culture of the state and its citizens.

Although each state has its unique geography history, economy, and culture, there are characteristics that states share. In the following section, I examine how Tennessee's development mirrors that of other states. Because my study is based on only one state, it is not generalizeable. However, Tennessee is similar to other states on several important characteristics. This similarity means that my findings might apply in other states.

I. Background

In Tennessee, there are "three grand divisions" (originally based on geographical differences). The East, dominated by mountains, traditionally had an economy based on coal mining and small-scale farming. Both the Middle part of the state, dominated by the plateau, and the Western part of the state, dominated by lowlands, had economies based on agriculture, and therefore were more dependent on slavery in the early 1800's (Law 1954). The result of these divisions was a prolonged battle between the eastern part of the state and the other two parts. The battle was so intense that in 1784, the eastern part of state attempted to establish itself as an independent state called "Franklin" (Corlew 1981; Folmsbee and Mitchell 1969).

During the Civil War, Tennessee was the last state to join the confederacy. Upon the state's secession from the Union, the eastern part of the state seceded from the state and remained Unionist. As a result, the reconstruction of Tennessee differed from that of the other southern states. A militant unionist oligarchy based in East Tennessee took control of the state government and quickly ratified the Thirteenth Amendment (Alexander 1950; Patton 1934).

In 1870, Tennessee adopted a new constitution (which endures) which ended the military-style rule by the eastern radicals. Following the convention, Republicans (the party of the unionist-radicals) became the minority, and Democrats became the state's dominant political party (Alexander 1950; Corlew 1981; Folmsbee and Mitchell 1969; Greene 1986; Patton 1934). To this day, Middle and West Tennessee are predominantly Democratic while East Tennessee is strongly Republican.

Recently, however, the difference between the regions has diminished due to the growing popularity of the Republican Party in Middle and West Tennessee. With reapportionment and integration of the late 1950's, the Democratic Party became factionalized and lost support. Meanwhile, the Republican Party became more successful. For example, Republican Senator Howard Baker was first elected in 1966. Tennesseans voted overwhelmingly for Republican presidential candidate Richard Nixon in 1968, and that same year, Republicans took control of the state House of Representatives and increased their representation in the state Senate. In 1970, Republican candidate Crockett defeated incumbent senator Al Gore, and Republican candidate Winfield Dunn was elected Governor. Since then, Tennessee has been a competitive two-party state (Corlew 1981; Folmsbee and Mitchell 1969; Greene 1986).

II. Government

Presently, Tennessee government conforms to the Constitution of 1870. A total of 32 of 55 amendments have been added since 1870. There are three constitutional branches in Tennessee state government– the executive (headed by the governor), the State Assembly, and the judiciary (directed by the Tennessee Supreme Court) (Council of State Governments 1994; Greene 1986; Laska 1990).

The Executive

The governor is chosen through statewide election. The Constitution requires that candidates be 30 years old and citizens of Tennessee for seven years. Once elected, the governor serves for four years, and may seek re-election once. The governor can be impeached in a manner similar to impeachment of the President of the United States (Council of State Governments 1994; Secretary of State 1996).

The governor's constitutional powers include full budget authority, line item veto, and constitutional reorganization authority. State statute also authorizes the governor to appoint a cabinet to assist and advise him/her in his/her duties. At present, the governor's cabinet is comprised of the commissioners who serve as administrative heads of each of 22 departments, and six senior staff assistants. In comparison to other states, Tennessee's governor has very strong appointive powers (due to the large number of offices the governor appoints without legislative approval). Strong appointive power, however, is typical of states in the Southeast. Fourteen other state governors have very strong appointive powers including those in Kentucky, North Carolina, Virginia and West Virginia (Dye 1994).

The Legislature

The State Assembly is the state legislature. It convenes in odd numbered years, and is limited to 90 regular legislative days and 30 "special session" days. Local areas called "districts" elect legislators who serve in the state House and Senate. There are presently 33 Senate districts and 99 House districts. The Constitution requires that House members be twenty-one years old, residents of the state for three years, and residents of the electing district for one year. The constitutional requirements to serve in the state Senate are that the individual must be thirty years old, and have resided in the state for three years. A Speaker and Speaker Pro Tempore, both of whom are selected by the House itself, lead the House. A President, who is selected by the Senate itself, leads the Senate. The President appoints the President pro Tempore of the Senate. Each party's caucus selects the party leaders.

In addition to the traditional legislative powers, the State Assembly has the power to override the governor's line-item veto with a two-thirds vote in both houses. The State Assembly also sets it own compensation. In comparison to other states, the Tennessee State Assembly is moderately professional. A moderately professional legislature lacks the full-time character of truly professional legislatures such as those in California and New York, but offers pay and staff which exceeds that offered by truly citizen legislatures such as those in Utah and New Hampshire. Most southern states have moderately professional legislatures (Dye 1994; Council of State Governments 1994; Secretary of State 1996).

The Judiciary

The state judiciary has four levels– the Supreme Court, the Intermediate Appellate Courts, the Trial Courts, and the Courts of Limited Jurisdiction. The highest court in the

state is the Supreme Court, which is composed of five justices elected at large in a retaining election every eight years. Judicial elections are also used in Alabama, Arkansas, Mississippi, North Carolina, Texas and West Virginia. According to the Tennessee Constitution, the judges are to represent the three "grand divisions" of the state –west, middle and east – with at least one judge coming from each division, and no more than two coming from any one division. The constitution requires that Supreme Court justices be at least 35 years old and have a minimum of five years state residency and have a license to practice law in Tennessee. The majority of cases decided by the Supreme Court involves review of civil and criminal cases appealed from lower courts. Similar to the United States Supreme Court, the Tennessee Supreme Court reviews cases from the Court of Appeals on a selective basis, primarily through the granting or denying of the writ of certiorari. The Chief Justice of the Supreme Court is selected by the Supreme Court justices, and serves for 18 months (Council of State Governments 1994; Secretary of State 1996).

Local Government

Local government also plays an important role in Tennessee. Unlike centralized states such as Massachusetts, Montana, and Alaska, Tennessee is quite balanced. In short, local governments in Tennessee take an important regulatory and service provision role. In other states, the state government dominates. Previously, Tennessee government was highly decentralized, but recent changes in legislative and gubernatorial authority have strengthened the state government (Dye 1994).

Summary

In sum, the Governor, State Assembly and Supreme Court are the three constitutional branches of Tennessee government. Citizens elect individuals to each of these three branches. Certain aspects of the executive, legislature and judiciary resemble the governments that exist in other states, particularly Southern states. Several Southern states, for example, have Governors with strong appointive power, professional-citizen legislatures, and elected judiciaries.

III. Political Culture

According to Daniel Elazar (1966), Tennessee has a traditionalistic political culture. Most southern states have a traditionalistic, traditionalistic-individualistic, or traditionalistic-moralistic political culture. Table 3 displays the political culture of the Southern states. Traditionalistic cultures are rooted in an elitist view of the commonwealth. Such a society accepts hierarchy as part of the natural order of things. Government and power

Table 3. The Political Culture of the Southern States[1].

Traditionalistic	
Alabama	Mississippi
Arkansas	South Carolina
Georgia	Tennessee
Louisiana	
Traditionalistic-Individualistic	
Florida	Texas
Kentucky	Virginia
Traditionalistic-Moralistic	
North Carolina	

[1] Taken from Elazar (1966), p.135.

are confined to a relatively small, self-perpetuating group, political parties are of minimal importance (because they contradict the elitist nature of a traditionalistic society), and political competition in a traditionalistic society is conducted through factional alignments. Traditionalistic cultures tend to have loose one-party systems. Participation tends to be low and this further sharpens the elitist quality. In 1992, Tennessee was among the lower third of the 50 states in voter participation in the presidential election (Dye 1994). State-wide officials play a conservative custodial role, not initiatory roles, because the role of government is thought to be limited to maintaining and securing the existing social order. In sum, Tennessee, as a traditionalistic culture, has a highly factionalized one-party system with a conservative bent in which officials are elected by a small portion of the citizens (Elazar 1966).

The factional nature of Tennessee was recognized and discussed by V. O. Key Jr. in his noteworthy *Southern Politics* (1984). He claimed that Tennessee politics was based upon the coalitions resulting from state's geographical diversity and history. East Tennessee, he argued, differed from the rest of the state concerning the Civil War -- it was loyal to the Union. As a result, distinct political regions emerged and persisted. V. O. Key noted that "Tennessee in a sense has not one one-party system, but two one-party systems (1984, p. 75)." East Tennessee is predominately Republican, and Middle and West Tennessee are both predominantly Democrat.

Like many Southern states, Tennessee has a traditionalistic political culture. A loose one-party system, a conservative undertone, and low participation tend to be indications of a traditionalistic culture. Tennessee has conservative government dominated by the Democratic Party and elected by a small percentage of the populace. The elitist nature is favorable to special interest influence. It provides interest groups a

friendly environment in which to operate. Similar conditions exist in Alabama, Georgia, and South Carolina.

IV. Parties and Interest Groups

Political Parties

The combination of Middle and West Tennessee under the Democratic Party has traditionally given Democrats an advantage. This has traditionally translated into victory in statewide elections. As a result, scholars (Dye 1994; Greene 1982; Vital Statistics on American Politics 1992) have classified Tennessee as a Democrat dominated state. This is yet another characteristic that Tennessee shares with several Southern states. Table 4 lists the states which are dominated by the Democratic Party.

Table 4. Democrat Dominated States[7].

Alabama	Maryland	Oklahoma
Arkansas	Massachusetts	Rhode Island
Florida	Mississippi	South Carolina
Georgia	Missouri	Tennessee
Hawaii	Nevada	Texas
Kentucky	New Mexico	Virginia
Louisiana	North Carolina	West Virginia

Until recently, Tennessee was generally considered a non-competitive, non-policy relevant party system with a low level of organization (Dye 1984; Wright, Erikson and McIver 1987). Since the 1970s, however, the Republican Party has gained strength throughout the state. As the Democratic Party began taking liberal positions on social issues -- particularly civil rights -- the Republican Party gained strength. As a result, the dual nature of the Tennessee Republican Party emerged. Middle and East Tennessee

[7] Taken from Dye (1994), Table 5-3, p129.

tended to be more conservative than the historically loyal and strong East Tennessee Republicans (Scheb, Lyons and Neeley; 1996).

Republicans continued to gain support throughout the 1980s. For example, the Republican Party enjoyed gubernatorial success with the election and re-election of Lamar Alexander. In 1990's, a dramatic shift rendered Tennessee a competitive two-party state (Richardson and Neeley 1996; Scheb, Lyons and Neeley 1996). Following the general election of 1994, the Governor, both U.S. Senators, and the majority of the state Senate were Republicans. The Republican Party's presence in elected offices has been accompanied by a shift in public opinion. According to statewide survey data from the last eight years, approximately 30% of the state's population identify themselves as Republican, 32% identify themselves as Democrat, and 38% identify themselves as Independents (Scheb, Lyons and Neeley 1996).

At present, neither party organization in Tennessee is particularly strong (Dye 1994). The political environment, however, is more receptive to conservative ideas that liberal ones. At present, about 37% of Tennesseans consider themselves to be conservative whereas only 16% consider themselves to be liberal (Scheb, Lyons and Neeley 1996).

Tennessee's conservative disposition is evident in state policy. Wright, Erikson and McIver (1987) created a measure of state ideology based upon an index of state adoption of eight separate policies. They examined education expenditures, Medicaid expenditures, AFDC expenditures, consumer protection regulations, criminal justice legislation (criminalization of domestic violence, decriminalization of marijuana), Equal Rights amendment, and progressive state tax. They found that Tennessee ranks in the bottom half of the fifty states for state expenditures in education and welfare (*Statistical*

Abstract of the United States 1995). In all, Wright, Erikson and McIver (1987) concluded that Tennessee had a moderately conservative policy-based ideology.

Interest Groups

Like many Southern states, Tennessee is classified as an "interest group dominant" state (Hrebenar and Thomas 1992; Dye 1994). Table 5 lists the dominant interest group states.

Table 5. Interest Group Dominant States[8].

Alabama	Louisiana	South Carolina
Alaska	Mississippi	Tennessee
Florida	New Mexico	West Virginia

The lack of strong party organizations contributes to the strength of interest groups in Tennessee (Morehouse 1981). The fact that Tennessee does not have a "professional" legislature may further promote the strength of its interest groups. Full-time legislatures with extensive staff do more of their own research and are less dependent upon interest groups for information and technical expertise (Wiggins, Harmun and Bell 1992). Hrebenar and Thomas (1992) argue that the lack of state lobbying regulations results in greater interest group dominance.

Folz and Freeman (1992) found that Tennessee's lobbying regulations were quite minimal. (Tennessee legislation directly related to lobbying is outlined in Appendix C.) For example, until recently, the only regulations pertaining to lobbying were the Lobbyist Registration and Disclosure Act of 1975 and the Campaign Financial Disclosure Act of 1980. The former required lobbyists representing professional, economic, or business

[8] Taken from Dye (1994), Table 5-3, p133.

interests to register with the state and publicly disclose all gifts of $50 or greater. The 1980 law required candidates for public office to disclose all campaign contributions of $100 or greater. There was no limitation on gifts or campaign contributions, and non-business groups and not-for-profit organizations were not required to register. As a result, several state groups possessed a great deal of power and influence. Economic groups, in particular, were influential. The Tennessee Farm Bureau, Licensed Beverage Wholesalers of Tennessee, Bankers Association, and Tennessee Education Association were among the specific groups considered most influential.

Over the last decade or so, many states have adopted relatively stringent lobbying legislation, and lobbying reform and ethics in government have become major issues in elections. As a result, state legislators have adopted a variety of laws aimed at decreasing the fiscal influence of interest groups and appeasing a concerned public. The laws have included bans on gifts, contribution limits, contribution disclosure procedures, and lobbying registration procedures. Although the effects of such laws on interest group influence is minimal, scholars agree that the laws do affect strategy changes Hrebenar and Thomas 1992).

In the past few years, Tennessee has joined the lobby reform bandwagon. In 1989, for example, the General Assembly adopted the Registry of Election Campaign Finance Act which established an independent entity to oversee the registration and regulation of lobbyists. Six years later, the legislature adopted (the long-fought-over) Campaign Contribution Limits Act, which prohibited contributions exceeding $2500 (Branson 1994; Branson 1995a; Branson 1995b). And in 1996, an adopted amendment to the Lobbyist Registration and Disclosure Act prohibited gifts to public officials. The amendment made exceptions for personal gifts, tickets to state university sporting events,

and food valued at $50 or less (the food exception was removed in 1997). (Appendix C includes the original 1996 legislation and 1997 amendments.)

With this series of reforms, lawmakers hoped to placate a public, which had grown increasingly skeptical of interest group influence. As Wade (1995, A1) points out, "Most (legislators) expressed hope that they would soften voters' perceptions of a general Assembly that is wined, dined and bought by special interests."

Summary

Until recently, Tennessee had a one-party political system. Like most Southern states, the Democratic Party dominated state and national elections. In addition, little was done to regulate and limit the actions of special interests. Thus, even today Tennessee is considered a "dominant" interest group state. Recent lobbying reforms, however, have served to limit the operations of interest groups within the state. Like many other states, Tennessee has adopted campaign contribution limits and campaign bans.

Lobbying reforms not withstanding, Tennessee offers a good opportunity to study interest groups. First interest groups thrive. Consequently, there are a number of interest groups to study. Second, recent changes in Tennessee's lobbying laws offer a chance to study the effects of such laws on interest groups.

V. Conclusion

Tennessee's history mirrors that of many Southern states. Economic and political factions emerged early in the state's history due to geographic and economic divisions. A coalition of Middle and West Tennessee eventually arose and engendered Democratic dominance. During the liberal 1960s, conservatives throughout Tennessee (and other

Southern states) found refuge in the Republican Party. The result was intensified state-wide two-party competition.

Meanwhile, interest groups have flourished. Several factors have contributed to the creation of a strong state interest group system. First, Tennessee had had a low level of party competition and thus political cleavages have manifested themselves in interest groups competition. Second, Tennessee's traditionalistic culture has offered interest groups a friendly environment in which to operate. Third, interest groups have benefited from the fact that the state legislature is only moderately professional. State legislatures with extremely limited resources traditionally rely upon interest groups to provide important information about issues, and resources for re-election. Fourth, the lack of lobbying laws allowed groups to utilize a full range of lobbying strategies, and operate with very little oversight. Only recently has the state begun limiting the power wielded by these groups. Following a national trend, Tennessee has adopted several lobbying reforms. Finally, with the recent shift to a competitive two-party system, the "interest group dominant" system that emerged during Democratic dominance has grown to include groups from across the political spectrum. Both conservative and liberal and Democrat and Republican groups have representatives in the state legislature, and the increasing competitiveness of the elections means that campaign support offered by interest groups is vitally important.

Overall, Tennessee typifies the American South. Its constitution and government structure greatly resembles that of its eastern neighbor, North Carolina. It shares a traditional political culture with Alabama and Georgia. Its partisan history mirrors that of most of the South. Its interest group dominated character is similar to that of Alabama and South Carolina and offers a good occasion to study interest group activity. Overall,

Tennessee is much like other states on a number of characteristics which suggests the findings reported in this study might be applicable in other states.

CHAPTER 4: THE CASES

This study examines the state affiliates of seven national interest groups – the Eagle Forum, the National Rifle Association, Mothers against Drunk Driving, the National Organization for Women, the National Wildlife Federation, the Business Roundtable, and the Chamber of Commerce. I use state affiliates of national organizations because it ensures that the groups examined presumably exist in other states. It also ensures that the groups examined are viable.

Information about each group's national organization was gathered from magazine and newspaper articles, papers and pamphlets published by the group, *Public Interest Profiles*, and the World Wide Web. Information about the group's state affiliate was gathered from accounts in Tennessee-based newspapers, particularly the *Knoxville News Sentinel*, *Memphis Commercial Appeal*, *Nashville Banner*, and *The Tennessean*; interviews with leaders of the state organization; newsletters, papers, and pamphlets published by the group; and the World Wide Web.

Two conservative interest groups were studied: 1) the Eagle Forum – which has a relatively small national organization but is prominent in Tennessee politics; and 2) the National Rifle Association -- which has a very large national organization but whose affiliate in Tennessee is rather small. One moderate group was studied: Mothers Against Drunk Driving, which is a rather wealthy national organization with a fairly successful affiliate in Tennessee. Two liberal interest groups were also studied: 1) the National Organization of Women -- which has a relatively small national organization with a very small state organization in Tennessee; and 2) the National Wildlife Federation -- which has a very large national organization with a similar state affiliate in Tennessee. Finally, two business groups were studied: 1) the Tennessee Business Roundtable, and 2) the

Chamber of Commerce. The Tennessee Business Roundtable is an organization of CEOs, and therefore represents big business interests. In contrast, the Chamber of Commerce tends to represent small businesses. A more detailed description of each group's national and state organization and its activities is provided below.

I. Eagle Forum

The National Organization

Eagle Forum is a 501(c)(4) conservative organization with 50 state chapters and approximately 80,000 members. It is one of the oldest "pro-family" groups in the United States. Well-known anti-feminist Phyllis Schlafly founded Eagle Forum in 1975. Its mission is "to enable conservative and pro-family men and women to participate in the process of self-government and public policy-making so that America will continue to be a land of individual liberty, respect for family integrity, public and private virtue, and private enterprise." (Eagle Forum 1996a) In pursuit of these goals, Eagle Forum assumes multiple strategies.

