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House Budget Committee "Balanced" Budget Resolution for FY 2003

The budget resolution that the House Budget Committee marked up and passed by a party line vote (23-18) on March 13, is expected to head to the Floor for debate this week. The budget resolution is not a law, but is a broad outline for spending and tax cuts for FY 2003, which begins on October 1, 2002 and runs through September 30, 2003.

The House budget resolution provides for \$2.1 trillion in spending. Predictably, defense appropriation spending gets a dramatic increase of 13+ percent from last year, for a total of \$394 billion. (The budget resolution is not named "The **Wartime Budget** to Secure America's Future" for nothing.) The other part of discretionary spending -- non-defense spending -- will be increased by only 1.3 percent from last year, less than the cost of inflation, for a total of \$366 billion. Many programs received no increase at all, but are "level-funded." Because the costs of services will not keep up with inflation, this will mean cuts in everything from energy to the environment to social services and child care funding.

The resolution allows for \$4.4 billion in tax cuts for FY 2003 and \$27.8 billion in tax cuts over the next five years. No reconciliation instructions are included, so these tax cuts are "optional."

The Budget Committee took great pains to pass a (semi-) "balanced" budget, in an attempt to deflect criticism that the Bush tax cut, passed in May 2001, will force the budget into deficit. This "balancing" was only achieved through:

- Using Office of Management and Budget (OMB) baseline figures rather than Congressional Budget Office (CBO) figures, since CBO shows a baseline surplus of only \$6 billion while OMB shows a baseline surplus of \$41 billion. Virtually the entire difference between the two comes from an OMB assumption that federal revenues under current law will be substantially higher than CBO believes.
- Counting as available over \$200 billion in Social Security (off-budget) revenues, and playing down the fact that Social Security Trust Funds will be used to pay for the budget, and not for debt reduction.
- Not really counting the \$43 billion economic stimulus package passed in early March, since it results from the September 11 attacks (even though \$34.5 billion of that bill paid for tax cuts to businesses and only \$8.5 billion went to the unemployment extension).
- Only crafting a five-year budget resolution rather than the usual ten-year, thus avoiding having to talk about future budget deficits.

The bill fails to address needs for more spending, including:

- It allows for only \$5 billion each year in FY 2003 and 2004 (but magically up to \$350 billion over ten years) for a Medicare prescription drug benefit. There can be no meaningful prescription drug benefit legislated during the next two years, since there is not nearly enough money. There is no indication where the \$350 billion ten-year total will be found suddenly after the next two years.
- It does not allow for the cost of what will be a necessary adjustment to the individual alternative minimum tax. For more information, see OMB Watch's [AMT Primer](#).
- It is unlikely that domestic discretionary spending can be appropriated at levels less than those of FY 2002, and it is hardly in the interest of true domestic security that education, research and development, job training,

community revitalization, and other domestic discretionary programs be reduced.

- Small business advocates, a powerful lobby, are upset that a provision to allow them to write off up to \$40,000 in office machinery and equipment in one year (instead of the current limit of \$24,000), was not included in the Economic Stimulus Package and they, too, will probably be placated.

The Senate Budget Committee will likely mark up its budget resolution this week, but it is not likely to be debated by the full Senate until after Congress returns from its spring recess -- the week of April 8. The real difficulty will be to get House and Senate agreement on a budget resolution -- a feat that many feel will be impossible. If no joint budget resolution is accomplished, the House and Senate can still proceed, but it is likely to be very difficult to get a conference agreement on the appropriations bills, which is necessary. In other words, we can anticipate a contentious appropriations season.

States and Local Governments to Lose Funding for Many Programs

A new [National Priorities Project](#) report highlights the cuts slated for state and local governments under the President's FY 2003 budget proposal. These cuts will only further complicate matters for the vast majority of states that are already contending with budget crises. For more on the cuts and their state-by-state impact, see the [full NPP analysis](#). The analysis will continue to be updated over the next 2 weeks, and readers are encouraged to check the NPP website if they do not see their program area covered in the analysis and tables.

GAO Report Identifies Flaws in Government Information Policy

The federal government's plan for managing information is inadequate to meet potential challenges of the post-September 11th environment, as well as broad information challenges the government may face as it becomes more electronic, according to a [new report](#) from the [General Accounting Office](#) -- the investigative arm of Congress.

