



---

Publications : The Watcher (our biweekly newsletter) : OMB Watcher Vol. 6: 2005 : March 7, 2005 Vo.6, No.5 :

## In This Issue

### Federal Budget

[Bush Budget to Increase Deficits \\$ 1.6 Trillion over 10 Years](#)  
[Social Security Debate Takes Dramatic Shift](#)  
[Congressional Leaders Begin Negotiations on Budget Resolution](#)  
[Federal Spending Cuts, Caps to Hurt States Facing Own Deficits](#)  
[Congress Rejects Competing Minimum Wage Amendments](#)

### Information & Access

[House Hearing Finds Too Much Secrecy, Seeks Fixes](#)  
[White House Cuts Entire Chapter from Economic Report](#)  
[Arizona Looks to Strengthen Freedom of Information](#)  
[Justice Department Opposes D.C. Anti-Terrorist Measures](#)

### Nonprofit Issues

[Coalition Opposes Bill to Regulate Independent 527 Groups](#)  
[Jones Continues to Misrepresent Rights of Houses of Worship](#)  
[Independent Sector Report Urges Nonprofit Accountability](#)  
[Faith-Based Roundup](#)

### Regulatory Matters

[Senate Nixes New Right for Business to Restrict Information](#)  
[Studies on Health Risks from Pollutants Verify Need for Safeguards](#)

---

## Bush Budget to Increase Deficits \$ 1.6 Trillion over 10 Years

The [Congressional Budget Office](#) released its estimates March 5 for the cost of President Bush's fiscal year 2006 budget, showing deficits increasing by \$ 1.6 trillion over the next 10 years. [The CBO report](#) will greatly impact the way the House and Senate budget committees write their FY 06 budget resolutions set for markup this week.

CBO, the nonpartisan agency of Congress that regularly estimates the cost of legislation and policies, projects federal deficits would grow by about \$ 200 billion annually for the next decade. It also changed its estimation of the FY 05 deficit to \$ 395 billion and FY 06 deficit to \$ 332 billion.

CBO also lowered its estimate of how much the president's proposed changes to mandatory spending would save in FY 06, to \$ 26 billion from the \$ 38.7 billion cited by the president and for savings in Medicaid and State Children's Health Insurance programs from \$ 45 billion to \$ 27 billion — almost half of the amount projected by the White House. Because the president's budget only considers the next five years, it hides the worst effects of his proposals. Over the next decade, the changes to all mandatory spending proposed by the president, including tax credits, will actually put the government more into debt by \$ 16 billion, not save \$ 70 billion as the president claimed in his budget.

Perhaps the most damaging conclusion in the report for the president, coming only two months into his second term, is that he will fail to keep his promise to cut the deficit in half by 2009. CBO projects a deficit in 2009 of \$ 246 billion, fully \$ 40 billion short of his goal. Further, neither Bush's budget nor the CBO report include many expensive policies likely to be enacted in the future, such as costs for overhauling Social Security (\$ 1 to \$ 2 trillion over 10 years), fixing the Alternative Minimum Tax (\$ 754 billion over 10 years), increases in the cost of the 2003 Medicare prescription drug benefit (hovering around \$ 750 billion over ten years), or supplemental military costs for the wars in Iraq and Afghanistan this year (currently \$ 82 billion for 2005).

Despite this grim forecast, the administration and Republican leaders in Congress are steadfast in their support of making CBO's projections a reality by extending tax cuts to the wealthy without offsets to pay for them. To that end, the House and Senate will most likely push two sets of reconciliation instructions in their budget resolutions this week, one to deal with reductions in mandatory spending and one to extend expiring tax cuts. (See [Congressional Leaders Begin Negotiations on Budget Resolution](#)).

In the past, Congress has used reconciliation instructions as a deficit reduction tool — protecting legislation lowering entitlement spending, or raising taxes from being filibustered in the Senate. In recent years, the Bush administration has hijacked this process to fast-track huge tax cuts that are not offset and have consequently caused deficits to soar.

It appears this process will be used again during the 109th Congress to continue cutting taxes for the wealthy and spending on programs such as Medicaid that benefit mostly low-income Americans. This misuse of the reconciliation process by a few in Congress is damaging to the federal government's ability to meet its funding obligations to the American people and should be rejected.

## Social Security Debate Takes Dramatic Shift

In a dramatic shift in how the administration has approached overhauling Social Security, Treasury Secretary John Snow stated March 2 the administration is open to considering proposals that would create government-subsidized personal savings accounts outside the existing Social Security system or through means other than a diversion of funds from an individuals' payroll tax. This announcement comes amid speculation that the president's [plan for Social Security reform may be less attainable](#) than he and GOP congressional leaders would like to admit.

At the administration's and GOP congressional leaders' urging, Republican lawmakers discussed Social Security reform with their constituents in their home districts over the last recess. Many encountered skepticism about proposals to create private accounts in Social Security. GOP lawmakers are themselves divided and have proposed a variety of [specific plans](#) that differ greatly from each other. According to a March 2 [New York Times article](#), the Republican leadership differ greatly over the size of the private accounts, whether our economy can sustain trillions of dollars in transition costs to establish them, and whether a tax increase should be included in a reform proposal. Sen. Lindsey Graham (R-SC) and others have publicly broken with their party and supported tax increases by raising the age for Social Security eligibility.

