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In This Issue

Federal Budget

Cheaper at Half the Price
Deficits and Debt and Tax Cuts

Information Policy

Efforts Made to Expand Critical Infrastructure Information
Administration Attempts to Re-classify 9-11 Information
Supreme Court Vacates and Remands FOIA Case
Justice Order Gags Whistleblowers

Nonprofit Issues

Court Strikes Down Blanket Issue Advocacy Ban in Campaign Finance Law
The CARE Act - What Next?
IRS Discontinues Audits of Charities That Lobby
IRS Seeks Comments on Guidance, Practices to Prevent Fund Diversion for Terrorism

Regulatory Matters

Independent Report Critical of Administration's Air Policies
Questions Raised About EPA Enforcement
USDA Failed to Act on School Lunches Contaminated with Ammonia
New 'Highway Safety' Rules Let Truckers Drive Longer

Right-to-Know

ALEC-backed Attacks on E-Gov't Move in States

Federal Budget

Cheaper at Half the Price

According to the results of a [joint NPR-Kaiser Family Foundation-Kennedy School of Government poll released last month](#) -- and confirmed by almost every other poll on Americans' attitudes toward tax cuts - we are all in favor of tax breaks, until we understand what we have to give up in return.

This latest poll revealed that a whopping 80 percent of us would prefer to have our collective resources dedicated to such programs as health care, education and Social Security instead of seeing them spent on tax cuts. One great analogy of this tradeoff is presented by a public policy group in Canada that explains that if a person is asked if he'd like to pay less for a loaf of bread, he most certainly will respond with an enthusiastic yes; if, however, he is told this less costly loaf of bread may be smaller or less filling,

he very likely will reconsider his support. Unfortunately, details on what type of loaf of bread we'll all be left with after the tax cuts are enacted have been in short supply.

Congress is still grappling with the size of the President's "Economic Growth Package," with the House and the most ardent Senate tax cutters pushing for \$550 billion, and Senate moderates trying to limit it to \$350 billion. Though there are also some in both chambers trying to lessen the damage of the final package by focusing on short-term economic stimulus or longer-term tax cuts that benefit lower- and middle-income tax payers, there is also a growing effort to manipulate the numbers to cram an over-sized and lop-sided tax cut into the limits set by the budget resolution. The tax cut, whether \$550 billion or \$350 billion, is destructive enough; but the latest gimmicks to conceal its true costs (including "sunsets," or expiration, of some of the most costly elements, and the omission of some of the most popular elements, such as marriage penalty relief, which will surely be passed later) may result in a tax cut that actually costs \$1.0 trillion over the next 10 years (see [this Center on Budget and Policy Priorities piece](#)). If such gimmicks are used, the spending cuts necessary to pay for them will be even larger than those outlined in this article.

As noted in the [last issue of The Watcher](#), the budget resolution that Congress passed last month uses cuts in discretionary spending to pay for its expensive tax cuts. To ensure that these cuts will be implemented, the budget resolution reinstated budget caps on the level of discretionary spending for 2003, 2004, and 2005. The caps, set unrealistically low for 2005, cannot be overridden without a 60-vote "supermajority" in the Senate. The effectiveness of the caps at shrinking domestic spending is further enhanced by the omission of a "firewall" between domestic and defense spending. Since defense spending is slated to increase by more than \$200 billion over the next 10 years, a bare minimum of \$168 billion must be pared away from domestic discretionary spending. Put another way, this means that almost everything except military spending, Social Security, Medicare, highway construction, and some assistance for veterans is fair game for these cuts. In the past, especially during the surpluses of the late 1990's, these caps were easily increased as needed, sidestepped by exempting additional spending as "emergency spending," or simply ignored (for more, see this [General Accounting Office \(GAO\) report](#)).