GAO notes that the recent terrorist attacks "have highlighted information as both an asset and a critical tool, essential to achieving the fundamental purposes of government." For instance, there is an imperative need to protect critical federal systems from computer-based attacks; there is a need for law enforcement officials across different agencies to share information on domestic and international criminals and terrorists; and there is an ongoing need to improve the public health infrastructure that detects disease outbreaks.

In 1980, the [Paperwork Reduction Act \(PRA\)](#) created the [Office of Information and Regulatory Affairs \(OIRA\)](#) -- housed in the [Office of Management and Budget \(OMB\)](#) -- to provide leadership, policy direction, and oversight of government-wide information activities, including collection, dissemination, security and privacy, and management of information technology (IT). To address these responsibilities, OIRA is required to develop and maintain a government-wide plan for information resources management (IRM).

To fulfill this obligation, OIRA designated the 2001-2002 strategic plan developed by the Chief Information Officers (CIO) Council as the government-wide IRM plan. The CIO Council was established by [Executive Order 13011](#) in 1996 as the principal interagency forum for improving agency IRM practices. However, GAO found that the CIO plan is not effective or comprehensive enough to serve as a government-wide IRM plan or to fulfill OIRA's requirements under the PRA.

GAO's report comes on the heels of the release of the Bush administration's [E-Government Strategy](#). This plan mostly ignores ways to increase public access to government information, which the public believes to be crucial for accountability, and the most important goal for e-government, according to a recent poll. [See this OMB Watch analysis](#) of the administration's E-Government Strategy.

Data Quality Meetings To Be Held

Data Quality meetings abound in Washington DC this week. The National Academy of Sciences is hosting a public workshop focused on OMB's "Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies" on March 21 and 22. This workshop is being organized by the Ad Hoc Committee on Data Quality under the auspices of the Science, Technology, and Law Program of The National Academies. The registration deadline is Tuesday, March 19 and there is no registration fee. Information on the workshops can be found [on this National Academies website](#).

Under the final [OMB data quality guidelines](#) agencies must issue their own implementing guidelines by October 1, 2002. The Environmental Protection Agency (EPA) will conduct an online conference March 19-22 to discuss what its data quality guidelines should be. The EPA also plans to publish its proposed guidelines on May 1, followed by a public hearing on the issue on May 15.

The Data Quality guidelines have become extremely controversial. Some business groups have identified the OMB guidelines as the best thing since passage of the Administrative Procedure Act in the 1940's. They believe the new guidelines present opportunities to challenge regulatory protections. The [Center for Regulatory Effectiveness](#), an organization representing business interests, has, for example, already sent a [letter challenging the National Assessment on Global Climate Change](#) on the basis of the OMB guidelines.

State and Local PACs Not Reporting to IRS Could Owe Millions in Penalties

The Internal Revenue Service (IRS) has said that state and local PACs that have failed to register could owe millions in penalties, and they are evaluating how to proceed.

The "Stealth PAC" Act passed by Congress in 2000 was intended to provide disclosure of soft money contributions and spending by political action committees that is not regulated by the Federal Election Campaign Act because they do not expressly support or oppose candidates. The law requires PACs, exempt under Section 527 of the Internal Revenue Code, to register within 24 hours of organizing. They are also now required to file Form 990, an annual information return. The law applies to state and local political action committees as well as those that are focused on federal elections.

But many state and local PACs were unaware the new law applied to them, since they are not involved in federal elections and make financial reports to state agencies. PACs with funds over \$25,000 are subject to a penalty of 35% of their total funds if they fail to file. The IRS has said that state and local PACs that have failed to register could owe millions in penalties, and they are evaluating how to proceed. In the meantime, Congress is expected to see renewed efforts to exempt state and local PACs that report to state agencies. Sen. John McCain (R-AZ), sponsor of the original law, has stated he does not think this issue should be dealt with until action is completed on major campaign finance reform legislation he has co-sponsored with Sen. Russell Feingold (D-WI).

ICANN: Barriers to Participation; Nonprofit Domain Constituency Expanded

The Internet Corporation for Assigned Names and Numbers, a private-sector nonprofit constituting one of the major international Internet technical standards organizations, recently adopted a set of measures that increasingly prevents more public accountability to and participation from the Internet community -- including individuals and nonprofit organizations. It also issued its decision regarding nonprofit Internet domain space.

