



**January 27, 2003**

**Vol. 4 No. 2**

**In This Issue**

**Federal Budget**

Fair Taxes for All is Back!

FY 2003 Appropriations Coming to a Close -- Finally

State Fiscal Crises – More News is Bad News

The Estate Tax - Reform It, Don't Repeal It!

NPP Releases State of the States Report; ITEP Shows Who Pays

**Information Policy**

Workshop on EPA's Assessment Factors

**Nonprofit Issues**

IRS Offers Nonprofit Workshops

Scaled Down Church Electioneering Bill Introduced

Sentences for Violations of BCRA Set

NPTalk Turns to NPAction; New Features Added

**Regulatory Matters**

Senate Rejects Amendment Blocking Clean Air Rollback

Trading Away the Clean Water Act?

EPA Announces Plans to Withdraw Protection of Wetlands

Administration Advances E-Rulemaking

**Right-to-Know**

Emerging Coalition Against Government Secrecy

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**Federal Budget**

**Fair Taxes for All is Back!**

In the face of Bush's new tax proposal (misleadingly billed as a "growth and jobs plan to strengthen the economy"), the Fair Taxes For All Coalition has been reconvened by [People for the American Way](#), the [National Women's Law Center](#), the [Leadership Conference on Civil Rights](#), and the [American Federation of State, County and Municipal Employees \(AFSCME\)](#). A petition is being circulated opposing the Bush tax cut proposal:

## Statement Of Principles Regarding President Bush's Tax Cut Proposal

- The package of tax cuts proposed by President Bush is too costly and would do little to stimulate the weak economy and create jobs now. The tax cuts are far too large, poorly designed, and highly inequitable.
- The new tax cuts jeopardize the nation's ability to meet its domestic and foreign responsibilities, threaten national and state fiscal stability and security both now and in future years, and inequitably distribute the benefits they provide.
- In contrast to the Bush plan, any economic package must provide temporary, short-term stimulus that is fiscally responsible and equitable. Any such package should include aid to states to help respond to their fiscal crises, and should focus on people who will spend the money now, including those hard hit by the economic downturn.

**To sign on to the Statement of Principles, please contact Ann Woolston at 202-467-2317, or email at [awoolston@pfaw.org](mailto:awoolston@pfaw.org).**

The coalition met in DC on January 16. OMB Watch is a member of the steering committee for FTFA and will keep you advised of a website address and other actions by the FTFA coalition. Currently there are three workgroups, including legislative, communications and grassroots.

It is important to oppose any economic stimulus plan if it is not temporary and targeted to those in need (who will be most likely to spend), and does not provide assistance to states. See [OMB Watch's chart comparing](#) the President's plan to some other Congressional economic stimulus plans and non-congressional economic stimulus plans that have been proposed. More information on the economic stimulus debate can be found at the [Institute for America's Future economic stimulus website](#). For information on the state effects of the Administration's tax plan, Citizens for Tax Justice released a new [report](#) this morning showing the 2003 effects of the Bush tax cut proposals as contained in his economic growth plan on a state-by-state basis. The Center on Budget and Policy Priorities also released a "[reality check](#)" [on recent arguments in favor of the tax plan](#), which aims to dispel some of the myths that have crept up in the Administration's arguments.

## FY 2003 Appropriations Coming to a Close -- Finally

On January 23, on a vote of 69-29, the Senate passed [H.J. Res. 2](#), a \$390 billion omnibus appropriations bill in an effort to begin bringing the FY 2003 appropriations season to a close. Since Congress was unable to resolve its budgeting differences last fall during its election fervor, this bill combines into one large bill the 11 appropriations bills that were not completed before Congress adjourned in December. (The timeline for this appropriations bill was so rushed, in fact, that Senate and House Republicans agreed to completely bypass the House, which has the authority to originate all spending bills, and allow the Senate to begin action on the omnibus spending bill.)

