



Showdown: Life Insurance Lobby vs. America's Family Businesses and Workers in 2009

Policy Brief prepared by Palmer Schoening of the American Family Business
Foundation

American Council of Life Insurers

Who Are They?

The American Council of Life Insurers (ACLI) is a Washington D.C.-based trade association backed by an industry with more than 200 years of experience protecting American families, workers, and businesses. **ACLI represents 340 life insurance companies** operating in the United States before federal and state legislators, regulators, and courts.¹

What Do They Want?

According to lobbying reports obtained by the American Family Business Foundation, the ACLI has been lobbying for, among other things, an extension of the current federal estate tax rates.²

¹ <http://www.acli.com/ACLI/About+ACLI/Default.htm>

² See Appendix 2 and visit

http://www.opensecrets.org/lobby/clientissues_spec.php?lname=American+Council+of+Life+Insurers&year=2009&spec=Tax to see an issue specific list of what ACLI is spending money lobbying on.

What is the Federal Estate Tax?

The estate tax is a tax on “your right to transfer property at your death.”³

Looking towards 2010, the federal estate tax faces an uncertain future. Some members of Congress would like to see an extension of the current \$3.5 million exemption and 45% rate (if not higher), while others are proposing to “let the death tax die” as scheduled in 2010.⁴ A combination of various in-between proposals is also on the table.

The estate tax, if eliminated, could create 1.5 million additional small business jobs, according to economist Dr. Douglas Holtz-Eakin.⁵ Though keeping the estate tax intact at high rates is economically destructive, life insurance companies continue to work against repeal. Appendix I of this brief clearly outlines how the estate tax destroys businesses and jobs.

Why Do Life Insurers Want to Keep the Estate Tax?

Life Insurance companies provide “second-to-die” and other estate planning instruments to shield families from the confiscatory estate tax (currently sitting at 45% with a \$3.5 million exemption). According to the American Council of Life Insurers, in 2005 roughly 10% of the \$124 billion in premiums collected by the Life Insurance Industry were attributed to estate planning purposes – that is roughly **\$12 billion** in premiums for the Life Insurance Industry due to the existence of the estate tax.⁶ In 2007, the latest figures available, total life insurance premiums were \$142.6 billion. Easy figuring using the same 10% figure means the industry now stands to lose at least **\$15 billion** if estate taxes are eliminated.

³ See IRS [2008], or visit <http://www.irs.gov/businesses/small/article/0,,id=164871,00.html> for the IRS description.

⁴ Visit <http://www.nodeathtax.org/deathtax/currentfight> to view the phase out schedule ushered in by EGTRRA.

⁵ Visit http://www.nodeathtax.org/files/AFBF_Holtz_Eakin_2009.pdf to read the entire study.

⁶ http://www.seattlepi.com/business/215988_estatetax15.html

Hear them:

Even with this uncertainty, **second-to-die insurance still can be a good buy if it is used for *what it was designed to do*: Provide money to pay off the estate taxes for a couple's children**, says Paul Graham, chief actuary of the American Council of Life Insurers. "Even if you have just a \$1 million tax burden and can pay it off for \$100,000, why not do it?"⁷

Frank Keating, current President of the American Council of Life Insurers and former Oklahoma Governor has drastically changed his tune after assuming his current role lobbying for the life insurance industry.

Hear Frank as Oklahoma Governor in 2001:

"We have talked about the estate tax and we have worked around the edges, but we haven't done what we have to do. To save Oklahoma's family farms and businesses, we need to become a federal pick up state and slowly, but ever so surely, reduce and ultimately **abolish the estate tax**. It is a non-budget item; we can do it this year."

-State of the State address in 2001

"I believe **death taxes are un-American**...they are rooted in the failed collectivist schemes of the past and have no place in a society that values entrepreneurship, work, saving, and families. I commend President Bush for putting us on course to end the federal Death Tax. We intend to do the same in Oklahoma."

-American's for Tax Reform Spring 2002 Newsletter

Now Hear Frank as President and Chief Lobbyist for ACLI:

"I am institutionally and intestinally against huge blocs of inherited wealth. I don't think we need the Viscount of Enron or the Duke of Microsoft."⁸

-Frank Keating to Seattle Newspaper 2004

The Aforementioned facts presented make clear that a simple, spontaneous change of heart was likely not the cause of this flip-flop.

