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## The Watcher

July 8, 2008

Vol. 9, No. 14

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## Senate Vote on FISA Compromise Expected

Now back from the July 4 recess, the Senate is expected to quickly take up the Foreign Intelligence Surveillance Act (FISA) compromise passed by the House in June, with a vote as early as July 9. Despite opposition to the compromise legislation, particularly from civil libertarians, and a recent court ruling that cast doubt on the main arguments for granting immunity to telecommunications companies, the legislation is considered likely to pass.

On June 20, the House passed the FISA Amendments Act of 2008 ([H.R. 6304](#)) by a vote of 293 to 129. The bill grants retroactive immunity to telecommunications companies and expands government surveillance powers of American citizens without judicial approval. In return for these provisions, the legislation achieves a few modest improvements, including establishing that FISA is the exclusive means by which surveillance may be conducted. The bill also calls for some increased oversight with a review of the wiretapping program by the inspector general of the Department of Justice.

The legislation has received strong opposition from public interest groups, many of which have mounted campaigns to oppose the legislation. Groups like the [American Civil Liberties Union](#)

and the [Center for Democracy and Technology](#) have urged the Senate to reject the legislation. OMB Watch has also opposed the bill.

Online netroots have also placed considerable pressure on Sen. Barack Obama (D-IL), presumptive Democratic presidential nominee, to reverse his stated support for the bill. Online petitions have been [launched](#), and a group has been formed on Obama's campaign site to urge him to oppose the bill. The effort is now the [largest single group](#) listed on the site, with more than 21,000 participants. Originally, Obama had [stated](#) he would support a filibuster of immunity for telecommunications companies.

Interestingly, just days before the Senate votes on the FISA bill, a court issued a ruling on one of the cases against the NSA wiretapping program that runs counter to arguments used to justify the compromise bill. Despite the fact that Chief Judge Vaughn Walker of the U.S. District Court for the Northern District of California dismissed *Al Haramain v. Bush* in the [July 2 ruling](#), the [Electronic Frontier Foundation](#) makes a strong case for how it still goes a long way to undermine several key arguments for the FISA bill. The case was dismissed, for the time being, because the plaintiff failed to adequately demonstrate it had been injured. However, the ruling rejected the expansive view of executive authority to go around FISA and held that FISA preempts the state secrets privilege. The decision also fully demonstrates the ability of courts to handle the questions of immunity and security involved in this issue.

Despite the opposition and the recent court decision, however, it is expected that the Senate will pass the FISA bill when brought to a vote. In February, the Senate passed, by a vote of 68 to 29, an earlier version of the bill (S. 2248), which granted immunity without any of the improvement provisions included in H.R. 6304. Another indicator that the FISA bill will likely pass is that on June 25, the Senate voted overwhelmingly (80 to 15) to limit debate on the legislation.

Only three amendments are being considered:

- Sens. Russ Feingold (D-WI) and Christopher Dodd (D-CT) have offered an amendment to strip out the immunity provision.
- Sen. Jeff Bingaman (D-NM) has offered an amendment that would place all pending lawsuits on hold until 90 days after Congress receives the inspector general report on the wiretapping program, which is required in the FISA bill.
- Sen. Arlen Specter (R-PA) has offered an amendment to require dismissal of lawsuits unless a federal district court found that the assistance of telecommunications companies violated the Constitution.

The Senate is requiring 60 votes for adoption of any of the amendments, so they all face a difficult hurdle.

## FOIA Another Year Older, but Still Not Much Wiser

July 4 marked the 42nd anniversary of Congress' passage of the Freedom of Information Act (FOIA). The Department of Justice (DOJ) issued a report showing improvements in how the law is being implemented, including a reduction in backlogs of FOIA requests at agencies. Other reports, however, paint a much starker picture where backlogs continue to remain high (despite a one-year modest drop) and where the full granting of FOIA requests has dropped to the lowest level since records have been kept.

Sen. Patrick Leahy☀ (D-VT) issued a [June 25 statement](#) remarking, "As we reflect upon the celebration of another FOIA anniversary, we in Congress must also reaffirm our commitment to open and transparent government."