Given the country's ever-increasing deficits, the growing number of "deficit hawks" in both parties, and a greater focus on recently exposed needs such as emergency preparedness at the national and local levels, it seems less likely that the same flexible interpretation of spending caps will save the many programs supported with discretionary funding. What we will be forced to sacrifice instead is the chance to extend unemployment assistance to those who are now facing a 6% unemployment rate; the chance to provide a healthy dose of fiscal aid to states facing a \$75 billion cumulative budget gap; the obligation to provide long-promised increases in federal funding for the educational needs of students with disabilities; the opportunity to fund increased oversight of worker safety, environmental protection, and healthy food and drugs; and many other important efforts to build a stronger, healthier country. Areas most certainly at risk include:

- **Aid to Financially-Strapped States:** While states face their worst fiscal crisis in 50 years, the House has offered no assistance and Senate Finance Committee Chair Charles Grassley (R-IA) is currently arguing over how little state aid he can fit into the budget. According to a recent National Conference of State Legislators report, states have had to lay off employees, reduce benefits and eligibility and scale back services for recipients of Medicaid, the federal-state partnership that provides medical coverage for the poor and some elderly. In addition, some states have attempted to close their budget gaps by releasing non-violent offenders before their full sentences have been served. All of these cuts are a desperate effort to avoid raising taxes, which is anathema to the reelection hopes of nearly all governors and state legislatures. Nevertheless, many states have dramatically increased cigarette taxes, increased corporate surcharges, and 6 states are now currently considering increases in their personal income taxes.
- **Education:** Governors and legislators of both parties, as well as most economists, have argued states need an immediate injection of \$30 billion to stave off additional cuts that will wreak havoc on both state and national economies. In addition to the cuts noted above, states have also made across-the-board cuts in elementary and secondary education, laid off teachers, shortened the

school week, and cut administrative staff. In 2001, given the hoopla over the passage and signing of the President's Leave No Child Behind Act, such cuts would have seemed impossible. The federal budget, however, actually underfunds the provisions of this Act, putting an even greater burden on states to find the money to meet its costly requirements. In a recent interview with National Journal reporter John Maggs, President Bush responded to a question about the current plight of the states saying, "Listen, I'm sorry that the states are in deficit, obviously ... They are all meeting their deficits in different ways, but nevertheless, it is incumbent on the federal government to think in terms of how to enhance revenues." (As [this OMB Watcher article](#) explains, the President is likely referring to more federal tax cuts, and not about allocating the \$30 billion in state fiscal aid.)

- **Child Care:** A recent [GAO study](#) shows that in an effort to reduce costs in response to these huge budget deficits, states have been cutting the amount of financial assistance they provide to low-income families to help with the costs of child care. States have the flexibility to determine who among current welfare recipients, those who have just recently stopped receiving welfare assistance, and other low-income families are eligible to receive child care assistance. The study reports that 23 states have decreased the availability of this assistance since January 2001, and at least 22 states plan to maintain or cut funding for child care this year. As the Post article and the GAO study note, with more women being required to work to receive their welfare benefits, the need for safe and affordable child care has only increased over the last five years; yet federal funding for this vital assistance is in very short supply.
- **First Responders:** In an effort to try to provide a minimal amount of funding to state efforts to meet increased homeland security needs, the [FY 2004 budget](#) pays for increases in funding for first responders by cutting funding for local law enforcement efforts including the community policing program (COPS) and the [Local Law Enforcement Block Grant program](#), which provides funding for local government to hire and train additional law enforcement officers, enhance security around schools, and establish crime prevention programs that "involve cooperation between community residents and law enforcement personnel."
- **Low-income Assistance:** The House-passed budget resolution provides some clues about other likely targets for cuts in discretionary spending. The Senate refused to support the House plans proposed cuts in discretionary spending for housing assistance, child care block grants, low-income heating and energy assistance, and other programs, and thus the final budget resolution was passed without these cuts. Nevertheless, with at least \$168 billion in cuts provided for in the budget resolution over the next 10 years, this is not likely to be the last word on cuts to programs that serve the needs of low- and moderate-income families. Cuts are even more likely since the \$168 billion cut refers only to the Congressional Budget Office's (CBO) baseline, which only takes into account inflation, but omits such other important funding elements as population increases and economically-driven increases in need.

