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Economy and Jobs Watch - Steady Job Growth Threatened by Higher Oil and Gas Prices

The number of new jobs created in May declined to a steady 248,000, according to the Department of Labor. The unemployment rate remained unchanged at 5.6 percent. This data reinforces the past two months' data and shows that the labor market continues to tread water - much higher jobs numbers will be necessary to bring the unemployment rate down.

However, recent developments in oil and gas prices are threatening the status quo. The price of oil has periodically broken the \$40 dollar a barrel mark over the past several weeks. With consumers sending more money overseas to pay for oil, there will be less money for other domestic spending.

According to a recent Gallup poll, about half of those surveyed said recent gas price increases have caused them financial hardship and about one-third said they have reduced other spending significantly.

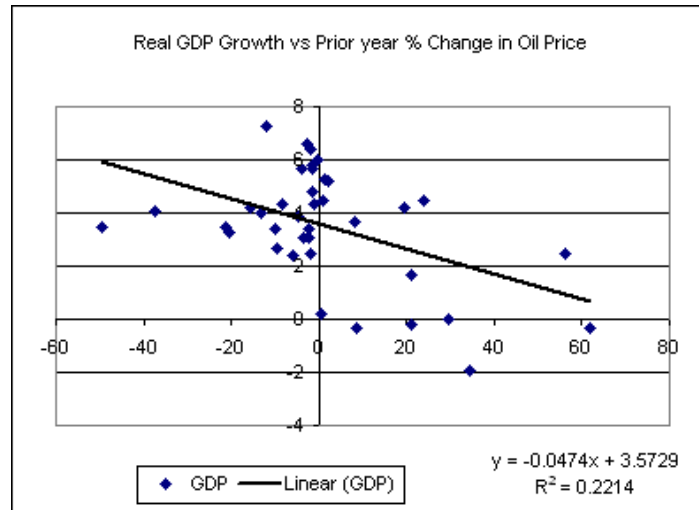
Importantly, and as one might expect, the number of people cutting back is dependent upon income levels -- while only 15 percent of those making \$75,000 or more reported having to cut back, a much larger 55 percent of people earning less than \$30,000 a year reported having to cut back on spending.

Oil prices will have less of an impact than they did 25 years ago, because oil now represents a smaller fraction of

the U.S. economy. However, there is still likely to be an impact on spending and the economy as a whole.

Reductions in consumer spending on non-gas related items will cause the economy to slow and eventually harm job growth. Just how much, and when the impact will be felt, remains to be seen.

As a side note: an illustrative (but not rigorous) analysis of the relation between change in oil prices and economic performance from 1960 to 2000 shows how changes in oil prices might impact the economy. According to the data, on average, a 10 percent increase in the price of oil precedes about one-half of a percentage point reduction in real GDP. So, an increase in the price of oil from \$30 a barrel to \$40 a barrel, we might expect real GDP growth to be lower by about a percent and a half. See graph below.



Beware of Bad Economic Policy - The Balanced Budget Amendment Set to Return

The long-ago defeated proposal for a balanced budget amendment is rearing its ugly head once again. Unable to pass a budget this year and desperate to create the appearance of being fiscally responsible, the Republican leaders in the House of Representatives are promising a vote on the measure.

A constitutionally mandated requirement to balance the budget every year would have terrible consequences. For starters, it would destabilize the economy and restrict the nation's ability to invest in projects that would yield significant benefits in the future. A good example of the various arguments made against the amendment is this Treasury Department memo by Brad DeLong, written 10 years ago.

In addition, more than 1,000 economists have publicly opposed the amendment, as have dozens of nonprofits comprising the Coalition for Budget Integrity.

It would be unfortunate if the return of this inherently misguided amendment distracts Congress when they have so many important issues to address.

No Budget - But Appropriations Are Moving Forward

In spite of the lack of a budget resolution, Congress is moving forward with the appropriations process.