FOIA was signed reluctantly by President Lyndon Johnson in 1966. As Johnson's White House press secretary [said years later](#), "LBJ had to be dragged kicking and screaming to the signing ceremony. He hated the very idea of the Freedom of Information Act; hated the thought of journalists rummaging in government closets; hated them challenging the official view of reality. He dug in his heels and even threatened to pocket veto the bill after it reached the White House." In fact, the bill was signed on July 4 without any signing ceremony.

Yet that law has become the foundation on which government transparency functions today. The law established the process by which anyone could request documents from agencies, which had to respond within 20 business days. Agencies had to make the records available unless they met certain exemptions or exclusions from disclosure under the law.

### Department of Justice Thinks Things Are Looking Up for FOIA

The U.S. Attorney General's May 30 [review](#) of agency efforts to improve FOIA implementation concluded that agencies had "addressed multiple aspects of FOIA administration" and "made remarkable improvements." The review noted that all agencies reported success in meeting at least some of their FOIA milestones and that more than half met all of their milestones. The report described reducing backlogs of FOIA requests as "perhaps the single most significant improvement area addressed by agencies." The report then noted that despite more than half the agencies (49) reporting an increase in requests received in FY 2007, more than half the agencies (47) reported processing more requests than the previous year. It also found that more than 60 percent of agencies (57) reported cutting the number of backlogged requests.

The report is the third and final review required under [Executive Order 13392](#), "Improving Agency Disclosure of Information," issued in December 2005. This same executive order requires agencies to establish improvement plans but provides no funding or enforcement to do so, stating that these goals are to be achieved "consistent with available resources."

Public access advocates never found the [FOIA improvement plans](#) all that impressive, and many also believe the Attorney General's report is misleading and overly positive about progress made to date. The report has been criticized for lacking complete specifics on all

agencies' performance, relying instead on general figures about the number of agencies reporting improvements and then providing figures only for a few individual examples to illustrate the progress.

That report was followed by the DOJ [annual report on FOIA](#) for FY 2007, which was released on July 1. The annual report was equally rosy about FOIA implementation and maintained that FOIA requests had increased over the previous year by two percent or 346,080; backlogs had declined by 14 percent; and more FOIA requests were processed than the previous year with less money (down seven percent) and fewer employees (down three percent). Like the May report, the July report provided no agency details.

### **Public Interest Reports Do Not Find the Same Progress**

On July 3, the Coalition of Journalists for Open Government (CJOG) released its review of performance by 25 key agencies on FOIA, entitled [An Opportunity Lost](#). The CJOG report paints a picture of continuing problems with agency implementation of FOIA that is in stark contrast to the DOJ reports. The CJOG report provides detailed numbers from each agency to support its conclusions. One key issue is what numbers to use when discussing FOIA implementation. DOJ includes data from the Department of Veterans Affairs and the Social Security Administration when comparing year-to-year numbers. CJOG did not include this data because the two agencies "include large numbers of first person Privacy Act requests in their FOIA reporting." The VA has the largest number of FOIA requests of any agency. According to the CJOG report, federal agencies received 63,000 fewer requests in FY 2007 than in FY 2006, which contributed to agencies being able to clear some of their backlogs. However, while the overall backlog did drop from 39 percent in FY 2006 to 33 percent in FY 2007, the change was primarily driven by a handful of agencies making vast improvements to offset the eleven agencies that showed no improvement or even larger backlogs.

The report also indicates that the improvement in handling more requests in FY 2007 may have come at the direct expense of getting any information released. The CJOG report found the percentage of requesters who received either all or some of the information requested fell to an all-time low of 60 percent — meaning that 40 percent of the requests processed were rejected entirely. The drop in the number of full grants is startling. The average between FY 1998 and FY 2002 was 51.3 percent; the average between FY 2003 and FY 2007 was 42 percent; and in 2007, just 35.6 percent of FOIA requests were fully granted, the lowest since government started tracking this information.