Republicans appear to be in disarray on this issue. For example, Senate Majority Leader Bill Frist (R-TN) said that "in terms of whether it will be a week, a month, six months, or a year before we bring a bill to the floor, it's just too early to tell." Two days later, Frist backtracked, urging his colleagues on the Senate floor to tackle this issue immediately. "This President and this Congress are facing this challenge and the challenge is to fix Social Security.... We need to do it this year. Not next year, but this year," he said.

If reform is pursued this year, it will happen despite strong public opposition. A poll of 1,500 taxpayers conducted Feb. 16–21 by the Pew Research Center found that 46 percent favored diverting a portion of their payroll taxes to pay for private investment accounts — down from 54 percent in December 2004 — and 38 percent opposed it — up from 30 percent in December. The latest [New York Times/CBS News Poll](#) similarly found 69 percent of respondents thought private accounts would be a bad idea if such accounts would risk reducing benefits in any way, and 45 percent said President Bush's private account plan would actually weaken the Social Security system.

Despite these bumps in the road, the president, vice president, and other senior administration officials began a tour March 3 of 60 cities in 60 days to promote their proposals.

## Congressional Leaders Begin Negotiations on Budget Resolution

With the proposed markup date for the budget resolution set for March 9, behind the scenes negotiation involving the budget committee chairmen and members of Congress was in full swing last week and through the weekend. Senate Budget Chairman Judd Gregg (R-NH) and House Budget Chairman Jim Nussle (R-IA) have spent the last few weeks soliciting input from members. While details are still vague, there are some initial indications of the shape and scope of the resolution.

Reports from the Republican Conference meeting March 3 indicate the majority has significant energy and interest to enact most or all of President Bush's proposed cuts to spending as well as extend his tax cuts. House Majority Leader Tom Delay (R-TX) told reporters, "Every chairman stood up and was very confident and excited about doing it."

However, there is less unity on the Senate side, as Gregg continues to resist efforts to include approximately \$ 100 billion in tax cuts in reconciliation instructions. At a leadership dinner March 1, House and Senate Republican leaders agreed to include reconciliation instructions for tax cuts in both chambers' budget resolutions, but Gregg has argued this unnecessarily complicates the process. He feels there is no need to do this since none of the tax cuts are set to expire this year. He would rather advance cuts to mandatory spending and save tax cut policies for the future. In his first year as chairman, Gregg is perhaps trying to avoid a situation that occurred last year when four Republican senators joined Democrats in holding out for PAYGO rules in the budget resolution — a condition which ultimately doomed the bill.

Yet the GOP leadership is being insistent and most observers believe the Senate, like the House, will include instructions to protect a certain amount for tax cuts. If tax cuts are included in the budget resolution, the instructions would not specify which cuts would be protected, only the total amount. GOP aides have said \$ 106 billion would be sufficient to extend the 15 percent top rate on capital gains and dividends for two additional years through 2010, and to extend a few business tax provisions, including the research and development tax credit and new health tax credits included in the president's fiscal year 2006 request, through the five-year budget window. That number is consistent with a recently released estimate by the Congressional Budget Office, which predicts that extending the expiring tax provisions over the

next five years will cost \$ 100 billion (See [Bush Budget to Increase Deficits \\$ 1.6 Trillion over 10 Years.](#))

Most reports from Congress do not include the \$ 30 billion needed to pay for a one-year extension of relief from the Alternative Minimum Tax (AMT), which expires at the end of this year. It is unlikely this tax cut would be included in reconciliation instructions, however, because there is more broad support for extending that provision. When included in reconciliation instructions, extension of the tax cuts would only need a simple majority vote to pass and could not be filibustered. Hence, the strategy is to include the more contentious parts of the tax cut package in the instructions and leave extension of the AMT relief as a stand alone issue.

The most difficult challenge Gregg is likely to encounter will be getting the Senate to pass some of the expected mandatory cuts in reconciliation, especially cuts to agriculture subsidies and Medicaid. Having to tackle the issue of extending tax cuts will only make the process more complicated and difficult. One likely outcome is for the resolution to include two sets of reconciliation instructions: one for tax cuts and another for spending reduction. GOP leaders in both the House and the Senate are likely to adopt this approach because it may help diffuse public perception of the trade-offs being made in the budget — namely cutting programs for low-income Americans to pay for extending tax cuts for the wealthy.

Continuing to pass bills that add to the deficit, such as extending tax cuts without revenue increases elsewhere to offset the loss, is a practice Alan Greenspan once again warned against in his [testimony](#) before the House Budget committee March 2. Greenspan told Congress it “cannot continually introduce legislation which tends to expand the budget deficit.” He further advocated for a return to the budget rules of the 1990s, supporting a full PAYGO rule that would require both spending increases and tax cuts to be offset elsewhere in the budget.

The budget resolution is scheduled to be marked up in committee on March 9. Both House and Senate GOP leaders hope to have the resolution pass before the Easter recess, which starts March 21.

## Federal Spending Cuts, Caps to Hurt States Facing Own Deficits

This week, the House and Senate budget committees are scheduled to [mark up their budget resolutions](#), and spending caps proposed for the next five years, would hurt many states. President Bush sees these budget spending caps as key to reducing the deficit and overall spending by the federal government — but they will do little to reduce the deficit.

It is no secret Bush’s budget includes deep cuts in non-defense discretionary spending for FY 06. The decisions members of Congress will make over the next few weeks will immediately affect many government programs and the millions of people they serve across the country. But those decisions will not only affect government funding in the upcoming year, but also would lock in some of those cuts for the next five years through the use of discretionary budget caps.