The House, having passed a FY 2005 budget resolution back in May, is rapidly moving forward with appropriations bills, based on an overall discretionary spending cap of \$821 billion, including both domestic and military. The House has also approved the division [302(b) allocations] between the 13 appropriations bills, defeating an amendment by Appropriations Committee ranking member David Obey (D-WI) to increase spending by \$14.2 billion by rolling back tax cuts. Last week, Appropriations considered the Homeland Security and Interior bills, which are expected to reach the House floor this week. Next will be the Defense bill. The Energy and Water subcommittee was also working on appropriations last week, and subcommittees are expected to work on the Agriculture, Commerce-Justice-State, and Legislative Branch bills during this week.

In the Senate, efforts continue to find a compromise that will allow passage of the budget resolution. Republican Senators McCain (AZ), Chafee (RI), Collins (ME), and Snowe (ME) remain firm in their opposition to any resolution that does not include "Pay-Go" rules -- rules requiring offsets for both tax cuts and entitlement spending. A possible deal that is in the works would extend Pay-Go rules for taxes and spending for three years, but would still allow an exemption this year for three expiring tax cuts, at a cost of \$27.5 billion. These would include: the \$1,000 per child tax credit, the standard deduction for married couples, and the expanded 10 percent tax bracket. It is uncertain whether that deal will be closed. If there were no budget resolution, the Senate spending cap would remain at last year's level of \$814 billion. Additionally, there would be no special protection for the three expiring tax cuts, which could lead to filibusters that require 60 votes for passage, and require offsets for the cost.

Senate Appropriations Committee Chair Ted Stevens (R-Alaska) has said he will move forward with appropriations, starting with Homeland Security or the Defense bill, if no budget resolution is passed by June 15. The Senate Appropriations Committee is preparing to divide up the \$814 billion discretionary cap. BNA reported June 10 that the preliminary draft allots the same amount to 12 of the appropriations as the House version, cutting the defense appropriation by \$7.2 billion.

After resuming work today, the House and Senate will both recess June 25 and return July 6.

Bush Administration Refuses Congress Again, Hides Memos

Last week, Attorney General John Ashcroft testified before the Senate Judiciary Committee and repeatedly refused several Senators' requests to produce a copy of the recently leaked Justice Department memo that explored the legal justifications for torture.

The 50-page memo [download links below], written for the CIA and addressed to White House Counsel Alberto Gonzales, argues that "necessity and self-defense could provide justifications that would eliminate any criminal liability" for torturing prisoners. Pentagon lawyers used that same memo in a March 2003 report assessing interrogation rules governing the Defense Department's detention center at Guantanamo Bay, Cuba.

Congress not only has a right to review this and other memos but a clear obligation. We are in the midst of a major Congressional investigation into prisoner abuse -- a Justice Department torture memo is extremely relevant. But the Attorney General refused to cooperate with Congress and provide a copy of the memo because he believes the president has the right to receive advice from his attorney general. However, the memo was not candid advice from Ashcroft alone; it is the product of extensive work by taxpayer-paid Justice Department lawyers.

There are only two legal reasons Ashcroft can refuse to provide the memo. The first would be if President Bush invoked executive privilege, claiming the memo was protected as presidential material. Ashcroft made it clear at the Senate hearing that the president had not yet invoked executive privilege. The second reason would be if an established law expressly protected the memo from disclosure to Congress. During questioning, Ashcroft never cited any law that would allow for protection of the memo, only his opinion that disclosure would be bad policy.

Unfortunately, this is not the first time this administration has been uncooperative with Congress' efforts to get to the truth. The White House was uncooperative with the Congressional commission investigating the 9/11 attacks, refusing to release information such as the president's daily briefings and almost barring National Security Advisory Condoleezza Rice from testifying under oath. When the Government Accounting Office, Congress' investigating office, probed Vice President Cheney's Energy Task Force, the White House resisted releasing information at every turn.

Hopefully, Congress will successfully break through the administration's stonewall to discover the truth and apply the checks and balances instituted to hold all aspects of our government accountable.