Many of the conclusions of the CJOG report are corroborated by the March [Knight Open Government Survey](#), conducted by the National Security Archive. The agency-by-agency survey found that 30 percent of agencies (18) actually experienced a backlog increase in 2007, and another 15 percent (nine agencies) reported having met backlog reduction milestones but still showed an increase in the number of pending requests at the end of FY 2007. The National Security Archive report also noted that only half of the agencies even set specific backlog reduction goals. Government-wide, the number of pending FOIA requests at the end of FY

2007 was only two percent lower than before Executive Order 13392 was issued.

## **Tomato, Beef Recalls Show Problems with Food Tracking**

Federal officials are having difficulty providing consumers with information on two recent food-borne illness outbreaks. Investigators are still searching for the source of an ongoing salmonella outbreak, and officials have been unable to provide detailed information for consumers on a batch of *E. coli*-contaminated beef, which has spread to a number of states across the country.

More than a month after announcing a nationwide warning against the consumption of certain types of raw red tomatoes, and almost three months since the first cases of salmonella were reported, the U.S. Food and Drug Administration (FDA) still has not pinpointed the source of the contamination.

FDA announced the warning June 7 after more than 100 consumers had been sickened by a rare strain of salmonella, *Salmonella Saintpaul*. FDA's preliminary investigation linked the salmonella to red plum, red Roma, and/or round red tomatoes.

But the FDA said last week it was expanding its investigation to other types of produce commonly served with tomatoes, particularly ingredients in salsa like cilantro, jalapeno peppers, and other types of hot peppers, according to the [Associated Press](#). FDA officials have emphasized that tomatoes are still the lead suspect in the outbreak, but many health officials are suspecting additional produce sources, because since the outbreak began in April, tomato production has shifted geographic locations. Experts say it is unlikely that two separate locations would have the same unusual salmonella strain.

Meanwhile, hundreds more cases of the outbreak have been reported. The [latest tally](#) from Centers for Disease Control and Prevention (CDC) is 943 illnesses. Experts believe the actual toll is [probably much higher](#), possibly in the thousands, because many cases of food poisoning go unreported. With CDC revising its figures every few days, neither the spread nor intensity of the outbreak appears to be abating.

The complexity of the supply chain — which shuffles tomatoes and other produce across state and national boundaries for processing, packaging, and distribution — makes identifying the source of this or any other food-borne illness outbreak a major challenge for FDA. A retailer may buy produce from multiple distributors, each of which likely collects a variety of goods from multiple growers. Adding to the difficulty might be the faulty memory of those who become ill.

Critics say the FDA itself is at least partially to blame. Two consumer groups, the Center for Science in the Public Interest (CSPI), and the Consumer Federation of America (CFA), [wrote](#) to FDA commissioner Andrew von Eschenbach chiding his agency for its lax record on produce safety. "This massive outbreak might have been prevented if FDA had responded to the

numerous produce outbreaks that preceded it," the letter says.

The groups say FDA does not have the necessary safeguards in place to prevent and track food-borne illnesses. They said "source traceability for produce, written food safety plans for farmers, processors, and packinghouses, and tighter controls on repacking" are necessary but lacking, despite repeated pleas from food safety advocates.

Regulators are also investigating an outbreak of *E. coli* after a batch of beef was linked to at least 30 cases of the disease in Ohio and Michigan.

While federal officials quickly identified the source of the contaminated beef — Nebraska Beef in Omaha — consumers are still left largely unprotected. The contaminated beef has been further processed and possibly incorporated with other beef, making it difficult to track the ultimate location of the contaminated product.

Initially, the beef recall included only half a million pounds and covered shipments sent to processors and wholesalers in Colorado, Illinois, Michigan, Nebraska, New York, Pennsylvania, and Texas. The Food Safety Inspection Service (FSIS) — the unit of the U.S. Department of Agriculture charged with regulating meat, poultry, and egg products — announced the recall June 30.

In the recall announcement, FSIS disclosed the USDA approval code for the batches of contaminated beef. However, FSIS says product packaging will no longer bear the code since the shipments "were further processed into ground beef."

When FSIS announced July 3 that the recall had been expanded to 5.3 million pounds, it gave no further indication as to where the Nebraska company had shipped the contaminated beef or how processors, wholesalers, retailers, and consumers could identify it. FSIS does advise consumers to make sure they cook beef to an internal temperature of 160 degrees Fahrenheit.