There is little additional information about what specific programs will be cut over the next 3 years in an effort to stay within the newly imposed budget caps. In some ways, this forced ignorance seems even more egregious than the cuts themselves. It is precisely because there is so little mention of the cuts that loom just around the corner that working against them is so difficult. Abstract ideas like burgeoning deficits seem to resonate somewhat with the public, but nothing has the power to bring home the full meaning of these budget cuts as seeing that loaf of bread cut in half right before your eyes. Those opposing the tax cuts in Congress would better serve the interests of the country if they would speak about the impact on our collective needs with the same passion that fills their speeches about the growing deficit. No one wants a pint-sized, less-filling loaf of bread, no matter how cheap it is.

Deficits and Debt and Tax Cuts

Federal Reserve Board Chairman Alan Greenspan doesn't think that tax cuts are needed now and warns about the danger of growing budget deficits. (See this New York Times [article](#)). Recently, the International Monetary Fund issued its economic [report](#) that advised the US against passing more tax cuts. Hundreds of [economists](#), including a number of Nobel Laureates, oppose tax cuts. According to a number of polls, most Americans don't want more tax cuts, either.

There are a variety of reasons for this marked lack of enthusiasm (by everyone but the President and Congress) for tax cuts including:

- Anxiety about the effects of the radical cuts in services that are being made daily as states try to balance their budgets.
-
- No credible evidence that the tax cuts will stimulate economic growth, especially when many states are being forced to raise taxes, and absolutely zero chance that they would do so to a degree that would offset the revenue loss.
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- Worry about the future of Social Security, Medicare and skyrocketing health care costs as we face a big increase in the number of older Americans.
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- The rising national debt as deficits continue each year for the next decade, at least.
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- Increasing unemployment and a shaky economic forecast.
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- Concerns with the cost of the war, strengthening our own security, and being prepared.

There also seems to be a growing awareness that tax cuts **are** government spending-with even costlier and long-term effects than other government spending on services and programs. Tax cuts are not free, not guaranteed to improve the economy, and do not lift all boats (especially not tax cuts on investments and capital gains).

Nevertheless, Congress continues to march blithely forward to pass tax cuts-government spending primarily for the benefit of corporations and the wealthiest. There are only a few lone voices of sense. Against enormous pressure, even Republican Senators Olympia Snowe (ME) and George Vonovitch did their best to lower the cost of the "required" tax cut from \$550 to \$350. (Only given the bizarre scenario of a Congress that is completely oblivious to what people want would that even seem notable.) Rep. Dick Gephardt (D-MO), who is running for President, has boldly called for rescinding the 2001 tax cuts in order to concentrate on providing health insurance for all Americans. Regardless of the merits of his plan, if most Republicans are willing to deficit spend on tax cuts for the wealthy, we think it's about time Democrats start championing deficit spending on something that would do low- and ordinary Americans some good.

Sinking to New Debts

While a rising national debt may be the least of our problems, there are reasons to pay attention, especially when the cause is tax cuts that benefit corporations (already not paying their fair share) and the wealthy (who are more able to replace public services with private). Deficits have long been used as the rationale for curtailing spending, and will continue to be an ideological tool that makes it harder and harder to successfully advocate for meeting the needs of low- and middle-income Americans. Those who want to shrink government are doing a great job-they just keep cutting taxes and creating budget deficits that raise the national debt. Then they argue that we can't afford to pay for health care or housing or protecting the environment or regulating-we've got to pay down the debt. This is probably the worst thing about the rising national debt-conservatives have been astoundingly successful in using it for their purposes.

However, it is true that we pay interest on the national debt, and as it rises, so do interest costs (a fact which anyone with a credit card soon figures out). That is money that could be put to better uses, like meeting our Social Security retirement obligations during the next few decades.

While the federal budget doesn't need to be balanced—it can go into debt, unlike the states, we do have a thing called the "debt limit." Congress set a limit on the total dollar amount of securities that the Treasury is allowed to have outstanding at any time. Congress must vote to increase the debt limit. Last June, less than a year ago, the limit was raised by \$450 billion—from \$5.95 trillion to its current \$6.4 trillion. With the U.S. Treasury warning that the \$6.4 trillion debt ceiling will be breached by the end of this month, another Congressional vote to raise the debt limit yet again will be required. The House has already approved a \$1 trillion increase, after unsuccessfully proposing to just automatically enact a debt limit hike in connection with whatever budget it passes, i.e., "however much we want to spend, the debt limit will go up accordingly." The Senate may not be as generous, although it is certain the debt limit will be raised.