[Download full DOJ Memo Part I](#) (pp. 1-25)

[Download full DOJ Memo Part II](#) (pp. 26-5)

Politics, Not Science, Alters Air Quality Models

Government air quality modeling experts from around the country are opposing a new Bush administration policy, which they contend threatens air quality and public health. They are among a growing number of scientists and other critics, who charge the Bush administration with manipulating science to support predetermined political outcomes. Most significantly, this may be the first time such criticism has been leveled from scientists inside a federal agency.

The administration overrode regional EPA officials and altered air quality modeling for North Dakota's national parks and wilderness. The air quality modelers in all but one of the Environmental Protection Agency's 10 regions have publicly stated that the new policy represents "substantial changes from past air quality modeling guidance ... and accepted methods."

North Dakota wants to capitalize on its massive coal deposits by building additional power plants to export energy around the country. However, under the Clean Air Act, the air over national parks and wilderness areas receives special protection. Previous modeling revealed that pollution in North Dakota had significantly increased since 1977, the baseline year. Using that analysis, the state would have to take steps to reduce pollution before new power plants could be built.

The new policy permits the state to choose the baseline year, inviting manipulation of the modeling. Selecting a baseline year with higher pollution levels would allow more pollution in the future. An EPA analysis estimates that allowing flexibility in selecting the baseline year could more than double the pollution levels in the area. Another change that the modelers charge will permit higher pollution in the future is letting the state use average annual emissions, rather than periods of peak emissions.

Bush administration officials involved in the new policy denied the accusation that the science had been altered to meet political goals. They asserted that the regulations permit the new flexibilities offered to North Dakota.

Nonprofit News Briefs

- * **June 22 hearing on nonprofits at the Senate Finance Committee**
- * **House Bill on IRS Rollovers**
- * **Emily's List asks the Federal Election Commission to reconsider its controversial Advisory Opinion 2003-37**

Senate Finance Committee Hearing

On June 1, Senate Finance Committee Chair Charles Grassley (R-IA) and Ranking Member Max Baucus (D-MT) announced a hearing on charitable giving problems and best practices. The announcement said the hearing, scheduled for the morning of June 22nd, will address governance and best practices of charities, charities accommodating tax shelters, donor gifts of tangible and intangible property and current problems and issues in the charitable community.

IRS Commissioner Mark Everson told the IRS's Advisory Committee on Tax-Exempt and Government Entities that he has "great concern" about abuse of the tax system, and discouraging abuse by charities is one of his four major priorities.

Charities that wish to submit statements for the record at the hearing can send them to:

Senate Committee on Finance
Attn: Editorial and Document Section Room SD-203
Dirksen Senate Office Building
Washington, DC 20510-6200

IRS Rollover Bill Introduced

A new bill to allow taxpayers age 59 1/2 or older to make tax-free charitable contributions from rollover of individual retirement accounts has been introduced by three members of the House Ways and Means Committee. Reps. Phil Crane (R-IL), Earl Pomeroy (D-ND) and Jim Ramstad (R-MN) introduced [HR 4488](#) on June 2. A similar provision is included in the CARE Act, which has passed both houses of Congress but is stalled at the conference committee stage.

Emily's List Asks FEC to Reconsider Advisory Opinion

The political action committee [Emily's List](#) wrote the Federal Election Commission (FEC) on June 7 asking that it withdraw its controversial [Advisory Opinion 2003-37](#), Americans for a Better Country. The request said the FEC's subsequent decision to delay action on a proposed regulation redefining political committees was a rejection of many of the legal positions in the Advisory Opinion.

Global Health Council Condemns HHS Funding Cut

[Global Health Council](#) president and CEO, Dr. Nils Daulaire, used his [keynote address](#) at the organization's conference June 2 to sharply condemn the Department of Health and Human Services' (HHS) April decision to cut funding for the event. Daulaire said that HHS "bowed to election-year political pressure." The Traditional Values coalition and other conservative groups had objected to the participation of two family-planning groups set to take part in the event. HHS claimed the funds were withdrawn because the Council was using them to lobby. However, the Council's conference followed the same practice commonly accepted to segregate federal funds from lobbying activity, holding an advocacy day separate from the rest of the agenda.