The national organization lobbies the legislature, interacts with the executive, campaigns for candidates, and organizes grassroots campaigns. One of its latest legislative efforts involved the "Truth in Testimony" rule considered by the House of Representatives. The House rule, proposed by Republican Congressman Doolittle from California, requires all witnesses who testify at a Congressional hearing to publicly disclose how much federal funding the group they represents receives. Eagle Forum fully supported adoption of the bill because it believed that public disclosure would reduce abuses of government and its resources. The impetus for Eagle Forum's support for this rule stems from the potential for its application to groups such as Planned Parenthood. "This means that the next time Planned Parenthood comes to Capitol Hill to demand

more taxpayer dollars for 'family planning,' Planned Parenthood's witnesses will have to disclose how much taxpayer funds Planned Parenthood has received in the past." (Eagle Forum 1997) Eagle Forum sought to secure the rule's passage using an "issue alert" that encouraged members to contact appropriate Committee Chairmen. At the beginning of the 105th Congress, the House passed a package of House reforms. Eagle Forum claimed, "thanks to the efforts of those who responded to our alert, the House leadership decided to include 'Truth in Testimony' in the Rules package." (Eagle Forum 1997)

The recent Partial Birth Abortion Ban bill was another legislative issue of major interest to Eagle Forum. In accordance with its traditional pro-life stance, Eagle Forum supported this bill (which was passed by 104th Congress, but vetoed by President Clinton). The House successfully voted to override the veto. Two days before the Senate was scheduled to vote on the veto override, Phyllis Schlafly transmitted the following legislative alert:

> The vote will be CLOSE – so turn on those phone trees. Many Senators who are traditionally "pro choice" voted to ban this procedure on the first vote, now we need to persuade more of them. Generate calls to your senators and demand that they vote YES to override the President's veto of the ban on gruesome partial birth abortion. (Eagle Forum 1996b)

The Senate, however, failed to secure the two-thirds vote needed to override a presidential veto.

Eagle Forum was more successful in its opposition to the Careers/Workforce Development bill of 1996 (H.R. 1617, S.43). The bill was designed to establish a public school curriculum that compliments the needs of the American workforce. It would have expanded the federal mandates contained in the Goals 2000 Act and School-to-Work Act of 1994, and further centralized educational curriculum. The Careers bill was passed in the House, and the Workforce Development bill was passed in the Senate. The two bills

differed though, and the conference report failed to gain passage. Eagle Forum reported the defeat as follows:

> The good news about the 104th Congress was that it did not pass the conference report on the controversial bill called the CARREERS bill or its senate companion, the Workforce Development bill. This was a remarkable achievement. . . The Congress should be thanked for not passing these bills. (Phyllis Schlafly Report 1996a, 4)

The legislature is not the only institution that Eagle Forum seeks to influence. The group has a constant interest in matters of public education. "Eagle Forum stands for the fundamental right of parents to guide the education of their own school children." (Eagle Forum 1996a) As a result, Eagle Forum constantly monitors the executive branch, especially the Department of Education. Recently, the use of Medicaid funds for school health care programs gained the organization's attention. Currently schools that enroll a significant number of Medicaid-eligible students can receive funds with which they can conduct early periodic screenings, diagnosis, and treatment services. Under the Omnibus Reconciliation Act of 1989, Medicaid funds can also be used to conduct vision, hearing, speech and dental screening, counseling and psychotherapy, and speech, occupational, and physical therapy. Eagle Forum stands in strong opposition to this program. It opposes the federal government's involvement in the schools, and it is against federally provided health care of any kind. Furthermore, it sees this use of Medicaid funds as contrary to the original purpose and intent of the Medicaid program. "Medicaid funds are supposed to be spent exclusively for poverty-level (welfare) people." (*Education Reporter* 1997) Thus, it has consistently voiced its opposition (*Education Reporter* 1996, 1997).

Eagle Forum is a long-standing critic of the nation's court system. It often accuses the federal courts of abusing their constitutional powers. In her "Agenda for the 105th Congress," Schlafly (1997) outlined what Eagle Forum expects Congress to do to

"reign in the imperial judiciary". She claimed that Senators should use their "Advise and Consent" power to reject nominees unless they publicly pledge to abide by the Constitution and the intention of its authors. The previous Congress, she noted, did not defeat a single judicial nominee. (Of particular offense to Eagle Forum was the unanimous approval of Supreme Court Justice Ruth Bader Gingsburg.) Schlafly also holds that Congress should use Article III of the Constitution to limit the jurisdiction of the federal courts. In particular, Eagle Forum would like Congress to eliminate the judiciary's right to impose taxes as it did in Kansas City. Eagle Forum would also "take away any power of the federal courts to invent new rights, such as the so called rights to same-sex marriage or to assisted suicide." (Schlafly 1997) She also argued that criminal law should be returned to the states' administration. Finally, she suggested that Congress should investigate appointees, and not rely upon the ratings provided by the American Bar Association. Although Eagle Forum's national organization has not been directly involved with the judiciary in recent years, it does maintain a legal defense fund for such purposes. Its main effort to influence the judiciary has been through encouraging the legislature to reform the federal courts.

Another way Eagle Forum seeks to sway public policy is through the election of conservatives to public office. Although Eagle Forum does not directly campaign for individuals, it does provide analysis of the party platforms and the candidates. In the September newsletter before the 1996 general election, Eagle Forum provided its members with an issue by issue analysis of the two parties' platforms. On the issue of "big government", the platforms were cited as follows:

> Democrats – Oppose abolishing any government. Continue taxpayer funding of federal arts and grants and Public Broadcasting. Start costly new government programs. Republicans – Abolish Department of Education, Commerce, Energy, and Housing and Urban Development.

> Defund or privatize National Endowment for the Arts, National Endowment for the Humanities, Corporation for Public Broadcasting, Legal Services Corporation. (Phyllis Schlafly Report 1996b, 2-3)

In addition, individuals are encouraged to actively participate in the democratic process and campaign for the candidates of their choice. Members are even given guidance regarding where to get information about conservative candidates. In 1996, Eagle Forum sent out a Republican National Coalition for Life (RNC/Life) election update which stated: "RNC/Life has a list of the congressional candidates who responded to our questionnaire. Many are solidly pro-life and need your help." (RNCL 1996) Those candidates who are perceived as appropriately conservative can also acquire campaign funds from the organization's PAC.

Several of Eagle Forum's activities involve informing the public and causing response. It does not hold protests, rallies, or demonstrations, but it does offer many conferences and seminars most of which feature Phyllis Schlafly. The organization also offers various informational films and videotapes. Finally, it conducts several education projects including a phonics reading course developed by Schlafly.

The development of these programs and the publication of the *Phyllis Schlafly Report* and *Education Reporter* depend upon the group's ability to raise revenue through individual donations and membership dues. The national organization has an annual budget that exceeds $800, 000, and a staff of 14 (3 professional and 11 support staff members). Schlafly, the President, appoints a national Board of Directors and each state's Chairman. There are approximately 80,000 members nationwide, and each state in the United States has a chapter.

The State Organization

Eagle Forum's state organization in Tennessee has a relatively large active membership. There are approximately 3000 dues-paying members whom are loosely divided into local chapters or "information network". Like the national organization, the state organization is financed mainly by private donations. All of the leaders in the state, however, are volunteers. There is no paid staff. A Chairman, who is appointed by the National President, heads the state organization. In fact, all of the state organization's leaders are appointed. One individual I interviewed offered the following reasoning:

> Phyllis Schlafly, of course, is the head and it keeps it from, in a sense, being like a group with another agenda coming into the meetings and through a democratic process of 51% could take control of the assets. It's just a safeguard protection that they are appointed rather than elected. Final approval rests with Phyllis.

The state Chairman acts as lobbyist in the State Assembly. An assistant, whom she appoints, aids her. She also appoints area or chapter leaders who assist her by mobilizing local members when needed.

The Tennessee organization actively monitors and lobbies the State Assembly. During the last session, Eagle Forum tackled on several issues. For example, the state Chairman continuously met with Assembly representatives while other members called and wrote letters to express their opposition to a gambling bill. The bill would permit satellite simulcasting of horse races, and allow the establishment of electronic betting parlors, which receive broadcasts of horse racing and transmit wagers. Despite the state organization's efforts to oppose pari-mutuel gambling, the bill passed both houses of the Assembly. Eagle Forum reported the loss in its state organization's fall newsletter stating,

> This bill needs to be repealed. Please begin now to talk to legislators and candidates about this issue. . . Every time you talk to a state legislator or

> candidate between now and November 5th, please discuss with them both the lottery issue and the repeal of the simulcasting bill. (Tennessee Eagle Forum 1996a, 2)

Although the battle may have been lost, Eagle Forum continues to oppose gambling legislation.

Tennessee Eagle Forum, however, has won other battles in the legislature. In particular, as a proponent of conservative pro-family values, Eagle Forum has opposed all movements to extend civil rights to homosexuals. Thus, Eagle Forum was very pleased when in 1996 Tennessee joined 15 other states and adopted a ban on same-sex marriage. As put by Tennessee Eagle Forum, "You will be happy to know that the House passed this bill (Same Sex Marriage Ban) . . . this important bill is now on its way to the Governor for his signature." (Tennessee Eagle Forum 1996b, 3)

Like its national counterpart, education is a very important issue to Tennessee Eagle Forum. One group leader said:

> Education, of course, is always a big issue with us and in the broadest sense -- parental rights in education, the protection of home-schooling, what's being taught, whether the kids are getting a strong academic education or is the focus just socialization of children, course content . . . A lot of our issues go back to parental rights and flexibility.

In order to promote its interest in education, the group actively monitors public education and lobbies for educational reform. There were several education bills before the State Assembly in 1996, some of which were drafted by the state organization. For example, the group initiated a movement to add two lay people to the state commission for textbook recommendation. The bill, however, was met with suspicion because of its timing. Eagle Forum had ignited controversy regarding the adoption of science texts in the past, and science textbooks were up for review in the coming year. As a result, the bill was defeated.

The group also drafted a bill requiring the use of phonics in teaching young children to learn to read. The Tennessee Education Association opposed the bill saying it was bad policy for the legislature to dictate curriculum. The bill was sent back to sub-committee.

On occasion, Eagle Forum finds it necessary to appeal to the governor. For example, when the State Assembly passed pari-mutuel betting, Eagle Forum appealed to the Governor in hopes that he would veto the bill. The group also consistently works with the administration in hopes of influencing the interpretation and implementation of laws and policies. In 1996, for example, the State Board of Education adopted a social studies curriculum framework. The Tennessee Eagle Forum State Chairman met with the Executive Director of the Board and explained several shortcomings of the curriculum framework:

> It required students to describe the Constitution "a living document," ignoring the view that the constitution be studied for its framer's "original intent". It also replaced the traditional Christ-centered BC and AD era designations with the secular BCE ('before Common Era') and CE ('common era'). (Tennessee Eagle Forum 1996a, 3)

In response, the Framework was revised so as to not refer to the constitution as a "living document" and use the BC and AD designations.

Tennessee Eagle Forum also engages in campaign activity. Like its national counterpart, the Tennessee group does not directly engage in electoral activity. It does not endorse candidates or campaign as an organization. It does not even have a PAC. One group leader explained the limitations of the group's tax status:

> I cannot endorse a candidate at an Eagle Forum meeting. What we do instead, we will cite what each side is doing. "This guy voted for this, and this guy or gal voted for this." And so we show a comparative kind of thing. But as a private person, then I am involved.

In order to better understand the candidates and provide accurate information to its members, Tennessee Eagle Forum conducts a candidate survey each election.

> We do surveys of candidates. We do not publish a voter's guide like Christian Coalition, I don't believe in re-inventing the wheel, I don't have the time or the money. That is a thing they do that I feel like is a service to voters and there's just no point in duplicating it. How we do use our surveys is to see where candidates are on an issue. Sometimes, I will send that back into a district, the answers to the questions.

Also the group strongly encourages its members to take an active role in elections. The state newsletter's fall cover story emphasized the importance of campaign involvement:

> Several of our freshmen have been targeted for defeat by various liberal organizations. We MUST NOT let that happen. These men running for office need our help in various ways: money, cards and letters, phone banks, walking a precinct, yard signs, time in campaign offices, etc. (Tennessee Eagle Forum 1996a, 1)

Eagle Forum sees electoral activity as part of a dual strategy, "trying to elect good conservative people and then doing effective lobbying."

Traditionally, Tennessee Eagle Forum has not used a judicial strategy. Recently, however, it has become involved in a federal case contesting the constitutionality of a state adoption law (see *Promise Doe v. Sundquist*, 1997). Tennessee Eagle Forum filed an *amicus* brief in a suit brought by a mother (Promise Doe), adoptive parents (Kimberly and Russ C.) and a private adoption agency (Small World Ministries). The suit sought to overturn the open adoption law adopted in 1995, which made the adoption records of those over 21 available. The law's opponents claimed it violated the individual's right to privacy as guaranteed by the U.S. and Tennessee Constitution. Small World Ministries and Eagle Forum both expressed concern that mothers faced with a lack of privacy in the adoption process would opt to abort their babies instead of giving them up for adoption (Downing 1996). Originally the state court (with which Eagle Forum also filed an

amicus brief) decided in 1995 that the state had never promised birth mothers privacy and therefore there was no right to privacy for the law to violate. Immediately following that ruling, Tennessee Eagle Forum and other parties requested and gained a stay while they appealed to the federal courts (Locker 1996). The case will be heard in federal court this year. One of the group's leaders explained how failure in the legislature forced them to resort to the courts:

> The end result of our adoption law was that retroactively the law would reveal the names of birth mothers whether they wanted it to be or not . . . In 1996, we went back and tried to fix that and were unsuccessful in making those changes . . . When we were unsuccessful in the 1996 session of the legislature, then we decided that perhaps a court case was a way to do that.

The group would have preferred to have the issue resolved in the legislature. In fact, they appeal to the legislature to address most issues of interest to them.

Eagle Forum claims to favor a legislative strategy because it is what works. As one group leader noted "It's effective. It's the legislators that push the red or green lights." Because of its consistent presence, the organization has gained a level of respect and influence within the state legislature that it does not necessarily enjoy elsewhere. One leader explained: "Having been down there as long as I have, I have legislators stop all the time and ask me, 'we've got a bill on so-and-so, do you got information on that?' " Also, the legislature is seen as the most accessible. The group's lobbyist noted: "You can do more with the legislature. In other words, we each have our own personal congressman, we each have two senators, and so generally most of us will know our congressmen pretty intimately."

Lobbying the governor, however, tends to be dependent upon the officeholder's political ideology. Although the present governor is similar ideologically to the organization, the leaders of Eagle Forum feel their efforts are more effective in the

legislature. While discussing the present partisan alignment of the Tennessee government, one group leader said: "There's no problem in getting involved in it (executive branch), but we really don't have that much to do, it's mostly the legislative body because they make the law." Lobbying the judiciary is seen as a last resort.

The organization's strategies and tactics have not undergone any major changes in recent years. Developing technology, however, has had an impact on the organization's activities. The emergence of fax machines and e-mail has expanded the level of communication between the group leaders and the members, and between members and government officials. This communication technology has improved the delivery speed of "issue alerts" and has increased membership response to the alerts. Eagle Forum serves predominately as a communication network, notifying members of important issues before the government and soliciting their response. Since the organization depends upon communication to function, recent advances in communication technology have allowed Eagle Forum to widen its potential.

II. National Rifle Association (NRA)

The National Organization

The National Rifle Association (NRA) is a 501(c)(3) non-profit conservative civil liberties organization. It was founded in 1871 to provide firearms training and encourage interest in the shooting sports. Since then the NRA has grown by leaps and bounds. The NRA now professes its purpose and objectives as:

> 1) To protect and defend the Constitution of the United States, especially with reference to the inalienable right of the individual American citizen guaranteed by such Constitution to acquire, possess, transport, carry, transfer ownership of and enjoy the right to use arms, in order that the people may also be in a position to exercise their legitimate individual rights of self-preservation and defense of family,

> person, and property, as well as to serve effectively in the appropriate militia for the common defense of the Republic and the individual liberty of its citizens; 2) to promote public safety, law and order, and the national defense; 3) to train members of law enforcement agencies, the armed forces, the militia, and people of good repute in marksmanship and in the safe handling and efficient use of small arms; 4) to foster and promote the shooting sports, including the advancement of amateur competitions in marksmanship at the local, state, regional, national, and international levels; and 5) to promote hunter safety, and to promote and defend hunting as a shooting sport and as a viable necessary method of fostering propagation, growth, conservation, and wise use of our renewable wildlife resources. (Foundation of Public Affairs 1996, 165)

In pursuit of these goals, NRA uses various strategies including grassroots organizing and coalition building, campaign contributions and endorsements, monitoring government agencies, analyzing government policies, lobbying the state and federal legislatures, public awareness and education campaigns, litigation, and public opinion research.

NRA's ability to sway Congress is legendary. It has been "long considered a muscular presence on capital Hill." (*New York Times* 1991) "NRA's methods of being heard in Congress were well developed at a time when most other single-issue organizations were still naive about their potential for political action." (Wittenberg and Wittenberg 1989) The NRA's Institute for Legislative Action, which is staffed with policy and law experts, provides valuable and powerful information and analysis to the group's lobbyist. The National Right to Carry Reciprocity Bill (1997) is an instance in which the NRA flexed its considerable legislative "muscle". Florida Republican Congressman Cliff Stearns introduced the bill at the beginning of the first session of the 105th Congress. It allows citizens who have handgun carrying permits from their home states to carry their handguns in other states. In other words, a state handgun carrying permit would authorize its bearer to carry his/her handgun in all fifty states including those which prohibit the carrying of concealed weapons such as Kansas, Nebraska, and

Ohio. The national organization is actively lobbying for this bill and encouraging its members to contact their representatives and urge them to support the bill. It is putting forth a similar effort to secure the passage of Republican Representative Bartlett's (Maryland) Citizen's Self Defense Act. The Self-Defense Act prohibits the government from preventing an individual from acquiring a firearm for protection. "H.R. 27 states with clarity the fundamental nature of our right to self-defense." (NRA 1997)

One of the recent and better-known legislative battles fought by the NRA concerned the 1994 Automatic Weapons' ban. With the adoption of the Brady bill and the automatic weapons' ban, several political analysts claimed the NRA was losing its position of influence. One analyst noted: "There are signs that it (the NRA) may be losing some of its effectiveness as one of the most powerful lobbying organizations." (*New York Times* 1991) The NRA, however, continued to fight the weapons' ban. In March of 1996, following an enormous NRA lobbying effort, which included full-page advertisements in the *Washington Post*, radio spots, mailings, phone calls, and personal appeals to representatives, the House voted to repeal the 1994 law. The NRA declared the event, "the first time in a decade that Congress has reaffirmed the rights of gun owners and the value of the Second Amendment." (NRA 1996) The organization then tuned its attention to gaining Senate support. Last March, it was referred to the Senate Judiciary Committee. To date, there has been no Senate floor action.

In pursuit of its goals, the NRA also lobbies the executive branch. The NRA consistently monitors the actions of the President. Most recently the NRA criticized President Clinton's State of the Union address in which he suggested the adoption of a "trigger lock" law. The law would require personal handguns to be stored using a trigger lock. The NRA opposes this saying

> Not only is the President turning a blind eye to the facts that firearms, mostly handguns, are used more than 2.5 million times annually for self-defense (and "trigger locks" would render them useless for self-protection) and that the fatal firearms accidental death rate is at an all-time low, but one has to wonder how such a law would be enforced without compromising American citizens' Fourth Amendment protection against unreasonable searches. (NRA 1997)

The NRA has also accused the President of using the Internal Revenue Service (IRS) to retaliate against the NRA. It claims that it is being audited because it was "instrumental in removing a number of pro-Clinton/pro-gun control lawmakers from Congress. As part of the audit, the IRS requested that the NRA turn over its membership lists, which the NRA traditionally considers to be confidential. In response, the NRA refused and in a public notice stated, "The agency (IRS) was informed in no uncertain this wasn't going to happen, and if necessary, we'd go to court to protect our lists." (NRA, 1997)

It would not be the first time the national organization used the courts to promote its goals. In 1986, the NRA filed an *amicus* brief in *FEC (Federal Election Commission) v. Massachusetts for Life, Inc.* (479 U.S. 238), a Supreme Court case concerning the constitutionality of the Federal Election Campaign Act. The act prohibits the use of general treasury money to make expenditures "in connection with" any federal election. The FEC determined that Massachusetts for Life, Inc. had violated the act by using general treasury funds to publish a newsletter which identified candidates as supporting or opposing the "pro-life" ideas. The organization, however, had protested the charges saying that it was a violation of its First Amendment rights of free speech and press. The appellate court had held that as the act applied to the organization, it was unconstitutional. The FEC appealed to the Supreme Court. The NRA's petition urged the court to affirm the appellate court's decision thereby declaring Section 316 of the Federal Election Campaign Act unconstitutional. The Supreme Court did, in fact, affirm the appellate court's decision.