⁷ <http://www.bankrate.com/brm/news/insurance/insuranceguide2004/second-to-die1.asp>

⁸ <http://article.nationalreview.com/?q=YzgwYWEzYWQzM2I4ZWY2YzRjMwY2MjI4ZjVjODMwZWM>

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An anonymous life insurance industry official has said that dealing with the estate tax is their “primary concern” in 2009.

What Are Life Insurers Doing to Keep the Estate Tax?

The American Council of Life Insurers has spent **\$3,862,099** lobbying Congress in 2009. In addition, eight of America’s largest providers of life insurance have already spent a combined **\$18,573,000** on lobbying in 2009.⁹

The ACLI lobbying reports provide hard evidence that the insurance industry has been lobbying to keep a tax that harms its customers so the industry may continue to reap the \$15 billion stream of income it collects due to the tax being in place. They show that the ACLI has been focused on extending the current confiscatory 45% death tax rate into 2010, a year in which the tax is scheduled under current law to go to zero. The large life insurance companies have also not hesitated to lobby directly. The estate tax represents a significant loss to the family businesses sector and significant corporate welfare to the life insurance industry.

Details of the nearly \$25 million lobbying spending spree are reported in Appendixes II and III below.

⁹ As is noted, this figure represents the combined total lobbying for a sample of eight of the largest life insurance companies. The existence of the estate tax means billions for the life insurance industry in premiums. According to sources inside the life insurance industry, it is of major importance in 2009. It should be taken as obvious that spending over \$20 million to maintain a stream of over \$12 billion from second-to-die policies represents a good investment for the life insurance industry. See Appendix III.

APPENDIX I

Estate Tax Facts

The Estate Tax Destroys Jobs

- Economist Dr. Douglas Holtz Eakin found that the Estate Tax lowers overall employment in America by 1.5 million jobs.ⁱ
- The Estate Tax destroys jobs by targeting America's main economic engine – small (and often family-owned) businesses. Small businesses have been responsible for 60 to 80 percent of all net new jobs in the last decade.ⁱⁱ
- The Joint Economic Committee found that the Estate Tax has destroyed roughly \$847 billion in capital stock in the economy.ⁱⁱⁱ Lost capital means fewer jobs and lower wages.
- Ending the Estate Tax would add \$119 billion to GDP and boost workers' income by \$79 billion.^{iv}

The Estate Tax is a Poor Revenue Producer

- The economic distortion the death tax causes with respect to other tax collection methods results in a net revenue decrease for the federal government. Congress could raise nearly *twice* the current revenue – an increase of 23.3 billion – by repealing the Estate Tax.^v
- Alicia Munnell, a member of President Clinton's Council on Economic Advisors, found that the Estate Tax imposes compliance costs (tax planning, collection, etc) in *excess* of \$26 billion. This compliance cost exceeds the Death Tax's revenue yield.^{vi}

The Estate Tax is Unpopular Everywhere – Except with the Life-Insurance Lobby

- The death tax is consistently ranked as the least fair and most unpopular tax in America. Nearly $\frac{3}{4}$ of Americans believe the death tax should be repealed.^{vii}

- Only 25 nations impose an Estate Tax, and of those that do, America's Estate Tax is the third-highest. Russia, China, Canada, Mexico and Sweden are among the many nations which impose no Estate Tax.^{viii}
- The life-insurance industry is the main lobby in favor of keeping the death tax. Life-insurance policies specifically designed for Estate Tax liabilities provide at least \$12 billion in premiums annually for the life-insurance industry.^{ix}

ⁱ Douglas Holtz-Eakin and Cameron T. Smith, "Changing Views of the Estate Tax: Implications for Legislative Options," *American Family Business Foundation*, April 2009.

ⁱⁱ "Frequently Asked Questions," Small Business Association Office of Advocacy, <http://www.sba.gov/advo/stats/sbfaq.pdf>.

ⁱⁱⁱ "Cost and Consequences of the Federal Estate Tax," *Joint Economic Committee*, May 2006.

^{iv} Entin, Stephen "Economic Impact of the Estate Tax: Effects of Various Possible Reform Options," (Washington, D.C: American Family Business Foundation, 2009), 3.

^v Entin, Stephen "Economic Impact of the Estate Tax: Effects of Various Possible Reform Options," (Washington, D.C: American Family Business Foundation, 2009), 4.

