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Activist Central Service Allows Easy Access to Congress

As part of our newly re-designed website, OMB Watch would like to invite nonprofits to use our [Activist Central system](#). Over the next few issues of the Watcher, we will be highlighting different features of the system.

The most basic use of the system allows people to find and write to their elected representatives in the federal government. Either from the system's home page or after clicking on the [Federal Officials](#) link, the user enters his or her zip code (or zip + 4 code, if known) and is then taken to a page showing the current Senators and Representative for that area. From this page, the user can send correspondence to any of his or her Members of Congress, or get more info on them, including addresses, phone numbers and key staff information.

State officials can be reached in a similar manner by clicking on the [State Elected Officials](#) link on the homepage. A user enters his or her zip code or can choose by state to access information on his or her governor and state legislators, as well as to send correspondence to them.

Look for information on more features of our Activist Central system in future issues of the [Watcher](#).

'April Surprise' Turns Into July Fright As States Begin New Budget Year

Last Monday, July 1, marked the start of a new fiscal year for most states, many of which had to resolve large deficits after years of "April Surprises" -- the affectionate name given to the larger-than-expected influx of state income tax revenue each April 15.

According to a [recent report issued by the National Governors Association](#), state treasuries have enjoyed this annual "surprise" every April for the last 6 years as revenue from individual income tax returns increased each year, on average, by 9%. But now, all but a handful of states, like the federal government, have been hit with a cumulative deficit of more than \$40 billion. In addition to income tax decreases, states have also lost money from the drop in corporate profits, which had been providing 8% of state budgets and now make up only 5%. Also like the federal government, these states are now reeling from the aftermath of tax cuts that seemed so politically reasonable at a time of rising corporate profits and individual incomes -- and whose elimination now seems, in a year of reelection campaigns, politically impossible.

The [Rockefeller Institute of Government reports](#) that during the "boom" of the late 1990's, states cut taxes each year -- a total of \$30 billion during the period 1995-2001. Because of the surplus revenue that arrived each year as the "April Surprise," however, states were also able to increase spending a total of 28% over the last 10 years. (Medicaid spending increased an amazing 79%; spending on K-12 education increased 31%; higher education spending increased 18%, and spending on all other state-funded activities increased about 20%.) Only spending for "cash assistance" programs declined during this period, a drop the report attributes to "widespread and steep caseload declines ... due to the strong economy and state policy changes."

Unfortunately for the states, however, the federal government also took advantage of predictions of surpluses as far as the eye could see. Last June, the President signed a \$1.35 trillion 10-year tax cut, which has placed a huge burden on states, many of which base their tax collection directly on federal taxes.

Economic Policy Institute economist Max Sawicky explained in a [February 2002 EPI Issue Brief](#) that because "state income taxes on individuals and corporations often 'piggy-back' off the federal system" by using federal definitions of taxable income, when the "federal government narrows the tax base by enacting new deductions, revenues to state and local governments may fall." So, when the June 2001 tax law cut your federal tax bill, it also likely cut the amount you paid to your state government.

When combined with the downturn in the economy, the accompanying dramatic drop in corporate profits, and state-level tax cuts, these federally enacted tax cuts added up to huge losses for state coffers. This indirect loss, however, has been exacerbated by federally legislated reductions in state tax revenues, such as the phase-out of the estate tax included in last year's tax cut.

To help pay for the phase-out of the estate tax, which only reaches the richest 2% of estates, Congress had to expedite the phase-out of the state-level "pick-up" or "piggy-back" estate tax. This accounting trick could cost states a total of \$23 billion over the next 5 years, [according to reports from the Center on Budget and Policy Priorities \(CBPP\)](#). Similarly, the accelerated "bonus depreciation" offered corporations as part of last March's "economic stimulus" legislation impacts states by excluding large amounts of corporate income from federal taxes -- income on which states base their own corporate income taxes. [CBPP estimates that states](#) could lose more than \$14 billion through September 2004 unless they "decouple" from this federal calculation of corporate income taxes.