In addition to its direct efforts to lobby the branches of government, the National Rifle Association attempts to help favorable candidates by participating in large-scale electoral activity. The Political Victory Fund is the national organization's PAC. Through the Policy Victory Fund, the NRA supported over 200 campaigns for the House and Senate in 1992. In 1994, it supported over 270 candidates. Currently the fund makes around $4 million in campaign contributions annually. In addition to providing funds, the NRA Policy Victory Fund officially endorses candidates. A state-by-state list of NRA endorsed candidates for Congress is published prior to each federal election. NRA spokesmen often campaign for "pro-gun" candidates by making public appearances for or with them during the campaign. For example, Charleton Heston, a NRA celebrity spokesman, made repeated appearances with Bill Frist during his first campaign for the United States Senate. Celebrity spots such as this help to promote both the candidate and the NRA.

The national organization also hosts several events that promote public awareness and garner publicity for the organization. It offers various awards and scholarships. It also hosts sharp-shooting competitions and gun shows throughout the country. On an annual basis, the NRA's Great American Hunter's Tour stops in Tennessee. It features renowned hunters and a white tail deer exhibit. The NRA also publishes two magazines --*American Hunter*, and *American Rifleman*. It also prints three monthly newsletters -- *The Badge*, which is devoted to law enforcement, *NRAction*, and *Tournament News*.

The national organization has an annual budget which exceeds $87 million. Membership dues account for most of this. It has over 3.3 million individual members, 14, 000 affiliate clubs, and state organizations in every state. To be a member, an individual must pay $35 in annual dues. In return he/she receives many tangible benefits including a magazine subscription, lost gun insurance, discounts at a variety of

businesses, loans, and a VISA card. Membership makes you a member of the national organization. Being part of a grassroots state organization is left to the individual. As a result, NRA's state and local affiliates are small relative to their parent organization.

The national headquarters are in Fairfax, Virginia, and most of the organization's activities are run from there. A staff of 500 mans the headquarters. About half of the staff are professional. The national organization is run by a slate of officers including the President, Executive Vice President, First Vice President, Second Vice President, Secretary, Treasurer, Executive Director of General Operations, and General Director of Publications. The Board of Directors holds these officers accountable. There also is a network of grassroots organizations called the "Friends of NRA" which serve as contacts in major cities. The NRA tries to maintain one affiliate organization in each state.

The State Organization

Tennessee's NRA state affiliate, the Tennessee Shooting Sports Association (TSSA), has two types of members. First, all NRA members who reside in Tennessee are considered members of TSSA. Second, those who pay dues are considered "active" members. One group leader explained the reasoning for two levels of membership. He said,

> In order to have as much clout politically as possible, every NRA member in Tennessee was declared a member, but only those who paid to dues to the organization were considered active members. You'll find that if you read the Constitution. The active members are the ones who actually compete in tournaments. But in order to when you talk to one of your politicians be able to say I represent "X number; of members because there are a lot of members, NRA members, in the state that are not competitors. But you get their (politician's) attention quicker if you can quote the higher figure.

The result is that TSSA looks like a very large organization, but is actually quite small. It is comprised of approximately 800 "active" individual members (some of whom belong to local clubs that are affiliated with the state organization) and its annual budget is approximately $15, 000. It is financed primarily by membership dues and shooting competition entry fees. The state organization is run entirely by volunteers. An 11 member Board of Directors, which is elected by the general membership, oversees the organization. The Board selects from its ranks a President, Vice President, Secretary and Treasurer. Although no attorney is retained by the organization, several members are attorneys and provide their services when needed.

The Tennessee organization has actively pursued a legislative strategy. One of its legislative priorities was to expand handgun-carrying permits. One group leader explained; "Well one of the concerns was the right-to-carry law and getting it revised where more people could have that right, could afford to have that right." Partly in response to an outcry by groups such as TSSA, the State Assembly passed legislation that made it easier and cheaper to obtain a permit to carry a concealed weapon. Now citizens can apply for a handgun-carrying permit in the same office they get their driver's license, and the permit they receive is for four years. Prior to the law's passage, the group worked one-on-one with legislators to help direct the content of the legislation. In addition, the organization mobilized the grassroots. A leader explained how TSSA responds to a legislative issue:

> They have formed what they call within the organization a phone tree. So if they want to spread any news quicker than the monthly newsletter which is really almost a month behind by the time you write it, get it published, and distributed. The phone tree can alert people within a day or two.

A similar tactic was used by the state organization to promote the adoption of the original concealed handgun carrying law in 1994. The earlier bill included a measure that

prohibits kids from possessing pistols. The bill received support from the state organization. To demonstrate the group's support, members contacted representatives by phone, fax, e-mail, and in person. Dozens of members showed up at the capitol building to demonstrate their support. The national organization also publicly endorsed the bill in a press release.

Another concern of the TSSA is the availability of shooting ranges. The adoption of new land-use policies, and population growth have limited the land available for firing ranges. TSSA is interested in securing passage of a "range protection act" which would provide "grandfather" protections to ranges as new policies are established. In other words, regulations could only proactively affect the building of a range. Ranges previously constructed would be exempt. In interest of range protection TSSA has joined a firearm's coalition that has drafted a bill and is launching legislative lobbying efforts. TSSA is also exploring the possibility of purchasing property and developing its own range.

On occasion, TSSA finds it necessary to go to the governor. The growth of the bureaucracy and the delegation of regulatory authority to agencies have recently caused concern for the group's leaders. TSSA's leadership recognizes the importance of lobbying the governor for administrative issues. However, it prefers to lobby the legislature rather than the governor. A TSSA spokesperson noted:

> The contacting of the governor is somewhat more difficult. Scheduling a meeting is somewhat more difficult. The once or twice that I have visited the governor's office, it's one of these things that you have to let him know what you going to talk to him about in advance so he can be prepared. Honestly he needs to know what he's talking about. I don't blame him for that. But it just delays your getting in touch with him, and it usually bring in one or more of his staff members who will bring information for the governor. Whereas you can get on a much more personal basis with your local representatives.

The result is that TSSA only lobbies the Governor and his administration only occasionally. Usually TSSA sticks to a legislative strategy.

TSSA also engages in electoral activity. The group does not have a PAC of its own, but it has had a continued presence in state elections. Regarding the group's electoral influence, one group leader said,

> The Board of Directors if they decided they wanted to get rid of or make their impact felt on somebody, they decided to solicit the membership's wishes. By phone calls, letters, and so forth, they did take action politically, but there was no specific organization within the club that was a political organization.

The group usually publishes a candidate scorecard on various issues. A leader, however, explained that it is not an endorsement:

> The Association had its own newsletter, which it could send out. Well typically we would. In an election year, we would contact all the people running for office and ask for their feelings about various gun controls and whatever. We would publish that essentially with no comment.

TSSA offers a variety of educational programs to promote its goals among the general public. The group is strongly committed to firearms' safety. TSSA members work with local schools teaching firearms safety. This project is based on the NRA Eddie Eagle program. TSSA also supports and works with the Tennessee Wildlife Resources Agency to teach adult firearm safety classes. The organization also holds several public events. The most common form of TSSA public event is a shooting competition. On occasion, it sponsors gun shows and speakers.

TSSA has never brought an issue to state court. It has not participated in judicial activity of any kind -- not *amicus curiae*, not sponsorship of a case, nothing. Group leaders see judicial involvement as prohibitively expensive. When asked why the group had never used a judicial strategy, one leader said: "We don't have that kind of money

really." The group's leaders also suggested that the court has had little impact on the interests of the organization, and thus the group had no reason to approach the courts.

The leaders claimed that lobbying the legislature is the most common and most effective lobbying method. TSSA believes that the actions of the legislature are those with the greatest impact on the organization. Leaders also claimed that the group had more input into the legislature than any other branch of government.

Although TSSA has always used legislative lobbying more than any other strategy, its strategy has evolved. In recent years, TSSA has become more active in lobbying. Its lobbying has also become more formal. In the past, interaction with the legislature depended on personal contacts. A group member explained how over time those personal contacts began to fade and the group adapted. He said,

> There used to be people in the legislature that were also competitive shooters, and, of course, they functioned very well as a listening post as to what was going to be coming down in the legislature. We would then contact our legislative people before it became a real problem. Some of these people are no longer in there or are no longer elected because of age and so forth.

He mentioned one Senator who was particularly helpful:

> He was a Senator for 25-30 years. He knew backdoors, he knew what was happening, and if anything needed to be looked into, or commented on he was available. And there have been other people like that of course . . . But we just at this point, we don't have anybody in the legislature that is an active competitor.

The result is that the group no longer relies solely on informal contacts. It actively lobbies the legislature in a more formal manner.

III. Mothers Against Drunk Driving (MADD)

The National Organization

Mothers Against Drunk Driving is a 501(c) (3) non-profit, grassroots organization with approximately 400 chapters nationwide. Candy Lightner, whose 13-year old daughter was killed by a hit-and-run driver with a record of drinking and driving, founded MADD in 1980. MADD seeks "to stop drunk driving and support the victims of this violent crime" (MADD 1996). To pursue its goals, MADD has assumed a multi-locus strategy. Most of MADD's lobbying is conducted on the state level through legislative activity. MADD does, however, do some national lobbying. MADD expends most of it energies on programs aimed at advancing public awareness and education. In fact, over three-fourths of the national budget is used to support these programs (MADD 1996).

One of the congressional issues in which MADD has been involved is a Victims ' Rights Amendment to the U.S. Constitution (MADD 1997a). In 1996, two versions of an amendment (S.J.R. 52 and S.J.R. 65) were introduced in the Senate. Both were sent to the Senate Judiciary Committee. The language of the two amendments differed, but the core intent was the same. According to the amendments, victims would have the right to be notified of ,and attend, all public proceedings related to the crime including pre-trial custody hearings, negotiated pleas, sentencing, and parole hearings. Victims would also have the right to be heard at those proceedings or submit a statement to be considered. Finally, the safety of the victim would be considered in determining release from custody. The 104th Congress adjourned, however, without taking any final action on either version, and it was not reintroduced in the 105th Congress.

More recently, MADD has been promoting national anti-drunk driving legislation (MADD 1997b). Representative Nita Lowey (D-NY) and Senator Frank Lautenberg (D-NJ) introduced a "Safe Streets" bill (S. 412, H.R. 981) which would require every state to

lower the illegal blood alcohol content (BAC) limit to .08. In addition, the "Deadly Driver Reduction" bill (S. 708, H.R. 982) would require states to set mandatory minimum license suspension penalties for impaired driving offenders. States that failed to follow these guidelines would have a percentage of their highway construction funds withheld. Both bills were introduced and referred to committee. When asked about the legislation, MADD president, Katherine P. Prescott, responded:

> Although we have made tremendous strides in the fight against drunk driving, the 1995 increase in alcohol-related fatalities should serve as a wake-up call to the nation. We must avoid complacency that grows out of success. We cannot continue doing only what has worked in the past, but we must also be innovative and address the serious problem with serious solutions such as these two lifesaving bills. If we want to keep our families safe, we have to draw the line in the pavement against impaired driving and make .08 BAC the law across the nation. ((MADD 1997b)

Only 13 states have lowered their BAC limits and 11 other states failed to adopt similar legislation last year.

Meanwhile, MADD has been lobbying the Federal Communications Commission (FCC) to adopt new advertising regulation. MADD was among 25 groups that recently petitioned the FCC to require an anti-substance abuse ad to run each time a commercial promoting alcohol is aired (MADD 1997c).

In addition to direct lobbying, MADD conducts public awareness and public education campaigns. One of its best-known programs is the "Designated Driver" program. Through media outreach, grassroots efforts, and national advertisements, MADD encourages motorists to consider appointing safe non-drinking drivers to transport partygoers. The program focuses on four holidays that are traditionally associated with drinking -- Labor Day, the Christmas Holiday Season (Thanksgiving through New Year's), St. Patrick's Day, and Memorial Day (MADD 1997d).

During the Christmas Season, the "Designated Driver" campaign is supplemented by the "Tie One on for Safety" program in which MADD encourages individuals to place red ribbons on their cars. The ribbons serves as symbols of the motorists' pledge to drive safe and sober during the holiday season. The program has become one of MADD's most popular and well-known programs (MADD 1997e).

Another program which has gained MADD a great deal of public recognition, is "Rating the States". Biannually, MADD's Public Policy Department assesses the initiatives taken by each of the fifty states to prevent drunk driving. States are rated on a variety of categories including Political Leadership, Statistics, Law Enforcement, Public Awareness and Victims Issues. Based on these criteria, a letter grade is assigned. The rating information for the United States and Tennessee is provided Table 6. "Rating the states' tends to generate a great deal of media attention and therefore promotes public awareness (MADD 1997f).

Table 6: MADD Ratings for the U.S. and Tennessee[9].

Statistic	**United States**	**Tennessee**
Overall Grade	C	B
Total Fatalities	41,798	1,259
Alcohol-Related Deaths	17,274	512
Percent Alcohol Related	41.3	40.7
Licensed Drivers	175,128,000	3,583,000
Cost of A-R Fatalities	$19,039,921,020	$564,401,393
Cost including Lost Quality of Life	$50,192,249,922	$1,487,581,538
Cost of A-R Injuries	$64,330,276,140	$1,906,945,802

In addition to rating the states, the Public Policy Department also provides information to MADD's grassroots organizations, government officials, and the media. It

[9] Taken from MADD (1997f), "Rate the States".

regularly monitors state and federal legislation, and provides updates to the organization's board. It commonly organizes congressional testimony, and representation in national coalitions relating to the group's policy goals. It also considers requests for the filing of *amici*. The last Supreme Court case in which the national organization filed an *amicus* brief was *Michigan Department of Police v. Sitz* (1990). The issue at hand was whether Michigan's use of sobriety checkpoints violates the Fourth and Fourteenth Amendment. The Michigan Court and Court of Appeals had found the checkpoints to be unconstitutional. MADD argued for reversal, which the Supreme Court granted.

The National Office also provides victim services (MADD 1997g). It provides victim advocates to assist victims in understanding the legal process, help them apply for Crime Victims Compensation funds, refer them to counselors, attorneys, and clergy; and even accompany them to court. Victim services also provides publications concerning grief, surviving serious injury, having a loved one who drinks and drives, the judicial system, and financial recovery.

Mothers Against Drunk Driving is a grassroots organization. Most of its lobbying occurs at the state and local levels, but many well-known programs are organized from the national office. The national organization supports these programs through an aggressive telemarketing campaign which annually produces in excess of $5.3 million (Foundation of Public Affairs 1996). It has over 500 chapters with 3 million members. MADD's grassroots approach is further promoted by the fact that the organization's staff of 317 is distributed throughout the country. The staff assists the President who is elected, and the volunteer Board of Directors. Two-thirds of the board represents local chapters.

The State Organization

MADD in Tennessee was founded in 1982. It presently has approximately 1000-1200 members. All members belong to local chapters or community action teams of which there are 17 in Tennessee. Each chapter has a leader who serves on the state organizing committee. Each chapter must meet at least once quarterly. In Tennessee, the Memphis chapter is especially active.

There are three paid staff members in the Tennessee organization -- the executive director, the state victim coordinator, and an administrative assistant. There are no paid litigators, or publicists on staff. The leadership structure of the organization -- the state organizing committee -- is a volunteer structure that is responsible for hiring the three paid staff members.

The state organizing committee works with an annual budget of approximately $150,000. The majority of the budget is given to the state office directly by the national organization. In addition to these funds the state organization receives a small amount of revenue through membership dues, fund-raisers, and memorials. There is no political action committee associated with MADD.

The state and national offices work very closely to promote the organization's goals. This is evident in the "20 by 2000" plan which lays out the group's policy goals. The national office originated the plan which aims to reduce drunk driving by 20% by the year 2000. To do this, the plan focuses on measures to reduce alcohol-impaired driving by youth, sanctions to prevent repeat offenses, maximized enforcement efforts, and responsible marketing practices. The plan requires extensive state level lobbying. For example, in hope of reducing teen drunk-driving MADD seeks to secure "zero tolerance" state legislation for underage drunk drivers. MADD advocates it be illegal for those under 21 to drive with any measurable level of blood alcohol, and a maximum legal BAC

limit for those under 21 of .02. At MADD's urging, Tennessee dropped the BAC to .02 for drivers younger than 21 in 1993 (Davis 1994).

One of the sanctions against repeat offenders suggested by the "20 by 2000" plan is administrative license revocation (ALR). Tennessee MADD has actively lobbied for the adoption of an ALR law. The law would authorize the arresting police officer to revoke the suspected drunk driver's license upon arrest. Since 1992, a legislator has introduced a bill each session, but it has never passed (Humphrey 1992; Locker 1993; *Memphis Commercial Appeal* 1993). Senator Gilbert and Representative Ritchie sponsored it (S.B. 0744, H.B. 0884) again in early 1997. It has been referred to committee, but has not yet seen floor action.

Tennessee MADD has also actively pursued the measures suggested by the plan to maximize enforcement. The state organization has lobbied for an open container law, which bans all vehicle passengers from possessing an open container of alcoholic beverage. To promote this legislation, MADD officers continuously met, called and faxed state legislators. In addition, they encouraged letter writing by chapter members. Many local communities have adopted an open container ban, and a statewide ban was finally adopted in 1996 (*Memphis Commercial Appeal* 1993; Miller 1993; Tennessee Code Annotated 55-10-416).

Tennessee MADD has also urged the General Assembly to reduce the legal BAC limit to .08. In 1995 the state legislature adopted a law which stated that a BAC of .08 creates "a presumption that the defendant's ability to drive was impaired." (Tennessee Code Annotated 55-10-408) However, the law only applies to second-time offenders.

In pursuit of responsible marketing practices, MADD has suggested that alcoholic beverages should bear a warning that they can impair skills needed for the operation of motor vehicles. This past year, Tennessee MADD sought a similar provision for

restaurants which serve alcoholic beverages. In the 1997 session, the legislature adopted a law making it compulsory for restaurants to post an alcohol consumption warning (*Knoxville News Sentinel* 1997).

Although most of Tennessee MADD's efforts are legislative, it does occasionally interact with the Governor and his administration. For example, Governor Sundquist signed a bill making vehicular homicide a class B felony (Mansfield 1995). Before the signing, he received calls, letters, and faxes from MADD members urging him to approve the law. In addition, several members were present at the signing. One MADD leader I interviewed said that the organization takes issues to the Governor as "need arises, but he usually can't do anything until the law is passed".

The state organization also monitors the judiciary. Group members accompany victims to court and serve as a constant presence at DUI hearings. For example, when a Memphis officer was charged with DUI in 1995, MADD representatives attended all the hearings to ensure that no favorable treatment was given (Huston 1995). In 1992, the Memphis chapter took unprecedented efforts to express its opinions regarding one DUI case. They erected a billboard on a major interstate which listed the charges against a DUI driver accused vehicular homicide. Those interviewed, however, indicated that MADD has very limited interaction with the judiciary. One leader explained the role played by MADD as follows: "We monitor DUI court cases and offer victims and their families information about the criminal court system and process." He said that the state organization has neither sponsored a case nor filed an *amicus curiae* brief. It has been suggested that one of the reasons the group has not pursued a more aggressive judicial strategy is the lack of legal ground. MADD has been successful in securing the adoption of several laws regarding drinking and driving. There is little basis, however, for MADD to contest the state's lack of other provisions. One leader explained it: "We got to get the

laws first, then we can look at other avenues. . . Right now we don't even have the laws to go to court on." If the group did pursue a judicial strategy, it would most likely be based upon "victim's rights". Other victims' rights organizations have adopted this approach (see *Payne vs. Tennessee* 1990). For the time being however, MADD focuses on getting better laws adopted. As one leader noted: "After such laws are satisfactorily in place, then we can be concerned with enforcement."

MADD is also involved in indirect lobbying. Every year, it sponsors several grassroots activities including candlelight vigils, Red Ribbon Week, National Sobriety Checkpoint week, and Prom Promise. These activities are intended to create public awareness.

The organization has undergone some changes in strategy in recent years, but those changes do not deal with government lobbying. Those interviewed claimed the manner in which MADD pursues a goal is pretty much the same as it was when the group began. The group, however, has begun cooperating with other groups that were not traditionally allies of MADD. For instance, MADD has been working with spirits and wine wholesalers to urge the adoption of encoded drivers' licenses. As one leader put it: "It's not the style that's changed, but who thinks its in fashion."