While the President frequently manages to say with a straight face that his tax cuts have nothing to do with the deficits/national debt (and often seems to completely defy logic and infer that the tax cuts will magically return us to surpluses), there should be no doubt that the tax cuts are a big reason for deficits -- not the only reason, but a big factor. According to a recent Center on Budget and Policy Priorities [report](#), using Congressional Budget Office data, nearly one-third of the budget deterioration since 2000 has been caused by tax cuts enacted in the last two years. The CBO data also show that the share of the budget deterioration that is attributable to the tax cuts continues to get larger and larger each year over the course of the decade.

It should be embarrassing to vote to increase the debt limit in order to pay for trillions of dollars worth of tax cuts for corporations and the wealthy, even by a "little bitty" amount, no more than those "little bitty" billions that President Bush wants in tax cuts to which Congress seems unable to just say "No."

Information Policy

Efforts Made to Expand Critical Infrastructure Information

The [Department of Defense \(DoD\)](#) has wasted no time in attempting to get a Critical Infrastructure Information (CII) exemption to the Freedom of Information Act (FOIA) similar to the CII provisions for the [Department of Homeland Security \(DHS\)](#) within the Homeland Security Act of 2002. The dust hasn't yet settled on the massive DHS reorganization, nor have its CII rules been formalized, much less evaluated, but already DoD has decided that this program merits replication. Meanwhile DHS has come under scrutiny for its own efforts to expand the CII program to all other Federal agencies including DoD.

It has recently been reported that DoD lobbyists have been working on getting a FOIA exemption for Defense similar to the exemption granted to DHS under the CII provisions of the Homeland Security Act. A March 25, 2003 DoD memorandum from the Directorate for Freedom of Information and Security Review explained that efforts to obtain a CII exemption statute unique to DoD were "ongoing." Such an exemption explicitly for DoD would allow the Department to directly obtain CII from corporations, contractors, and private citizens possibly without having to share the information with any other agencies—even DHS. This would give the private sector another avenue to submit CII to the government and keep it from public disclosure.

DoD, however, is not simply waiting for the new exemption; the Department is making efforts to withhold the information anyway utilizing current FOIA exemptions. The DoD memo, distributed to FOIA officers, instructs them of possible exemptions which can be re-interpreted and expanded to justify withholding requested CII. While one of the exemptions specified for use in withholding CII is classified information the other exemptions all address unclassified material. Attorney General Ashcroft's October 12, 2001 FOIA memo is specifically cited as justification for expansion of one exemption for unclassified

information. The DoD memo raises questions as to whether the department may be overreaching in its interpretation and implementation of FOIA in its efforts to withhold CII already within the department's possession.

Increasing alarm over Agencies' attempts to raise levels of secrecy under the CII provisions was reflected in Sen. Robert Byrd's (D-WV) April 30th questions to Homeland Security Secretary Tom Ridge before the Senate Homeland Security Appropriations Subcommittee. The Senator expressed deep concerns regarding the recently published DHS CII guidelines, which would allow CII to be submitted to any department, not just DHS, as Congress specifically ordered in the Homeland Security Act. Byrd expressed a common fear that the private sector would abuse the CII exemption in order to protect themselves from legal liability. Ridge maintained that the CII provisions would not release any companies from their requirements under other laws.

Administration Attempts to Re-classify 9-11 Information

The current Administration's propensity for secrecy is evidenced once again by the recent move against disclosure of the joint congressional report on September 11th. The over 800 page long investigative document was completed last December, with only a limited list of findings made public. Intelligence officials have taken a strong stance against any additional disclosure.

Immediately following intelligence committee approval of the report, an administration working group, overseen by CIA director George Tenet, filtered the document to determine what could be declassified. The result is that large parts remain classified, and portions already discussed in public testimony were reclassified. The working group even expressed regret that the public information was released in the first place. Congressional staffers with insight into the process are unsure whether the resistance to openness is driven by the aura of secrecy that has infested the Administration and intelligence community, or a fear of political damage.