After HHS announced its decision in April, the Council reacted cautiously and attempted to resolve the issue. This was the Council's 31st annual conference, which brings together public health professionals from around the world. The federal government has subsidized the conference for decades, and federal officials often participate, including the Secretary of HHS in 2001, the Administrator of the Agency for International Development in 2002 and the Director of the Centers for Disease Control in 2003.

The trouble began when House Republican aides Sheila Maloney and John Casey e-mailed a message to alert pro-life (anti-abortion) groups that the International Planned Parenthood Federation and the United Nations Population Fund would take part in the conference. These groups have objected to the global gag rule that bars clinics, which receive federal funding, from discussing abortion with their clients. After the message was sent, the Traditional Values Coalition and other conservative groups asked HHS to withhold the funds. Twelve members of Congress also wrote HHS opposing the conference funding.

Although HHS told the press the Council was spending federal funds for lobbying, an HHS spokesperson told OMB Watch that the Council was unable to demonstrate that federal funds had not been used for lobbying. This approach puts the Council in the impossible position of having to prove a negative. Federal regulations do not require grantees to use a specific accounting method or keep federal funds in segregated accounts. HHS has used this broad latitude to make vague, politically motivated accusations about improper use of federal funds in other cases as well, including that of [STOP AIDS](#) of San Francisco last year.

HHS bowed to "a small group of right-wing extremists," Daulaire said. "Not one person in that clique has ever spent a day in a clinic in a developing country ... And they have clearly never spent a minute reflecting on the global cost in human lives that might result from acting out their Washington-centric games." He also said, "we have a responsibility to stand up and challenge those who hold positions of public trust when they are wrong -- and on this, they are wrong. And challenge them we will, not because of our one conference, but because of who might be next."

Politics-and-Religion Issue Surfaces in Congress, Campaign

Church Electioneering Provision Dropped from Jobs Bill

The House Ways and Means Committee has dropped a provision (Section 692) that would have allowed religious organizations to violate the tax code's ban on partisan election activity up to three times a year without losing their tax-exempt status. At a June 14 review of H.R. 4520, Rep. Nancy Johnson (R-CT) offered an amendment stripping Section 692 from the bill. She was supported by Reps. Amo Houghton (R-NY), John Lewis (D-GA), Charles Rangel (D-NY) and others. Her amendment was approved on a voice vote. Last minute technical changes to Section 692 failed to correct the fundamental problems with the proposal. Advocates of legislation (H.R. 235) proposed by Rep. Walter Jones (R-NC) that would legalize partisan activity for religious organizations objected to Section 692 because it did not go far enough. Opponents, including OMB Watch, objected to unequal treatment of religious and non-religious 501(c)(3) organizations, creation of a new soft money loophole and politicization of houses of worship. H.R. 235 is pending before the House Ways and Means Committee. THANKS to all of you that responded to our action alert on this issue. The public opposition to this proposal was forceful enough to stop it.

The provision inserted into the jobs bill by House Republican leadership would have allowed religious organizations to violate the ban on partisan election activity without losing their tax-exempt status. It was introduced shortly after the Bush campaign was criticized for e-mailing messages to supporters seeking help with re-election campaigns by recruiting "friendly congregations." That messages were sent the same day the President announced expansion of his faith-based initiative, including \$1.1 billion in grant funds. As a result of press attention to the pending legislation, the IRS took the unprecedented step of sending a letter to all political parties reminding them that current law prohibits partisan activity by charities, including religious organizations.

For background information on Section 692 and how it got into the jobs bill read [Church Electioneering Provision Added to Jobs Bill](#).

Also, see the full text of the [OMB Watch letter](#) to the Ways and Means Committee opposing Section 692.

Bush Campaign Seeks "Friendly Congregations" To Aid Re-election Campaign

In early June, the Bush campaign sent 1600 emails to clergy and other individuals saying it is looking for "Friendly Congregations in Pennsylvania where voters friendly to President Bush might gather on a regular basis." It further states that the re-election campaign would like to distribute general information "to supporters." The campaign's email (see full text below) is part of a larger national effort.