^{vi} Alicia H. Munnell, "Wealth Transfer Taxation: The Relative Role for Estate and Income Taxes," *New England Economic Review*, Federal Reserve Bank of Boston (November/December 1988): 19.

^{vii} Matt Moon, "How Do Americans Feel about Taxes Today?" 166 (Tax Foundation. April 2009): 1.

^{viii} American Council for Capital Formation, "New International Survey Shows U.S. Death Tax Rates Among Highest," *American Council for Capital Formation, Special Report*, Washington, D.C., August 2007 accessed at http://www.nodeathtax.org/app/webroot/files/ACCF_intl_rate_survey.pdf.

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^{ix} Michael Forsythe, "Insurers' Opposition, Deficit Politics Threaten Estate Tax Cut," *Bloomberg*, March 14, 2005.

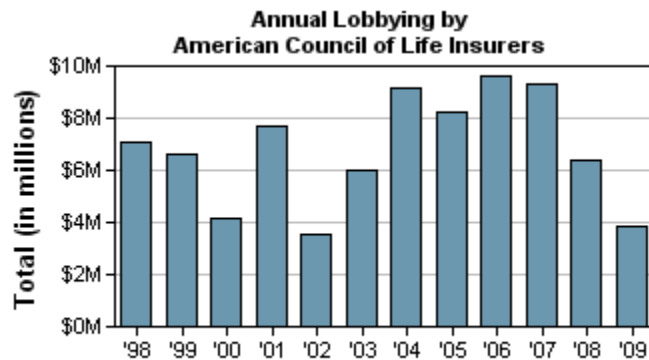
APPENDIX II

*All information below was obtained from opensecrets.org, provided by the Center for Responsive Politics.

American Council of Life Insurers

Client Profile: Summary, 2009

[Major Political Contributor](#)



2009

Total Lobbying Expenditures: \$3,862,099

Subtotal for Parent American Council of Life Insurers: \$3,862,099

Industry Total
[Insurance](#) \$3,862,099

Itemized Lobbying Expenses for American Council of Life Insurers

Firms Hired	Total Reported by Filer	Reported Contract Expenses (included in Total Reported by Filer)
American Council of Life Insurers	\$3,862,099	-
American Council of Life Insurers	-	\$3,862,099
Akin, Gump et al	-	\$280,000

Skadden, Arps et al	-	\$210,000
Timmons & Co	-	\$200,000
Williams & Jensen	-	\$180,000
Ricchetti Inc	-	\$170,000
DLA Piper	-	\$100,000
Federal Policy Group	-	\$100,000
Crowell & Moring	-	\$0
Schwartz & Ballen	-	\$0
		\$1,240,000

Specific Issues: Taxes

•H.R.768 : To establish a commission on the tax and fiscal implications of the regulation of financial products and arrangements and to study the current financial crisis, its causes and impact on the Federal deficit and tax revenues. Issue: tax implications on life insurance. H.R.251 - Life Insurance Employee Notification Act. Issue: effects of company owned life insurance.

H.CON.RES.85 : Setting forth the congressional budget for the United States Government for fiscal year 2010 and including the appropriate budgetary levels for fiscal years 2009 and 2011 through 2014. Issue: Budgetary issues for upcoming fiscal years. TRACKING H.R.96 : To amend the Internal Revenue Code of 1986 to increase the maximum reduction in **estate tax** value for farmland and other special use property, to restore and increase the **estate tax** deduction for family-owned business interests, and for other purposes. **Issue: estate tax as it effects life insurance.** H.R.99 : To amend the Internal Revenue Code of 1986 to reduce taxes by providing an alternative determination of income tax liability for individuals, repealing the **estate and gift taxes**, reducing corporate income tax rates, reducing the maximum tax for individuals on capital gains and dividends to 10 percent, indexing the basis of assets for purposes of determining capital gain or loss, creating tax-free accounts for retirement savings, lifetime savings, and life skills, repealing the adjusted gross income threshold in the medical care deduction for individuals under age 65 who have no employer health coverage, and for other purposes. **Issue: estate tax as it effects life insurance.** H.R.173 : To amend the Internal Revenue Code of 1986 to exempt certain farmland from the estate tax. **Issue: estate tax as it effects life insurance.** H.R.205 : To repeal the Federal **estate and gift taxes.** Issue: **estate tax as it effects life insurance.** H.R.436 : To amend the Internal Revenue Code of 1986 to repeal the new carryover basis rules in order to prevent tax increases and the imposition of compliance