Another motivation for continued classification of the report could very well be the recent announcements of President Bush's strategy for re-election. His campaign, focusing on national security measures after September 11th, will be kicking off during the Republican nomination convention in New York City the first week of September 2004. The evidence that President Bush and senior level officials received warning about the attacks would not bode well for Bush's strategy. The issue of disclosure will be ongoing, as continued investigations into the 9/11 tragedy continue.

Supreme Court Vacates and Remands FOIA Case

The [Supreme Court](#) was scheduled to hear oral arguments early last month in the first Freedom of Information Act (FOIA) case (*United States Department of Justice v. City of Chicago*) to reach the Supreme Court in years. However, just days before the March 4 oral argument the Supreme Court cancelled the hearing, removed the case from its docket, and ordered the lower court's judgment vacated. This is the second time in recent years that a last minute development has removed a FOIA case from the Supreme Court's docket.

In this case, previously discussion in this [Watcher article](#), the City of Chicago had been attempting to obtain information such as names and addresses of gun purchasers from a database maintained by the Department of Treasury's [Bureau of Alcohol, Tobacco, Firearms \(ATF\)](#). Interestingly, the [Department of Treasury](#) had blocked access focusing on the privacy interests of the information instead of the law enforcement or gun policy issues. The Treasury Department also maintained that their FOIA requirements only apply to records that provide direct information about the department's performance.

The lower court, the Seventh Circuit Court of Appeals, ruled in favor of Chicago last year and ordered the disclosure of two investigative databases maintained by the ATF. [The Department of Justice](#), which was substituted as the defendant agency in this case since the Homeland Security Act of 2002 transferred the ATF to the Department of Justice, was appealing that decision to the Supreme Court.

Just days before the Supreme Court's decision to remand the case, the Consolidated Appropriations Resolution of 2003 was signed into law. The act contained a statute which specifically prohibits the ATF from using appropriated funds to comply with any FOIA request seeking records of the type that were at issue in the case. After the legislation was signed into law, both the Solicitor General and counsel for the FOIA requester filed briefs on the impacts of the new law. The Supreme Court rejected the requestors' argument to go forward on the case, and instead sent it back down to the lower courts. On remand, the Court of Appeals for the Seventh Circuit now is to consider the effect on this case of the recently enacted legislation.

Justice Order Gags Whistleblowers

The Justice Department issued a directive on March 27 tightening their oversight of employee contact with Congress. Employees are directed to inform the Office of Legislative Affairs "ahead of time and as soon as possible - of all potential briefings on Capitol Hill and significant, substantive conversations with staff and members on Capitol Hill." This requirement would include phone calls. The office would clear Congressional contacts and liaison officials would accompany employees to briefings.

Sen. Charles Grassley (R-IA) has called the directive "an attempt to muzzle whistleblowers" and a "very inappropriate interference." Whistleblowers would be much less inclined to provide information to Congress if their conversations and activities were closely monitored. Barbara Comstock, director of the Office of Public Affairs at the Justice Department, has stated that the directive has been the "longstanding practice of this department" and has nothing to do with whistleblowers. She believes the order promotes information sharing with Congress. Grassley has stated he has already seen a chilling effect on the information flow to Congress. Sen. Patrick Leahy (D-VT) and Rep. John Conyers Jr. (D-MI) have also expressed criticisms of the Justice Department policy. Leahy believes the orders are part of the larger problem of limiting information and creating added burdens to the process of Congressional oversight.

Nonprofit Issues

Court Strikes Down Blanket Issue Advocacy Ban in Campaign Finance Law

On May 2 a special federal three-judge panel ruled some parts of the Bipartisan Campaign Reform Act of 2002 (BCRA) unconstitutional, while upholding others. There is good news for nonprofits engaged in genuine issue advocacy, since the court struck down the blanket ban on broadcasts that refer to federal candidates within 60 days of a federal election or 30 days of a primary.

The court upheld BCRA's "backup" definition of banned issue ads, which prohibits broadcasts that promote or support federal candidates even if they do not expressly advocate a vote for or against a candidate, but "is suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate." The case will immediately go to the Supreme Court.