Five-year caps on appropriations would greatly exacerbate the level of funding cuts programs will see. In fact, if the proposed caps are adopted, by 2010 we will see a [14–16 percent overall real cut](#) in funding for all domestic discretionary programs excluding defense and homeland security.

Americans will feel the effects of these cuts in every state. The National Priorities Project has compiled a [state-by-state publication](#) detailing how the budget proposal would affect every state in the nation. The Center on Budget and Policy Priorities has also done a breakdown of how the proposed budget cuts would affect each state. [The CBPP report](#) details the extent to which certain programs such as school improvement, special education, child care, and rental assistance would be cut in each state, and how much those cuts would be made worse if Congress adopts five-year spending caps.

The debate over these caps comes at a very difficult time for the states. Twenty-six states already have [projected budget shortfalls of their own for fiscal year 2006](#). With states struggling to balance their budgets while continuing to provide vital services on the local level and [Congress negotiating more drastic cuts to states](#) over the next five years, it is a crucial time for service providers, state and local government representatives, and interested Americans to be in touch with their representatives in Washington. This week’s markup of the budget resolution will frame the debate for cuts that will directly impact states and municipalities over the next five years.

After this week, the budget bills are scheduled to move to the floor and all members will have the opportunity to [vote on the budget resolutions](#). Both the House and Senate hope to have their budget resolutions passed before the congressional recess starting March 21.

[Tell your representatives](#) not to support a budget resolution that makes deep cuts in spending for 2006 or places harmful caps on spending for the next five years.

## Congress Rejects Competing Minimum Wage Amendments

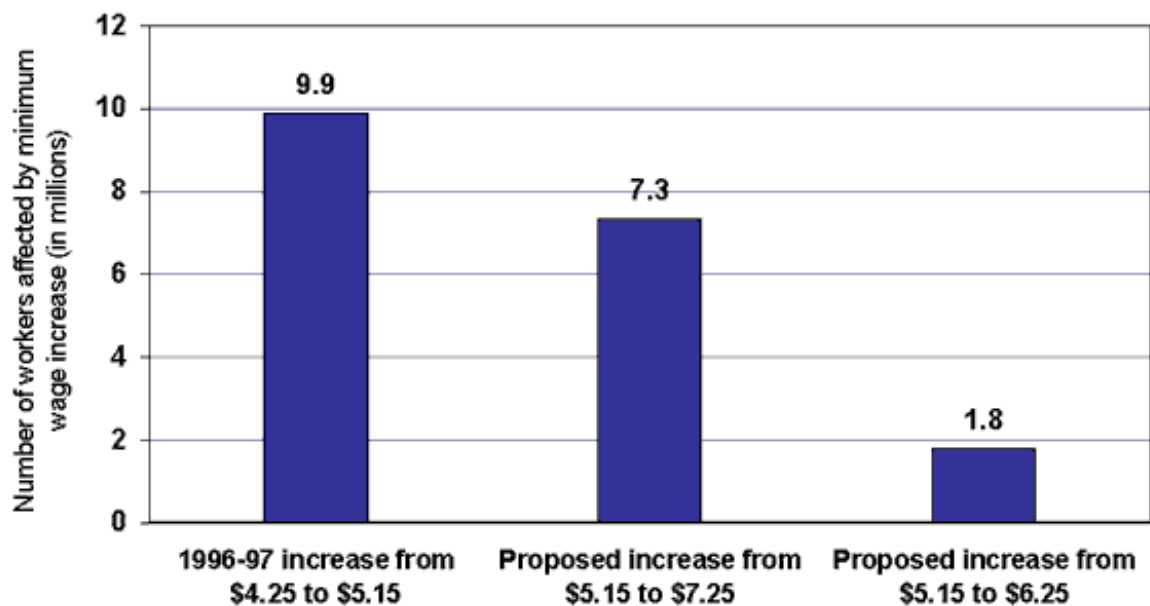
On March 7, the Senate voted to kill two amendments to increase the minimum wage attached to the bankruptcy bill (S. 256). One offered by Sen. Ted Kennedy (D-MA), to raise the minimum wage from \$ 5.15 to \$ 7.25 per hour over two years, lost in a close 46–49 vote. The second, proposed by Sen. Rick Santorum (R-PA), and opposed by progressive groups, was soundly rejected 38–61. Santorum's amendment would have raised the minimum wage by \$ 1.10 over two years to \$ 6.25. Neither got the 60 votes needed to pass.

Santorum's amendment had garnered little support from either party before the vote. Republican lawmakers are generally against raising the minimum wage because of the pressure it puts on businesses. Democrats were apprehensive of Santorum's proposal because it was far more complex than a straight wage increase. The Economic Policy Institute has estimated that even though Santorum's wage increase may have benefited up to 1.8 million workers, the detrimental effects of his plan would have far outweighed the positives. Provisions in the law would have reduced minimum wage eligibility, changed specifics on overtime rights, and overruled state standards for workers who earn tips. In other words, millions of workers would have [lost protections](#) they now have under current law.

Santorum's proposal would have weakened protections workers now have under the [Fair Labor Standards Act](#). Employees who work for businesses with revenues of over \$ 500,000, as well as workers involved with interstate commerce, currently must be paid the minimum wage and overtime pay when they work more than 40 hours per week. The Santorum proposal would have eliminated these important protections and even abolished the 40-hour work week, replacing it with an 80-hour, two-week work period. This means if a worker puts in 50 hours one week, and 30 hours the next week, they would not be eligible to receive overtime pay. It would not only have lowered accepted fair labor standards, but also allowed employers to overwork their employees in busy periods and then cut their hours when business slows down, shifting control over work hours from employees to employers.