Unlike the federal government, however, every state but Vermont has a constitution that requires it to begin each fiscal year with a balanced budget. In at least 30 states, this balanced budget requirement [translated into budget cuts for even the most popular programs such as K-12 education earlier this calendar year](#).

In many states, such as New Jersey and Connecticut, the start of FY 2003 brought late-night legislative sessions and last-minute short-term fixes to prevent government shut downs. In California and Tennessee, July 1 came and went without any new budget as California continued to look for nearly \$4 billion needed to get out of its deficit and Tennessee was forced to shut down all state government programs except for those providing essential emergency services. (For a state-by-state analysis of what these budget crises mean and for another look at the federal role in these crunches, see [this report from the National Priorities Project](#).)

While few states have been willing to raise taxes to help patch up their budget holes, and no state has begun raising income taxes, many states have turned to increasing so-called "sin taxes," or "excise taxes" on cigarettes. CBPP reports that 14 states have already increased their state cigarette taxes and estimates that by the end of this year, one-third of all states will have taken similar steps. (For an analysis of some important considerations for states choosing to increase cigarette taxes to bridge budget gaps, including the potential for only a short-lived increase in the state's revenue, [see this CBPP analysis](#).)

Tennessee is one such state that has used cigarette tax increases to help improve its budget outlook. Legislators finally resolved the state's budget dilemma on July 3 by increasing the tax on cigarettes by 7 cents per pack, increasing its state sales tax by one cent (Tennessee, one of only 9 states without a state income tax, now has one of the highest sales taxes in the nation) and using the remaining \$560 million in its share of the states' tobacco settlement money.

Many other states are attempting to limit the damage from the federal estate tax phase-out and economic stimulus legislation by "decoupling" from the federal tax. [CBPP reports that 26 states and the District of Columbia have decoupled their collection of corporate income taxes](#) from the federal structure, and [15 states and DC have taken steps to preserve state revenue from the federal estate tax phase-out](#).

As the reports from the National Governors Association and the [National Association of State Budget Officers explain](#), rising Medicaid costs, the 15% drop in state income tax receipts from 2001 and historical trends that suggest that states' economic recoveries will lag behind national recoveries by about a year and a half suggest that, "the outlook is for continuing fiscal distress over the next year."

OMB Watch Comments on New Performance Evaluation Tool

During the past three years, OMB Watch has sought to increase the participation of nonprofit groups in the implementation of the Government Performance and Results Act (GPRA). On July 3, [OMB Watch submitted comments](#) to the [Office of Management and Budget \(OMB\)](#) on the recently issued [Program Assessment Ratings Tool \(PART\)](#) arising from the first meeting of the [Performance Measurement Advisory Council](#).

[PART](#) is the latest development in the President's "Management Agenda," which, according to OMB, builds on the Government Performance and Results Act of 1993 (GPRA) and previous efforts to identify program goals and performance measures and to link them with the budget process." Though still in a trial phase, OMB plans to use the finalized version of the PART to, among other things, "inform budget decisions by helping to diagnose the source of program success or failure and by providing directional information on how a program is performing."

President Signs Debt Ceiling Increase Bill

On June 28, after much public and bipartisan hand-wringing, the President quietly signed a \$450 billion increase to the debt limit, and thereby allowed the federal government to continue to sell Treasury bonds to help finance its current spending needs. Treasury Secretary Paul O'Neill had warned that without this increase, the U.S. would have to default on its debts for the first time in its history.

As [reported in the last issue of the Watcher](#), the Senate had passed the \$450 billion increase on June 11, but the House Republican leadership refused to take up the bill. Arguing that they didn't have enough votes from their own members to pass a stand-alone increase to the debt ceiling, House Republicans were pushing for the increase to be added to a bill providing for emergency spending.