In striking down the primary definition of banned issue ads, the court held that the ban, "... which regulates communications referring to clearly identified federal candidates based upon when and where they are broadcast, rather than their effect on federal elections, sweeps so broadly that it captures too much First Amendment protected speech ...".

All three judges in the case wrote their own opinions, and all signed an Order that outlines how the court ruled on specific provisions of BCRA and refers to which judge's opinion discusses the majority's rationale for its action. The [court's ruling](#) is available online. OMB Watch will post a summary of the provisions of the ruling that impact nonpartisan nonprofits in the next few days.

The CARE Act - What Next?

Before the Memorial Day recess, the House of Representatives is expected to give priority to legislation aimed at increasing charitable giving, but the Ways and Means Committee will probably not consider the Charity Aid, Recovery, and Empowerment (CARE) Act passed by the Senate last month. House Majority Whip Ray Blunt (R-MO) and Rep. Harold Ford (D-TN) are expected to introduce a bill limited to giving incentives previously considered by the House.

The bill is not likely to contain other provisions that are in the Senate version, such as simplification of the lobbying rules for 501(c)(3) organizations, nonprofit accountability measures or restoration of funding for the Social Services Block Grant (SSBG). It is also expected to have provisions not in the Senate bill.

While it appears the House will deal with rules for grants to faith-based organizations in separate legislation, several other contentious issues could still derail the CARE Act. These include restoration of \$1.3 billion in funding for Title XX of the Social Service Block Grant (SSBG), which was part of the compromise between the White House and Sens. Rick Santorum (R-PA) and Joe Lieberman (D-CT) last year. However, the White House withdrew its support this year after the Senate dropped the faith-based component of the CARE Act.

Private foundations are likely to become a major focus of the debate in the House. Foundations have been eager to reduce and simplify an excise tax on net investment income. Currently, the tax ranges between 1% and 2%; the proposal would make a flat 1% tax. At the same time, some committee members are interested in limiting the amount of administrative costs that can be counted toward a foundation's annual 5% grant payout obligation.

The net effect would be to increase the 5% payout rate, a proposal many foundations oppose. However, [two articles](#) in the San Jose Mercury News last week have drawn more attention to the payout proposal. The two articles draw attention to the salary of the head of a California foundation. The result may be increased interest in the House to link the payout issue with the change in the excise tax.

For more information see our [summary of the Senate version of CARE Act](#).

IRS Discontinues Audits of Charities That Lobby

In a joint statement, seven nonprofit groups, including Alliance for Justice, Charity Lobbying in the Public Interest, Council on Foundations, INDEPENDENT SECTOR, National Committee for Responsive Philanthropy, National Council of Nonprofit Associations and OMB Watch, praise the Internal Revenue Service's (IRS) decision to halt an audit program of charities that lobby pending a review of the program.

The move came after a meeting requested by the nonprofits, based on what appeared to be selective targeting of 501(c)(3) organizations that elect to use the expenditure test to measure their allowable lobbying budgets. (See [background information](#) and [letter to the IRS](#) requesting the meeting.) The full text of the joint statement is [available online](#).

IRS Seeks Comments on Guidance, Practices to Prevent Fund Diversion for Terrorism

The Internal Revenue Service (IRS) is seeking public comments on how it can improve guidance and oversight in order to prevent diversion of charitable assets for terrorist activities. [Announcement 2003-29](#), which will be formally issued May 19, focuses on grants to international charities, but also asks about the appropriateness of issued by the Treasury Department last November. These practices are recommended for all charities, but were released without a public comment period. This announcement provides the nonprofit community with its first opportunity to be heard on the appropriateness of these practices.

The "voluntary best practices" cover governance, disclosure, transparency and financial practices. In addition, special procedures for groups that distribute funds to foreign organizations are listed. The guidelines include issues generally governed by state law, such as the contents of governing instruments, composition and meetings of boards of directors and solicitation of funds.

The area of public disclosure is the most problematic section of the guidelines, duplicating information that must be made public in IRS reporting in Form 990 (the annual information return filed by nonprofits), without the definitions and protections included in the IRS disclosure regulations. In other cases the guidelines exceed current disclosure rules by saying charities should "provide upon request an annual report" and maintain records of "all decisions made" that are made available for public inspection.