The Interfaith Alliance and Americans United for Separation of Church and State (AU) strongly criticized the action as encouragement to congregations to violate the tax code's ban on partisan electioneering by 501(c)(3) organizations. In a [press release](#), AU executive director Rev. Barry Lynn said "The last thing this country needs is a church-based political machine." Some conservative church leaders criticized the plan as well. Richard Land, president of the Ethics and Religious Liberty Commission of the Southern Baptist Convention, was quoted by the *New York Times* as saying, "If I were a pastor, I would not be comfortable doing that. I would say to my church members, 'We are going to talk about the issues, and we are going to take information from the platforms of the two parties about where they stand on the issues.' I would tell them to vote and to vote their conscience."

Here is the full text of the Bush campaign email:

"Subject: Lead Your Congregation for President Bush

Dear [recipient]:

The Bush-Cheney '04 national headquarters in Virginia has asked us to identify 1600 'Friendly Congregations' in Pennsylvania where voters friendly to President Bush might gather on a regular basis. In each of these friendly congregations, we would like to identify a volunteer coordinator who can help distribute general information to supporters. I'd like to ask if you would like to serve as a coordinator in your place of worship. We plan to undertake activities such as distributing general information/updates or voter registration materials in a place accessible to the congregation. If you are interested [contact info given]."

Bush Expands Faith-Based Initiative

On the same day the Bush campaign sent emails seeking support from "friendly congregations" in Pennsylvania,

the president announced expansion of his faith-based initiative. At the first White House National Conference on Faith-Based and Community Initiatives, he announced creation of new faith-based offices in the Departments of Commerce, Veterans Affairs and the Small Business Administration. He also noted funding for faith-based groups increased \$144 million in programs funded by the Departments of Health and Human Services and Housing and Urban Development. A June 3rd Scripps-Howard News Service report said the administration also announced \$1.1 billion in overall grants to faith-based organizations, with the president saying, "We've reached more than 10,000 faith-based and community groups with the message that we want your help, the federal government now welcomes your work."

The simultaneous expansion of federal funding to religious organizations and recruitment of "friendly congregations" for the president's re-election campaign creates, at best, an appearance of exchange of federal funding for political support. At worst, it creates pressure on religious organizations that depend on federal funding for social service programs to enter the partisan political fray, putting their tax-exempt status at risk.

IRS Letter To Political Parties Warns Against Involving Charities

Increasing public attention to the religion and politics issue and the pending action in Congress prompted the Internal Revenue Service (IRS) to take the unprecedented step of sending a letter to national political parties warning against involving 501(c)(3) organizations in campaigns. The letter provides details about what nonpartisan activities are allowed for charities and says the information is meant "to help you ensure that during this election season your committee and the candidates you support do not, inadvertently or otherwise, jeopardize the tax-exempt status of any charitable organization." The letter says the IRS has a duty to continue enforcing current law, even while Congress is considering changes.

In a press release, IRS Commissioner Mark Everson said the letter was sent "because we want to ensure that the political committees and the candidates they support understand the current rules." For example, the letter noted that candidates can be invited to speak at events sponsored by 501(c)(3) groups, as long as all candidates are given the same opportunity, no favoritism is shown and no fundraising takes place. The IRS enclosed a copy of its April 28 advisory (IR-2004-59) *Charities May Not Engage in Political Campaign Activities*.

Is Advocacy Charity or Not? Groups Denied Access to Annual Giving Drive

Minnesota's state employee relations commissioner has made a decision not to allow any advocacy oriented organizations to participate in the annual state employee deduction charity drive.

The annual drive, Minnesota State Employee Giving Campaign, gives state employees the opportunity to donate money to their favorite charity through the payroll system. The donation is then used as a tax deduction for employees. The giving campaign started in 1980. Only this year, Department of Employee Relations Commissioner Cal Ludeman has single-handedly made the decision to deny a United Way alternative, the Community Solutions Fund (CSF), from participating in this year's drive.