Although it is required to physically inspect all meat and poultry destined for commerce, FSIS has been having increasing trouble ensuring the safety of those products. Over the years, FSIS's inspection staff has been dwarfed by the growing size of the meat and poultry industries, according to an [OMB Watch analysis](#). In 1981, FSIS employed about 190 workers per billion pounds of meat and poultry inspected and approved. By 2007, FSIS employed fewer than 88 workers per billion pounds, a 54 percent drop.

CSPI and CFA, the groups that wrote to the FDA commissioner about the salmonella outbreak, are calling for federal requirements that produce be marked in order to help investigators trace the source of contamination. According to their letter, "Those marks should be specific enough to extend all the way back to the farm of origin." Produce should also bear more informative labels to enable consumers to trace food from their dinner tables all the way back to the farm, the groups say.

At least two bills in Congress focus on the issue of food tracking. One bill ([H.R. 3485](#)),



introduced by Rep. Diana DeGette (D-CO), would require the government to implement a tracking system "for all stages of manufacturing, processing, packaging, and distribution of food." Another bill ([S. 1292](#)) would require a similar system but apply only to meat and poultry products. Neither of these bills, nor the approximately ten other bills aimed at improving food safety, have cleared the committee stage.

## **Pentagon Refuses EPA's Pollution Cleanup Orders**

The nation's worst polluter, the U.S. Department of Defense (DOD), is refusing to sign enforcement agreements with the U.S. Environmental Protection Agency (EPA) that require DOD to clean up polluted sites nationwide. The military bases covered by EPA's enforcement orders may endanger public drinking water supplies as a result of the military dumping toxic pollutants at the sites.

Under the Resource Conservation and Recovery Act (RCRA), EPA can order polluted facilities to be cleaned up and may back up the orders with court actions and daily fines. Both private and government property are subject to the act. When directed at government agencies, EPA's orders cannot become final until it confers with the targeted agencies to discuss timetables and plans for remedying the polluted facilities. These meetings generally lead to enforcement agreements under which sites are remediated.

According to a June 30 *Washington Post* [article](#), DOD has refused to sign 12 required agreements that would cover facilities listed under the National Priorities List, better known as the Superfund list. Some of the chemicals dumped at the sites may cause cancer and can seep into drinking water supplies and aquifers, one of EPA's major concerns.

On June 25, the leaders of the House Committee on Energy and Commerce and its Subcommittee on Environment and Hazardous Materials sent [a letter](#) to EPA Administrator Stephen Johnson investigating EPA's actions in support of final RCRA orders issued for three DOD facilities. The orders were for Maguire Air Force Base in New Jersey, Fort Meade in Maryland, and Tyndall Air Force Base in Florida. Although some cleanup efforts have begun at the sites, DOD is in violation of the final orders and has sought the intervention of both the Office of Management and Budget (OMB) and the [U.S. Department of Justice](#) (DOJ).

On May 14, DOD sent [a letter](#) to OMB asking it to resolve the dispute between DOD and EPA. DOD argued that EPA does not have the authority to impose what it refers to as "additional provisions" to the model enforcement agreements that have been the bases for these interagency agreements. [EPA argued](#) in a Nov. 13, 2007, letter to DOD that the changes DOD is calling for in these agreements do not meet the standards set out in the model agreements.

The Energy and Commerce Committee is asking EPA to provide the committee with information about DOD's failure to comply with the orders. Specifically, the committee wants EPA to provide information about conversations with, and additional information provided to, either OMB or DOJ in the course of resolving the conflict. It also asks EPA to answer seven

questions related to the three facilities at the heart of the conflict and DOD's compliance with EPA orders generally. The letter notes that one of President Bush's promises when he ran for president in 2000 was to require federal facilities to meet environmental protection laws and to hold government agencies accountable for their actions. "It is long past time for this pledge to be honored," the letter states. The committee requested EPA to respond by July 7.

DOD has recently fought EPA on other environmental fronts. In April, the process for assessing the toxicity of chemicals to be added to EPA's Integrated Risk Information System (IRIS) was changed to allow OMB, DOD, and other agencies to have more influence over the assessment process. (See the April 15 *Watcher* [article on IRIS](#).)