IV. National Organization for Women (NOW)

The National Organization

The National Organization of Women (NOW) is a 501(c)(4) non-profit liberal women's organization. It is the largest organization of feminist activists in the United States. Women attending the Third National Conference of the Commission on the Status of Women founded NOW in 1966. The organization states its purpose as follows:

> To take action to bring women into full participation in the mainstream of American society now, exercising all the privileges and responsibilities thereof in a truly equal partnership with men. This purpose includes, but is not limited to, equal rights and responsibilities in all aspects of citizenship, public service, employment, education and family life, and it includes freedom from discrimination because of race, ethnic origin, age, marital status, sexual preference/orientation, or parenthood. (NOW 1996)

In pursuit of its goals, NOW uses a variety of strategies and tactics.

On the national level NOW activists lobby Congress, actively campaign for candidates, file lawsuits, and organize public demonstrations. Recently, NOW diligently opposed legislation that would have banned late-term abortions. The 104th Congress eventually passed the legislation. The President, however, vetoed the legislation, and Congress failed to attain the 2/3 vote needed to override the veto. Due to the increase in pro-life candidates recently elected to the 105th Congress, future consideration of the bill is expected. As a result, NOW has issued statements encouraging members to express their opposition to this legislation.

For over a decade NOW has implemented a concerted electoral effort. For example, NOW conducted an "Elect Women" campaign in 1992 in which it recruited, endorsed, and supported pro-choice female candidates across the country in national, state, and local elections. NOW mounted a similar campaign in 1996. An important component of NOW's electoral strategy are its affiliated PACs. The national organization manages two PACs -- National NOW PAC (which focuses on getting feminists elected to Congress), and NOW Equality PAC (which focuses on getting feminists elected to state and local offices).

On the judicial front, NOW continues to monitor and publicly comment upon the courts and their decisions. Most recently, NOW President Patricia Ireland publicly called for reconsideration of the Equal Rights Amendment in response to oral arguments given before the Supreme Court in *United States v. Lanier* (1997). In this case, NOW affiliate

organizations -- the NOW Foundation and the NOW Legal Defense Fund -- filed an *amicus curiae* in support of the United States. The national organization has also used the judiciary to pursue free access to abortions and other reproductive freedoms. In 1994, the Supreme Court ruled that abortion clinics could invoke federal racketeering laws to sue violent anti-abortion protesters (*NOW v. Scheidler*, 1994). Since then, NOW has actively encouraged application of the law.

Grassroots tactics are also used by NOW. In 1995, NOW organized a demonstration at the National Mall to protest violence against women. One report noted, "Tens of thousands of demonstrators rallied near the Capital today to protest violence against women, a term they applied not only to rape and battering but also to political assaults on welfare spending, abortion and affirmative action." (*New York Times* 1995) The protest was attended by thousands and endorsed by at least 700 other groups.

One of NOW's strengths at the national level is its relative abundance of resources. The national organization has approximately 250,000 members. In order to be a member an individual must pay annual dues. Although chapter membership is not required, it is highly encouraged. In order to be a chapter member, an individual must pay additional chapter dues. There are 600 local chapters in 9 regions – The Great Lakes Region, Mid-Atlantic Region, the Mid-South Region, Northeast Region, Northwest Region, Prairie States Region, South Central Region, Southwest Region. The national organization has an annual budget of approximately $7 million, most of which is raised through individual dues and contributions. About a third of the organization's revenue, however, comes from sales and fund-raisers.

Over 30 paid staff members manage the national organization of which 25 are professionals. This staff conducts the day-to-day activities of the national organization. A 47-member Board of Directors determines the policy decisions and general direction of

the organization. Each region is allocated a number of seats on the Board according to the size of its membership. These representatives serve as links between the grassroots and the national organization. The Board is directed by national officers -- the President, Vice President-Executive, Vice President-Action, and Vice President-Membership. These officers are elected at the National Conference and serve for a term of four years. The National Conference is the "supreme governing body of NOW" (NOW 1996). The annual policy resolutions for NOW are determined by the National Conference each year. Each chapter receives a voting delegate for every ten registered members. All NOW members, however, are invited to attend. Information about the conference and other NOW events and concerns are communicated to the membership through regularly maintained WebPages and the organization's newsletter *National NOW Times*, which is published six times a year.

The State Organization

Tennessee NOW is comprised of 4 local chapters – Knoxville, Nashville, Memphis, and Sewanee -- and a state office. There are nearly 1500 Tennessee NOW members. The budget for the state organization is approximately $6000. The state office and local chapters are funded almost entirely by dues. Both the state office and local chapters, however, have fund-raisers on occasion. An art exhibit, a play, and a street party are some of the fund-raising events the state and local organizations have conducted recently.

The state organization is staffed totally by volunteers. One leader claimed the organization intentionally chose to remain 100% volunteer. She said, "Philosophically we don't have paid staff because we're a grassroots organization and we prefer to remain that." The state organization does have a small amount of office space from which to

work. It is part of one member's business office, which she donates. Just as there is no paid staff, there are no paid attorneys. The elected officers – the President, Vice President, Treasurer, and Secretary -- head the state organization.

The Tennessee organization has an active legislative agenda. Recently, it sponsored a bill that would redefine the commission of domestic violence as a felony. One interviewee expressed the organization's continued concern with the issue; she said,

> Of course domestic violence is still one of our big concerns also. We had in the past three years tried to get a change in the way domestic violence is viewed to make it more reflective of the way the Massachusetts law is which recognizes it as a crime, not just as a personal inter-family crime.

The organization's efforts to secure passage of the bill have included face-to-face contact, letters, and phone calls. The change has yet to be embraced by the legislature.

The adoption of any law which restricts access to abortion is a constant concern to NOW in Tennessee. In pursuit of its legislative agenda, NOW maintains a communication network with members through letters, e-mail, and phone calls. When there are critical votes, it sponsors lobby days in which members are encouraged to contact their representatives in mass. This strategy is used to show a force of unity and numbers.

In 1996, Tennessee NOW attempted to engage a full-scale attack against Governor Sundquist's welfare reform proposal, Families First. One leader explained,

> We sent in letters, had people make phone calls, we did a demonstration at the legislature, and we passed out information then. Our demonstration was a 'die-in' . . . At that point too we gave a lot of information to the media.

The Governor's legislation, however, was adopted. NOW believes the legislation to be critical and thus it continues to seek changes and revisions. When asked what were the greatest challenges presently facing the group, one member responded:

> One of the biggest concerns that we are working on is looking at the welfare reform, Families First program, and how that actually impacts on the lives of women and children who are living in poverty. We worked against that in the legislature, we tried to. Once we saw that it was basically something that was a steamroller that was going to roll everybody down. How could we fix it so it would be less punitive for woman? . . . We worked against it. We were able to put our input in to a lot of, to some of, the senators and representatives.

Tennessee NOW continuously monitors and serves as a public critic of the program. One leader explained, "We had a caseworker, an assistant case manager, come and speak to us." By meeting with street-level bureaucrats, NOW attempts to assess impact. With this information, it then offers policy analysis, and proposes amendments.

NOW leaders often use the communication network to express their concerns regarding executive policies to the group's members and encourage those members to contact the Governor and his administration about relevant policy decisions. For example, in 1991 former Governor Ned McWherter considered cutting the state's AFDC benefits, but after receiving letters from NOW members and other similar groups he recommended that shifts be made in the budget to avoid cuts in AFDC (*Nashville Banner* 1991, B1).

Like its national counterpart, Tennessee NOW has conducted large-scale public electoral activity. Throughout the 1990's, the state organization has actively recruited, endorsed, and financially assisted pro-choice female candidates. The financial assistance is made possible by Tennessee NOW PAC. In 1992, the "Women Elect Tennessee" campaign produced an all female slate of candidates, which received publicity across the state (See Branson, 1992; Sanders, 1992; Eagleston, 1992). At present, the group is preparing for the next election. One leader explained what the group plans to do with leftover PAC funds,

> We are going to fund like a WomenElect column in the state newsletter. We need get a little more involved in electoral politics than we have been, in terms of getting more women to run for public office. That's the goal of WomenElect -- to get more feminists in office.

She also explained that the organization's electoral efforts are not limited to its utilization of the Tennessee NOW PAC. She said,

> There is a Tennessee wide organization called ProPAC, Progressive Political Action Committee, that NOW participates in . . . It's a coalition of groups like labor, religion, NAACP, NOW, a lot of other groups that came together to form this progressive PAC to fund progressive candidates, and they do a wonderful job of developing candidate questionnaires, interviewing candidates, deciding who to endorse, and for the most part we go with and we always have a representative on the ProPAC board.

Electoral activity is an important component of Tennessee NOW's overall efforts. Through it own PAC and a coalition PAC it supports feminist candidates.

Public awareness events and activities are another common strategy employed by Tennessee NOW. For several years, NOW has maintained a constant presence at abortion clinics throughout the state. It provides escort and protection for patients entering the clinics. It began this operation in the 1980s when abortion protesters commonly blockaded clinic entrances and harassed the patients trying to enter. After the United States Supreme Court ruled that abortion clinics could invoke federal racketeering laws to sue violent anti-abortion protesters, the protest activity declined, but the clinic escorts provided by NOW continue. The activity allows NOW to promote its interest in reproductive freedom and to maintain a public presence. Protests, marches and rallies offer similar opportunities. Tennessee NOW regularly sponsors vigils, marches, and rallies on the anniversaries of events critical to "women's rights" such as the *Roe v. Wade* decision, and passage of the 19th Amendment. These demonstrations serve to remind the public of the critical event and give the organization publicity.

Although the state organization relies upon a variety of strategies and tactics to promote the group's goals, it is generally accepted among the group's leaders that legislative activities are the most common and effective strategy used by the group. It is thought that the effects of lobbying the legislature are longer term. As a result, the organization's leaders believe legislative lobbying to be a more efficient use of resources. Lobbying the courts, on the other hand, is very expensive and produces only short-term results. One leader expounded upon the difficulties created by a judicial strategy saying:

> We used to, if you will look back at some of the things and some of the gains that were made in the late 60's and early 70's, that was going through the judiciary system that has had all these challenges, and all of these problems with it, and so we are trying to work on the actual laws, trying to get the laws to reflect our positions. And we think that is more long term.

This hints at some of the recent shifts and changes in the strategies used by the both the state and national organization. First, NOW relies on a judicial strategy less than previously. In the 1950's, litigation was the predominate strategy used by NOW to promote its interests. More recently, legislative lobbying has predominated. This is particularly true for the state organization. The state officers could not recall a recent court case in which the state organization participated. Meanwhile, the national organization remains active in the judicial arena. In fact, the national organization recently became involved in a case, which originated in Tennessee (*U.S. v. Lanier* 1997). The state organization had never been involved.

A second change is the manner in which the grassroots are mobilized. There are now fewer meetings but more communication between members. The state and local organizations have embraced evolving communication technology. One leader said, "The technology, we are beginning to use the technology more . . . In the past, we used to have to be at more meetings." She explained that telephones, fax machines, and e-mail are

used to maintain regular communication between the state office and the chapters, and between the organization and its members.

V. National Wildlife Federation

The National Organization

The National Wildlife Federation (NWF) is a 501(c)(3) non-profit moderately liberal environmental organization. With approximately 4 million members, NWF is the nation's largest member-supported conservation group. It was founded in 1936 by editorial cartoonist J.N. "Ding" Darling. It was an outgrowth of the first North American Wildlife Conference convened by President Franklin D. Roosevelt. NWF's purpose is "to educate, inspire, and assist individuals and organizations of diverse cultures to conserve wildlife and other natural resources; protect the earth's environment; and achieve a peaceful, equitable and sustainable future." (Foundation of Public Affairs 1996, 461) NWF uses a variety of strategies and tactics to promote its agenda.

NWF interacts with the legislature on a regular basis. For example, the NWF is presently fighting for reauthorization of the Endangered Species Act (ESA). The ESA, originally passed by Congress in 1973, provides a plan for the protection of all plants and animals and their ecosystems which are identified as being in danger of extinction. ESA came up for reauthorization in 1992, and is being considered by the 105th Congress. Senator Kempthorne, a Republican from Idaho, has introduced a reauthorization bill (S. 1364, 1996) which eliminates many of the original ESA protections. Senator Gorton (R-Washington) introduced a similar bill. The Kempthorne bill would eliminate the universal protection of endangered species. The Secretary of Interior would be given discretion to determine the "appropriate action." This means that some endangered species would be slotted for recovery, others would not. Because the bill severely decreases the protections

afforded endangered species, the NWF actively opposes the Kempthorne bill and is urging Congress to reauthorize ESA in its original form.

NWF also actively lobbies the executive branch. Several government agencies and departments are responsible for overseeing policy that is directly linked to NWF's interests. Thus NWF expends great energies in monitoring, advising, and persuading these agencies. Recently, for example, the NWF supported an Environmental Protection Agency proposal to reduce the amount of dioxins released into the air and water. Paper production is the most common cause of dioxin release. Chemicals such as chlorine are used to bleach the paper, and dioxins are a byproduct of the process. Dioxins pose recognized dangers for wildlife, as well as human health and development. Oxygen-based bleaching agents, however, do not produce dioxins. Consequently, NWF is advocating a complete phase-out of dioxins through the compulsory substitution of oxygen based bleaching agents. NWF encourages its members to contact the President and the Environmental Protection Agency regarding the reduction plan.

NWF's Resources Conservation Department plays a critical role in the group's efforts to influence the legislative and administrative branch. Staffed with scientists, attorneys, and policy experts, the department compiles valuable information regarding various issues and policies. This information is then made available to activists and elected officials. It is important to note that NWF's efforts to lobby the legislature and administrative agencies are restricted to providing advice and information. It does not directly engage in electoral activity, nor does it have an affiliated PAC.

The National Wildlife Federation also uses a judicial strategy on occasion. Recently, for example, the NWF was party to two cases decided by the United States Supreme Court: *Lujan v. National Wildlife Federation*, 1990 and *Lujan v. Defenders of Wildlife*, 1992). The National Wildlife Federation in both cases alleged that Manuel

Lujan, the Secretary of the Interior, had violated acts established to protect the environment. In both cases, however, the court found that the National Wildlife Federation lacked standing and, therefore the favorable decision granted by the lower court was reversed.

NWF seeks "to educate, inspire, and empower individuals," (Foundation of Public Affairs 1996, 461) by conducting a variety of public awareness and educational activities. To this end, it publishes a number of environment-minded magazines. It provides various educational programs including NatureQuest (a training program for teachers), Washington Action Workshops (grass-roots activists training), and the Backyard Habitat (a workshop which teaches an individual how to make his/her yard into a wildlife reserve). NWF maintains eight Natural Resource Centers staffed with environmental policy experts who provide citizens with the technical advice and information needed to tackle environmental issues in their area. NWF also offers various videos that provide information on important issues. And the group publishes the *Conservation Directory*, a listing of people, organizations and government agencies dedicated to conservation.

When considering NWF's strategies and tactics, it is important to note the extensive resources available to the organization. NWF reports a membership of close to 4,000,000. Many of these members, however, are not active, but rather are considered members because of their regular purchases of organization's merchandise. In any case, the National Wildlife Federation has affiliate groups in almost every state. In addition, NWF has a large professional staff of scientists, attorneys, and policy experts, and an annual budget of about $97 million. The revenue needed to support this budget is raised through a combination of donations and bequests, dues, patronage, magazine subscriptions, and the sale of educational materials.

The NWF is actually a network of affiliated organizations throughout the United States. Each affiliate group (for example, the Tennessee Conservation League) elects and sends delegates to the annual meeting where the group's policies are set. There are 13 regions, and several affiliate organizations belong to each. A volunteer regional executive, who serves as a link between the national staff and the state/local affiliates, directs each region. Each regional director serves on the national Board of Directors. The national Board selects the organization's President. The national organization publishes a monthly journal, *EnviroAction*, and a quarterly newsletter, *Nature Quest*, by which they communicate with their affiliate organizations and their members. In addition, the organization's WebPages and legislative hotline offer regular updates on issues.

The State Organization

Tennessee Conservation League (TCL) is the state affiliate organization to the National Wildlife Federation. It was founded in 1946 by a group of outdoorsmen to fill the void left by the defunct Tennessee Wildlife Federation. Their main interest was to "take politics out of game and fish!" (Davis, 1996). Although it was dominated by East Tennessee interests, it is now "a statewide voice, loud, clear and strong, speaking out for the interests of Tennessee's conservationists." (Tennessee Conservation League 1996)

TCL has approximately 15,000 members. Those who pay dues directly to the organization or one of its affiliate organizations are considered members. For example, an individual who is a member of the Wolf River Conservancy is also considered a member of TCL because Wolf River Conservancy is an affiliate organization of TCL. Membership dues, from individuals and affiliate organizations, are the major sources of revenue for the state organization. Other sources of revenue include grants, fund-raisers,

and donations gained through letter writing campaigns. Overall, the state organization's annual budget is about $400,000.

Unlike many state organizations, the Tennessee Conservation League has a paid state office staff. There are six full-time staff members, four of whom are professional, and one part-time staff member who provides clerical assistance. The organization does not retain paid legal counsel, but has pro-bono legal counsel available if needed. The Executive Director (who is hired and instructed by the Board of Directors) oversees the state office staff. The Board of Directors and the Policy Advisory Board are the state organization's leadership. Members of both boards are elected by the general membership to represent the five regions of the state. The 17-member Board of Directors makes decisions regarding the general business and administrative procedures of the organization, and is led by the President, Vice President, Treasurer, and Secretary. The 34-member Policy Advisory Board determines the organization's policy agenda, and is led by a Chairman and Vice Chairman.

The group pursues this policy agenda on several fronts -- in the State Assembly, with the governor and his administration, with independent agencies, in the courts, through elections, though grassroots activities, and through public education. As such, TCL actively monitors and lobbies the legislature. The Policy Advisory Board meets each November to determine the group's stances on upcoming legislation in the State Assembly. When the State Assembly considered prohibiting the stocking of bass on Norris Lake (Tennessee Senate bills 213 and 214), The Tennessee Conservation League voiced opposition because it feared this would begin a dangerous precedent of establishing different standards for different areas. One TCL spokesman argued, "In effect, the legislature appears willing to take on the hunting and fishing regulation setting a lake by lake, county by county basis . . . this would be a disaster." (Rea, 1995)

Although the specific bills of concern change over time, one concern remains constant. This concern was stated by everyone I interviewed; one person said, "We continue to fight private acts in the legislature." TCL adamantly opposes private bills that exempt certain areas, counties, or towns from wildlife management regulations.

One of the most lasting results of TCL's lobbying efforts is the Tennessee Wildlife Resources Agency. Shortly after it founding, TCL began drafting a bill to establish an independent commission to oversee and implement game and fish policies and regulations. By 1951, the State Assembly passed the bill and the Game and Fish Commission was created. In 1974, the Game and Fish Commission became the Tennessee Wildlife Resources Agency (TWRA). For almost half a century, the agency has overseen the regulation of wildlife resources independent of the legislature or governor's office. TWRA' s funding comes from licensing fees affording it even fiscal independence. With the creation of TWRA, the League gained a government ally. As it was explained by one of the group's leaders, TCL continues to fight for TWRA today.

> Our history goes back to establishing and getting established in the state of Tennessee a professional wildlife agency that functions as apolitically as possible with a professional staff that really manages based on, makes management decisions based on, science. That is still one of our main focuses because we still see politics trying to enter into wildlife decisions where local interest groups feel like they know more than a professional agency and they want to try and usurp the agencies ability to make those wildlife management decisions . . . We still work very closely not only monitoring TWRA but being supportive of them when we need be to maintain that degree of professionalism and science based decision making on wildlife habitat.

Accordingly, TCL pursues many of its goals through constant contact with TWRA. TWRA's policies and announcements are even published in TCL's bimonthly newspaper *Tennessee Out-of-Doors.*

The League often approaches other government agencies as well. For example, the Tennessee Department of Environment Conservation (TDEC), an executive agency, deals with many policies of interest to TCL. The relationship between the group and state's agencies depends upon technical knowledge and understanding. This was well-accented by one respondent who noted:

> Some of our staff meets with the TDEC and TWRA staff people. Actually we have a technical staff end. That's an area that we've really beefed up a lot, and can talk the technical lingo on some of these issues.

Another common administrative tactic is to secure appointments to critical government boards and commissions. One member explained the importance of this strategy,

> There are some boards that, various kinds -- Water Quality Board, where there is a TCL representative that is specifically, we've got a specific place at that table. We participate in those discussions as well. One of the other things I think is important strategically for us to do is to have good people in those spots, and where there other opportunities to expand those kind of roles or participation we need to do so.