Removing the Community Solutions Fund -- which raises money for such groups as the Minnesota Senior Federation's Metro Region, the Minnesota Coalition for Battered Women, Missing Children Minnesota, the Greater Minneapolis Day Care Association, Jewish Community Action, and 42 other groups -- would cut its total annual fundraising efforts in half. CSF has filed an appeal seeking to reverse Ludeman's decision. "The decision by Commissioner Ludeman unfairly targets grassroots organizations. His actions threaten all nonprofits who do any form of advocacy or whose mission is at odds with the Commissioner's values," says Marsha Frey, executive director of CSF.

Ludeman explained his decision in a Opinion Editorial printed in the Star Tribune in order to combat the bad press that has surrounded his decision. In the editorial he writes, "Their [the Community Solutions Fund's] continued expansion of affiliated agencies that expressly engage in social change advocacy is in direct conflict with the laws governing the state employee charity campaign...The law provides a specific and narrow definition of "charity" as devoting a substantial amount of its activities to direct social services to individuals."

Conversely, Nina Rothchild, former Department of Employee Relations Commissioner, explains that a lawsuit and legislation got the CSF access to the drive in the early 1980s. The legislation that Ludeman is interpreting "was written specifically to allow them to be part of the payroll deduction system," Rothchild told the Star Tribune. "Our department strongly supported it," she said.

The Minnesota Attorney General, Mike Hatch, recalled approving registration for the Community Solutions Fund when he was state commerce commissioner in the 1980s. "I know when it was granted, advocacy was considered to be part of the service...One could ask what has changed to make it not be qualified," Hatch told the *Star Tribune*.

Judge Strikes Down Law Censoring Marijuana Ads

A U.S. District Court Judge issued a permanent injunction against Rep. Ernest Istook's (R-OK) amendment to the Consolidated Appropriations Act of 2004, saying that, "there is a clear public interest in preventing the chilling of speech on the basis of viewpoint." The permanent injunction prohibits the enforcement of the law.

Istook's amendment, which was signed into law with the rest of the omnibus appropriations bill by the president, prohibits any transit agency receiving federal funds from running advertisements from groups that want to decriminalize marijuana or other Schedule I substances for medical or other purposes. On February 18, 2004, a coalition of national drug policy reform groups -- including the American Civil Liberties Union, Change the Climate, Inc., the Drug Policy Alliance, and the Marijuana Policy Project -- brought suit against Secretary of Transportation Norman Mineta and the United States, because their free speech right to advocate on behalf of policy issues was being violated.

The coalition argued, and the Judge later supported, that the law:

1. "imposes impermissible content- and viewpoint-based restrictions on speech in a public forum in an effort to silence one side's message in a serious political debate;
2. imposes restrictions that are unconstitutionally vague and overbroad; and
3. is an unlawful exercise of Congress' spending power because it violates an independent constitutional prohibition on the conditional grant of federal funds."

Judge Paul L. Friedman of the U.S. District Court for the District of Columbia ruled that the government's attempt to censor the ads was "illegitimate and constitutionally impermissible." As a result, Change the Climate and other groups can again display their once rejected ads criticizing drug policies back on the subways and bus stop shelters.

[Read the full opinion.](#)

Senate May Soon Consider Anti-regulatory, Anti-worker Bill

Rumors are circulating on Capitol Hill that H.R. 2728, a bill that threatens protections of public health, safety and environment across the board and specifically weakens protections of workplace health and safety, may soon be taken up in the Senate.

Among the rumored scenarios are that the bill could be appended to a pending bill that would alter interstate class action lawsuits and that it could be offered as an amendment at any point in which a Democrat-sponsored minimum wage increase is offered.

Because of the particular threat posed by H.R. 2728 to public safeguards, in particular its advancement of the cause of regulatory budgeting, OMB Watch will continue to monitor this bill.

Related Reading

Fact Sheets About H.R. 2728

H.R. 2728 Summary: Bill Threatens Public Welfare & Weakens Worker Safety [DOC](#) [PDF](#)

H.R. 2728: First Steps to Regulatory Rationing [DOC](#) [PDF](#)

H.R. 2728: Fictions in the Findings of Fact [DOC](#) [PDF](#)

H.R. 2728: A Step Back for Worker Safety and Public Safeguards [PDF](#)
(courtesy of AFL-CIO)

From the OMB Watch Archives
[Anti-worker, Anti-regulatory Bills Pass House](#)

Mexican Trucks Allowed to Run Over Environmental Law

A unanimous Supreme Court has held that the Federal Motor Carrier Safety Administration (FMCSA) did not violate U.S. environmental law by failing to conduct an environmental impact statement (EIS) of increased pollution from allowing Mexican trucks to operate in the United States beyond limited border zones.