In 2005, the Natural Resources Defense Council (NRDC) conducted an [investigation](#) that showed DOD, with the support of the White House, pressured the National Academies of Science to downplay the adverse health effects of the chemical perchlorate. Perchlorate is an ingredient in rocket fuel. The Pentagon and defense contractors use rocket fuel for a variety of purposes. Perchlorate has been shown to cause brain damage in fetuses and infants, according to NRDC. EPA has not begun to regulate perchlorate, citing the need for more research.

Although the conflict over EPA's enforcement powers could be resolved quickly by OMB, at this late date in the Bush administration, it is unlikely that anything more than the voluntary cleanup efforts DOD has started at the sites will occur before a new presidential administration is in place.

## **Past, Future of Faith-Based Initiative in the News**

A late June conference sponsored by the White House Office of Faith-Based and Community Initiatives (OFBCI) featured a [speech by President Bush](#) praising the faith-based initiative as "one of the most important initiatives of this Administration." On July 1, Democratic presidential candidate Barack Obama announced his [plan](#) to restructure the program, criticizing lack of funds for the current effort and promising to bar religious hiring discrimination for federally funded positions. The next day, Republican presidential candidate John McCain issued a [statement](#) disagreeing with Obama on the hiring issue.

The OFBCI conference theme, "Innovations in Effective Compassion," drew about 1,500 attendees to Washington, DC, where two days of presentations listed accomplishments and raised some questions for research. OFBCI released a report, [The President's Faith-Based and Community Initiative in 50 States](#) and a [fact sheet](#) summarizing the results. These include:

- Issuing 15 regulations mandating equal treatment of faith-based and secular grant applicants
- Creating new charitable deductions in the tax code to encourage private giving
- Working with 35 governors and 70 mayors with established state and local faith-based offices
- Funding a variety of programs ranging from public health to prisoner re-entry



assistance

OFBCI Director Jay Hein told the conference that \$15.3 billion in federal grants was awarded to nonprofits in 2007, a 3.9 percent increase over 2006. However, a [2006 study](#) by the Roundtable on Religion and Social Welfare Policy (Roundtable) found that total federal spending on social services declined between 2002 and 2004, as well as total dollars granted to faith-based groups. However, the number of grants awarded increased during that same period.

The faith-based initiative has been controversial since its inception in 2001. Studies by the Roundtable have pointed to [lack of oversight](#), [implementation of new rules through Executive Orders and regulations without new legislative authority](#), and [funding cuts for programs](#) open to grant competition. In addition, there is ongoing debate about whether faith-based grantees should be able to take religion into account when hiring for publicly funded positions.

The initiative has generated vigorous litigation, resulting in some clarification and changes in constitutional law defining separation of church and state. The Roundtable provides a helpful summary in an interview with law professors Chip Lupu and Bob Tuttle on ["Changes in Rules Governing the Faith-Based and Community Initiative."](#) posted July 1. They note basic constitutional law principles that govern federal funding of faith-based organizations:

- The courts have moved from a ban on government funding for religious *organizations* to a ban on government funding of religious *activities*
- Religious content in programs can only be paid for with government funds when a person in need of service has meaningful choices of providers, including secular providers, and
- The government has an obligation to monitor use of government funds when grants are given to faith-based groups. They cite the Department of Health and Human Services guidance for healthy marriage programs as an example of clear rules. It is based on settlement of [litigation brought by the American Civil Liberties Union](#)

## **Obama Proposal**

On July 1, Sen. Barack Obama (D-IL) announced that if he is elected president, he will restructure OFBCI into a President's Council for Faith-Based and Neighborhood Partnerships. Obama made his announcement at East Side Community Ministry in Zanesville, OH, and criticized the Bush administration's efforts for being "consistently underfunded." The fact sheet noted that Bush has proposed "elimination of the Commodity Supplemental Food Program which benefits an average of 433,000 low-income seniors every month." In addition, Obama said Bush has used the faith-based initiative for partisan purposes, quoting a former OFBCI deputy director who said the office held conferences in battleground states ten days before the 2004 election.