On June 27, however, the House passed the Senate bill in a vote of 215-214, with 6 Republicans voting against the measure.

Senate Passes E-Gov Bill

The Senate unanimously passed legislation on June 27 that pushes the federal government to provide greater Internet access to information and services, authorizing \$345 million over the next four years for an e-government fund, just one part of the bill.

The administration opposed this legislation ([S. 803, the E-Government Act](#)) as originally introduced by Sen. Joseph Lieberman (D-CT), but negotiations over the last year led to a compromise agreement and cleared the way for passage.

It remains unclear, however, if the House will act on its companion version ([H.R. 2458](#)), which has been on the shelf since its introduction a year ago by Rep. Jim Turner (D-TX). A spokesman for Rep. Tom Davis (R-VA), who chairs the Government Reform Committee's [Technology and Procurement Policy Subcommittee](#), which has jurisdiction over the legislation, [told Federal Computer Week](#) that the new homeland security department proposed by the president would take priority.

If enacted, S. 803 would mark the first comprehensive legislative effort aimed directly at dealing with electronic information, covering a wide range of issues from information security and disaster preparedness to the digital divide and government employee training to information management and dissemination, which is where the bill should ultimately be judged.

On this point, S. 803 creates a new Office of Electronic Government within the [Office of Management and Budget \(OMB\)](#) to provide overall leadership across federal agencies on e-government and generally assist and oversee activities directed by the bill. This includes:

- **Managing an e-government fund.** OMB will control an e-government fund to support agency projects that make federal information and services more readily available through the Internet. This fund is authorized \$45 million for fiscal year 2003 (which still must be appropriated), rising each year to \$150 million by 2006.
- **Working with the General Services Administration (GSA) to maintain an integrated federal web portal.** Currently, GSA already maintains such a portal at [FirstGov.gov](#). S. 803 would give it a legislative blessing for the first time, giving OMB formal leadership responsibility and putting Congress in a better position to exercise oversight.
- **Setting new standards to enable the organization and categorization of information** "in a way that is searchable electronically, including by searchable identifiers." With guidance from OMB, agencies are also to establish a directory of "subjects used to review and categorize" federal government web sites, which is to be made available through the web portal discussed above. Currently, the organization of agency web sites varies greatly, as pointed out in [this OMB Watch analysis of e-rulemaking](#). Categorizing information by common subjects across agencies would facilitate retrieval of information, and negate the need for the user to know which agency houses what information.
- **Setting new standards for agency web sites.** OMB is to issue guidance on agency web sites and "minimum agency goals" to assist public navigation, including speed and relevance of search results, as well as "tools to aggregate and disaggregate data."
- **Promoting integrated reporting and dissemination.** OMB is to designate up to five pilot projects to "integrate data elements." At least one of these must eliminate duplicative data collection and integrate databases maintained by multiple agencies to facilitate public access, something OMB Watch has long advocated.

These are positive steps to be sure, and should be embraced by the House. However, the E-Government Act should be recognized as a first step to bring greater resources, focus, and organization to electronic information. Refinements will inevitably be needed, and other issues will need to be explored (such as interactivity between the public and government officials through the Internet).

Moreover, it will also be important to examine how the E-Government Act, if enacted, interacts in practice with [other laws dealing with information policy](#), and whether lines of responsibility are clear. For instance, how does the new Office of E-Government sort out responsibilities with OMB's Office of Information and Regulatory Affairs, which is broadly charged with overseeing information policy under the [Paperwork Reduction Act](#)? Accordingly, Congress will need to remain engaged, recognizing S. 803 as only a starting point.