The bill holds to the President's non-defense discretionary spending limit for the year, at great cost to many programs. In order to meet the \$390 billion target – several billion dollars lower than the spending limit proposed by Senate Democrats controlling the Finance Committee last fall – Senate Republicans imposed an initial 1.6 percent across-the-board spending cut. As individual Senators secured support for their amendments funding specific programs, Senate Republicans responded by increasing the total amount of across-the-board cuts. Programs that did receive additional funds – or had their funds restored over the President's proposed cuts – include the low-income heating program LIHEAP, at \$300 million, \$5 billion in additional funds for the states, and the exempting of Head Start from the bill's across-the-board spending cuts. After these and other funds were approved, the final across-the-board cut came to 2.9 percent. Additional accounting measures, such as calculating some of the funds as being FY 2004

expenditures, were also employed to ensure that the President's spending limit was maintained, at least on paper, if not in reality.

The Senate bill now moves to a final round of debate and amending in conference with select House members later this week. Some are concerned that the conference process may result in the elimination of some of the individual program increases secured during the Senate debate as House conferees try to limit the across-the-board cuts that have the effect of removing House appropriators' roles in budget making. (One possible limit to further cuts is that the bill must return to the nearly evenly divided Senate for one final vote.) Regardless of the actual process in the coming weeks, one thing seems certain: programs that have received cuts (nearly all programs outside of defense and "homeland security") over the last 2 years will likely see additional cuts for what remains of FY 2003.

### **Looking Ahead to FY 2004**

Congressional Republicans initially planned to have a completed FY 2003 omnibus appropriations bill completed by the President's State of the Union address January 28. Negotiations in the House-Senate conference are now expected to last well into February. Despite these delays, the Senate vote came not a day to soon, as the President will be releasing his FY 2004 budget plan on February 3 to kick off the next round of Congressional budget negotiations.

Programs bracing for impending cuts for the current fiscal year now must look ahead to additional cuts in FY 2004, according to White House Office of Management and Budget director Mitch Daniels. Daniels announced last week that the country's entire discretionary budget – that is, all that government does outside of certain mandated spending such as Social Security and Medicare – would receive an overall 4 percent increase in FY 2004. Though this increase is already less than half of the Bush Administration's 9 percent increase last year, the real danger lies in what went unsaid in Daniels' announcement. Because the 4 percent increase reflects the average increase across nearly all government programs, including areas receiving very large increases – such as defense and homeland security – many programs will likely receive a much smaller increase, possibly less than the rate of inflation, and still others will sustain real cuts in their FY 2004 spending levels. (Though, interestingly enough, homeland security did not receive nearly as much FY 2003 funding as was expected. This may put even more pressure on FY 2004 appropriations at both the state and national levels -- [see related article](#).) Programs that serve the needs of low-income people will likely see additional cuts as the demand for these programs increases while the economy's recovery reaches the unemployed slowly.

The President and his budget director have done much to underscore the need for restraint in spending. They argue that the country cannot afford to do much in the face of a war with Iraq and growing budget deficits. This rhetoric of restraint and tough choices is belied, however, by their \$674 billion tax cut proposal, which wastes what they describe as limited resources on those who need it least. The country is fortunate that the President's budget is only a starting point for Members of Congress, which means that the miserly 4 percent nominal increase and real cuts for many human services programs could be just a distant memory when the FY 2004 budget process draws to a close later this year – though with Republican members of Congress dutifully holding to the President's spending limits, this seems like a long shot.

For a look at what a coalition of diverse nonprofit advocacy and human services organizations is doing to ensure that the President does not waste \$674 billion on tax cuts for the wealthy while low- and middle-income workers and states suffer, see the [Statement of Principles from Fair Taxes for All](#).

### **State Fiscal Crises – More News is Bad News**

Local news and national papers alike have been replete with the troubling real results of the growing state budget shortfalls. These stories have broken down the astounding figures – \$65 billion and \$70-\$85 billion budget gaps in FY 2003 and FY 2004, respectively – into their real, daily effects on ordinary citizens. By now, Kentucky's decision to release prisoners before their sentences were up has become the poster-child for desperate states and their drastic budget-balancing measures. In other similar high-

profile cost-saving efforts, some school districts in Oregon and Colorado have turned to a 4-day school week; others have stopped buying new textbooks; still others have cut school athletic and marching band programs; in some districts in Oklahoma, the schools have stopped hiring substitute teachers and are, instead, looking to parents to fill in for teachers. According to the International Association of Firefighters, the state and local budget gaps have resulted in layoffs, station closings, and other reductions in staff, even as new Homeland Security Secretary Tom Ridge calls on local contributions for domestic security.