The Court's decision reversed the opinion of the Ninth Circuit Court of Appeals. That ruling required FMCSA to consider the pollution increase in a full EIS prior to issuing regulations governing applications and safety inspections for Mexican trucks to operate in the United States.

See [full story](#) and background.

OMB Role in Fuel Economy Change Exposed

White House staff prompted the development of a controversial proposed overhaul of the entire structure of automobile fuel economy regulation aimed at diminishing standards. Foremost among the architects of the change was John Graham, administrator of OMB's Office of Information and Regulatory Affairs (OIRA).

According to documents obtained by [Public Citizen](#), high-ranking administration officials began working on changes to automobile fuel economy regulation as early as summer 2001. Leaders of powerful offices, ranging from the Office of the Vice President to the Council of Economic Advisors to top staff from a wide array of government agencies, began meeting in earnest and circulated numerous draft proposals and e-mail correspondence on the issue.

At the same time that substantial resources were being invested in the corporate average fuel economy program (CAFE), Jeffrey Runge, administrator of the National Highway Traffic Safety Administration (NHTSA), claimed that NHTSA was unable to develop safety standards to prevent SUV rollover, because the Ford-Firestone crisis had preoccupied too much of NHTSA's time.

CAFE regulates automotive fuel efficiency in a two-tiered system that divides the auto fleet into two classes, passenger vehicles and light trucks, and accords different fuel economy standards to each. Highway safety advocates argue that the current standard, which demands 27.5 miles per gallon for passenger vehicles and only 20.7 for light trucks, encourages the production of more vehicles designated as light trucks, and in turn increases the risk of death and serious injury in two-car collisions with passenger cars.

NHTSA announced, in an [Advanced Notice of Proposed Rulemaking](#) that the very structure of CAFE regulation could be overhauled, with one possibility being dividing the vehicle fleet based on vehicle weight. Public Citizen criticized that proposal in its formal [comments](#), arguing that NHTSA's proposal is based on a study that is [deeply flawed](#).

In these comments, Public Citizen appended summaries from documents it received under the Freedom of Information Act (FOIA). FOIA excludes from its disclosure requirements most interagency consultations conducted in advance of agency decisions, but Public Citizen was able to unearth details of the extent to which high-ranking officials were meeting on CAFE. It acquired calendar notes and other logs, which document that meetings had occurred.

Among the revelations is that OIRA's Graham was prominent in CAFE discussions, and the proposed structural change based on weight classifications mirrors Graham's overemphasis on vehicle weight in two articles he

worked on at the industry-funded Harvard Center for Risk Analysis.

Kentucky Reconsiders Homeland Security Exemption for Open Records Law

After unsuccessfully pushing a bill to create a homeland security exemption to Kentucky's Open Records Act, Democratic Representative Mike Weaver intends to re-propose the bill after the state's homeland security director requested such a provision.

In the years since the 9/11 attacks, many states have considered broad-scoped and vaguely worded exemptions to public records and open meeting laws. Often these laws already have exemptions for issues pertaining to national security and criminal investigations. As a result, important health and safety information is being withheld from the public based on the small possibility that it could be misused.

During the 2004 General Assembly, the Kentucky House unanimously passed Weaver's homeland security exemption, but the Senate altered it to include additional records. House leaders elected to forego enacting the measure rather than accept the altered version.

Recently, Erwin Roberts, executive director of Kentucky's Office of Homeland Security, reported to the Interim Committee on Seniors, Military Affairs and Public Safety, that various documents such as "vulnerability assessments" needed to be removed from public access.

Based on this report, Weaver has committed to preparing a new bill to introduce when the General Assembly reconvenes in January 2005.