burdens on many more estates than would benefit from repeal, **to retain the estate tax with a \$3,500,000 exemption, and for other purposes. Issue: estate tax as it effects life insurance.** H.R.533 : To make full **estate tax** repeal, small business expensing, and SECA tax deduction for health insurance permanent. Issue: estate tax as it effects life insurance. H.R.1960 : To make the repeal of the **estate tax** permanent. **Issue: estate tax as it effects life insurance.** S.CON.RES.13 Title: An original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2010, revising the appropriate budgetary levels for fiscal year 2009, and setting forth the appropriate budgetary levels for fiscal years 2011 through 2014. **Issue: estate tax as it effects life insurance.** S.722 : A bill to amend the Internal Revenue Code of 1986 to provide for permanent alternative minimum tax relief, middle class tax relief, and **estate tax** relief, and to **permanently extend** certain expiring provisions, and for other purposes. Issue: **estate tax as it effects life insurance.** S.AMDT.873 to S.CON.RES.13 To create a deficit-neutral reserve fund for **estate tax** relief. **Issue: estate tax as it effects life insurance.** S.AMDT.974 to S.CON.RES.13 **To provide that no additional estate tax relief** beyond that which is already assumed in this resolution, which protects over 99.7 percent of estates from the estate tax, shall be allowed under any deficit-neutral reserve fund unless an equal amount of aggregate tax relief is also provided to Americans earning less than \$100,000 per year. **Issue: estate tax as it effects life insurance.**

- Corporate-owned life insurance and nonqualified deferred compensation
- Taxation and financial services. Life insurance taxation and consolidated returns.
- Issues relating to the tax treatment of life insurance policies issues related to broad reform of the tax code
- Regulatory projects on variable annuities and reserving methodology. Budget proposals affecting life insurers.
- Proposals relating to taxation of life insurers and life insurance products.
- Regulatory projects on variable annuities and reserving methodology.
- S. 722 - A bill to amend the Internal Revenue Code of 1986 to provide for permanent alternative minimum tax relief, middle class tax relief, and **estate**

tax relief, and to permanently extend certain expiring provisions, and for other purposes. **Extends current 45% rate and \$3.5 million exemption.**

- Proposals relating to taxation of life insurers and life insurance products. Draft health care proposals, provisions on taxation.

- Corporate-owned life insurance and nonqualified deferred compensation and international tax provisions

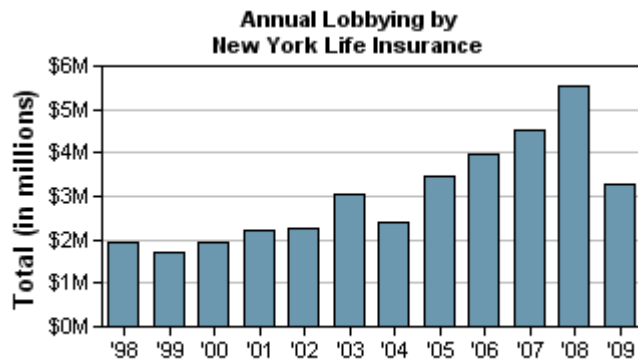
- Federal taxation; insurance company and product proposals in FY 2010 budget

- Federal taxation

APPENDIX III

*All information below was obtained from opensecrets.org, provided by the Center for Responsive Politics.

New York Life Insurance



2009

Total Lobbying Expenditures: \$3,300,000

Subtotal for Parent New York Life Insurance: \$3,300,000

Industry	Total
Insurance	\$3,300,000

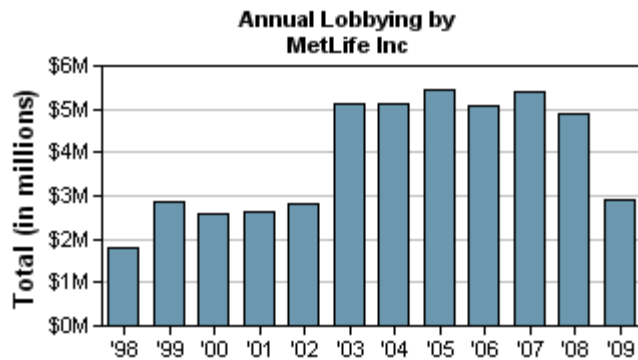
Itemized Lobbying Expenses for New York Life Insurance