As discussed in [recent Watcher articles](#), these state budget gaps have an immediacy that the federal-level budget deficits lack, because in all but 1 state (Vermont), state budgets must be balanced each year. As AFL-CIO president John Sweeney describes it, with increased needs due to the weakened economy, previous tax cuts at the state level and reduced tax revenue as a result of federal tax cuts, state legislatures are in the position of “putting a price on every public service.”

In the recent spate of stimulus plans offered by various Members of Congress, the nation’s mayors, the Democratic Governors Association, and various economic think tanks and labor organizations, a large percentage of the total cost goes directly to the states – and in quite a few plans, to localities, as well (for details on these plans, see [this OMB Watch chart](#)). The one glaring exception is the President’s “growth” plan, which offers nothing to states. (The funds included in the plan’s \$3,000 per person “Personal Employment Accounts” go to states to help unemployed workers with job training expenses – but there is no attempt to address the states’ real fiscal crises.)

Far from providing desperately needed financial assistance to the states, Bush’s tax cut package would actually drain more than \$4 billion from state treasuries each year. For a look at what just his \$364 billion dividend tax cut would do to your state, [see this interactive map](#). A straightforward look at how many people in your state will get nothing from this and Bush’s other costly tax cuts [is available from Citizens for Tax Justice](#).

## **The Estate Tax - Reform It, Don't Repeal It!**

On January 13, 2003, [Responsible Wealth](#) held a press conference on preserving the federal estate tax, which featured William H. Gates, Sr., the co-chair of the Bill and Melinda Gates Foundation, George Soros, chair of Soros Fund Management, Sen. Kent Conrad (D-ND), and Chuck Collins, co-founder of United for a Fair Economy.

Collins and Gates are the coauthors of the recently published *Wealth and Our Commonwealth: Why America Should Tax Accumulated Fortunes*. They will be continuing a [book tour](#) across the country during the next months.

Conrad made a compelling case for reform, and not repeal, of the estate tax. He pointed out that permanent repeal of the estate tax will cost over \$740 billion during the decade from 2013-2022, just at the 2016 and 2017 tipping points of rapidly escalating deficits in the Medicare and Social Security trust funds as baby boomers retire. Countering the argument that the estate tax is double taxation, the Senator noted a study by professors at MIT and the University of Illinois that more than half of the value of large estates have never been taxed, since 56% of the value of estates worth more than \$10 million consists of untaxed capital gains. The estate tax is the only way to tax that wealth and is an important part of our progressive tax code. A reasonable reform of the estate tax can be accomplished that will protect smaller estates or true “family” businesses and farms, while retaining the value of the estate tax and costing much less than repeal. Finally, Conrad warned that repeal of the estate tax would shift the tax burden to the rest of us and to our children who will inherit the deficits it would create. Conrad used a number of very helpful [charts](#) to illustrate his points.

Gates, whose estate will be subject to an estate tax, eloquently argued for the estate tax as the repayment of a debt owed by those who have become wealthy to the society that made their success

possible. The estate tax is paid by a tiny percentage of people—under current law, in 2009, only 0.3% of estates will be subject to the tax. It is our most progressive tax and should be kept. Gates argued that the estate tax is a reasonable tax for the privilege of being an American in a system which has allowed some people to achieve great wealth.

Soros, whose estate will also be subject to an estate tax, argued that the estate tax is one of the least damaging taxes, since it only affects the very wealthiest. It doesn't destroy the incentive to create wealth, it is good for social equality, and it encourages charitable contributions.