Santorum's wage raise would also have covered less than a fifth of the number of workers who received raises in 1997 – the last time the minimum wage was increased. The [Economic Policy Institute chart](#) below shows how ineffective Santorum's proposal would be relative to past minimum wage hikes.

**Comparison of currently proposed minimum wage increases to the 1996-97 increase**



Source: EPI analysis of 2004 Current Population Survey data

Santorum's amendment also contained a controversial provision that would have given business a waiver on first-time regulatory violations of non-compliance with paperwork requirements. See [Senate Nixes New Right for Business to Restrict Information](#), also in this issue.

## House Hearing Finds Too Much Secrecy, Seeks Fixes

A member of the 9/11 Commission and a former translator for the Federal Bureau of Investigation (FBI) warned House members that too much government secrecy today threatens the country's ability to keep the nation safe. The comments were made during a House hearing March 2 that focused on the widespread breakdown of the system to help government keep only necessary secrets in a democratic political system.

Rep. Christopher Shays (R-CT), a longtime champion in the battle to rein in overzealous and irresponsible use of secrecy, together with Democrats Carolyn Maloney (NY) and Henry Waxman (CA), led active questioning of witnesses, including Richard Ben-Veniste, a member of the now-defunct 9/11 Commission.

Ben-Veniste noted that in 1998, Congress passed the Nazi War Crimes Disclosure Act that required federal agencies to declassify documents relating to World War II war crimes. In keeping with that law, over eight million pages of previously secret documents were made public without jeopardizing national security. Former FBI translator Sibel Edmonds recounted how secrecy is frustrating her ability to challenge her dismissal after complaining about alleged espionage within the translator's office. Their testimony inspired Maloney to propose the 1998 law be used as a model for new legislation requiring all agencies to declassify documents.

Before the hearing, entitled "Emerging Threats: Overclassification and Pseudo-classification," Waxman asked for a congressional inquiry into whether agencies were using "sensitive but unclassified" restrictions to withhold key documents, noting that the federal government is keeping more secrets than ever, and citing the *Secrecy Report Card* study by [OpenTheGovernment.org](http://OpenTheGovernment.org), a broad-based coalition which OMB Watch co-chairs. Waxman addressed his [letter](#) to Shays, chairman of the Subcommittee on National Security, Emerging Threats and International Relations of the House Government Reform Committee, which sponsored the hearing.

"We paid a terrible price on September 11 because too much information was kept secret or otherwise not shared," Ben-Veniste noted, linking the tragic events of 9/11 directly to excessive secrecy. Now in private practice, he is a participant with other former members of the 9/11 Commission in the [Public Discourse Project](#), an effort, in part, to declassify more information from the commission's work. The hearing comes on the heels of bipartisan legislation introduced by Sens. John Cornyn (R-TX) and Patrick Leahy (D-VT). The [OPEN Government Act](#) would make it easier for the public to obtain government documents under the Freedom of Information Act.

## White House Cuts Entire Chapter from Economic Report

The National Security Council (NSC) had an entire chapter on Iraq's economy deleted from the "Economic Report of the President" simply because it would interfere with the positive tone of the rest of the report. The report is produced annually by the Council of Economic Advisers (CEA), a supposedly independent advisory entity. The unprecedented move is yet another example of the Bush administration's willingness to manipulate expert and scientific information for political reasons.

The CEA consists of economic and budget experts recruited from the top ranks of academia and business. The "Economic Report of the President" is the CEA's primary vehicle for providing economic observations, advice and input. Economists from both political parties considered the decision to delete an entire completed chapter as extraordinary and a sign of the CEA's loss of influence. Outgoing CEA Chairman N. Gregory Mankiw has declined to comment.

The missing chapter addresses the development of the Iraqi banking system, financial markets and other economic institutions. Apparently, the chapter portrayed Iraq's economic emergence positively and it was believed that this would clash with current military difficulties in Iraq, and therefore would undermine the administration's credibility. The White House has downplayed the deleted chapter, explaining that it did not belong in a report on the American economy. Given that the CEA produces the "Economic Report of the President" every year, one would expect that the CEA understands best the appropriate material to cover.

Congress and the public are entitled to a full and unbiased accounting from the CEA experts, but once again are given an incomplete and misleading picture. The CEA's report will be used to make and justify important decisions, including how the U.S. spends billions in Iraq. When the Bush administration filters information from independent experts and scientists — the information no longer belongs to those experts, it becomes the administration's opinion.

Administration officials said the chapter may still be published in some form in the future.

## Arizona Looks to Strengthen Freedom of Information

Arizona State Sen. Dean Martin (R-Phoenix) introduced two bills on Feb. 1 that would make it easier for Arizonans to access state-held information. The first bill, S.B. 1499, would create a state funded 'public access counselor' to provide expert advice to citizens and state officials regarding requests for state-held information. The second bill, S.B. 1498, would make it illegal for state agencies to sue a person or group simply because they requested information.

Too often, state officials inappropriately withhold requested information because it may be damaging, or simply because the state official believes the requestor does not have a legitimate right to the information. When an agency does not provide sufficient access, the requestor's only recourse is to take the matter to court. Of course, legal battles are costly and time consuming. [S.B. 1499](#), reference titled simply "Office of Public Access Counselor," would provide frustrated requestors with an alternative to the expensive proposition of court.