[Click here for a full summary of the bill.](#)

Campaign Finance Update

Soft Money Going to States, Congressmen Propose Bill for Free Air Time for Candidates, Tax Credit for Small Campaign Contributions, and the Supreme Court Overturns Limits on Judicial Candidates

Study Shows Soft Money Going to States

A group of campaign finance reform groups have teamed up to create the first database tracking campaign contributions and expenditures on a state-by-state basis. A report released on June 25 by the [Center for Public Integrity](#), the [Center for Responsive Politics](#) and the [National Institute on Money in State Politics](#) found that \$236 million in soft money was transferred from national political parties to their state affiliates, which was then transferred to federal accounts to pay for federal campaigns – primarily for issue advertising. The full report and database are available on statesecrets.org.

New federal regulations implementing the ban on soft money contributions to political parties passed as part of this year's campaign finance reform law will allow members of Congress to continue raising soft money for state parties. [See related story](#).

Free Air Time

Following up on their success in passing the Bipartisan Campaign Finance Reform Act of 2002, Sens. John McCain (R-AZ), Russell Feingold (D-WI) and Robert Torricelli (D-NJ) and Rep. Martin Meehan (D-MA) announced plans in late June to file a bill that would require radio and television broadcasters to:

- Host at least two hours a week of programming on candidates and issues during the period just prior to an election, including debates, town hall meetings and interviews. The programs could not be broadcast between midnight and 6 a.m., and at least half must be in or near prime time.
- Pay an annual fee on their usage of the public spectrum (not more than 1% of gross annual revenues) to fund vouchers for federal candidates and political parties to broadcast ads. In order to qualify, a candidate must show he/she has raised a threshold of small donations. Parties could spend their vouchers on federal, state or local elections during each two-year election cycle.

The cost of television and radio advertising is considered a major factor in driving up the cost of elections and increasing the need for candidates to raise soft money. Proponents of free airtime say reducing the cost will help reduce the need for candidate fundraising. In a joint statement the sponsors said, "This proposal simply tells broadcasters to give back to the American people some of the extraordinary benefits they have reaped from the public airwave that they are licensed to use for free." The bill has not yet been introduced. It is backed by a [broad coalition](#) of groups that will be conducting a [series of forums](#) on the issue this summer. For more details see [the Alliance for Better Campaigns](#) website.

Bipartisan Bills Would Create Tax Credit for Small Contributions to Federal Candidates

Reps. Thomas Petri (R-WI) and Paul Kanjorski (D-PA) introduced the Citizen Involvement in Campaigns Act of 2002 ([H.R. 4980](#)) on June 20. The bill would allow taxpayers to take a 100% tax credit on contributions to federal candidates or parties, up to a ceiling of \$200, or a 100% deduction of up to \$600 per year. In [remarks introducing the bill](#), Petri said the program can help "balance the influence of large donors in the American electoral process." Sen. Byron Dorgan (D-ND) announced plans in late June to file similar legislation, but would limit the program to households with incomes up to \$100,000. That bill has not yet been filed.

Judicial Elections

Also in late June the Supreme Court ruled that a Minnesota law barring judicial candidates from stating their opinions on issues that may come before the court is an unconstitutional infringement on free speech. The case, [Republican Party of Minnesota v. White](#), is likely to invalidate similar laws in 47 other states. It does not overturn restrictions that bar judicial candidates from pledging to rule one way or another on specific issues.

Spending on judicial elections has increased dramatically in recent years, increasing 60% between 1998 and 2000. The Chamber of Commerce has announced plans to spend \$25 million on state judicial and attorney general races in states in the elections this fall.

Final Soft Money Rule Limits Candidate Fundraising for Nonprofits

The FEC has approved a [final rule](#) implementing the soft money ban in the Bipartisan Campaign Finance Reform Act of 2002 (BCRA), which becomes effective the day after the election this fall. It limits fundraising and donations by federal candidates and political parties for groups exempt under 501(c) that are involved in voter registration and get-out-the-vote (GOTV) efforts for federal elections, even if they are nonpartisan. Fundraising for Political Action Committees (PACs) (exempt under 527 of the tax code) is also prohibited. However, exceptions allow federal candidates to make general solicitations for a 501(c) organization even if it conducts some voter registration and GOTV activity, if that is not its primary purpose, and the funds are not earmarked for it. Federal candidates and political parties can also respond to requests from donors for information about tax-exempt groups that share their "political or philosophical goals."