Permanent repeal of the estate tax is almost certain to be part of the legislative agenda this spring. Even if permanent repeal is not achieved, "reform" proposals may be attempted that would effectively negate the valuable purposes of an estate tax. The nonprofit coalition, Americans for a Fair Estate Tax, is opposing repeal and working towards a good reform of the estate tax that would protect family businesses and farms while still preserving the important benefits of an estate tax on state and federal revenue, charitable contributions and mitigating great concentrations of wealth. If you would like to join [Americans for a Fair Estate Tax](http://americansforafairestatetax.org) or want more information, please email [estatetax@ombwatch.org](mailto:estatetax@ombwatch.org).

## **NPP Releases State of the States Report; ITEP Shows Who Pays**

The [National Priorities Project](http://nationalprioritiesproject.org) recently released two comprehensive reports that provide very useful state-by-state, as well as nation-wide, data. The Institute for Taxation and Economic Policy's [Who Pays? A Distributional Analysis of the Tax Systems in all Fifty States](http://itep.org/who-pays/) shows that, on average, state and local tax systems require the poorest taxpayers to pay the highest effective tax rates.

From the [National Priorities Project](http://nationalprioritiesproject.org):

- *State of the States 2003*, which provides a snapshot of the current needs in each state and illustrates how the Bush Administration's spending and tax policies have failed to address these needs.
- *Federal Budget Year in Review 2002*, which provides a quick analysis of key Bush Administration tax and spending policies as they relate to social needs, military spending and tax policy.

The Institute for Taxation and Economic Policy has released its study [Who Pays? A Distributional Analysis of the Tax Systems in all Fifty States](http://itep.org/who-pays/), finding that, on average, state and local tax systems require the poorest taxpayers to pay the highest effective tax rates. The cuts in services to low-income families that are being implemented as a result of the states' fiscal crises means that these families will not only pay more in taxes, but receive even less in benefits. Check out the figures for your state!

## **Information Policy**

### **Workshop on EPA's Assessment Factors**

A workshop was held on January 21, 2003, to discuss scientific and technical aspects of the appropriateness and utility of the Environmental Protection Agency's (EPA) recently developed Draft Assessment Factors for Evaluating the Quality of Information from External Sources. The Assessment Factors represent an additional effort by EPA in response to the Data Quality Act. EPA finalized its data quality guidelines in October 2002. These Assessment Factors are intended to represent the types of considerations that EPA takes into account when evaluating the quality of information that is submitted voluntarily to the agency or otherwise obtained by EPA from non-agency sources for potential use in developing a policy or regulatory decision.

The workshop included panel discussions covering epidemiology, toxicology and monitoring. In addition to numerous scientists and academics at the workshop, a wide variety of industry representatives also attended. The industry representatives urged EPA to adopt stricter and more detailed factors along with set procedures for implementing them. Others workshop participants spoke out against creating binding checklists or bureaucratic formulas to evaluate scientific studies. While there will be no National Academy of Sciences report or proceedings from the workshop, a transcript of the meeting will be made available.

## **Nonprofit Issues**

### **IRS Offers Nonprofit Workshops**

The Internal Revenue Service is offering free workshops for small and mid-sized nonprofits in twelve locations around the country. The workshops will cover exemption filing requirements, public disclosure obligations and other topics. Pre-registration by phone or email is required. For specifics see the [IRS website](#).

### **Scaled Down Church Electioneering Bill Introduced**

Last fall, after the House [defeated a bill](#) that would have allowed religious organizations to engage in partisan electioneering, sponsor Rep. Walter Jones (R-NC) promised to re-introduce the bill in the next Congress. On January 8 he followed through by introducing the Houses of Worship Free Speech Restoration Act, [H.R. 235](#), which attempts to address concerns raised about last year's bill by narrowing the scope of what it allows. It currently has [thirteen co-sponsors](#) and has been referred to the Ways and Means Committee.

H.R. 235 proposes to amend the Internal Revenue Code by adding a section barring revocation of tax-exempt status "because of the content, preparation, or presentation of any homily, sermon, teaching, dialectic, or other presentation made during religious services or gatherings." It also states that no expenditures otherwise barred by federal campaign finance law shall be allowed as a result of this legislation.