The public access counselor position would not have the authority of law to order an agency to release information. However, the judgment of a state expert, which would be admissible in court, could significantly influence an agency to reconsider a request. State officials could also make use of the position by consulting with the public access counselor about a confusing or troubling request.

A similar concept was recently proposed for the federal government by Sens. John Cornyn (R-TX) and Patrick Leahy (D-VT) in the [OPEN Government Act of 2005](#). In addition, last December, the Illinois Attorney General [appointed a public access counselor](#) to promote compliance with state public-records and open-meetings laws.

Steve Brittle, director of Don't Waste Arizona, thinks a public access counselor might have helped in his recent struggle seeking a state record. In 1993, Brittle and his organization helped citizens in Cottonwood, AZ, defeat Phoenix Cement's bid to burn tires to fuel their plant. In September of 2004, Steve petitioned the Arizona Department of Environmental Quality for those records to help a Minnesota community facing a similar struggle.

Unfortunately, the Arizona DEQ did not provide Brittle with the records until he had consulted with lawyers and threatened to sue. In the meantime, the Minnesota facility had already been granted a permit to burn tires. A public access counselor might have prevented the delay and enabled Brittle to obtain the records in a timelier manner.

Arizona currently has no laws prohibiting a state agency from preemptively filing a lawsuit against a requestor. If a dispute arises over a denied request or information withheld, an agency might seek to settle the matter definitively by seeking a declaratory judgment or decree against a requestor from a court. However, this unfairly forces the requestor to incur legal fees for simply exercising the right to request information. [S.B. 1498](#), reference titled "Public Records; Requestors; Lawsuits Prohibited," would prohibit state agencies from commencing civil actions over requests for public records unless the requestor consents to the civil action.

Both bills were introduced with several co-sponsors and are expected to go through committees and onto the Arizona senate floor within several weeks.

- [More on S.B. 1499](#)
- [More on S.B. 1498](#)
- [Related article](#)

## Justice Department Opposes D.C. Anti-Terrorist Measures

On Feb. 25, the U.S. Department of Justice joined the rail company CSX in litigation to derail a new Washington, DC, law which bans hazardous cargo shipments through the district. In a brief filed with the Federal District Court, DOJ asserts that hazardous chemical shipments are part of interstate commerce and therefore may only be regulated by federal law.

Last month, Washington became the first U.S. city to ban hazardous shipments when it passed the Terrorism Prevention in Hazardous Materials Transportation Emergency Act of 2005. The law imposes a 90-day ban on hazardous cargo shipments within a 2.2 mile radius of the U.S. Capitol.

Almost immediately following the passage of the new law, CSX filed a lawsuit arguing the law was unconstitutional. With DOJ also trying to nullify the law, the law's future is uncertain.

Undeterred, on March 1, just days after DOJ's brief, the D.C. City Council unanimously passed a nearly identical bill that would increase the temporary ban from 90 to 225 days.

Legally, DOJ's argument that local governments may not interfere with interstate shipments may carry the day. However, it does little to answer the much larger questions raised by the district's efforts. Why, more than three years after the 9/11 attacks, has the federal government not implemented a plan to make chemical plants and shipments safer? Why have chemical companies, shipping companies and industry been getting a free pass from the federal government, potentially at the cost of the public's safety?



The federal government was fully aware of the district's efforts long before the city passed the ban and could have worked with industry and D.C. city officials to discuss shipping risks and developed a plan to improve protections of densely populated areas. Instead, the federal government has continually tried to prevent action and stifle discussion on this issue.

See these related *OMB Watcher* articles:

- ["D.C. Council Passes Bill to Reroute Hazardous Materials,"](#) Feb. 7, 2005
- ["Industry Challenges D.C. Ban on Hazmat Rerouting,"](#) Feb. 22, 2005

## Coalition Opposes Bill to Regulate Independent 527 Groups

A new coalition has formed to oppose passage of the 527 Reform Act of 2005 ([S. 271](#) and [H.R. 513](#)). The Coalition to Protect Independent Political Speech sent a [letter](#) to Congress signed by more than 100 nonprofits urging rejection of the bill, noting, "These organizations have contributed to the revitalization of American democracy, helping bring millions of people back to the process of governing the country by bringing them back to the polls." The Senate Rules Committee has scheduled a hearing for March 8.

The 527 Reform Act of 2005 proposes to make all groups "described in Section 527" of the tax code regulated political committees unless they fit into a limited number of narrow exemptions. The exemptions would be lost if the group spent more than \$ 1,000 on a public communication that "promotes, supports, opposes or attacks" a federal candidate in the year prior to the election. There is no definition of what kind of communication "promotes, supports, opposes or attacks" a federal candidate, so that criticism of elected officials, without mention of an election, could trigger federal regulatory authority. The bill would also subject many state and local political committees to federal regulation.

The broad-based coalition of 501(c) organizations objects to the bill because it would regulate independent groups that do not present a threat of corruption to the political system, and establish a rationale for regulation that could easily be extended to 501(c) groups.

The coalition letter cites the significant role of independent 527s in getting out the vote in 2004, noting that, "The 2004 elections saw the greatest increase in voter participation since 1968, due, in significant part, to the work of these independent organizations." Their funds were used to "knock on doors in communities with some of the lowest historic voter turnouts in the country." 527s are credited with expanding the scope of the debate by raising controversial issues.