Federal candidates or political parties can rely on certification from nonprofit organizations in order to determine whether or not they are involved in voter registration or GOTV activities (called "federal election activity" in the rules). The rules only apply if the organization makes expenditures for "federal election activity" during the current election cycle.

Once the FEC staff completes an official "explanation and justification" for the rules that are approved by the Commission, the rules will be transmitted to Congress. BCRA sponsors, upset with provisions allowing federal officeholders to solicit soft money for state or local political parties, have promised to introduce a resolution in the Senate seeking to overturn the new rule, under procedures established in the Congressional Review Act. They also indicated they would support litigation to overturn the rules. A recent study by campaign finance reform groups found that large amounts of soft money have

been transferred to state parties from national parties. [See related story.](#)

Final Rule Gives Reason to CARP About Webcasting

Nonprofit, commercial, and individual webcasters, along with music industry interests, remain dissatisfied with a recent rule issued on royalty fees for recorded music handed down by the U.S. Copyright Office and Library of Congress, in response to February 2002 recommendations laid out by the federal Copyright Arbitration Review Panel.

Full story: <http://www.ombwatch.org/article/articleview/892/1/77/>

Senate Committee Passes Bill to Reduce Power-Plant Pollution

Legislation requiring significant cuts in emissions from electric power plants, including carbon dioxide, squeaked out of the [Senate Environment and Public Works Committee](#) by a vote of 10 to 9 on June 27, over the objections of the Bush administration.

The bill (S. 556), sponsored by Sen. Jim Jeffords (I-VT), the committee's chairman, would require emissions of sulfur dioxide (SO₂) and nitrogen oxide (NO_x) to be reduced by 83 percent, mercury by 90 percent, and carbon dioxide (CO₂) by 23 percent, all by 2008.

This would be achieved partly through an emissions trading system that allocates each electric power plant an emissions limit. If the plants reduce emissions below their designated limit, they could sell any unused portion of their allowance. Plants could also buy emissions credits from others, enabling them to exceed their original limit. "Trading will not be allowed, however, if it enables a power plant to pollute at a level that damages public health or the environment and trading of mercury pollution allowances is strictly prohibited," [according to Jeffords](#).

The administration favors slower and smaller reductions in SO₂, NO_x, and mercury -- which contribute to smog, acid rain and respiratory disease, [resulting in thousands of deaths a year](#) -- and opposes any effort to crack down on carbon dioxide, a greenhouse gas released in fossil fuel combustion, which is largely responsible for global warming; power plants account for 40 percent of such emissions in the United States.

Recently, the [Environmental Protection Agency \(EPA\)](#) released a report documenting the devastating effects of global warming, including rising sea levels, the destruction of ecosystems, and more frequent heat waves, but [the administration has nonetheless remained steadfast in its opposition to CO₂ controls](#).

Instead, the administration continues to push its feeble [Clear Skies Initiative](#)," which offers only *voluntary* measures to address carbon dioxide, and calls for legislation mandating reductions in SO₂, NO_x, and mercury that [environmental organizations contend would be achieved anyway](#) under the Clean Air Act. The administration still has yet to translate its February initiative into legislative form, leaving its commitment open to question, but one thing is clear: "The door is closed on carbon in multipollutant legislation," as EPA Administrator Christie Todd Whitman told BNA, a Washington trade publication.

Eight Democrats, along with Jeffords and Sen. Lincoln Chaffee (R-RI), supported the Jeffords bill, while Sen. Max Baucus (D-MT) joined eight Republicans in opposition.