Over the years, TCL has secured spots on several boards. Most recently, Governor Sundquist appointed a TCL policy board member to the Water Quality Board, and the TCL's Executive Director was placed on a executive council to consider business policies in the area surrounding the Great Smoky National Park.

Although appealing to the judiciary is not a common strategy for the League; it is used on occasion. In recent years TCL has brought suit on at least two occasions. For exaple, it sued the Corp of Engineers over building and development on a tributary critical to wildlife (Locker 1991). The courts declared that acreage along the Obion River would be used to replace the wetlands destroyed by the Corps. Several years before, the League had successfully taken a case to the state Supreme Court in which it opposed a private law, which permitted the use of dogs in raccoon hunting. More recently, it

threatened to involve the courts in order to protect public land from private development under the Tennessee Valley Authority's landshore management program (Mansfield 1996). When entering the judicial arena, TCL prefers to be one of several conservation-oriented groups involved. If possible though, TCL pursues its goals through means other than lawsuit.

Public awareness and education events and activities are also common. TCL offers several educational programs for companies, families, classes, groups and communities. The Forest Stewardship Program, for example, is a cooperative effort between TCL, private landowners, and government agencies to promote the increased production of forest through the reforestation and management of private lands. Another project offered by TCL is NatureLink, a family-oriented program created by NWF. NatureLink involves an outdoor weekend offering families a chance to discover and enjoy nature in a safe setting. The purpose is to teach individuals appropriate nature skills while generating an appreciation for nature and a commitment to conservation.

Lobbying the legislature, working with the administration to implement conservation oriented policy, participating in cases involving the use and abuse of natural resources, and educating and encouraging public involvement, are all strategies used by the League to promote its goals. As each individual interviewed stated, each strategy serves its purpose, but some are more effective than others are. For TCL, lobbying the executive and legislative branches tends to be best way to secure favorable policy.

Those interviewed felt the strategies used by the organization had changed subtly over time due to a shift in the organization's interests. Originally TCL focused solely upon hunting and fishing. Over time, however, the group's membership has grown to include more general environmental activists. As a result, TCL has recently shifted to represent its environmental activitist members. Although game and fishing issues

continue to be a priority, the organization's interests have broadened to include issues such as biodiversity. Due in part to this shift, TCL restructured its leadership in 1993. One respondent pointed out: "There is one fundamental change and that has to do with the establishment and use of the Conservation Policy Board, which is a separate board from the Board of Directors." A few years ago, TCL abandoned the traditional single Board of Directors and opted for the dual board it has now. Another incidental result of this shift was the creation of a Resource Center and development of conservation training for educators. As the organization changed, so did its strategies and tactics. Oversight and continued support of TWRA is now only one of the League's concerns. Its interests have expanded and thus the variety of tactics it employs has likewise expanded.

VI. The Business Roundtable

The National Organization

The Business Roundtable is a national 501(c)(6) business interest group. It is one of "the nation's leading business organizations" (Business Roundtable, 1996). The organization was founded in 1972 with the belief that business executives should take a role in public policy debates.

Its purpose is to "examine public issues that affect the economy and develop positions which seek to reflect sound economic and social principles" (Foundation of Public Affairs 1996, 13). In order to promote "sound economic and social principles," the Business Roundtable lobbies the legislative and executive branches and conducts member education and awareness programs.

The Roundtable has had great interest in the recent national health care debate. In particular, it opposed a Senate health insurance bill which would extend coverage for certain types of severe mental illness such as schizophrenia. The national organization

(in coalition with other like-minded business interests) sponsored a study of the potential affects of reform on the insurance system.

> The study estimated that private health insurance premiums would increase by 8.7 percent -- more than other studies have found. It assumed that employers would have little ability to control costs or limit how much therapy or care someone got for a mental disorder. The Price Waterhouse further concluded that unless employers dropped traditional indemnity or fee for service insurance and switched to managed-care, 1.7 million people would lose their insurance coverage. (Reuters 1996)

The study was provided to Senators and House members. In the end, the Senate passed the House version (H.R. 3103). It did not contain the mental health coverage parity protections that the Senate's version (S. 1028) did.

Another issue of concern to the Business Roundtable is trade. The organization was an active and vocal supporter of both the North American Free Trade Agreement and the General Agreement on Tariffs and Trade. The organization sponsored a large grassroots campaign to support the agreements, and spent over a million dollars in public opinion research (Wall Street Journal, 1994).

The Business Roundtable also lobbies the executive branch. It is very common for the organization to meet with various department heads. Last Spring, for example, the Chief Executive of the Business Roundtable had breakfast with the President and several other business leaders. The President hosted the breakfast in order to stimulate discussion of corporate responsibility and ethics. The Business Roundtable's Chief Executive's response to the President's comments was less than enthusiastic. He said, "I'm uncomfortable with these references to the compassionate corporation" (Chandler 1996).

One concern most often addressed by the Roundtable through its relation with the executive is education. The Business Roundtable is committed to substantive action in three areas. Business Roundtable literature states:

> First, helping educators, and policy makers set tough academic standards, applicable to every student in every school; second assessing student school-system performance against those standards; and third, using that information to improve schools and create accountability, including rewards for success and consequences for failure (Business Roundtable, 1996)

This agenda requires close contact between group leaders and the administration.

Lobbying the legislature and executive are the focus of Business Roundtable's strategies. It does not actively engage in electoral activity. It does not have a PAC, nor does it issue endorsements. It does not employ a judicial strategy either. It does not sponsor litigation or file *amici*. It conducts limited public awareness and education. It has films and videos on various business topics that it makes available to members, and when critical legislative issues arise it conducts media outreach. Its primary focus, however, has continued to be the lobbying of the legislature and executive.

These two strategies are the mode of operation continuously assumed by the group's officers. The 221 corporations that belong to the national organization elect the Board of Directors. The Board appoints its Chair, Co-chair, President, and Executive Director. The Executive director oversees the daily operations and manages the 18 person staff -- 8 professional staff members and 10 support staff members. The group's monthly magazine, *Construction User Headlines*, keeps members informed.

The State Organization

The Tennessee Business Roundtable (TBR) is a member of the national organization. The state group consists of approximately 200 member businesses.

Members must pay annual dues, which are the major source of revenue for the organization's $210, 000 budget. The membership elects the Board of Directors and the regional Vice Presidents. The Board of Directors oversees the organization and hires the Executive Director who conducts the organizations day-to-day business. The state organization has a two person staff -- the Executive Director and his assistant.

One of the main functions of the Executive Director is to serve as the group's lobbyist in the state capital. The TBR actively lobbies the State Assembly, the Governor, and the Administration regarding business and social policy. One of the major issues in which the state organization continues to be involved is education reform. A few years ago, the group was successful in convincing the legislature to adopt education reform legislation. One of TBR's leaders explained the group's role in getting the law passed:

> We, in some circles at least, get credit for getting the General Education bill adopted . . . We were very active in supporting that (General Education bill). We ran some seminars. We worked hard to get it through, and we've been working since to try to make it work.

Part of the reform mandated the adoption of a system of superintendents for all public schools with a compliance date of 1996. Since the law's adoption, several school systems have sought exemption from the law or extension of the deadline. In 1995, the State Assembly considered a law, which would reestablish the deadline as 2000. Efforts to delay the mandate have consistently died, and Tennessee Business Roundtable in coalition with other business interests has been given credit (Branson 1995c).

When the group approaches the legislature, it does it in several ways. It discusses issues with individual legislators. It provides information to various committees. One member described the multi-level lobbying,

> We do that (lobbying) on an individual basis sometimes. Sometimes we deal with the leaders. Sometimes we're involved in study committees or

> task forces . . . Sometimes we do it through direct testifying before the standing committees.

TBR tends to use an "insider" approach rather than massive grassroots mobilization.

The state organization also pursues its goal of "excellence in education and supporting accountability in education (Tennessee Business Roundtable 1997)," by lobbying the administration. The group has strongly advocated the implementation of standardized performance tests to measure student achievement and teacher ability. The Roundtable's oversight of this is better positioned by the fact that the Executive Director serves on the state's task force on testing. Last year, experts examined the test adopted by the state to measure student achievement. The conclusions were mixed. The Roundtable's Executive Director responded that

> He was pleased that the statisticians found that the value-added system could identify the best and worst teachers, but he was concerned about Fisher's unwillingness to use that for teacher accountability. (LaPolt and Pride 1996)

Directly working with the school systems to provide various programs is another approach the Roundtable uses. The group recently participated in a state effort to raise funds so that all public schools could be connected to a state network, which would give every pupil access to the Internet.

Another issue about which the Tennessee Business Roundtable has lobbied the Administration is the Governor's Family First program. During the program's formation, the group remained receptive and has promoted business participation in the program. Most recently, the Governor was the guest speaker at the state organization's annual meeting. The monthly newsletter announced the Governor's presentation stating:

> On the agenda will be a discussion of the role of business in helping make the Families First welfare program successful. Human Service Commissioner Linda Rudolph will be invited to participate in these talks. (Tennessee Business Roundtable 1996)

Once again, TBR tends to use an "insider" approach -- working directly with administrators. The group's executive efforts to influence policy were described as

> We deal with, there again, the Governor, his staff, his immediate staff, and also with the different commissioners in the departments . . . We may be involved in discussing the issues, or ideas, or programs while they are still in the very infant stages . . . We are involved in many cases on the development of what that should be, what it should look like.

It seeks to direct the formulation of policy rather than the restructuring or reconsidering of policy. It takes a very constructive role. As one leader put it, "They (other groups) are reacting, we try to be proactive.

The Tennessee Business Roundtable's relationship with the judiciary is much more limited. At most, it occasionally helps establish administrative hearing boards. Like its national counterpart, the state organization does not sponsor litigation or file *amici*.

The state organization also conducts limited public awareness and education programs. It has several member-only forums and high school student oriented programs, but no general public programs. It does, however, go public with its annual Business Climate Survey. The group's members rank the issues facing Tennessee. Typically newspapers through out the state report the results (for example, see Thomas 1992).

When asked about recent changes in the strategy, the group's leaders did not recognize any overwhelming alterations or shifts. One leader simply pointed to the increased amount of lobbying, saying "They have try to become a little bit more of a lobbying organization." But none of the leaders felt the group had changed its strategies.

VII. Chamber of Commerce

National Organization

The U.S. Chamber of Commerce is a 501(c)(6) business organization. It predominately represents small business -- 96% of it's members are small businesses (U.S. Chamber of Commerce 1997). It is the world's largest federation of business interests. It was founded in 1912 at the suggestion of President Taft. It has since served as an important link between business and government.

Its purpose is "to achieve human progress through an economic, political, and social system based on individual freedom, incentive, initiative, opportunity, and responsibility." (Foundation of Public Affairs 1996, 54) The Chamber of Commerce uses a comprehensive combination of strategies to pursue its goals on the national level. It lobbies Congress, lobbies the President and his Administration, conducts campaign activity, offers various education and awareness programs for members and the general public, and sponsors litigation.

The Chamber has actively lobbied Congress regarding several recent issues. For example, the United States Congress adopted the Small Business Regulatory Enforcement Fairness Act (1996) at the urging of the Chamber. The bill contained several long-sought regulatory reform provisions. It was touted as "the most important small business legislation since 1988, the year Congress passed Equal Access to Justice Act and the Regulatory Flexibility Act." (Rutledge 1996) The act provides full judicial review of agency analysis of small businesses.

Another legislative issue that has recently gained the attention of the Chamber is product liability limits. In 1996, Congress debated legislation that would limit the amount of damages, which can be awarded in a product liability suit. It was reported that "the U.S. Chamber of Commerce and the National Association of Wholesaler-

Distributors (NAW) are running TV and newspaper ads in Midwestern markets." (Schmickle 1996) In the end, Congress passed the legislation but the President vetoed it.

The President, however, did not veto the line item veto bill, which pleased the U.S Chamber. In fact, the Chairman of the Board, Marne Obernauer, was present at the President's signing of the bill (U.S. Newswire 1996).

President Clinton's reappointment of Alan Greenspan as Chairman of the Federal Reserve Board did not please the Chamber, however. It was reported that "critics (of the appointment) include not only organized labor but also its traditional nemeses, the National Association of Manufacturers and the U.S. Chamber of Commerce." (Pearlstein 1996)

Nor was the Chamber pleased when the President attempted to restrict the options companies have during employee strikes. The President had issued an executive order which banned federal contracts to companies that fire striking employees. "The U.S. Chamber of Commerce in coalition with the National Association of Manufacturers and four other business groups filed suit." (Sands 1997) Last February, a federal appeals court overturned the executive order saying that President Clinton had overstepped his authority.

The national organization has been involved in several other lawsuits as well. One recent case before the Supreme Court dealt with corporate employee benefits. Several current and retired employees of an Iowa-based company claimed the company had fraudulently reduced their benefits. The employees sued the company under the U.S. Employee Retirement Income Security Act (ERISA). The Chamber of Commerce and other business interests argued that "ERISA didn't give individual workers and retirees a right to sue." (Epstein 1996) The Supreme Court disagreed. The senior counsel for the

Chamber claimed "the ruling 'will have a chilling effect on the give-and-take between employers and employees about benefits." (Epstein 1996)

Another suit involving the Chamber dealt with "excessive" punitive damages. The U.S. Supreme Court handed a victory to the national group when it declared "jury awards designed to punish or deter misconduct can be so excessive that they are unconstitutional." (Lowe and Cadinsky 1996) The case before the court involved a $2 million punitive damage award against BMW for repainting of a physician's vehicle. The Chamber called the ruling "a nail in the coffin of excessive punitive damage awards." (Lowe and Cadinsky 1996)

The Chamber has presented its position on issues before all three branches of government -- the legislature, the executive and the judiciary. It has also presented its side to the American public. In the 1996 national elections, for example, it counteracted an unprecedented $35 million in labor campaign expenditures. Labor targeted pro-business Republicans by financing television commercials which charged that the representatives voted to slash spending on popular programs such as Medicare. The Chamber in retaliation spent $2 million on anti-labor ads and is now "taking credit for thwarting labor's effort to restore Democratic control on Capitol Hill." (Dodge 1996)

The U.S. Chamber of Commerce's strength lies in its size and resources. It represents over 180,000 business organizations, which annually pay dues. Its annual budget exceeds $70 million. The organization's President and CEO oversee the budget and report directly to its officers -- the Chairman, Vice Chairman, Treasurer, and regional Vice Chairmen -- and its Board of Directors. The organization has a 1700 person staff, 750 of who are professionals. The organization manages a Grassroots' Action Information Network, which transmits information on legislative issues to member businesses in order to encourage grassroots response. It also has a Litigation Center,

which features several attorneys and legal experts who give advice and file suit on the part of the organization. Members are kept abreast of issues within the government and the organization itself through five newsletters. It also issues a quarterly report called *Business Counsel* and a bimonthly paper called *Economic Outlook and Policy Working Papers*, There is also a semi-quarterly report of court action called *Case List*, a monthly magazine on legislative issues called *Congressional Action,* and a monthly paper of administrative oversight called *Service Watch.*

The State Organization

The Tennessee Association of Business (TAB) is a one of the larger Tennessee member organizations of the Chamber of Commerce. About 1800 businesses and local Chambers of Commerce belong to TAB. Dues provide TAB with most of its $1.7 million budget. The President and CEO direct the budget and other business of the organization. He is hired and directed by the group's Board of Directors, which is headed by a 10 member Executive Committee. The Executive Committee is made up of the four officers -- a Chairman, 2 Vice Chairman, and a Treasurer -- and two representatives from each of the "three grand divisions" of the state. There are also several standing committees that advise the Board of Directors regarding various policy issues. One member described how the committees function. He said:

> There is a series of 6 to 8 standing committees that are basically subject matter i.e. taxes, environment, human resources, energy, education, there's an endowment transportation committee, that tentatively are made up various members, sort of a representative type of arrangement where you could collect the input and views and you then also use those committees to take back proposals that are put forth by regulators or by the legislative body and their get their opinion and input and then that filters directly to the board.

The President and his 13 member full-time staff, six of whom are professionals, attend to the daily business.

Like the national organization, TAB conducts a wide variety of activities. It has five registered state lobbyists who are responsible for monitoring and informing the legislature. Last session, the organization strongly lobbied for reform of the worker's compensation legislation. Legislative lobbying efforts included face-to-face meetings and a mobilization of grassroots to produce letters, faxes, phone calls and personal visits. The State Assembly adopted part of the proposed reform. As Governor Sundquist summarized it, "So far compromise efforts give business five -maybe 51/2 - of seven items it was seeking." (West 1996) TAB sees the compromise as incomplete and plans to continue pursuing it. As one member described it,

> We were very involved in the workman's comp reform that passed last year. There is a lot of tail on that, follow through, stuff that -- fine tuning-- and stuff that's got to be done . . . That bill (workman's comp reform) was somewhat incomplete and we've go to go back and revisit, not go back but carry forward on some of the points that they laid on future study.

The group will lobby for even more reforms this session, but worker's compensation will not be a priority. TAB has a definite point of access -- it presently has a representative on the Worker's Compensation Advisory Board.

According to the group's leaders, taxation is the group's primary focus this session. One respondent said, "The biggest thing we got going right now is probably is in the area of taxation." The group feels the present state of Tennessee's tax system places the state at a disadvantage in competition to attract business and investment. One of the organization's leaders explained the group's plans for reform. He said:

> We are doing it, number one, by proposing legislation to create an independent freestanding appeals mechanism. That's the proactive side.

> We are also defending against an effort on the part of local governments to change the depreciation schedules.

The group has developed a complex method of pursuing issues in the legislature. A member described the mix of tactics the group uses:

> We have 5 of us registered as lobbyist and it's sort of a two-prong deal. We go through the standard lobbying activities of making acquaintances so that they know who I represent. We also do a strong grassroots effort. We have a weekly legislative fax that goes out. We have a written digest of the bills that were introduced to go out . . . We have the capability of target faxing our members by committee . . . If a bill is coming in committee, we can target the people in their districts of the members of that committee overnight . . . We just get on the phone sometimes, call. We try ascertain, we're working on this and we haven't gotten this down to the point because its kind of hard to do, the degree of closeness or relationship of members that have strong relationships with a particular legislator.

In other words, it has developed some sophisticated means by which to lobby the legislature.

It also maintains direct contact with the heads of pertinent government departments and agencies. One of the group's leaders explained TAB's approach:

> Direct contact with various departments, we've worked very hard at that . . . We've prepared papers, we call them papers but that gives them a little too much sophistication I guess, and documents and things, and go sit down with them . . . We try to stay on a first name basis with every top three level of every department that we got interest in.

The result is that the Governor and the Administration often consult with the group and its leaders about policy.

One of TAB's administrative victories involved convincing the Governor and his staff to abandon a Memorandum of Understanding (MOU) with the federal government. The MOU was an agreement between the state of Tennessee and the federal government that provided the Department of Interior with early notice and greater input into the granting of pollution permits. "TAB was concerned that the Memorandum of

Understanding would place more burdens on air permit applications to conduct costly studies of the effects of their operations in the park." (Associated Press 1996a) TAB argued that "that (MOU) would put Tennessee at a competitive disadvantage." (Associated Press 1996b) As a result, the Governor rescinded the MOU on March 15,1996 and created a panel to make recommendations for a new policy. A TAB member was appointed to the panel.

TAB also lobbies the courts through the presentation of *amici curiae* briefs. For example, it recently became involved in testing the constitutionality of the tax code in Tennessee. One leader hinted at this saying, "We have entered *amicus* briefs a couple of times . . . I know one was a tax issue." The other was a civil rights case involving sexual harassment (see *Campbell v. Florida Steel Corporation*, 1996). Campbell had complained that three co-workers were sexually harassing her. Her employer, Florida Steel, had moved promptly to terminate the harassment. Following the complaint, Campbell's co-workers subjected her to "cold-shoulder treatment" of which the company was aware but failed to eliminate. As such, Campbell claimed she had been constructively discharged and was therefore entitled to damages. The local (Knox county) trial court agreed, but the appellate court reversed the damage award. Campbell appealed to the state Supreme Court, and TAB submitted an *amicus* in opposition.