The letter said groups signing the letter prefer "to see public policy based on facts, not propaganda," urging Congress to consider facts that show in 2004:

- Candidates and parties outspent independent 527s by ten to one
- Independent 527s must register with the Internal Revenue Service (IRS) and file detailed reports that are publicly available
- 527s that coordinate with candidates or parties face substantial penalties.

On Feb. 28 the coalition held a briefing in Washington, DC, that provided background and analysis on the issues surrounding regulation of 527s. Three election law attorneys noted that:

- The IRS recognizes many different types of groups under Section 527
- Under the bill a politically motivated complaint could be filed at the Federal Election Commission (FEC) that a 501 (c) group is "described in Section 527," resulting in an investigation by the FEC and possible conflicting regulation between the FEC and IRS
- The overall impact of the proposed legislation would be to weaken independent political voices in American politics.

## Jones Continues to Misrepresent Rights of Houses of Worship

On March 2, Rep. Walter Jones (R-NC) formally introduced the Houses of Worship Free Speech Restoration Act (H.R. 235). The bill would amend the Internal Revenue Code to allow religious organizations to endorse or oppose candidates and engage in partisan activity as long as it is part of a religious event. Currently, all 501(c)(3) organizations, including houses of worship, are prohibited from intervening in elections. Supporters of the bill claim religious leaders are afraid to speak out on political issues.

In promoting his bill, Jones continues to disseminate the myth that 501(c)(3)s, including churches, cannot engage in issue advocacy or discuss the issues of the day. According to a [press statement](#) released by his office, "H.R. 235 was introduced to liberate clergy from the muzzle imposed by the absolute ban on all speech that may be regarded as 'political' and thereby enable them to speak out on vital and moral and political questions of the day."

Jones' position misrepresents current law. Non-electoral advocacy, focused on issues, is always permissible. These activities include lobbying for or against confirmation of non-elected officials, such as judges, lobbying on legislation,

commenting on proposed regulations, participating in hearings held by agencies and litigation.

The tax code allows 501(c)(3)s to engage in issue activities during an election season if it is part of ongoing work and related to the group's mission. These activities cannot be increased or timed in order to influence the outcome of an election.

Many types of election-related activities do not fall under the "campaign activity" prohibition and can be conducted by religious institutions. The key distinction is that voter education and mobilization activities cannot support or oppose a particular candidate, directly or indirectly. Permissible election-related activities include: voter education; publishing candidate responses to questionnaires; nonpartisan voter drives; and sponsoring debates and forums. Campaigns on ballot initiatives and referendums are considered lobbying, not partisan electioneering, because no candidate is involved.

Current law protects the integrity of charitable nonprofits by preventing individuals from using tax-deductible contributions to avoid campaign finance laws. It also prevents individuals from using charitable nonprofit organizations, which by definition are organized for public purposes, to advance their personal partisan political views.

Speakers at the press conference included Senators Sam Brownback, (R-KS) and Tom Coburn, (R-OK), Rep. Joe Pitts, (R-PA), Chairman of the House Values Action Team and Congressman Mike Pence, (R-IN), Chairman of the House Republican Study Committee and a number of minority pastors. Supporters of the bill have set up a [website](#) that confuses the issue by failing to distinguish between issue advocacy and partisan electioneering.

## Independent Sector Report Urges Nonprofit Accountability

On March 1, Independent Sector's (IS) Panel on the Nonprofit Sector presented its Interim Report on nonprofit accountability, calling for voluntary action by nonprofits, increased enforcement by the Internal Revenue Service (IRS) and action by Congress, to Sen. Charles Grassley (R-IA), chair of the Senate Finance Committee. A hearing on proposals for legislative action is expected this spring. The Panel is expected to publish a final report before summer.

Grassley said the report will "weigh on the thinking of the Finance Committee," and that he plans to add accountability provisions to the Charity Aid, Recovery, and Empowerment (CARE) Act, a measure IS strongly supports. The panel specifically encouraged nonprofits to take voluntary action for better governance, including:

- Adopt a conflict of interest policy
- Have policies and procedures to protect employees who come forward with alleged illegal or unethical behavior in an organization
- Have someone with financial literacy on the board of directors, or get expert advice on financial management.

Recommendations to make nonprofits more transparent include:

- Suspension, but not revocation, of tax-exempt status of any group that fails to file the annual Form 990 with the IRS for two years or more
- Require the chief executive officer or other high ranking official to certify the accuracy and completeness of Form 990
- Phase in mandatory electronic filing of Form 990
- Require an audit for groups with annual revenues of \$ 2 million or more
- Require charities that are not required to file Form 990 (with revenues under \$ 25,000) to file an annual report with basic information to the IRS.

The panel urged caution before enacting new legislation, noting that Congress can improve enforcement of existing laws and regulations by increasing resources for the IRS, encouraging states to adopt federal standards in their charity regulation and allowing more information sharing between the IRS and state charity officials. The Panel did recommend Congress take action to define the term "donor advised" fund and take steps to prevent personal benefit to donors.

In its next phase of work the Panel will consider:

- Standards for compensation and travel policies for board and staff
- Revisions to the Form 990 series
- Uniform accounting standards
- Valuation of non-cash contributions
- Regulation of charitable solicitations.



## Faith-Based Roundup

### House Vote on Jobs Act Would Codify Religious Discrimination, Opponents Await Senate Vote

On March 3, the House approved H.R. 27, the Job Training Improvement Act, which would allow publicly funded religious agencies to hire and fire workers based on their religious beliefs. A coalition of organizations had urged the House to reject the bill unless it was amended to ensure that workers could not be discriminated against on religious grounds in federally supported social service programs.