Confidential Interim Report on Chemical Plant Safety Stirs Little Reaction in Congress

In 1999, President Clinton signed the [Chemical Safety Information, Site Security and Fuels Regulatory Relief Act](#) (P.L. 106-40), and also directed the Justice Department (DOJ) to conduct a study of site security at chemical plants. An interim report on the study was due August 5, 2000, and the final report was to be completed by August of 2002. DOJ missed the first deadline, offering a lack of funding as the excuse for not getting the interim report out on time.

However, press reports indicated that the interim report was released to select members of Congress on May 30, 2002. The report was not made publicly available and House members and staffers who viewed the report had to sign a waiver of confidentiality. Initial reports from the Hill indicate that the report only covered a handful of plants. Congressional staff say that the report has little resemblance to what is required by the statute and that parts of the report merely describe methodologies and other information that has already been released to the public -- some of it by the Justice Department itself.

Chemical plant security is an issue that received renewed attention after the September 11th terrorists attacks, yet one that the administration has failed to adequately address. The Environmental Protection Agency (EPA) has done little more than announce that it will release voluntary guidelines for plants to follow in order to address site security.

Now, more than a month after receiving this interim report there has been little reaction in Congress. There is no reported schedule for the final DOJ report. And the only bill proactively addressing chemical plant security remains largely un-discussed.

In March, the Natural Resources Defense Council (NRDC) filed a lawsuit against the U.S. Department of Justice (DOJ) and the U.S. Attorney General, John Ashcroft, for failing to meet a statutory deadline for assessing the vulnerability of facilities storing acutely toxic materials to terrorist attacks. It was a simple deadline lawsuit. After the abbreviated and secret

interim report was delivered to congress and DOJ declared its mandate satisfied, NRDC continued to press for a sealed examination of the document. The Judge responded by directing NRDC's attention to a [scathing Washington Post article](#) by a State Department employee accusing the U.S. media of treason. At the discovery hearing the judge stated that the case seemed to him to be about spreading the nation's vulnerabilities over the Internet. Unsurprisingly, NRDC withdrew its lawsuit the following day.

Sen. Jon Corzine's (D-NJ) [Chemical Security Act](#) (S. 1602), would address the chemical hazards on site by requiring safer processes and allowing less on-site storage of hazardous chemicals.

Hearings All Around, But Is Anyone Really Listening

Hearings continue in both the House and Senate on the Administration's Homeland Security proposal. Since introducing the President's proposal to create a cabinet-level Department of Homeland Security, Tom Ridge, Director of Homeland Security, has testified almost nonstop before numerous congressional committees. Yet even with these many hearings on the biggest bureaucratic reshuffling in decades the President's bill seems to have avoided serious criticism from Congress.

Numerous public interest groups, including the American Civil Liberties Union, Natural Resources Defense Council, Greenpeace, National Environmental Trust, U.S. Public Interest Group, Environmental Defense and OMB Watch have raised strong concerns about the bill. However, these concerns seemed to have gained little attention in Congress. The concerns include the proposal for a broad new exemption from the Freedom of Information Act (FOIA) as well as the limits placed on citizen input, protections stripped from whistleblowers, and possible threats to personal privacy.

There are two congressional hearings scheduled this week where some of these issues may be raised. The Senate Environment and Public Works committee will hold a hearing on Wednesday, July 10, to examine the President's proposal to establish the Department of Homeland Security. In the House, the Energy and Commerce's subcommittee on Oversight and Investigations will hold a hearing on Tuesday, July 9, focusing on the research and development and critical infrastructure activities proposed for transfer to the new Department. The subcommittee reports that portions of the hearing may be closed to the public.

The witness lists for these hearings have not yet been finalized. However, it is rumored that Ridge will again testify on the President's proposal at the Senate Environment and Public Works hearing. For the House Energy and Commerce hearing it is reported that Jeremiah Baumann of the [U.S. Public Interest Group](#) and David Sobel of the [Electronic Privacy Information Center](#) will both testify on the inherent problems associated with creating a new exemption to the Freedom of Information Act (FOIA) in an effort to protect information on critical infrastructure.

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