TAB also attempts to keep its members aware and informed by offering various programs throughout the year. On occasion it conducts public education and awareness programs. Improving education is a constant goal, so many of its programs are targeted at high school students. The group offers a Business Week program to teach basic business skills. The Executive Director in a newspaper interview explained the need for this program: "We find they have extremely limited knowledge about things like profit

structure, and the type of decisions they need to make to run a business." (Davis and Klausnitzer 1996)

In recent years, the lobbying efforts of the group in Tennessee have expanded. Previously, the group relied primarily on personal contacts, but has since developed grassroots mobilization tactics. The reason for this change, one interviewee noted, was that:

> The issues have become more numerous, and it's been necessary to get that home touch. And I think with all the legislation and hype that's been put on limiting access to elected officials within the last 5 to 6 years that has made it necessary, just as well in the U.S. Congress, made it necessary to do some home cooking in other words.

The result is that the group uses multiple tactics to promote its goals and purposes.

VIII. Conclusion

I have examined six different interest groups. The six groups vary greatly (see Table 7). Some have extensive resources -- Eagle Forum, Mothers Against Drunk Driving, and Tennessee Conservation League, Tennessee Association of Business. Other groups – Tennessee Shooting Sports Association, National Organization for Women, and Tennessee Business Roundtable – have comparatively limited resources. Only three of the groups had professional staff on the state level – Mothers Against Drunk Driving, Tennessee Business Roundtable and Tennessee Association of Business. Some groups such as Mothers Against Drunk Driving are very closely linked with their national organization. Others, like Tennessee Association of Business, are only loosely linked with the national organization.

In addition, the lobbying strategies of the groups vary. Each of the groups conducts legislative lobbying, and uses at least one other approach such as lobbying the

Table 7: Selected Characteristics of the Six Case Study Groups.

National Organization	NOW	NWF	MADD	Eagle Forum	NRA	Chamber of Commerce	Business Roundtable
Members	250,000	6 million	3 million	80,000	2.65 million	180,000	221
Budget	$7 million	$88 million	$50 million	$800,000	$ 90 million	$70 million	Not available
Staff	9 pro 30 other	610 total	211 pro, 106 other	3 pro, 11 other	225 pro, 335 other	750 pro, 800 other	8 pro, 10 other
State Organization	TN NOW	TN Cons. League	TN MADD	TN Eagle Forum	TN Shooting Sports Assn.	TN Assoc. of Business	TN Business Roundtable
Members	1,500	13,000	1200	3,000	800	1,800	200
Budget	$6000	$400,000	$150,000	$40,000	$15,000	$1.7 million	$210,000
Staff	volunteer	4 pro, 3 other	2 pro, 1 other	volunteer	volunteer	6 pro, 7 other	1 pro, 1 other
Age	24	50	17	25	48	85	14
Lobby Legislature	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Lobby Judiciary	No	Yes	No	Yes	No	Yes	No
Lobby Executive	No	Yes	Yes	Yes	No	Yes	Yes
Campaign Activity	Yes	Yes	No	Yes	Yes	Yes	Yes

executive or conducting electoral activities. Three of the groups used a judicial strategy. I offered three potential explanations for this variation. In chapter 5, I revisit these theories, examine the evidence in light of them and explain how the evidence fails to support all but one of them.

CHAPTER 5: FINDINGS AND CONCLUSIONS

The seven groups examined in this study vary in the strategies they use to pursue their goals. Table 8 displays the strategies and tactics used by each group. In sum, all of the groups conduct various forms of legislative lobbying. Many of the groups have registered lobbyists who maintain constant face-to-face contact with state legislators. Several groups have written legislation, offered testimony, and provided other forms of information to the General Assembly. When faced with a critical issue, each group puts pressure on legislators by mobilizing grassroots support (or opposition).

All of the groups also lobby the executive. Groups regularly have contact with the governor, department heads, and administrative officials. Some groups serve on advisory boards or commissions. For example, both the Tennessee Conservation League and Tennessee Association of Business have a long history of filling seats on important policy development commissions and boards. This gives these organizations access to decision-makers at the policy formulation stage, which allows them to take a proactive rather than reactive role. Finally, several group leaders explained that they work with street-level bureaucrats. For example, the Tennessee Shooting Sports Association trains public school teachers in firearms safety.

Most of the groups examined also engage in electoral activity. All but three groups conduct "candidate surveys" from which information is made available to group members so they can ascertain candidates' positions on important issues. Some groups also make formal endorsements.

Table 8. Interest Group Lobbying Tactics (1990-1997).

	State Level Interest Group						
Lobbying Strategies and Tactics	**EF**	**TSSA**	**MADD**	**TN NOW**	**TCL**	**TBR**	**TAB**
Legislative Activity	All	Some	All	All	All	All	All
Registered lobbyist	Yes	No	Yes	Yes	Yes	Yes	Yes
Drafted legislation	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Testified before a committee	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Grassroots mobilization	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Executive Activity	All	Some	Some	Some	All	All	All
Close contact with high level official	Yes	Yes	Yes	No	Yes	Yes	Yes
Member appointed to a board	Yes	No	No	No	Yes	Yes	Yes
Street-level bureaucrat contact	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Grassroots mobilization	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Electoral Activity	Some	Some	No	All	Some	Some	Some
Candidate recruitment	No	No	No	Yes	No	No	No
PAC	No	No	No	Yes	No	No	Yes
Endorsements	No	No	No	Yes	No	No	Yes
Candidate Survey	Yes	Yes	No	Yes	Yes	Yes	Yes
Public comment on elections	Yes	Yes	No	Yes	Yes	Yes	Yes
Judicial Activity	All	No	No	No	Some	None	All
Sponsored Litigation	Yes	No	No	No	Yes	No	Yes
Filed *Amicus Curiae* brief	Yes	No	No	No	No	No	Yes
Monitor Courts	No	No	No	No	No	No	Yes
Other Activities	Some	Some	All	All	Some	Some	Some
Protests, rallies, and demonstrations	No	No	Yes	Yes	No	No	No
Public education/awareness/service	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Media outreach	Yes	No	Yes	Yes	Yes	Yes	Yes

In addition, half of the groups examined have political action committees that distribute campaign funds to candidates which support the group's interests.

Only three groups lobby the courts – Eagle Forum, Tennessee Conservation League, and Tennessee Association of Business. The Tennessee Shooting Sports Association (NRA), Mothers Against Drunk Driving, the Tennessee NOW, and the Tennessee Business Roundtable have not sponsored litigation or filed an *amicus* brief in recent memory, and only Tennessee NOW has any recollection of ever doing so. The groups that do lobby the judiciary tend to engage in case sponsorship. Only one group has a particularly outstanding history of filing briefs -- the Tennessee Association of Business. In all three cases, judicial lobbying was done in coalition with other groups.

The question I seek to address here is: Why did these three groups lobby the judiciary, while the other four did not? Three theories-- the political disadvantage theory, the resource theory, and the adaptation theory -- purport to explain variations in the use of judicial strategies. The political disadvantage theory suggests that groups differ in their ability to gain access. It suggests that groups with positions that differ from the majority will have to use different strategies than those with broad public support. The resources theory points to the difference in a group's resources as determinative.

At first glance the three groups that engage in judicial lobbying do not appear to have much in common. They are of varying age and organizational structure, and the strategies used by their national organizations vary. The national organization most likely to employ a judicial strategy is NOW, yet Tennessee NOW has not used a judicial strategy in several years. Table 9 demonstrates the lack of correlation between age and strategy, and national strategy and state strategy.

Table 9. Age and National Strategy of Interest Groups by State Judicial Strategy.

	State Interest Group						
Group Character	**EF**	**TCL**	**TAB**	**TSSA**	**MADD**	**NOW**	**TBR**
Age	**25**	**50**	**85**	**48**	**17**	**24**	**14**
National Lobbies Courts (1990-96)	**No**	**Yes**	**Yes**	**Yes**	**Yes**	**Yes**	**No**

In sum, age, organizational structure, and national strategy do not explain variation in state lobbying strategies. This lack of uniformity persists when examining relative advantage/disadvantage of the groups. I did, however, find that groups that lobby the judiciary have similar levels of resources.

I. Political Disadvantage Theory

The political disadvantage theory suggests that certain groups -- due to their minority status -- are unable to gain policy victories through other channels, and thus must turn to the judiciary. In other words, groups that find themselves politically handicapped in the legislature or in the electorate can be expected to pursue a judicial strategy. To test the political disadvantage theory, I hypothesized that groups with similar ideologies would assume similar strategies. This, however, was not the case.

Three groups which have different ideologies have actively used a judicial strategy -- one conservative, one liberal, and one business group. Groups with similar ideologies were no more likely to employ similar strategies than groups with different ideologies. Furthermore, shared ideology did not translate to either a shared political disadvantage or advantage. Conservative groups, for example, do not appear to have more or less access than liberal groups. In fact, I did not even find that business groups --

typically "insider" groups -- have more access than non-business -- typically "outsider" groups.

Not a single leader I interviewed described the group he/she represented as "politically disadvantaged". In fact, every leader I interviewed claimed that approaching the legislature is the favored method because of the "easy access". For example, one of the state leaders from Eagle Forum explained the group's preference for a legislative strategy saying:

> You can do more with the legislature. In other words, we each have our own personal congressman, we each have two senators, and so generally most of us will know our congressmen pretty intimately . . . The action is there because that's where you are. They are more accessible.

Similarly, a leader from the TSSA stated, "You can get on a much more personal basis with your local representatives." Even the leaders of Tennessee NOW, a traditionally "politically disadvantaged" group, did not perceive any difficulties in gaining access to the legislature. While describing the group's efforts regarding the Families First welfare reform program, one leader said: "We were able to put our input into . . . some of the senators and representatives." Each of the groups has experienced victories and losses in the legislature, and as a result each perceives the legislature as accessible. If every group has access and every group experiences success, then according to the political disadvantage theory there is no reason for a group to seek other avenues of influence. The traditional path of legislative lobbying is providing the policy change desired. The political disadvantage theory depends upon a group being unable to exercise influence in the traditional manner. Every group, however, claimed to do just that. Therefore, the political disadvantage theory does not explain the variation in lobbying strategies used by the interest groups studied here.

There are two aspects of Tennessee government and politics that may have contributed to the lack of evidence supporting the political disadvantage theory. First, the state's party system is now more competitive. As a result, each group feels it is heard by elected officials and has a reasonable amount of support in the legislature. My respondents consistently mentioned that their groups pursued a legislative lobbying strategy because of the amount of input and influence it allowed. As one MADD leader put it: "We have always had at least a few allies there (in the state assembly) that will hear us out and even help us fight it out if we're lucky." The political disadvantage theory rests upon a group being unable to gain victories through legislative means. Each of the groups examined here mentioned multiple legislative victories.

Several group leaders, however, did mention being "disadvantaged" or "advantaged" at times -- particularly with respect to the Governor. Several respondents noted that while there are both conservatives and liberals and Democrats and Republicans in the Tennessee State Assembly, the Governor's office is held by one party. Several leaders suggested that the party in executive power affects whether they actively use an executive strategy. For example, one NOW leader explained, "Since we've had someone who is very much unfriendly to us -- to many of our causes -- in Governor Sundquist, we haven't found that door open a lot." Another leader made a similar claim about MADD: "Recently that (the Governor's Office) seems to be real interested, but it hasn't always been that way." Traditionally, political advantage/disadvantage was considered a long-term condition resulting from the minority status of an organization. The only evidence of political advantage/disadvantage I found, however, was the short-term advantage/disadvantage associated with groups' partisan and/or ideological ties. Thus a group's relative advantage or disadvantage appears to shift with each election.

The second aspect of Tennessee politics that may contribute to the lack of evidence supporting the political disadvantage theory is the state's use of judicial elections. Judges in Tennessee are elected. It may be that judges are as likely to respond to a majority of the electorate as the legislature. If this is the case, there is no reason for a minority group to expect more favorable treatment from the judiciary than from the legislature. The political disadvantage theory originally emerged to explain appeals made by groups to the United States Supreme Court -- an appointed government branch. It was suggested that because minority groups held little influence in the "election-aware" Congress, they would seek policy changes from a non-election-restrained branch -- the Supreme Court. The Tennessee Supreme Court, however, does not possess quite the electoral independence that the United States Supreme Court does.

II. The Adaptation Theory

The adaptation theory suggests that as lobbying regulations and restrictions are adopted and the path to the legislature becomes more difficult, groups seek out and employ non-legislative strategies. To explore the adaptation theory, I hypothesized that in response to recent changes in lobbying laws groups have broadened their strategies to include some non-traditional strategies such as lobbying the courts. However, no recent change in strategy was observed. Neither newspaper reports nor discussion of activities and strategies with group leaders, suggested that any significant strategy changes had occurred from 1990 to 1997. Lobbying the legislature is still the primary strategy for all seven groups.

Several groups did say, however, that their lobbying efforts had become more formal and precise. They noted that certain people registered with the state are now responsible for all formal lobbying and that these people now must keep very explicit

records. This is further evident in that each sample group had registered its' lobbyist(s). Six years ago many public interest groups did not have lobbyists registered with the state. In fact, when I originally contacted the Office of the Registry of Election Finance to acquire the list of registered lobbyists, I was informed that the list was changing on a daily basis because numerous public interest groups were registering lobbyists in response to the newly adopted laws (See Appendix C). Yet everyone I interviewed felt that in reality lobbying the legislature had become easier despite the restrictions and regulations.

According to my respondents, regulation and restrictions may have narrowed the path, but new communication technology countered any effect the restrictions may have otherwise had. For example, one of NOW's leaders said: "The technology, we are beginning to use the technology more . . . In the past, we used to have to be at more meetings." One MADD leader stated repeatedly the important role fax machines play in its efforts to lobby the State Assembly. In short, I uncovered evidence that lobbying efforts have increased due to advances in technology. Fax machines and e-mail have made contacting legislators and group members much easier. An Eagle Forum leader explained that technology has had a significant impact on the individual member's ability to discuss an issue with his/her representative. She said it is particularly useful when mobilizing the grassroots: "With fax machines and e-mail now, you can just do a little paragraph which stimulates people's memories."

Whereas traditionally lobbying the legislature depended on informal contacts between group leaders and elected officials, it is now a more public phenomenon. Today grassroots efforts dominate the legislative strategies of all types of groups. Each of the public interest group leaders I interviewed claimed that letters, calls, and faxes from members to legislators were vitally important aspects of their lobbying strategies. Even

business groups now use grassroots contacts. In fact, business groups have successfully coupled technology with grassroots contacts. The Tennessee Business Roundtable, for example, has developed an elaborate method with which they can mobilize members based on characteristics such as type of industry, legislative district, or personal history with a legislator.

In sum, the adaptation I uncovered did not stem from legal changes in the environment. Rather, it stemmed from political and technological changes. Groups have embraced modern technology such as the fax machine, e-mail, and the Internet. In addition, groups have expanded their lobbying strategies to compensate for the competition they face. With a multitude of groups clamoring for legislative attention each group's chance of victory is diminished. As a result, many groups have begun looking outside the walls of the capitol. Several interest group leaders suggested that one of the reasons they often take issues to the governor or the judiciary is to get beyond the noise of all the other interest groups. One TAB leader pointed out: "Everyone talks to their representative, if we want to be heard we have do something different."

Although I did not find the change in strategies the resource theory predicts, I did find that groups adapt to their environment. I found no evidence to suggest that Tennessee's adoption of lobbying reform substantially affected the strategies of interest groups. There has been a fading of informal contacts, but legislative lobbying continues. In fact, it may be increasing. If the environment has forced interest groups to adapt, it has worked in the direction opposite of the resource theory's predictions. Recent advances in technology have caused groups to expand their lobbying efforts. Whatever influence interest groups may have lost due to the conclusion of informal contacts they regained through mass communication. Furthermore, I did not find that groups had expanded their strategies to include non-traditional techniques in order to compensate for traditional

strategies of influence lost due to lobbying regulations. I did, however, find that groups had expanded their strategies. Several groups have been exploring other strategies in hopes of gaining a political advantage over all the other groups out there.

III. The Resources Theory

The resources theory suggests that the strategies that groups employ are dependent on the resources available to them. To explore this theory, I hypothesized that groups with similar levels of resources would employ similar strategies. Unlike the political disadvantage and adaptation theories, the resources theory receives some support from the data. The groups with more extensive resources -- i.e., budget and members -- were the groups that engaged in judicial lobbying. Table 10 offers a comparison of groups by resources and strategy.

Table 10. The Resources Available to Each State Interest Group.

	Lobbied the Judiciary			**Did Not Lobby the Judiciary**			
Resources	**EF**	**TCL**	**TAB**	**TSSA**	**MADD**	**NOW**	**TBR**
Budget	$40,000	$400,000	$1.7mill.	$15,000	$150,000	$6000	$210,000
Members	3,000	13,000	1,800	800	1200	1,500	200
Staff	Volunteer*	4 pro 3 other	6 pro 7 other	volunteer	2 pro 1 other	volunteer	1 pro 1 other

* It should be noted that Eagle Forum has two full-time volunteers.

Table 10 shows that those groups with more limited resources -- the Tennessee Shooting Sports Association, MADD, Tennessee NOW, and Tennessee Business Roundtable-- have not recently engaged in judicial lobbying of any kind. These groups restricted their lobbying to the legislature, the executive, and the public.

Furthermore, the interviews with non-judicial groups' leaders offered additional evidence to support the resources theory. When asked why they did not employ a judicial lobbying strategy, leaders for most of the groups cited expense. One individual from

NOW explained that lobbying the courts required a great deal of resources -- both money and time -- and that the result was usually a very tailored and limited policy change. A Tennessee Business Roundtable member told me that his group had managed to establish reliable contacts with the legislature through a constant presence there. The group did not have the same type of exposure in the judiciary because establishing itself there would be very expensive. The leader explained that because the group had traditionally met with success in the legislature, it did not bother to approach the courts. A TSSA member put it very simply: "We don't have that kind of money really."

Lobbying the judiciary can be a very expensive enterprise. The court-filing fee is only $75. Attorney fees, however, are substantial. The actual attorney fees differ based upon the issue at hand. One Tennessee attorney estimated that filing an *amicus* brief, which is by far less expensive than sponsoring a case, generally costs over $2000[10]. Often, individuals or other groups seeking support approach a group, but groups that regularly participate in judicial activity tend to have an attorney on staff. The attorney's job is to monitor the court similar to the manner in which a group's lobbyist monitors the legislature. Not many state level interest groups can afford to have an attorney on staff. Of the seven groups I examined, only the Tennessee Association of Business retains an attorney on a regular basis. Between the participation costs assumed in filing fees, attorney fees, and the monitoring costs assumed in retaining an attorney, judicial lobbying tends to be beyond the fiscal capabilities of many groups. Moreover, groups do not tend to be willing to abandon legislative efforts in order to finance judicial efforts. My respondents consistently mentioned that lobbying the legislature was a more effective use of their resources because the results were faster, broader, and longer lasting.

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[10] On May 18, 1997, I talked to an individual from the Tennessee Association of Trial Lawyers regarding the filing of *amici* briefs.

It is important to note, however, that no sample groups used a judicial strategy as a sole or even dominant strategy. All of the groups that engaged in judicial lobbying used it as a "last resort". There was no evidence that they were in a process of abandoning other strategies in deference to lobbying the judiciary. In fact, leaders consistently stated that lobbying the legislature is almost always the best way to go. Some groups, particularly public interest law firms, may find that the judiciary best deals with their issues. But I did not find any evidence of this among my seven groups. The groups I examined exerted full efforts in the legislature and had simply expanded their methods of influence by approaching the courts. If forced by circumstances (such as limited resources) to choose between a legislative strategy and judicial strategy, my data suggest that groups will abandon their judicial efforts and limit themselves to the legislature. However, when faced with the advantage of extensive resources, groups attempt to increase the influence they wield by using a non-traditional strategy. It is the leaders' hopes that by interacting with government officials in a manner different from other groups they can expand their influence.

My data also suggest that the resources theory is not limited to explaining the employment of judicial strategies. As one might expect, the groups with greater resources cited a greater spectrum of lobbying strategies than the two groups with limited resources (see Table 11).

Table 11. Branches Lobbied by the Amount of Resources Available to an Interest Group.