While this version of the law is an improvement, two fundamental problems remain: preference for religious organizations over other nonprofits exempt under 501(c)(3), and the potential for campaign expenditures that are allowed under federal, state and local campaign finance laws. For details see our [Fact Sheet](#) on church electioneering.

We are collecting feedback from nonprofits on how much partisan electioneering powers can help or hurt 501(c)(3) organizations. What do you think? Could taking sides be a good investment of your group's time, money, or political capital? What are the dangers, and can they be avoided? If so, how? You can provide us with input through our [online forum on NPAction.org](#)

### **Sentences for Violations of BCRA Set**

The United States Sentencing Commission has proposed [interim sentencing guidelines](#) for increased penalties for violations of campaign finance law, incorporating requirements from last year's Bipartisan Campaign Reform Act (BCRA). OMB Watch filed comments in December 2002 asking that the emergency guidelines treat illegal electioneering communications more leniently than illegal campaign contributions or soft money expenditures, since "contributions of money can only be meant to influence an election. Public speech on an issue, on the other hand, is meant to influence public policy." The interim guidelines do not make the requested distinction. However, two Commissioners reportedly made statements indicating recognition that some violations of BCRA are meant to further a cause, and do not have a corrupt purpose.

The guidelines took effect as emergency measures on January 25, 2003. Public comments on the Interim guidelines are due on March 17. For information on how to comment see the [USSC announcement](#).

Illegal campaign contributions and funding of banned electioneering communications (broadcasts that mention a federal candidate within 60 days of a general election or 30 days of a primary) would carry a minimum prison term of 0-6 months. If more than \$5,000 is spent, the term is increased, depending on the amount. A mandatory sentence of 6-12 months could be imposed if there are 30 or more illegal transactions, the offense was intended to obtain a specific non-monetary federal benefit, or funds were received from a foreign national.

## **NPTalk Turns to NPAction; New Features Added**

We wish to thank everyone who supported NPTalk during its first four years. We are pleased to announce NPTalk's integration with [NPAction](#), OMB Watch's online resource for nonprofit advocacy.

NPAction, currently in its pilot phase, offers a wide range of policy information and tools. Please take a moment to include your organization in the [Resource Directory](#), and explore our work to date. Your thoughts will help inform the official version of the site, slated for launch in Spring 2003.

After nearly four years of continuous e-mail based publication, a much broader base of existing and emerging nonprofit technology forums and resources are available. Our decision to take advantage of the new resources available through NPAction was prompted by the needs you each identified through our 2002 NPTalk readership survey, including a broader interest in resources and information on a variety of modes for engaging in policy and understanding policy processes, rather than a strict focus on nonprofit technology.

NPTalk itself will exist as an [open forum](#) on the site. We are also slowly (but surely) moving archived content from the NPTalk e-mail list into NPAction. NPAction will continue to highlight resources and practices involving use of technology in advocacy contexts as part of the site. Also, check out our other features, including:

- [Advocacy Forums](#)
- [Advocacy File Library](#)
- [Advocacy Polls](#)
- [Advocacy Quizzes](#) (registration required)
- [Searchable Directory of Federal &&&&&&& State Elected officials](#)
- [Congressional E-mail Updates on Key Votes](#)
- [National &&&&&&& Local Media Guide](#)

We look forward to continuing our relationship with you through NPAction. Please continue to share information with us, pass word along to others, and help us develop a resource valuable to you and other groups in your policy engagement.

## **Regulatory Matters**

### **Senate Rejects Amendment Blocking Clean Air Rollback**

The Senate narrowly rejected an amendment on January 22 that would have delayed a rule weakening the Environmental Protection Agency's (EPA) New Source Review (NSR) program while the National Academy of Sciences evaluates its potential impact on air pollution and human health.

The final rule, set to take effect March 3, rolls back clean air protections through a [series of exemptions](#) to NSR, which requires older coal-fired power plants to add the latest anti-pollution machinery whenever they are substantially upgraded.