Rep. Robert "Bobby" Scott (D-VA) introduced an amendment to restore civil rights protections to the bill. His proposal was defeated in a 239–186 vote that fell largely along party lines.

The bill now moves to the Senate where it has been referred to the Committee on Health, Education, Labor, and Pensions.

### President Bush Pushes Faith-Based Initiative at Leadership Forum

In a speech March 1 at the [White House Faith-Based and Community Initiatives Leadership Conference](#), President Bush promoted three aspects of his faith-based initiative: advocating the right of faith-based charities to discriminate in religious hiring; tax incentives for faith-based charities; and increasing the faith-based initiative at the local level.

In advocating what he called "freedom in religious hiring," Bush said faith-based organizations should have the right to discriminate against people of different faiths when hiring for positions funded with federal dollars.

The president also discussed his proposals for tax incentives on charitable giving, which has always been linked to his faith-based initiative. His fiscal year 2006 budget includes food donation enhancements and provisions to permit individuals to direct a portion of their retirement accounts to a charity. However, the president dropped the largest part of the tax incentives — the non-itemizer deduction. These tax incentives have not yet gained steam even as Sen. Rick Santorum (R-PA) introduced [The Family and Community Protection Act of 2005](#) (S. 6). The bill would provide charitable giving incentives, including the non-itemizer deduction, but it currently has only four cosponsors and no timeline for making it out of committee.

Additionally, the Bush administration is pushing the states to be more active in establishing and implementing grant opportunities for faith-based organizations. The majority of federally funded social services are implemented by state and local government. However, most state and local governments have not followed the Bush administration's example and have not mounted large initiatives to engage in faith-based social services. They have their own, and sometimes conflicting, constitutional and statutory provisions on the relationship between church and state, on hiring rights for employers, and requirements for contractors doing business with government.

The states manage the nation's programs for public welfare, education and training, health care, and public protection, among many other areas. The administration has succeeded in devolving more administrative and financial responsibility for these programs to the states, while decreasing federal funding for them.

### Senate Nixes New Right for Business to Restrict Information

The Senate rejected today a controversial amendment to a bankruptcy reform bill that would have given corporate special interests new incentives to refuse to provide information necessary for protecting the public.

Proposed by Sen. Rick Santorum (R-PA) as a late add-on to S. 256, the bill to benefit the credit industry by further reducing the bankruptcy option for people overburdened with debt, this amendment would have endangered public safeguards with new enforcement exemptions from information collection requirements. The amendment would have prohibited federal agencies from fining [small businesses](#) for "first-time" violations of paperwork requirements as long as the company complied within six months of notice of the violation (with some enumerated exceptions, such as tax collection paperwork).

The prevailing practice is that agencies almost always waive fines for first-time paperwork violations, but they retain the flexibility to fine first-time violators when circumstances warrant fines — for example, when a business willfully violates a paperwork requirement, or when there is a need for rapid and timely compliance with an information collection requirement. The Santorum amendment would have eliminated this flexibility and actually could have encouraged even more violations, because small businesses would have known they could avoid reporting requirements — without fear of fine — until they were caught for the first time.

Businesses could have *many* "first-time" violations under the Santorum amendment. When determining whether a violator was eligible for the "first-time" exemption, an agency would have been allowed to count violations only of that agency's requirements — and would not have been able to look at a small business's violations of requirements from *other* agencies. A business could thus have failed to comply with a workplace safety requirement for Occupational Safety and Health Administration, a toxic substance report for Environmental Protection Agency, and a pension fund report under the Employee Retirement Income Security Act — each time getting the "first-time" violator exemption.

The Santorum amendment would have endangered public safeguards of the public health, safety, civil rights and environment, because it would have weakened agencies' power to gather the information that can be the very basis of public protection. For example, when a worker safety protection is issued, businesses often need to report information so that agencies know whether or not businesses are actually complying and whether workers are getting the full benefit of the new protective standard. Businesses might also be required to post information so that workers know about their rights or learn about potential hazards and protect themselves on the job. Under the Santorum amendment, corporate special interests would have been allowed to deny us this needed information without consequences.

In response to concerns raised by the public interest sector every time this language has been offered in previous Congresses, the Santorum amendment included an insufficient exception that would have allowed fines whenever "the agency determines that the violation presents a danger to public health or safety." This exception ignored that information-gathering requirements are often the basis for determining whether there is a danger to public health or safety in the first instance. Without this collection of information, an agency would often have been unable to determine whether a paperwork violation actually presented such a danger and, as a result, would not have been able to take preventive measures to head off potential risk to the public.

Although the Santorum amendment was considered a message amendment, primarily as a Republican alternative to the [Kennedy minimum wage amendment](#), it used language that has been circulating since the 1990s. The Santorum amendment failed, on a 38–61 vote, to reach the 60 votes needed to amend the bankruptcy bill.

## Studies on Health Risks from Pollutants Verify Need for Safeguards

Several recently published scientific studies on the negative health impacts of depleted uranium, diesel engines, mercury and urban pollutants underscore the need for stronger environmental regulations to protect public health.