On February 25, 2002, the president of the [Internet Corporation for Assigned Names and Numbers](#) (ICANN) issued a proposal to redefine the body's administrative structure away from direct public participation by the Internet user community via at-large elections for board members.

Created in October 1998, ICANN serves as the administrative body for the domain name system and directory of Internet server addresses. In essence, it oversees the very system that determines the identity and location of websites and e-mail addresses, and is involved in setting policy around topics including domain name disputes, root server security, and competition.

The ICANN leadership consists of a 19-member board. This includes the ICANN president, four members of the original interim board, nine representatives from its three support organizations (domain name, address supporting, and protocol), and five at-large board seats. The at-large seats, set to expire in fall 2002, were first filled through a global online election held in October 2000 by the Internet community. There are also several advisory groups and committees and task forces, some consisting of board members. Funding for ICANN operations comes mostly from operators of top-level domains and firms that handle public Internet domain registrations.

As a technical standards body it does not address policy issues around privacy, network security, online content, or business and consumer protections, which are directly addressed by individual governments (including legislative and law enforcement entities) and international bodies. The U.S. government exercises oversight of ICANN activities, most visibly through the Department of Commerce's [National Telecommunications and Information Administration \(NTIA\)](#), the [Energy and Commerce Committee](#) of the U.S. House of Representatives, and the [Senate Commerce Committee](#).

The ICANN president's February 2002 proposal called for a reduction of board seats to 15 members. The president would continue to hold a seat, but the three support organizations would be eliminated in favor of representation from a new technical advisory committee and policy councils, which would engage actors representing both the generic (i.e. .aero, .biz, .com, .coop, .info, .museum, .name, .net, .org, .pro) and geographic "country code" (e.g. .ca, .de, .jp, .uk) top-level domains.

Most troubling to ICANN critics, business and public interest groups, and individual users, was the proposal regarding at-large seats: candidates proposed by a special board nominating committee and voted upon by individual governments would fill five at-large seats.

Long-criticized as a slow-moving, under-performing body that has to date been unsuccessful in engaging broad global interest and participation among the Internet community in what are generally perceived as arcane technical details, ICANN was originally organized as a nonprofit private-sector corporation, with a self-imposed mandate to engage Internet stakeholders -- including individual users -- through "private-sector, bottom-up, consensus-based means" to addressing the sometimes arcane technical issues around international Internet operations. In response to uncertainty around the role of public participation among Internet users, the board set up an independent [At-Large Study Committee \(ALSC\)](#).

The president's proposal was defended as a means to address concerns raised in the [ALSC's 11/15/02 final report](#), especially around the potential abuses around the online election mechanisms used to select at-large board members. It was also suggested as a means to generate increased interest and involvement (and possible funding) by government bodies and local country-code domain name operators, both of which currently only function in a limited ad-hoc advisory capacity. This structure, furthermore, was said to not preclude continued Internet community ability to offer suggestions and proposals through public forums and more localized community-driven Internet-focused efforts that have more user activity and support.

Critics counter that it would effectively, however, eliminate the very element of democratic representation and participation upon which the organization itself was founded, for the sake of creating a board with more governmental involvement. There is also concern that more direct involvement by governments will move ICANN into the very policy areas it asserts non-participation at present, without any public accountability.

During its [March 14, 2002 meeting in Accra, Ghana](#), the ICANN board approved a resolution which fails to guarantee that direct elections for even a portion of board seats will continue, out of concern for the current means of online elections with respect to their "fairness, representativeness, validity and affordability ... among an easily captureable pool of self-selected and largely unverifiable voters."

The board, however, did vote for the development of a restructuring committee, made up of current board members, to revisit the ICANN mission, functions, and board structure. Some members of the board state that future elections-- on- or off-line-- while not expressly guaranteed, have not been ruled out of consideration in advance by the committee.

The ICANN board is slated to take up the restructuring committee's recommendations at its June 2002 meeting in Bucharest, Romania. Curiously, the board, however, failed to follow through on an effort to create an independent review committee to monitor and address disputes around ICANN activities.