Firms Hired	Total Reported by Filer	Reported Contract Expenses (included in Total Reported by Filer)
New York Life Insurance	\$3,300,000	-
New York Life Insurance	-	\$3,300,000
DC Navigators	-	\$180,000
Patton Boggs LLP	-	\$100,000
Brown, Rudnick et al	-	\$100,000
Step toe & Johnson	-	\$60,000
Crowell & Moring	-	\$0
		\$440,000

MetLife Inc

Client Profile: Summary, 2009

[Major Political Contributor](#)



2009

Total Lobbying Expenditures: \$2,890,000

Subtotal for Parent MetLife Inc: \$2,890,000

Industry Total
[Insurance](#) \$2,890,000

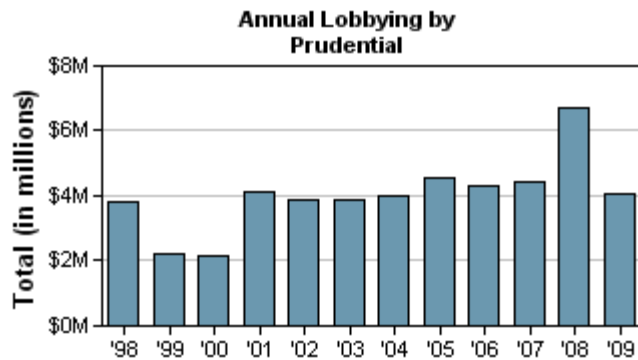
Itemized Lobbying Expenses for MetLife Inc

Firms Hired	Total Reported by Filer	Reported Contract Expenses (included in Total Reported by Filer)
MetLife Inc	\$2,890,000	-
MetLife Inc	-	\$2,890,000
Quinn Gillespie & Assoc	-	\$130,000
Smith-Free Group	-	\$100,000
Venn Strategies	-	\$100,000
Eris Group	-	\$90,000
Davis & Harman	-	\$60,000
Buchanan, Ingersoll & Rooney	-	\$25,000
		\$505,000

Prudential

Client Profile: Summary, 2009

[Major Political Contributor](#)



2009

Total Lobbying Expenditures: \$4,036,000

Subtotal for Subsidiary Prudential Financial: \$3,910,000

Subtotal for Subsidiary Prudential Insurance: \$116,000

Subtotal for Parent Prudential: \$10,000

Industry Total

[Insurance](#) \$4,026,000

Itemized Lobbying Expenses for Prudential

Firms Hired	Total Reported by Filer	Reported Contract Expenses (included in Total Reported by Filer)
Less than \$10,000	-	\$0

Lobbying Expenses Reported by Subsidiary Prudential

Firms Hired	Total Reported by Filer	Reported Contract Expenses (included in Total Reported by Filer)
Winning Strategies Washington		\$10,000

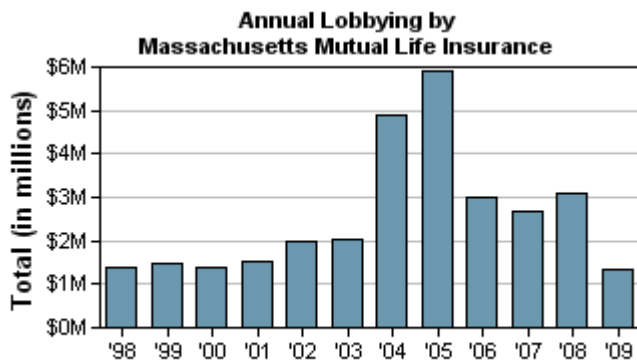
Lobbying Expenses Reported by Subsidiary Prudential Financial

Firms Hired	Total Reported by Filer	Reported Contract Expenses (included in Total Reported by Filer)
Prudential Financial	\$3,910,000	
Baptista Group		\$10,000
Blank Rome LLP		\$100,000
Breux Lott Leadership Group		\$20,000
Capitol Hill Strategies		\$100,000
Groom Law Group		\$0
Heather Podesta & Partners		\$20,000
Kinzler, Peter		\$40,000
Lawrence J Romans & Assoc		\$30,000
Policy Impact Communications Inc		\$60,000
Porterfield & Lowenthal		\$10,000
Porterfield, Lowenthal & Fettig		\$10,000
Wager, Robert		\$20,000