In the area of international grantmaking, the IRS asks for comments on whether current rules can be improved to prevent diversion of funds for non-charitable purposes. The announcement asks for information about what safeguards are currently used, what changes were made after the attacks of September 11, 2001, what problems charities have encountered in monitoring international grants and what changes are suggested for IRS Forms 990, 990-PF (annual information returns) and 1023 (application for recognition of exemption).

The announcement is directed to public charities and private foundations. Comments are due July 18, 2003. See the [text of Announcement 2003-29](#) for details.

Regulatory Matters

Independent Report Critical of Administration's Air Policies

The [National Academy of Public Administration \(NAPA\)](#), an independent, congressionally chartered organization, recently released [a report](#) highly critical of the Bush administration's approach to air pollution policy -- raising concerns that public health is not being adequately protected.

The NAPA report, based on a two-year study commissioned by Congress, finds that although the Clean Air Act's New Source Review (NSR) program has succeeded in controlling pollution from newly built facilities, it has been ineffective in reducing pollution from the nation's oldest and dirtiest factories and power plants. "NSR is not having the positive effect on the health of individuals, or on the quality of the nation's air, that Congress intended," according to NAPA, and actions by the Bush administration are actually making the problem worse.

Specifically, the NAPA report, *A Breath of Fresh Air*.

- Criticizes a number of the Bush administration's [NSR rule changes](#), including its proposal to expand the "routine maintenance" exemption, which allows plants to perform upgrades without having to install new anti-pollution equipment;
- Urges Congress to close the "grandfather" loophole, which allows the oldest and dirtiest facilities to avoid Clean Air Act requirements, recommending that all major pollution sources be required to upgrade to the best available pollution controls within 10 years -- an approach that stands in opposition to the Bush administration, which has sought to relax requirements and enforcement efforts for such facilities; and
- Condemns the Bush administration's [failure to address carbon dioxide emissions](#), the main cause of global warming.

"This is a verdict from a neutral body tasked by Congress to evaluate EPA actions representing core elements of the Bush administration air pollution plan," [said John Walke](#), attorney and clean air director at the Natural Resources Defense Council (NRDC). "What they found is these policies are hurting public health. This report is a major rebuke to the Bush administration's campaign to turn the Clean Air Act into a loophole bonanza for industry."

The U.S. Public Interest Research Group (PIRG) also recently released [a report](#) detailing how the Bush administration's environmental rollbacks have intensified since the 2002 elections.

Questions Raised About EPA Enforcement

EPA investigators and attorneys are questioning the agency's enforcement efforts -- including decisions to assign criminal agents to EPA Administrator Christie Whitman's "personal security detail" -- as the [number of cases referred for federal prosecution by the agency drops](#).

Public Employees for Environmental Responsibility (PEER) [recently released a survey](#) of agency investigators and enforcement attorneys, finding that nearly 70 percent of the 120 respondents disagreed or strongly disagreed with the statement, "The EPA criminal program is headed in the right direction."

The survey included an essay section allowing respondents to describe how EPA's criminal enforcement program can be improved. A [number of respondents](#) referenced Whitman's practice of assigning criminal investigators to "security detail," which often involves running errands for her, among other personal tasks.

One agent wrote "the Administrator's entire new 'security detail' is a farce. The only reason the Administrator has this is because it allows her to avoid waiting in lines (restaurants, airports, etc.), permits her to have limo service (courtesy of taxpayers), and allows her (through CID agents' efforts) to change her dinner reservations without regard of busy times/inconvenience to everyone involved/public perception... This whole program is an outrageous waste of taxpayer funds and should be dropped immediately."

Eighty-four percent of respondents agreed or strongly agreed that "[n]ew security assignments are significantly diverting resources away from enforcement against environmental crimes." However, EPA officials claim that added security has been "necessitated by the post-Sept. 11 terrorism concerns and specific threats against Whitman, which they declined to describe," [according to the Washington Post](#)

[New figures released by PEER](#) make clear that enforcement efforts at the agency have weakened since the President Bush took office -- with a 40 percent drop in referrals for federal prosecution of criminal pollution cases, and a 25 percent drop in civil pollution cases.