Nonprofit Domain Constituency Expanded

In a separate development, the ICANN board voted its support for a set of recommendations around the ".org" domain name space.

Internet domain registrar [VeriSign](#) has, since 1992, had a nearly exclusive hold on registering domain names that end in .org and .net, which it has agreed to relinquish in order to focus on commercial and individual customers.

Under the terms of a [May 2001 deal](#) eventually reached with ICANN and the U.S. Department of Commerce, VeriSign can operate the .net registry until June 2005, the .com registry until 2007, and the .org registry until December 2002. VeriSign would then permanently give up its ability to run the .org registry, but could bid again to run the .net registry. In return, VeriSign would set up a US\$5 million endowment for a new nonprofit group to run the .org registry, and a US\$200 million sum for 10 years worth of research to find ways to improve the efficiency of Internet registries.

The deal would not make the company exempt from antitrust laws, and it agreed to undergo audits on a regular basis each year to ensure that its domain name registration and name registry functions were kept completely separate. The deal, finalized in May 2001, came under scrutiny by several public interest groups, commercial competitors, and members of Congress, because it was reached without public scrutiny or input.

The [January 17, 2002 recommendations](#) of ICANN's [Domain Name Supporting Organization](#) Names Council recommended both that .org be kept exclusive for formally recognized nonprofit and public interest groups, but that it also include "noncommercial expression and information exchange, unincorporated cultural, educational and political organizations, and business partnership with non-profits and community groups for social initiatives," and that preference for the future operator of the .org registry to be a widely regarded and supported non-commercial entity.

All ICANN-affiliated registrars, however, would be able to continue to register .org domain names as well. Potential applicants for the .org domain would have to establish and articulate a vision for the .org audience, and how the domain should be marketed to them, such that both registration and broader participation in the governance of the domain are guaranteed. The nonprofit entity, however, would have to establish a "bright-line" between domain name registration and domain registry functions.

Any revenues generated from registrations could be channeled back into activities related to participation by non-commercial registrants in maintenance, administration and governance activities. Current .org domain name holders would have to have their registrations protected during the transfer process away from VeriSign. New registrants would receive a certain measure of protection from disputes by existing nameholders, but existing ICANN domain name dispute resolution policies would apply.

In addition to agreeing to the DNSO Names Council report, the ICANN board voted to move ahead with the formulation of a request for proposals for parties interested in assuming responsibility of the .org registry, though it did not pledge to give exclusive consideration of a nonprofit/non-commercial operator for the .org domain space as called for in the DSNO recommendations.

Graham Grilled on Possible Regulatory Roll Backs

[Rep. John Tierney](#) (D-MA) grilled John Graham, administrator of the Office of Information and Regulatory Affairs (OIRA), on whether he is seeking to roll back regulation at the request of affected industry at a March 12 hearing in the [House Subcommittee on Regulatory Affairs](#).

The hearing focused on [a report](#) by Graham's office that [suggested a host of major health and environmental regulations, including clean air and water standards, need to be revised or repealed](#). "High priority" rules that appeared on Graham's list were dominated by suggestions from the conservative, industry-funded [Mercatus Center](#), which was [represented at the hearing by Susan Dudley](#). *The Washington City Paper* [recently ran a cover story](#) on the Mercatus Center and its corporate contributors.

In response to criticism that this reflects an anti-regulatory bias, Graham has indicated to OMB Watch that he will make clear in seeking comments for his next report on federal regulation (which is an annual requirement directed by Congress) that OIRA is interested in nominations for both "more" and "less" regulation, "as long as the analytic case for overall public welfare is made clear." A draft report is expected to be out for comment in the very near future.

Other witnesses at the hearing included Joan Claybrook ([see testimony here](#)), president of [Public Citizen](#), and Georgetown law professor Lisa Heinzerling, who both testified on OIRA's slant against health, safety, and environmental protection, as well as the shortcomings of the cost-benefit estimates presented in Graham's report, which often rely on data that is misleading, outdated, and inaccurate.

For more detail on Graham's actions at OIRA, [see this OMB Watch analysis](#).

Bush Administration to Ease Environmental Laws for Coal Powered Plants

The Bush administration plans to ease off of older coal-fired power plants that have violated clean air standards in favor of "incentives for voluntary reductions in toxic emissions," according to [this article in the Washington Post](#).