Lobbying Expenses Reported by Subsidiary Prudential Insurance

Firms Hired	Total Reported by Filer	Reported Contract Expenses (included in Total Reported by Filer)
Clark & Assoc	\$20,000	
Ernst & Young	\$96,000	

Massachusetts Mutual Life Insurance



2009

Total Lobbying Expenditures: \$1,330,000

Subtotal for Parent Massachusetts Mutual Life Insurance: \$1,290,000

Subtotal for Subsidiary MassMutual Financial Group: \$40,000

Industry Total
[Insurance](#) \$1,330,000

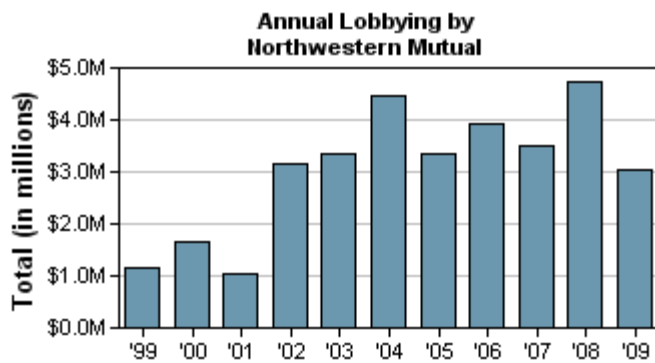
Itemized Lobbying Expenses for Massachusetts Mutual Life Insurance

Firms Hired	Total Reported by Filer	Reported Contract Expenses (included in Total Reported by Filer)
Massachusetts Mutual Life Insurance	\$1,290,000	-
Massachusetts Mutual Life Insurance	-	\$1,290,000
Porterfield & Lowenthal	-	\$100,000
Davis & Harman	-	\$100,000
Venn Strategies	-	\$50,400
BGR Holding	-	\$30,000
Porterfield, Lowenthal & Fettig	-	\$30,000
		\$310,400

Lobbying Expenses Reported by Subsidiary MassMutual Financial Group

Firms Hired	Total Reported by Filer	Reported Contract Expenses (included in Total Reported by Filer)
BGR Holding	\$40,000	

Northwestern Mutual



2009

Total Lobbying Expenditures: \$3,030,000

Subtotal for Subsidiary Northwestern Mutual Life: \$2,877,000

Subtotal for Subsidiary Frank Russell Co: \$93,000

Subtotal for Subsidiary Russell Investment Group: \$60,000

Industry	Total
Securities & Investment	\$153,000
Insurance	\$2,877,000

Itemized Lobbying Expenses for Northwestern Mutual

Firms Hired	Total Reported by Filer	Reported Contract Expenses (included in Total Reported by Filer)
	Less than \$10,000	-
		\$0

Lobbying Expenses Reported by Subsidiary Frank Russell Co

Firms Hired	Total Reported by Filer	Reported Contract Expenses (included in Total Reported by Filer)
Frank Russell Co	\$93,000	

Lobbying Expenses Reported by Subsidiary Northwestern Mutual Life

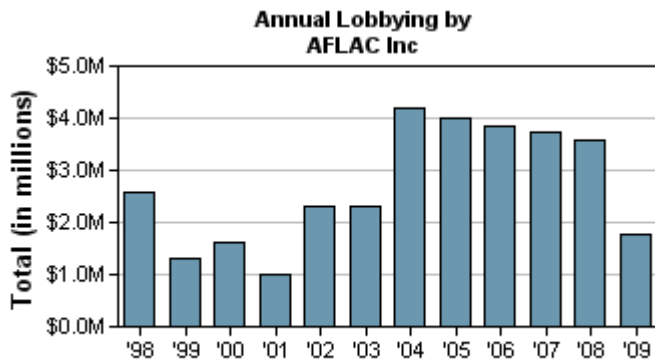
Firms Hired	Total Reported by Filer	Reported Contract Expenses (included in Total Reported by Filer)
Northwestern Mutual Life	\$2,877,000	
Buchanan, Ingersoll & Rooney		\$0
Maxwell & Milder		\$40,000
Patton Boggs LLP		\$60,000
Saliba, Khalil G.		\$30,000
Smith-Free Group		\$100,000