The fact sheet accompanying [Obama's proposal](#) spelled out his guiding principles for faith-

based organizations to receive federal grants:

- Only secular programs, not proselytization or sectarian religious instruction, can be paid for with federal funds
- Religious discrimination in providing services or hiring for government-funded positions would be banned
- Programs must prove their effectiveness and demonstrate results

Early [press reports incorrectly reported](#) that Obama was endorsing religious criteria for hiring in government-funded positions, creating some confusion and mixed reactions. Later news stories corrected the error, and a [New York Times article](#) described "heated reactions" to the hiring issue.

### **McCain Critical of Obama Plan**

On July 2, Sen. John McCain (R-AZ) issued a [statement](#), which said, "John McCain supports faith based initiatives, and recognizes their important role in our communities.... He also believes that it is important for faith-based groups to be able to hire people who share their faith, and he disagrees with Senator Obama that hiring at faith-based groups should be subject to government oversight."

## **Audit Faults IRS Political Activities Enforcement**

The Treasury Inspector General for Tax Administration (TIGTA) released an audit report on June 18 that found Internal Revenue Service (IRS) employees have an inconsistent understanding of prohibited political intervention by charities and religious organizations. It also found the IRS has not been timely in evaluating cases under investigation. The report acknowledged improved educational efforts but failed to recognize the inherent difficulty in explaining the overly vague "facts and circumstances" test the IRS uses to determine if prohibited partisan activity has occurred.

The IRS began the Political Activities Compliance Initiative (PACI) in June 2004 to educate charities about the ban on 501(c)(3) organizations from participating or intervening for or against candidates for office and to improve enforcement against such violations. In April, the IRS announced it would continue the PACI program this election cycle and included new education efforts and increased examinations of charities believed to be violating the ban, including assessment of referrals made to the IRS.

The audit report, [\*Improvements Have Been Made to Educate Tax-Exempt Organizations and Enforce the Prohibition Against Political Activities, but Further Improvements Are Possible\*](#), is intended to determine the effectiveness of PACI and the IRS's ability to address alleged political campaign intervention. It details the process involved when the IRS considers taking on an investigation. Employees research the issue in each referral of alleged activities, gathering evidence which is then provided to an independent group of Exempt Organizations

(EO) employees, known as the Referral Committee. The Committee considers the referral and evidence to decide whether the referral calls for an examination. Those that will be examined are forwarded to an EO Examination group that notifies the tax-exempt organization that it will be investigated for potentially prohibited political activity.

The audit found that employees did not always understand why certain referrals were included within PACI and that employees interpreted the criteria differently for evaluating referrals. In fact, employees did not receive the same training. TIGTA states, "Providing the same training to all employees involved in the Initiative and ensuring adequate feedback from the Committee as to why a referral is not selected would clarify what constitutes prohibited political activity and provide better assurance that all organizations potentially involved in prohibited political activities are being treated consistently and fairly."

TIGTA found that IRS employees do not always understand why some referrals are included in the initiative and why others are not. This lack of clarity is a problem for all parties. As an updated [Congressional Research Service report](#) from April continued to assert, the "line between what is prohibited and what is permitted can be difficult to discern." OMB Watch [supports](#) the creation of a bright-line definition of prohibited political intervention, which IRS employees seem to also need, considering the finding that employees examining cases need clarification as to what constitutes prohibited political activity.

The report found problems with the length of time it took for employees to handle the cases and that referrals were not always researched in an acceptable time frame. "Overall, 63 of the 100 referrals selected for examination in the 2006 Initiative were not processed in a timely manner using the established expedited process." It made two overall recommendations:

- Evaluate all referrals of potentially prohibited political activities in a timely manner by monitoring all significant activities and analyzing collected data to ensure that appropriate staffing is available
- Improve the understanding of prohibited political intervention criteria by providing the same training for all employees

The audit did find improvement in IRS education for tax-exempt organizations on the types of prohibited activities. These educational activities include publishing the results of the [2006 Initiative](#), publishing a [Fact Sheet](#) in February 2006, a new [Revenue Ruling](#) in June 2007, and updating an IRS [webpage](#) specific to political campaign intervention. The audit reports, "While educational efforts and streamlined processes enabled the IRS to make substantial improvements to the Initiative, the IRS could make further enhancements by having data readily available to pinpoint the reasons why timeliness goals are not always met and by ensuring that all employees clearly understand what should be included in the Initiative."