	Extensive Resources			Limited Resources			
Strategy	EF	TCL	TAB	TSSA	MADD	NOW	TBR
Legislative	All	All	All	Some	All	All	All
Executive	All	All	All	Some	Some	Some	All
Judicial	Some	Some	All	None	None	None	None

In particular, the state affiliate of the National Wildlife Federation has the most extensive resources of all the groups studied, and also has the most varied repertoire. Its strategies include lobbying the legislature and judiciary, promoting public awareness, conducting voter awareness activities, and lobbying the governor and his administration.

IV. Consideration of Other Factors

The amount of resources available to a group offered the best explanation for the differences in lobbying strategy. This explanation, however, is not definitive. Just because a group has money does not mean it will lobby the judiciary. Other preconditions must exist.

First, the group must have a grievance with the traditional process. As I have previously suggested, approaching the courts was a last resort for the groups I examined. In other words, preceding the group's decision to lobby the judiciary the group had made several attempts in the legislature and was unsuccessful. For example, Eagle Forum attempted in two separate sessions of the legislature to have an adoption law repealed or amended, before deciding to seek judicial intervention. The group would have preferred to use a legislative strategy, but its dissatisfaction with the situation led it to seek an alternative means of influence.

This further explains why TSSA has never approached the judiciary. Beyond the fact that TSSA has limited resources, it is very happy with the status of 2nd Amendment rights in the state of Tennessee. Currently, federal firearm regulations – e.g., the assault weapon ban -- are of a much greater concern. To engage in judicial lobbying, TSSA or any interest group must first feel that its goals are being threatened by actions in the other government branches. In other words, the group must be dissatisfied enough with its other attempts to resort to judicial action.

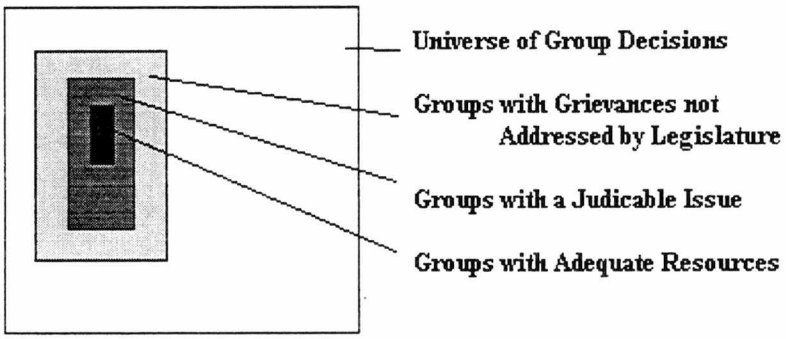
Second, in order for a group to use a judicial strategy, it must also be able to frame its grievance as a judicial issue. As I discussed previously, of the three main branches of government the judiciary is the most difficult to access. Any individual or group can appeal to the legislature or governor, but in order to appeal to the court an individual must have "standing" in case of "real controversy" which converges on a "legal question." In order to have standing, the individual and/or group must demonstrate that the law or situation has adverse effects upon them. In order for a case to involve a "real controversy" it must rely upon an actual conflict which all efforts have failed to satisfy. In order to focus on a "legal question," the case must dispute the constitutionality or legality of a particular act or law involved. Eagle Forum questioned the open adoption law by claiming it violated an individual's right to privacy as guaranteed by the state and U.S. Constitution. The Tennessee Conservation League sought judicial review of tributary development. As such, they argued that the development violated legal protections of natural resources as established in several statutes. Both groups claimed that the issue at hand was a legal one because a law or constitutional provision was being violated.

Not all issues, however, are judicable. In order for an issue to be judicable it must draw on an already established law or constitutional provision. A significant number of interest group objectives involve securing passage of a law. If the law is not passed, the group has little legal recourse. Lack of a judicable issue partly explains why MADD has not actively participated in judicial politics. In a drunk driving case, constitutional rights and liberties protect the defendant, not the victim. Therefore MADD lacks legal grounding for a court case. Many of the group's interests lie in the resolution of drunk driving cases. As a result, the group takes a passive role in the judiciary. It monitors proceedings and has representatives present. If the group in coalition with victims' rights

groups succeeds in securing a victim's rights amendment, then MADD may have a legal claim for a court case.

There are three factors which determine whether a group will lobby the judiciary or not. Figure 1 summarizes the factors that influence whether a group employs a judicial strategy. It shows that a group must have: resources with which to retain an attorney and file the brief, a grievance that has failed to be satisfied using traditional approaches (lobbying the legislature and executive, public awareness and media outreach, and/or campaign activity), and goals that can be translated into judicial issues.

Figure 1. Likeliness of a Group Using a Judicial Strategy.



For my sample groups, these three factors rarely converged. As a result, only three of seven groups actively lobbied the courts. Even among these three groups lobbying the judiciary was not common. The Tennessee Association of Business was the only group that even suggested they participated in some form of judicial activity on a regular basis.

V. Conclusion

This study examines the lobbying strategy decisions made by interest groups on the state level. Three theories purport to explain a group's decision to lobby the courts. First, the political disadvantage theory suggests that groups with a shared political

character or ideology share an advantage or disadvantage in the political system, and that those groups that promote minority principles find themselves at a disadvantage in the public-opinion-driven branches of government. Second, the resource theory claims that groups with limited resources will behave differently than groups with ample resources. Third, the adaptation theory asserts that groups will react to changes in their environment by adapting their strategies.

Employing case study analysis, I find evidence to support only the resources theory. Specifically, I find that state interest groups are limited by the resources available to them. The primary strategy employed by state interest groups is lobbying the legislature. It is considered the most effective use of their resources. However, groups with greater resources tend to expand their strategies to include other means such as lobbying the judiciary.

There is no evidence that recent changes in lobbying regulations have resulted in a decrease in groups attention to the legislature. The groups studied, however, do show signs of adaptation. First, with recent advancements in communication technology -- fax machines, World Wide Web, etc. – groups have shifted their tactics. Groups now use these new communication tools to amplify their grassroots efforts. Using faxes, e-mail, and web pages, group leaders alert members about important issues. Members then contact elected officials. As a result, legislative lobbying has actually increased. Second, it also seems that groups are reacting to the increasing interest group competition in the legislature by seeking other means of influence. Groups have adapted to the increasingly competitive environment by broadening their lobbying repertoire.

There is no evidence to support the political disadvantage theory. Of the groups that actively lobby the judiciary, one is conservative, one is liberal, and one is a business group. None of the groups seem to suffer long-term disadvantage due to their minority

status, ideology, or political nature. I do, however, observe hints of short-term disadvantage. Group leaders are very aware of the fact that some office holders are more open to their ideas than others. This seems to be particularly important when approaching the Governor's office. Thus the groups which appeal to the Governor change from election to election depending upon the ideology of the individual elected.

According to my data, those groups with ample resources are more likely to engage in additional strategies such as lobbying the judiciary. Resources, however, are not the only important factor. Groups that appeal to the judiciary typically share two other characteristics. First, they are dissatisfied with efforts to resolve an issue in the other branches of government. Second, the issue with which they are concerned can be framed as a judicial issue. In sum, evidence suggests money, dissatisfaction, and legal grounding are pre-requisites to judicial lobbying.

It is important to note that this study is only the beginning of the research needed to understand the lobbying strategies of interest groups. Designed as it is, this study simply explores three potential explanations of lobbying strategies. The ability to generalize the findings reported here is limited due to the nature of the study. Only seven groups were examined. In addition, group activity in only one state was examined. Although generalization of this study's findings beyond the state of Tennessee cannot be done, Tennessee is similar enough to other states in a number of characteristics (i.e., legislative professionalism, party competition, interest group strength, etc.) that the findings are suggestive of what might be found in other states. More extensive research is warranted.

With efforts to return power to the states, we can expect to see an increase in interest group activity on the state level. As more interest groups compete within the

walls of the General Assembly, it is likely that more groups will seek other paths of influence. We know little about these non-traditional paths.

Future study of other interest groups and other states will offer a stronger empirical grounding for a theory of interest groups' lobbying strategies. In particular, it would be helpful to investigate the lobbying strategies of groups in states with different methods of judicial selection. As mentioned above, the test of the political disadvantage theory may have been adversely affected by Tennessee's use of judicial elections. A comparative state study of judicial lobbying would provide additional information.

In addition, the election of judges deserves greater examination. States with judicial elections offer interest groups an additional point of access. Interest groups can conduct campaign efforts similar to those used for legislative and executive elections. This past year, Tennessee witnessed such. Judge Penny White received a great deal of opposition from pro-death penalties groups. As a result, she lost her seat on the Tennessee Supreme Court. Interest groups in other states have enjoyed similar successes (Glick 1994).

In conclusion, this study was designed to examine variation in interest group lobbying strategies. It focused on why some interest groups expand their lobbying strategies to include a judicial approach while others do not. Although scholars have conducted a great deal of research on judicial lobbing, little attention has been given to why groups choose to employ this strategy. Using case study analysis of seven groups, I found that resources are a critical factor in a group's ability to employ a judicial strategy. Those groups which are dissatisfied with the status of a judicable issue have another path of influence available if they have the resources needed to traverse the path. Nonetheless, the cost of approaching the courts is often prohibitive. As groups' judicial efforts increase, scholars need to take a closer look at this lobbying mode. In particular, greater

attention needs to be paid to the selection of judges. The relationship between the use of judicial lobbying by interest groups and the method of judicial selection within a state deserves a closer look. Scholars should ask if different types of groups lobby the courts in states with appointed judges than in states with elected judges. Furthermore, judicial elections offer an added opportunity to lobby the courts. More attention needs to be paid to electoral activity by interest groups in judicial elections. In sum, this study points out the need for more research on judicial lobbying.

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APPENDIXES

Appendix A
Consent for Research Study: "Lobbying Strategies of Interest Groups"

I, _____, agree to participate in the research study being conducted by Mrs. Sharlene Garber Bax, and her advisor Dr. Patricia K. Freeland of the University of Tennessee. I understand that the study will be under the supervision of these researchers.

I understand that the purpose of the research is to study the factors associated with interest group decision-making and strategy selection. I understand that I am one of several interest group leaders who will be interviewed during the next six months. I understand that I will be asked several questions about (name of group) _____ and its activities.

The only known risk to participation in the study is if the researchers allowed others to have access to responses. A written and audio record of the interview will be made. I understand, however, that the original written and audio record of my responses will be kept entirely confidential. The audio recording is being made to ensure that statements made during the interview are reported clearly and accurately. The audio recording will only be used for the purposes of this study. Any record of the responses made available will be written and will have the names of those interviewed omitted. The original audio record and written record will be kept in locked file. Only the researchers listed below will have access to this file.

I understand that my participation is voluntary, and that I may stop participating at any time without penalty. I also understand that I may refuse to answer any particular question.

I understand that if I have any questions about this research or my rights as a research participant, I should contact.

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I will receive a copy of this consent form. Another copy of this form will be held in a locked cabinet with the other records of this interview for three years at the Department of Political Science, McClung 1001, University of Tennessee, Knoxville.

AGREEMENT

I, _____, agree to participate in this research project.

Signature _____ Date _____

Appendix B
Tentative Interview

The following questions are to be posed to a recognized leader of the organization. There are two sections. The first section involves more direct questions about the structure of the organization. The second section involves vague open-ended questions about the organizations goals, and activities. All interviews will be conducted as scheduled appointments.

INTRODUCTION: Hi, My name is Shari Bax. I am a political science doctoral student at the University of Tennessee. I had asked to meet with you so that I could interview you about (name of organization) . I have several questions I would like to ask you about the goals and activities of (name of organization) . If it is all right with you then, we will just get started.

QUESTIONS ABOUT THE INDIVIDUAL:

1. First, would it be all right with you if I record this interview on tape?

2. What is your official position with (name of organization) ?

3. What do you do as (position title) ?

4. What other positions have you held?

5. How long have you been involved with (name of organization) ?

6. How did you get involved with (name of organization) ?

QUESTIONS ABOUT THE ORGANIZATION:

1. When was (name of organization) founded?

2. How many members does this organization have here in Tennessee?

3. How is the group organized? (Do they have state, local, regional branches or chapters?)

4. a. How many people serve on staff?

b. Of those, how many would you classify as professional staff?

c. How many would you classify as support staff?

d. How would you classify the other staff?

e. Are there any litigators, attorneys or otherwise legally trained members on staff? If so, how many?

5. What is the leadership structure of the organization? (Is there a Pres., V.P. etc, a board of directors?) (how many people hold leadership positions?)

6. What are the main sources of revenue for the organization? ((membership dues, publication subscriptions, foundation grants?)

7. a. What was the 1995 budget for this organization?

b. What is the proposed budget for 1996?

8. a. Is there a Political Action Committee associated with this organization?

b. What is the name of this PAC?

9. What is the primary goal of this organization?

10. What are some of the current concerns of the organization?(contemporary issue stances, government policies, bills or cases under review?)

3. a. Regarding this organization's interest in _(name concern previously mentioned), what methods is the group using to promote their interest? (strategies, activities, tactics?) (Repeat for each concern mentioned.)

b. Why has the organization chosen a strategy involving _(refer to strategy previously mentioned)_ to pursue their goals in this matter?

4. a. You have referred to many different methods your organization uses to pursue their goals, which method of operation do you believe is the most effective?

b. Why?

c. Do you think the organization is presently using strategies different from those they used in the past?

d. How have the strategies changed? What strategies were more effective in the past? Which presently used strategies were not used in the past?

e. Why do you think it was necessary for the organization to change strategies?

13. Is there anyone else from about _(name of organization)_ that you would recommend I interview before leaving?

14. Finally, how would you prefer to be referred to in my research? (Would you feel comfortable with me using your name? Would you prefer for me to use your organizational title, or would you rather remain completeley anonymous by me assigning the organization and your position a more generic name?)

CONCLUSION: Thank the interviewee, and explain that you will send a copy of the interview summary once it is prepared.

Appendix C
Tennessee Lobbying Law

The following are laws which directly relate to lobbying and lobbyist. These laws were enacted by the Tennessee General Assembly under Act of 1975. Recent changes to the laws have been noted.[1]

3-6-101. Short Title. – This chapter shall be known and may be cited as the "Tennessee Lobbyist Registration and Disclosure Act of 1975." [Acts 1975, ch. 313, § 1; T.C.A, § 3-601.]

3-6-102. Definitions. – As used in this chapter, unless the context otherwise requires;
(1) "Administrative action" means the taking of any recommendation , report or nonministerial action, the making of any decision or taking any action to postpone any action or decision, action of the governor in approving or vetoing any bill or resolution, the promulgation of a rule and regulation; or any action of a quasi-legislative nature, by any official in the executive branch;
(2) "Association" means a union, league, chamber of commerce, committee, club or other membership organization;
(3) " Attorney General" means the attorney general and reporter;
(4) Candidate for public office" means an individual who has made a formal announcement of candidacy or qualified under the law of this state to seek nomination for election or elections to any state public office, or has received contributions or made expenditures except for incidental expenditures to determine if one shall be a candidate, or has given consent for a campaign committee to receive contributions or make expenditures with a view to bringing about such person's nomination for election or the election to state public office, and any individual who has been nominated for appointment as an official in the legislative or executive branch;
(5) "Compensation" means any salary received by anyone acting as a lobbyist, whether in the form of a fee or a salary, and any combination thereof. "Compensation" does not include the salary of an individual whose lobbying is incidental to such person's regular employment;
(6) "Executive agency means a commission, board, agency, or other body in the executive branch of the state government and any independent body of the state government that is not part of the legislative or judicial branch;
(7) "Expenditure" means any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge, or subscription of money or anything of value, and any contract, agreement, promise, or other obligation, whether or not legally enforceable, to make an expenditure;
(8) "Gift" means a payment, honorarium, subscription, loan, advance, for-

[1] Other laws which relate less directly are the Campaign and Disclosure Act of 1980 (see Tennessee Code Annotated 2-10-101 to 2-10- 210).

bearance, rendering or deposit of money or services, any of which are valued at fifty dollars ($50.00)[2] or more, unless consideration of equal or greater value is received. "Gift" does not include a political contribution otherwise reported as required by law, a commercially reasonable loan made in the ordinary course of business, or a gift received from a member of the person's immediate family, or from a relative within the third degree of consanguinity of the person or of the person's spouse, or from the spouse of any such relative. "Gift" does not include the waiver of a registration fee for a conference or educational seminar. A "gift" to an officer or employee of the executive branch of state government
means a payment, honorarium, subscription, loan, advance, forbearance, rendering or deposit of money or services, any of which are valued at twenty-five dollars ($25.00) or more, unless consideration of equal or greater value is received;
(9) "Immediate family" means a spouse or minor child living in the household;
(10) "Influencing legislative or administrative action" means promoting, supporting, influencing, modifying, opposing or delaying any legislative or administrative action by any means, including, but not limited to, the provision or use of information, statistics, studies, or analyses, but not . including the furnishing of information, statistics, studies, or analyses requested by an official of the legislative or executive branch to such official or the giving of testimony by an individual testifying at an official hearing conducted by officials of the legislative or executive branch;
(11) "Legislative action" means introduction, sponsorship, debate, voting or any other nonministerial official action or nonaction on any bill, resolution, amendment, nomination, appointment, report or any other matter pending or proposed in a legislative committee or in either house of the general assembly;
(12) "Lobby" means to communicate, directly or indirectly, with any official in the legislative branch or executive branch, for pay or for any consideration, for the purpose of influencing any legislative action or administrative action;
(13) "Lobbyist" means any person who engages in lobbying;
(14) Ministerial action" means an action that a person performs in a prescribed manner in obedience to the mandate of legal authority, without regard to, or the exercise of, such person's own judgment upon the propriety of the action being taken;
(15)(A) "Official in the executive branch" means any member or employee of a state regulatory commission, or of any state agency or other state body in the executive branch who takes any administrative action;
(B) For purposes of the Lobbying Ethics Act of 1989, "official in the executive branch" also includes members of the public service commission[3];

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[2] The 1995 amendment (ch. 529) deleted "any of which are valued at fidty dollars, ($50.00) or more.
[3] The 1995 amendment (ch. 305) substituted "directors of the Tennessee regulatory authority" for "public service commission." The 1995 Amendment (ch. 529) rewrote (15) to read: (A)"Official in the executive

(16) "Official in the legislative branch" means any member, member-elect, any staff person or employee of the general assembly or any member of a commission established by and responsible to the general assembly or either house thereof who takes legislative action[4];
(17) "Person" means an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons;
(18) "Political contribution" means any amount of more than one hundred dollars ($100) in the form of an advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge, purchase of a ticket to a testimonial or similar fund-raising event, or subscription of money or anything of value, in connection with a political campaign and any contract, agreement, promise, or other obligation, whether or not legally enforceable, to make a political contribution; however, "political contribution" does not mean volunteer services or personal expenses;
(19) "Registry of election finance" means the entity created by § 2-10-203; and
(20) "Solicit" means to entreat, to implore, to ask, to attempt, or to try to obtain. [Acts 1975, ch.313, § 2; 1976, ch. 568, § 1; 1976, ch. 770, § 1; T.C.A., § 3-602; Acts 1984, oh. 857, §§ 1, 2, 10; 1985, ch. 164, §§ 1, 2; 1989, oh. 585, §§ 21,25; 1989, ch. 589, §§ 2-4, 12; 1990, ch. 1049, §§ 4, 5; 1992, ch. 978, §§ 5, 6.]

3-6-103. Duties of registry of election finance, attorney general and reporter.—(a) This chapter shall be administered by the registry of election finance. It is the duty of the registry of election finance to:
(1) Prescribe forms for statements, reports and other information required to be filed by this chapter, and furnish such forms to persons required to file such statements, reports and information;
(2) Prepare and publish a manual setting forth prescribed forms and procedures to assist persons required to file statements by this chapter;
(3) Preserve such statements, reports and other information required to be filed by this chapter for a period of five (5) years from date of receipt;
(4) Develop a filing, coding and cross-indexing system consonant with the purposes of this chapter;
(5) Seek from the attorney general and reporter, issue, and publish, upon proper request from any lobbyist or public official, advisory opinions upon the requirements of this chapter;
(6) Accept and file any information voluntarily supplied that exceeds the requirements of

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branch" means the governor, any member of the governors staff, any member or employee of a state regulatory commission, or of any executive department or agency or other state body in the executive branch; (B) "Official in the executive branch" also means any member or employee of a state regulatory commission, including without limitation, directors of the Tennessee regulatory authority, or of any state agency or other state body in the executive branch who takes any administrative action.