Lobbying Expenses Reported by Subsidiary Russell Investment Group

Firms Hired	Total Reported by Filer	Reported Contract Expenses (included in Total Reported by Filer)
Washington2 Advocates		\$60,000

AFLAC Inc

Client Profile: Summary, 2009
[Major Political Contributor](#)



2009

Total Lobbying Expenditures: \$1,760,000
 Subtotal for Parent AFLAC Inc: \$1,760,000

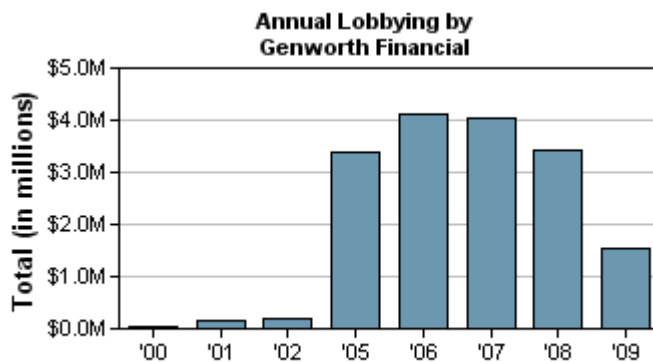
Industry Total
[Insurance](#) \$1,760,000

Itemized Lobbying Expenses for AFLAC Inc

Firms Hired	Total Reported by Filer	Reported Contract Expenses (included in Total Reported by Filer)
AFLAC Inc	\$1,760,000	-
AFLAC Inc	-	\$1,760,000
Dewey & Leboeuf	-	\$520,000
McKenna, Long & Aldridge	-	\$510,000
Jolly/Rissler Inc	-	\$180,000
Evans & Assoc	-	\$160,000

Hogan & Hartson	-	\$70,000
Ogilvy Government Relations	-	\$20,000
Pillsbury, Winthrop et al	-	\$20,000
		\$1,480,000

Genworth Financial



2009

Total Lobbying Expenditures: \$1,520,000

Subtotal for Parent Genworth Financial: \$1,520,000

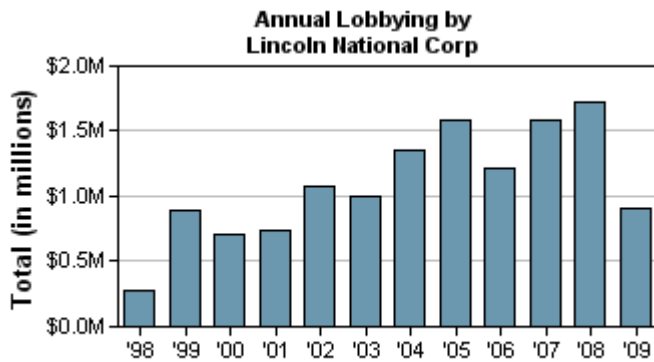
Industry Total
[Insurance](#) \$1,520,000

Itemized Lobbying Expenses for Genworth Financial

Firms Hired	Total Reported by Filer	Reported Contract Expenses (included in Total Reported by Filer)
Genworth Financial	\$1,520,000	-
Genworth Financial	-	\$1,520,000
Chlopak, Leonard et al	-	\$240,000
Brownstein, Hyatt et al	-	\$180,000
Artemis Strategies	-	\$120,000
Van Heuvelen Strategies	-	\$100,000
Davis & Harman	-	\$90,000
Wheat Government Relations	-	\$80,000
Rich Feuer Group	-	\$80,000

Kate Moss Co	-	\$40,000
Quinn Gillespie & Assoc	-	\$40,000
Buckley Kolar	-	\$0
BuckleySandler LLP	-	\$0
Charles F Fuller/Results Co	-	\$0
		\$970,000

Lincoln National Corp



2009

Total Lobbying Expenditures: \$910,000

Subtotal for Parent Lincoln National Corp: \$910,000

Industry Total

[Insurance](#) \$910,000

Itemized Lobbying Expenses for Lincoln National Corp

Firms Hired	Total Reported by Filer	Reported Contract Expenses (included in Total Reported by Filer)
Lincoln National Corp	\$910,000	-
Lincoln National Corp	-	\$910,000
Ben Barnes Group	-	\$70,000
Davis & Harman	-	\$60,000
		\$130,000