USDA Failed to Act on School Lunches Contaminated with Ammonia

The United States Department of Agriculture (USDA) failed to notify state and local officials about food contaminated by ammonia and allowed dangerous beef patties, chicken tenders and potato wedges to be shipped to school lunch programs across the state of Illinois, [according to the Chicago Tribune](#). Forty-two children and teachers at an elementary school in Joliet, Ill., were sickened and rushed to the hospital in November of 2002 after eating contaminated chicken tenders, found to contain 133 times the accepted level for ammonia.

An ammonia leak at Gateway Cold Storage in St. Louis tainted thousands of cases of food, some of which were bound for Illinois schools, in November of 2001. A USDA inspector, stationed at the food storage facility in connection with a separate food safety investigation, was present around the time of the leak but did not inform schools or health officials of the incident. USDA officials maintain that it was Gateway's responsibility to notify affected entities.

State and local officials quarantined food at the storage facility after cafeteria workers complained of odors from shipments. But these officials claim they were undermined when the USDA, which regulates meat and poultry for school lunches, allowed Gateway to continue shipping the ammonia-soaked products -- an allegation the agency denies.

The USDA, [Food and Drug Administration](#), and the [Illinois State Board of Education](#) are investigating.

New 'Highway Safety' Rules Let Truckers Drive Longer

The Bush administration recently released new standards, which it [says will "improve highway safety,"](#) that actually extend the amount of time truckers can stay behind the wheel each day.

The new ["hours of service" rules](#) allow truckers to drive for 11 hours instead of the current 10, and require drivers to take a 10-hour break period -- up from 8. Trucking companies are backing the change, while the Teamsters union, which represents truckers, and safety advocates oppose it.

"Decades of research, both on commercial drivers and shift workers, has shown that increasing the length of time a worker must spend performing certain tasks correspondingly reduces alertness and performance," [according to Parents Against Tired Truckers \(PATT\)](#). The group also reports that one out of eight traffic fatalities in 2001 resulted from a collision involving a large truck -- killing 5,082 people.

The measures, announced by the Department of Transportation (DOT) on April 24, do not require the use of on-board electronic devices to verify how much time drivers actually spend on the road, rendering the standards unenforceable.

The recent action stems from a [lawsuit](#) in which Public Citizen, PATT and dissident Teamster members sued DOT to update the standards, which have been unchanged since 1939.

OMB's Office of Information and Regulatory Affairs (OIRA) also instructed DOT to review "hours of service" based on recommendations it received from the [American Road and Transportation Builders Association](#), as well as the conservative [Mercatus Center](#), which sought to relax the rules. These recommendations were submitted to OIRA, along with [hundreds of others](#), in response to its annual [report on regulation](#), released this past January. At the time, [OMB Watch argued](#) that this could signal the next phase in regulatory rollbacks. DOT's effort may be just the beginning.

Right-to-Know

ALEC-backed Attacks on E-Gov't Move in States

Legislation backed by the American Legislative Exchange Council that would stifle public access to taxpayer-funded information and services in the name of protecting commercial profits is rapidly moving through the state legislature in Ohio and is under consideration in other states.

The bill, [introduced in the Ohio House of Representatives as H.B. 145](#), would prohibit Ohio state agencies from using electronic services if two or more commercial entities were selling the same information or service. The bill, which passed the House as part of the state's budget bill ([H.B. 95](#)) and is now under consideration by the Ohio Senate, would give companies the right to sue the state agency for competing with the for-profit company if the state agency and multiple commercial entities were providing the basic government service.

In an editorial published on April 24, 2003, [the Cleveland Plain Dealer called this bill](#) a "clumsy attempt to benefit private companies that peddle public information."

This and similar bills under consideration in Massachusetts, South Carolina and Rhode Island would force government to avoid competing with the private sector. This bill puts private interests over the public interest and forces the public to pay companies for public information for which taxpayers have already paid. For further information and a chance to write state legislators considering the noncompetition bill, read [the OMB Watch analysis](#).