[4] The 1995 Amendment (ch. 529) added the following: "Official in the legislative branch" also includes the secretary of state, treasurer, comptroller of the treasury.

this chapter;
(7) Make statements and other information filed with the registry available for public inspection and copying during regular office hours, and make copying facilities available at a charge not to exceed actual cost;
(8) Prepare and publish such reports as may be deemed appropriate;
(9) Promulgate any rules and regulations as may be appropriate for the administration of this chapter; provided, that such rules and regulations shall be adopted as provided for in the Uniform Administrative Procedures Act, compiled in title 4, chapter 5; and
(10) Utilize the range of powers and penalties authorized by Acts 1989, ch. 585.[5]
(b) It is the duty of the attorney general and reporter to render opinions and give counsel to the registry of election finance upon request of the executive director. [Acts 1975, ch. 313, § 3; 1976, ch. 770, § 2; T.C.A., § 3-603; Acts 1984, ch. 857, § 10; 1989, ch. 585, §§ 22,23,25.]

3-6-104.. Registration—Fee —Exceptions.—(a)(1) Every person qualifying as a lobbyist under this chapter shall register by filing a form prescribed by the registry of election finance within five (5) days after becoming a lobbyist, as defined in § 3-6-102.
(2) Any person who registers as a lobbyist, as defined in § 3-6-102, shall furnish written proof of such person's authority to lobby on behalf of each employer to the registry of election finance before doing any lobbying.
(b) At the time of registration, each individual shall pay an annual filing fee of twenty-five dollars ($25.00) for each person for whom such individual registers as a lobbyist. Any lobbyist who is an official of the executive or judicial branch or any state educational institution shall register but shall be exempt from such fee. All fees collected by the registry of election finance under the provisions of this section shall be retained by the registry of election finance and used for part of the operating expenses to administer the provisions of this chapter, including the payment of salaries to employees, the purchase of supplies, and any other necessary expense incident thereto.
(c) The registration year shall run from January 1 through December 31.
(d) A person need not register with the registry of election finance pursuant to this section if the person is:
(1) A public official performing the duties of the office;
(2) A person, or a duly licensed attorney at law acting in a representative capacity on behalf of a client, appearing before an official in the executive branch for the purpose of determining or obtaining such person's legal rights and obligations by presenting evidence, making oral arguments, or submitting written briefs to the official; or[6]

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[5] The 1995 Amendment (ch. 529) added the following: (11) Publish quarterly a listing of all lobbyists and employers of lobbyists in Tennessee.
[6] The 1995 Amendment (ch. 529) rewrote section (2) to read: An itemized list by date, beneficiary, amount, and circumstances of the transaction of each political contribution of more than one hundred dollars ($100.00) made by the registrant or anyone acting at the specific direction of the registrant to benefit a candidate for public office, an official in the legislative branch, or an official in the executive branch.

(3) An editor or working member of the press, radio or television who in the ordinary course of business disseminates news or editorial comment to the general public.[7]
(e) Registration is required if such person engages in lobbying that would directly or specifically benefit the economic, business, or professional interest of such person or the person's employer. [Acts 1975, ch. 313, § 4; 1976, ch. 770, § 3; T.C.A., § 3-604; Acts 1984, ch. 857, §§ 3,4,10; 1989, ch. 585, § 25.]

3-6-105. Contents of registration—Supplementary report.—(a) The registration shall be written and shall contain the following information:
(1) The individual's name and business address;
(2) The name and address of each person for whom such individual registers for the purpose of lobbying; and
(3) A listing of the general categories of subject matters on which the registrant lobbies.
(b) Each individual registered as a lobbyist shall file a supplementary report with the registry of election finance at the end of the registration year to cover the period from the date provided in § 3-6-106(a) to December 31. Such report shall be filed no later than January 10 of the following year, and shall, in addition to the lobbyist's lobbying activities, include a complete description of any information which has changed from the information supplied in the lobbyist's last registration form or last report.
(c) In addition to all other requirements of the law, after the filing of any registration required by § 3-6-104, if a lobbyist is engaged by any new employer for a fee, fixed or contingent, which is not disclosed on the lobbyist's current registration statement, the lobbyist shall file with the registry a report identifying any such new employer within five (5) days of the new engagement [Acts 1975, ch. 313, § 5; 1976, ch. 770, § 4; T.C.A., § 3-605; Acts 1980, ch. 585; § 1; 1984, ch. 857, §§ 5, 6, 10; 1989, ch. 585, § 25; 1990, ch. 943, § 4; 1990, ch. 1049, ~ 1.]

3-6-106. Lobbying report—Filing time—Contents.—(a) Every person registered under this chapter shall file with the registry of election finance a sworn report concerning the person's lobbying activities. A report shall be filed through June 30, or through the day following the end of the regular annual session of the general assembly, whichever is later. Such report shall be filed not later than thirty (30) days after such date.
(b) Such report shall be written and shall contain the following:
(1) A report detailing the extent of any direct business arrangement or partnership with any candidate for public office and any official in the legislative or executive branch; provided, that this requirement does not apply to such arrangement or partnership entered into prior to July 1, 1975;
(2) An itemized list by date, beneficiary, amount, and circumstance of the transaction of each gift of fifty dollars ($50.00) or more and each political contribution of more than one hundred dollars ($100) made by the registrant or anyone acting at the specific direction of

[7] The 1995 Amendment (ch. 529) deleted sections (3)-(6).

the registrant to benefit a candidate for public office, an official in the legislative branch, a member of such person's staff or immediate family, or a campaign committee or testimonial committee established for the benefit of a candidate for public office or such official. Such report shall also contain an itemized list by date, beneficiary, amount, and circumstance of the transaction of each gift of twenty-five dollars ($25.00) or more and each political contribution of more than one hundred dollars ($100) made by the registrant or anyone acting at the specific direction of the registrant to benefit an official in the executive branch, a member of such person's staff or immediate family, or a campaign committee or testimonial committee established for the benefit of such official;

(3)(A) An itemized list by dates, beneficiaries, amounts and circumstances of the transactions of gifts or expenditures with a cumulative total of more than five hundred dollars ($500) during the reporting period made by a registrant or anyone acting at the specific direction of the registrant to benefit an official in the legislative branch; and

(B) For the purpose of implementing the provisions of this section, a lobbyist may begin to compile the information for the reports required under this chapter at the beginning of the lobbyist's next succeeding fiscal year; provided, that a lobbyist shall begin to compile the required information not later than January 1, 1990;

(4) Any cumulative total of more than fifty dollars ($50.00) of expenditures during a single week to benefit an official in the legislative branch;

(6) Events where invitations are extended to the entire membership of the general assembly shall be exempt from the reporting requirements of this section; and

(6) In determining the threshold for the reporting levels required by this chapter for an event attended by more than one (1) official of the legislative branch, a staff member, or immediate family member, a lobbyist may attribute only the actual cost for any gift or expenditure to each such official or member in attendance.

(c) Any person providing funds to make a gift or expenditure other than a political contribution for the purpose of lobbying shall comply with the reporting requirements of this section whenever the purpose of such funds is to assist indirectly an official of the executive or legislative or judicial branch or any state educational institution to lobby a specific program or programs on which legislative action is pending. Such person shall also report the source and amount of the funds from which such gift or expenditure is made.

(d) When the employer of a lobbyist makes a gift or an expenditure to an official in the legislative branch, and the lobbyist has no prior actual knowledge of such gift or expenditure, such lobbyist shall not be responsible for including such gift or expenditure in the reports required by this chapter. [Acts 1975, ch. 313, § 6; T.C.A., § 3-606; Acts 1984, ch. 857, §§ 7, 9, 10; 1985, ch. 164 56 1-3:1989. ch. 585. ~ 25: 1989. ch. 589, §§ 5, 7, 13, 14.]

3-6-107. Attestation.—Each registration form, statement and report required to be filed under this chapter shall be signed and sworn to by the registrant. [Acts 1975, ch.313, § 7; T.C.A., § 3-607.]

3-6-108. Prohibited activities.—(a) No lobbyist or anyone acting at the specific direction of a lobbyist shall offer or attempt to offer anything of value to an official in the legislative or executive branch or to such official's immediate family based on any stated or tacit understanding that the official's vote, official action or judgment would be influenced thereby.
(b) No lobbyist shall knowingly or willfully make or cause to be made any false statement or misrepresentation of the facts concerning any matter for which such lobbyist is registered to lobby to any official in the legislative or executive branch.
(c) No official in the legislative or executive branch or a member of such official's staff or immediate family shall solicit or accept anything of value in violation of subsection (a).
(d) No lobbyist shall make a loan of money to any candidates for public office, officials in the legislative or executive branch, or to anyone on their behalf.
(e) No candidate for public office, official in the legislative or executive branch or a member of such official's staff or immediate family shall solicit or accept a loan in violation of subsection (d).
(f) No lobbyist or anyone acting at the direction of a lobbyist shall pay or agree to pay an official in the legislative or executive branch compensation for property or services substantially in excess of that charged in the ordinary course of business.
(g) No lobbyist or anyone acting at the direction of a lobbyist shall permit an official in the legislative or executive branch or a staff member or a member of the official's immediate family to use the credit or credit card or that of a lobbyist's employer or any other credit or credit card over which the lobbyist has control, unless the lobbyist attends the meal or other activity in which the official, staff member, or immediate family member participates.
(h) No lobbyist or anyone acting at the direction of a lobbyist shall pay the hotel expenses of an official in the legislative branch if the official receives an expense allowance under § 3-1-106. [Acts 1975, ch. 313, § 8; T.C.A., § 3-608; Acts 1989, ch. 589. ~ 6.1

3-6-109. False complaints.—It is unlawful for any person to file with the registry of election finance a sworn complaint which is false or for the purpose of harassment. [Acts 1975, ch. 313, § 9; T.C.A., § 3-609; Acts 1984, ch. 857, § 10; 1989, ch. 585, § 25.]

3-6-110. Penalties—(a)(1) Any registrant who fails to file any activity report required by this chapter shall be notified by the registry of election finance and shall have ten (10) days after such notice in which to comply. If such report is not filed within such period, the registration of the lobbyist shall be suspended. Such registrant shall not be reinstated or permitted to register as a lobbyist until such report is filed.
(2) If such registrant fails to file such report, then the person for whom such registrant has been a lobbyist shall file a report for such period. Such report shall not constitute compliance with the requirements of this registrant to be reinstated or registered.
(b) The registry shall also be empowered to:

(1) Assess a civil penalty for the late filing of a registration or activity report of twenty-five dollars ($25.00) per day up to a maximum of seven hundred fifty dollars ($750). If a lobbyist wants to contest or seek a reduction of a civil penalty assessed under this subdivision, the lobbyist shall file a petition with the registry which shall be considered a contested case proceeding pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5;
(2) Assess a civil penalty for any other violation of this chapter up to a maximum of ten thousand dollars ($10,000) per violation. If a lobbyist wants to contest or seek a reduction of a civil penalty assessed under this subdivision, the lobbyist shall file a petition with the registry which shall be considered a contested case proceeding pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5; and
(3) Refer any willful or fraudulent violation of this chapter to the district attorney general of the district where the alleged violator is a resident for prosecution as a Class C misdemeanor.
(c) In addition to all other powers granted to the registry of election finance, the registry has the authority to suspend the registration of a lobbyist and suspend any person from the privilege of lobbying if that lobbyist or person is found by the registry to have violated the provisions of § 3-6-105(c), or § 3-6-104 relative to the requirements of disclosure of the identity of any employer for a fee. The period of suspension may be for such period of time as the registry deems appropriate, but the period of suspension shall not exceed two (2) years. [Acts 1975, ch. 313, § 10; T.C.A., § 3-610; Acts 1984, ch. 867, §§ 8, 10; 1989, ch. 585, §§ 24,25; 1989, ch. 591, § 113; 1990, ch. 943, § 2;
1990, ch. 1049, §§ 2,6; 1991, ch. 519, §§ 10,11.]

3-6-111. Employment agreements—Contingent fees.—Any employment agreement between a lobbyist and the employer of a lobbyist containing a provision wherein the fee to be paid the lobbyist is upon success shall be in writing. [Acts 1989, ch. 589, § 8.]

3-6-112. Public service commissioners.—(a) The provisions of the Lobbying Ethics Act of 1989 do not apply to the members of the public service commission, except as provided in this section.
(b)(1) While any contested case is pending before the public service commission or is on appeal, it is unlawful for any public service commissioner or candidate therefor to knowingly accept a contribution for a campaign for election or reelection to such office from any employee, owner, major stockholder or officer of a company or business entity regulated by the public service commission, which is a party to such contested case, or from a committee which obtains more than fifty percent (50%) of its funds from a regulated individual or from a regulated industry which is a party to the contested case.
(2) For purposes of this section, a "contested case" before the commission means any proceeding which commences upon the filing of a formal petition in accordance with § 65-2-103.
(c) Any employee, owner, major stockholder or officer of a company regulated by the

public service commission shall be prohibited from making expenditures other than political contributions in excess of a cumulative total of fifty dollars ($50.00) during a single week or in excess of a total of five hundred dollars ($500) in a six-month period to benefit any member of the public service commission; provided, that events where invitations are extended to the entire membership of the public service commission shall be exempt from the provisions of this section.
(d) The provisions of this section shall not alter the provisions of § 65-1-103, but shall supersede the provisions of § 66-1-109. [Acts 1989, ch. 589, § 10.]

3-5-113. Lobbyists not for pay or consideration—Registration— Privilege tax exemption.—Any person who engages in lobbying beyond personal or occasional petition without pay or any consideration, and therefore not required to register pursuant to § 3-6-104, is encouraged to register with the registry of election finance in accordance with this section. Any person who so registers shall comply with all provisions of this chapter, except the registration fee shall be twenty-five dollars ($25.00), regardless of any amendments to § 3-6-104. In addition, such registrant shall not be levied the privilege tax on lobbyists imposed by title 67, chapter 4, part 17. [Acts 1992, ch. 988, § 9.]

3-6-114.[8] **Lobbyist gifts prohibited.** (1) (a) No lobbyist or employer of a lobbyist may give anything of value as a gift to a state public official.
(2) A candidate for public office, an official in the legislative branch, or an official in the executive branch, or immediate family of such candidate or official may not solicit or accept directly or indirectly a gift from a lobbyist or an employer of a lobbyist.
(b) The following are not subject to the prohibition in subsection:
(1) Benefits resulting from business, employment, or other outside activities of a candidate or official or the immediate family of a candidate or official, if such benefits are customarily provided
(2) Informational materials in the form of books, articles, periodicals, other written materials, audio-tapes, videotapes, or other forms of communication;
(3) A gift given by an individual if the gift is given for a non-business purpose and is motivated by a close personal friendship and not by the position of the candidate or official.
(A) A gift shall not be considered to be given for a non-business purpose if the individual giving the gift seeks:
(i) to deduct the value of such gift as a business expense on the individual's federal income tax return; or
(ii) direct or indirect reimbursement or any other compensation for the value of the gift from a client or employer.
(B) In determining if the giving of a gift is motivated by a close personal friendship, at least the following factors shall be considered:

[8] 3-6-114 was added in the 1995 Amendment (ch 529).

(i) The history of the relationship between the individual giving the gift and the recipient of the gift, including whether or not gifts have previously been exchanged by such individuals;
(ii) Whether the gift was purchased by the individual who gave the item; and
(iii) Whether the individual who gave the gift also gave the same or similar gifts to other candidates, officials, or their immediate family at the same time;
(4) Sample merchandise, promotional items, and appreciation tokens, if they are routinely given to customers, suppliers or potential customers or suppliers in the ordinary course of business;
(5) Unsolicited tokens or awards of appreciation, honorary degrees, or bona fide awards in recognition of public service in the form of a plaque, trophy, desk item, wall memento and similar items; provided, that any such item shall not be in a form which can be readily converted to cash;
(6) Opportunities and benefits made available to all members of an appropriate class of the general public, including but not limited to:
(A) Miscounts afforded to the general public or specified groups or occupational under normal business conditions except that such discounts may not be based on the status of the candidate or official;
(B) Prizes and awards given in public contests; and
(C) Benefits of participation in events held within the state and sponsored by or for the benefit of charitable organizations or provided that invitations are extended to the entire membership of the general assembly;
(7) Tickets to athletic events involving teams representing in-state schools, colleges and universities or to other events sponsored by such institutions, if offered by the involved institution, and benefit of attendance at political events or fund-raisers sponsored by candidates for public office or other political organizations, and/or tickets to charitable, cultural, educational or political events held within the state, when customarily provided as a courtesy to all candidates for an office or public officials of similar rank in the event's jurisdiction;
(8)(A) Expenses for out of state travel, if such travel is paid for, reimbursed, or sponsored by a government or an association of elected government officials or any other group or association which is an umbrella organization for public officials;
(B) Entertainment, food, refreshments, meals, foodstuffs or beverages that are provided in connection with an official conference event that is listed in the program of such conference if the conference is sponsored by:
(i) An association of elected government officials, staff of elected government officials or both such officials and staff[9];
(ii) Any other group or association which is an umbrella organization for such officials, staff or both officials and staff; or
(iii) A professional association which is composed of both public and private sector

[9] The 1996 Amendment repealed section (b) (8) (B).

officials and employees who are engaged in providing government services either at the state or local level or by contracting with state or local governments to provide such services; and

(9) Food, refreshments, meals, foodstuffs or beverages that are provided in connection with an event to which invitations are extended to the entire membership of the general assembly, a committee of either or both houses of the general assembly, or a delegation in the general assembly from two (2) or more senatorial districts, provided, that no lobbyist or employer of a lobbyist may provide a gift of food, refreshments, meals, foodstuffs, or beverages the value of which to the official exceeds fifty dollars ($50.00) per event; and provided further, that the value of a gift made pursuant to this subdivision may not be reduced below the monetary limit by dividing the cost of the gift among two (2) or more lobbyists or employers of lobbyists. No lobbyist or an employer of a lobbyist may provide gifts to any person pursuant to this subdivision that have a cumulative value of more than five hundred dollars ($500) during a calendar year.

(c) Nothing herein shall prohibit a city, county or chamber of commerce from hosting and/or funding an activity where the entire general assembly is invited as a group to a special activity within that governmental entity's jurisdiction. County and municipal groups, and state colleges and universities are exempted from the prohibitions in the section when access to facilities or event which they sponsor is permitted to all members of the General assembly.

(d) A gift made contrary to this section shall not be a violation of the section if the candidate, official or immediate family member does not use the gift and returns it to the donor within the latter of ten (10) days of receipt or ten (10) days of having knowledge that the gift was a violation or pays consideration of equal or greater value within the latter of ten (10) days of receipt or ten (10) days of having knowledge that the gift was a violation. [Acts 1995, ch. 529, §3; 1996, ch. 1063, §1.]

VITA

The author was born in Pittsburgh, Pennsylvania on August 28, 1969. As a child, she lived in New York and Alabama. Her childhood education was a combination of private school, public schools, and various educational experiences provided by her parents, Robert and Sandra Garber. She graduated from Coffee High School in Florence, Alabama in 1987. Upon graduation, she enrolled as a freshman at the University of the South, a private liberal arts college in Sewanee, Tennessee. She also enlisted in the United States Army Reserves.

For almost four years, she balanced her commitment to her college education and the Army Reserves. In 1991, however, the Army activated her for Operation Desert Shield/Storm forcing her to leave school. For six months, she served in a hospital unit which was stationed in Saudi Arabia, Iraq, and Kuwait. After her service, she returned to Sewanee, and in 1992 she earned her Bachelor of Arts in Political Science. After graduating, she spent a year teaching elementary school children at a private child care center.

In Spring of 1993, she decided to return to school and entered the Master's program in Political Science at the University of Tennessee, Knoxville. She worked as a graduate assistant in the department and a research assistant at the Social Science Research Institute (SSRI) where she learned the practical aspects of survey research. She earned her M. A. in 1994, and immediately began working on her Doctorate. She received a teaching assistantship which provided her experience teaching American

Government and Research Methods. She also continued to work as a research assistant at SSRI. Her studies focused on American Government, Public Administration, and Research Methods. Her dissertation, however, was a departure from her usual research because it used a qualitative methodology rather than the quantitative methodology she had learned at SSRI. She presented her research at several professional conferences around the country and completed her Doctorate in 1997.

Upon graduation, Shari Garber Bax moved to Warrensburg, Missouri where she is an assistant professor with the Department of Political Science and Geography at Central Missouri State University.