In this article:

- [Depleted Uranium May Have Same Health Effects as Lead](#)
- [Diesel Pollution Causes 21,000 Premature Deaths Each Year](#)
- [Mercury Reduces IQs of 300,000 to 600,000 Children Annually](#)
- [Urban Pollution Can Lead to Genetic Alterations, Cancer](#)

### Depleted Uranium Not Harmless

Although the federal government insists that depleted uranium is essentially harmless, a [recent report](#) on a proposed uranium enrichment plant in New Mexico found that "depleted uranium may be mutagenic, tumorigenic, teratogenic, cytotoxic and neurotoxic, including in a manner analogous to the exposure to lead." According to the Nuclear Regulatory Commission, depleted uranium is "uranium having a percentage of uranium-235 smaller than the 0.7 percent found in natural uranium. It is obtained from spent (used) fuel elements or as byproduct tails, or residues, from uranium isotope separation." The possible health risks of depleted uranium took the national stage after the first Gulf War, when soldiers were exposed to depleted uranium used in armor plates.

The study, released by the Institute for Energy and Environmental Research (IEER) and the Nuclear Information and Resource Service (NIRS), looked at research conducted by the Armed Forces Radiobiology Institute in Bethesda, MD, after the Persian Gulf conflict. IEER and NIRS concluded that depleted uranium (DU) poses significant public health risks, despite its classification by the [Nuclear Regulatory Commission](#) (NRC) as a "low-level" waste. "The health risks of depleted uranium may be far more varied than is recognized in federal regulations today," said Dr. Bruce Smith, Senior Scientist at IEER and co-author of the report. Currently, the NRC regulates depleted uranium only "through licensing and oversight of licensee operations."

If the plant is built in New Mexico, "it is likely that the people of New Mexico, U.S. taxpayers, and future generations would be stuck with a multi-billion dollar radioactive waste liability," according to the report.

### Diesel Pollution Causes 21,000 Premature Deaths Each Year

Particulate matter from diesel engines leads to the premature deaths of 21,000 Americans each year, according to a [report](#) by the Clean Air Task Force, a conglomerate of state and local clean air environmental groups.

The Task Force contracted Abt Associates "to quantify for the first time the health impacts of fine particle air pollution from America's diesel fleet." Abt relied on data provided by the Environmental Protection Agency (EPA) to conduct the study, which found that the 13 million diesel vehicles in the United States lead to 3,000 early deaths of lung cancer, 400,000 asthma attacks and 27,000 heart attacks each year.

"Reducing diesel fine particle emissions 50 percent by 2010, 75 percent by 2015, and 85 percent by 2020 would save nearly 100,000 lives between now and 2030," according to the report. Further, the report estimates that in 2010, the toll of premature death and health damage will cost a total of \$139 billion.

The EPA has recently promulgated a regulation that will require dramatic reductions in fine particulate matter emissions from diesel engines by 2007. However, the regulation applies only to new engines and does not make any provisions for existing engines. EPA has promoted a voluntary retrofit program to cut emissions from existing vehicles, but such a program is not enforceable. Diesel engines can last as long as 30 years, which means that older vehicles will continue to pollute for the next quarter century.

Though current control technology can reduce emissions by up to 90 percent, EPA has little authority to reduce emissions in existing vehicles. Cutting emissions in current vehicles will require an aggressive strategy of legislation and regulation at the state and national levels.

## Mercury Reduces IQs of 300,000 to 600,000 Children Annually

A study by the National Institutes of Health (NIH) found that mercury pollution from man-made sources, including power plants, contributes to diminished IQs in 300,000 to 600,000 American children each year and \$8.7 billion annually in lost earnings.

Congress will address power plant emissions in the markup of the Clear Skies bill (S. 131). The markup was supposed to occur March 2, but it was delayed to allow more time for compromise on the measure.

The Clear Skies bill will seek to reduce power plant emissions of mercury 69 percent by 2018, while also reducing emissions in sulfur dioxide and nitrogen oxide through [emissions trading](#). The Clear Skies bill will require mercury emissions to be reduced to 34 tons by 2010, far less than what is required under the Clean Air Act.

Using numbers from last year's Clear Skies bill, which would reduce emissions to 26 tons by 2010, the NIH report estimated that the cost to public health of delaying mercury emissions reductions would exceed the cost to industry of implementing more stringent emissions reductions technology.

EPA is set to promulgate a [final rule](#) for mercury control on March 15. The rule will also implement weaker [cap-and-trade standards](#).

## Urban Pollution Can Lead to Genetic Alterations, Cancer

A new [study](#) by scientists at Columbia University's Center for Children's Environmental Health revealed that exposure to environmental pollutants may actually change the structure of genes in fetuses, making them more likely to develop cancer. The study was the first to show the impacts of pollutions on babies *in utero*.

The study looked at 60 newborns and their mothers in low-income neighborhoods in New York City. Personal air monitoring devices measured the levels of polycyclic aromatic hydrocarbons (PAHs) during pregnancy. These pollutants enter the air through combustion of vehicle engines, residential heating, power generation or tobacco smoke. PAHs can cross the placenta during pregnancy.

The study found that infants who were exposed to high levels of pollutants had an increase of about 50 percent in the level of persistent genetic abnormalities. Separate studies have shown that these abnormalities can increase the risk of cancer.

"While we can't estimate the precise increase in cancer risk, these findings underscore the need for policymakers at the federal, state and local levels to take appropriate steps to protect children from these avoidable exposures," [stated](#) Dr. Frederica P. Perera, director of the Center and principal author of the study.

---

[Press Room](#) | [Site Map](#) | [Give Feedback on the Website](#)

© 2005 OMB Watch  
1742 Connecticut Avenue, N.W., Washington, D.C. 20009  
202-234-8494 (phone)  
202-234-8584 (fax)