TIGTA cited materials with examples of prohibited activities as a sign of improved educational material. However, Lois Lerner, the director of Exempt Organizations, posted a [program letter](#) to EO employees in April, which stated that "the IRS has encountered a number of cases with varied fact patterns not directly covered by those examples." The guidance that has been

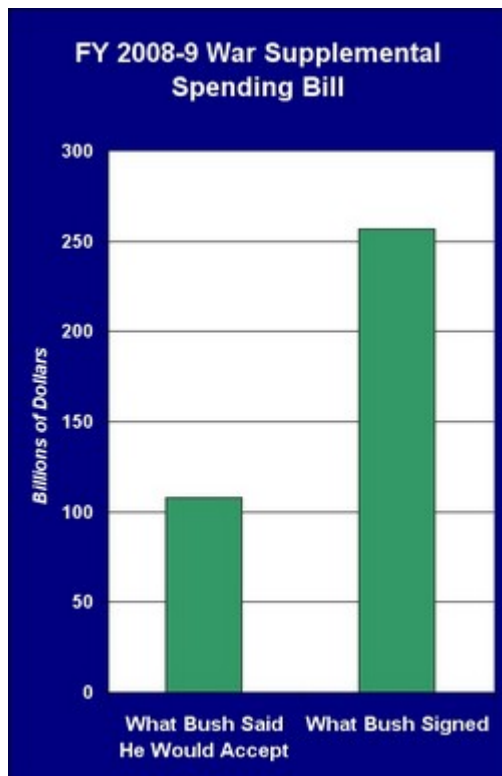
provided leaves many situations in gray areas, which contributes to an increasing number of complaints to the IRS, as well as confusion and apprehension on the part of organizations who want to be otherwise engaged in civil society at election time.

## Bush Signs War Supplemental, Cements Fiscal Legacy

Contrary to his [assertion](#) that he would "not accept a supplemental over \$108 billion," President Bush [signed](#) a \$257 billion war supplemental spending package on June 30. The bill will fund the wars in Iraq and Afghanistan for the remainder of the fiscal year (ending Sept. 30) and through the first several months of the next president's term.

In addition to war appropriations, the quarter-trillion dollar measure includes funds for a 13-week extension of unemployment insurance benefits; expansion of the GI bill; aid for Midwest flooding victims; and a collection of various domestic, non-defense discretionary programs.

(For a more detailed breakdown of the various components of the bill, read our [June 24 Watcher](#) article on the war supplemental). The supplemental package also blocks a set of new administration Medicaid rules that would cut funding to states for the low-income health care program.



Bush did not merely accept additional funding in this legislation in order to get approval for war funds. He advocated for increases in spending for some of the domestic items as well. In fact, at the president's [insistence](#), Congress added a provision to the enhanced GI bill that would allow unused benefits to be transferred to a service member's spouse and children. With this provision, the cost to enhance the GI bill [climbs by \\$10 billion](#) (from \$52 billion to \$62 billion over ten years). Unfortunately, Bush [demanded](#) that Congress expand the education funding program without increasing revenue to pay for it.

The president approved some \$67 billion in unrequested expenditures in the bill, which stands in stark contrast to his statements earlier this year about the bill and his obdurate [refusal last year to approve \\$22 billion in spending](#) in excess of his FY 2008 budget request.

But his trenchant position at that time was a transparent attempt to signal to his political supporters that his profligate ways had come to an end — coincidentally just as the Democrats took control of Congress. His reversal of that promise in the recently signed supplemental bill is emblematic of the disastrous fiscal policies of his two terms as president. Claims that [tax cuts](#) and the [Iraq war](#) would pay for themselves remain empty, while the cost of the new

unpaid-for Medicare drug benefit will [surpass Social Security's unfunded liabilities](#). As the forty-third presidency winds down, this latest bill will stand as a succinct recapitulation of Bush's fiscal policy — a deluge of spending lacking any meaningful attempt to confront the tradeoffs that must be made to safeguard the nation's finances beyond January 2009.

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