This decision will formally alter enforcement efforts initiated by the Clinton Environmental Protection Agency (EPA), which brought dozens of lawsuits after it uncovered hundreds of cases where aging power plants failed to install pollution control equipment during major modifications, a direct violation of the New Source Review (NSR) provision of the Clean Air Act. Instead, the Bush EPA will seek to curtail new lawsuits while pursuing voluntary efforts -- though it is unclear exactly what this means -- as well as new "legislation to force cuts in pollution at plants that don't voluntarily cooperate," according to the Post.

The Justice Department told the Post that ongoing litigation against power plants would continue "but clearly indicated a lack of enthusiasm." Of particular note, two major utilities, Virginia Electric and Power Co. and Cinergy Corp., were on the verge of settling lawsuits when President Bush ordered a review of the lawsuits upon taking office. Yet the resulting review and shift in policy has led the two utilities to back away from a settlement in the hopes of a sweeter deal.

As OMB Watch [previously reported](#), the Bush administration missed its own deadline to make NSR recommendations in August of 2001 and has yet to release its comprehensive package of legislative recommendations.

President Bush's relaxation of New Source Review requirements has serious health implications for many Americans. It is estimated that pollution from old coal-powered plants causes roughly 30,000 premature deaths per year. A [recent study \(March 5, 2002\) by the Journal of the American Medical Association](#) concludes that people living in the most heavily polluted metropolitan areas have a 12 percent increased risk of dying of lung cancer than people in the least polluted areas, conclusively linking long-term exposure to fine particles of air pollution from coal-fired power plants to an increased risk of dying from lung cancer.

Public Still At Risk of Chemical Plant Attack

[The Washington Post reported](#) last week that a previously undisclosed study by the Army surgeon general concludes that as many as 2.4 million people are at risk of being killed or injured in a terrorist attack against a U.S. toxic chemical plant in a densely populated area. This shocking number is twice as high as previous government estimates of possible casualties of a worst-case scenario involving terrorist attacks on chemical plants.

This report is similar to one the [Department of Justice \(DOJ\)](#) was supposed to submit to Congress by August 2000 on chemical plants' vulnerabilities to terrorist attacks. Because the DOJ missed that deadline, and in light of the events of the September 11th attacks last year, the [Natural Resources Defense Council \(NRDC\)](#) filed [a lawsuit in federal district court](#) charging that DOJ has failed to submit the report to Congress, as required by an amendment to the Clean Air Act. [OMB Watch reported](#) on the missed deadline and according to the Washington Post, Bush administration officials have notified Congress that they will not meet an August 5, 2002, deadline for the final report because of inadequate funding.

In a [recent letter](#) to the [Environmental Protection Agency \(EPA\)](#) Administrator Christine Todd Whitman, [Greenpeace](#) cites the above-mentioned Army study, the late DOJ study, and EPA's inaction to address the threats that chemical plants pose to the public all as reason for grave concern. In light of the evidence of significant threats, Greenpeace urged Whitman to support [legislation \(S. 1602\) that Sen. Jon Corzine \(D-NJ\)](#) has introduced that would significantly reduce hazards at chemical plants.

EPA Announces Plans to Restrict Access to Envirofacts

On March 14, 2002 the [Environmental Protection Agency \(EPA\)](#) emailed an announcement to Envirofacts users explaining that it will no longer allow direct access to the Envirofacts databases. In the email to Direct Connect Users, EPA stated that, "As part of our continuing efforts to respond to Homeland Security issues . . . starting April 1, 2002, Direct Connect access will no longer be available to the general public. Direct Connect access to Envirofacts will only be available to U.S. EPA employees, U.S. EPA Contractors, the Military, Federal Government, and State Agency employees."

However, even on this short list of approved users there is a clear shift from "right-to-know" to "need-to-know." On the new registration form all applicants are required to explain the reason they need direct access to Envirofacts. Additionally all State Agency employees and EPA Contactors must obtain "sponsorship" from a US EPA manager (branch chief or higher).

Limited and less flexible access to Envirofacts databases will continue to be available to the public via the [Envirofacts website](#). EPA created the Envirofacts Warehouse to provide the public with direct access to the wealth of information contained in its databases. An explanation of the new Direct Connect access policy can be found on [EPA's website](#).

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