The Senate decided to allow the rule to move forward by rejecting the amendment, introduced by Sen. John Edwards (D-NC) as an appropriations rider, [by a vote of 50 to 46](#). Six Republicans -- all from northeastern states that suffer from pollution by western and mid-western power plants -- sided with Democrats in trying to block the Bush administration's gutting of NSR, while four Democrats, who would have likely supported the amendment, were not present for the vote.

Instead, [by a vote of 51 to 45](#), the Senate passed a measure put forward by Sen. James Inhofe (R-OK), chairman of the Senate Environment and Public Works Committee, that calls on the National Academy of Sciences to investigate the impact of the rule but would not delay its effective date.

Although this legislative effort to block the new rule failed, nine northeastern states, joined recently by 12 Connecticut municipalities, have already filed a lawsuit, seeking to block the Bush administration's changes to NSR.

## Trading Away the Clean Water Act?

A new Environmental Protection Agency (EPA) policy, [announced on January 13](#), will allow industrial polluters to buy trading credits instead of reducing water pollution.

The credit trading system will assign each wastewater treatment plant a water quality standard. Plants can either reduce pollution beyond the level required to create a pollution reduction "credit," which can then be traded, or they can buy credits from others, enabling them to exceed their original limit. The Bush administration claims that this market-based approach, "will help increase the pace and success of cleaning up impaired rivers, streams and lakes throughout the country," < a href="http://www.epa.gov/epahome/headline\_011303.htm">according to an EPA press release.

Unlike the "cap and trade" program used to reduce acid rain, the policy will not impose a cap on maximum discharges and will not require reductions in discharges over time; consequently, so long as they have the money to buy the necessary credits, industrial plants can pollute all they want.

## EPA Announces Plans to Withdraw Protection of Wetlands

The Bush administration unveiled plans on January 15 that would withdraw federal protection for as much as 20 million acres of wetlands, such as marshes, swamps and bogs.

This decision comes in response to a highly contentious 5-4 ruling by the Supreme Court (Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers) in January 2001, which determined that the Clean Water Act (CWA) covers only "navigable waters," and cannot be applied to isolated, non-navigable ponds and wetlands in a single state that have been protected only because of the presence of migratory birds. According to EPA's [Advanced Notice of Proposed Rulemaking \(ANPRM\)](#), the court decision may affect other provisions of the CWA beyond wetlands, including the National Pollutant Discharge Elimination System permit program and state water quality certification.

"Invoking this court decision is just an excuse to allow developers, mining companies, and other polluting industries to fill in wetlands and to dump waste into small streams," [said Nancy Stoner of the Natural Resources Defense Council](#). Removing isolated wetlands -- which make up nearly one fifth of the nation's

wetlands -- from federal protection leaves them vulnerable to pollution and development, since most states do not have programs in place to adequately defend them.

As part of the ANPRM, EPA and the Army Corps of Engineers issued a joint statement of guidance directing field staff to begin scaling back the protection of wetlands. EPA will be accepting comments on the ANPRM for 45 days.

## Administration Advances E-Rulemaking

The Bush administration unveiled [a new web site](#) on January 23 that allows the public to view and comment on federal regulatory proposals, searchable by agency or keyword.

From the site, [Regulations.gov](#), the user is provided a brief description of each rule open for comment, a link to the agency's Federal Register notice and complete text of the rule, and a web-based comment form that allows for a 4,000-word submission, as well as attachments.

In some ways, this is not much different from what has already been in place. The [web site of the Federal Register](#), where agencies publish their regulatory proposals, provides a [similar listing of rules open for comment](#) and allows for [complex searches](#) -- and most agencies have been accepting comments electronically via email for years.

Fortunately, the administration sees Regulations.gov as only a starting point for pursuing continued improvements in electronic rulemaking. Specifically, the administration should:

- Allow for public comments to be viewed through the site as they are submitted to agencies. This could encourage interaction among concerned parties, as well as with government officials, providing agencies with a much fuller presentation of views than they would otherwise receive.
- Allow users to sign up and receive email notification on newly posted rulemakings of concern -- for example, by providing a check box with a list of subjects (e.g., clean air, clean water).
- Draw attention to high-profile, high-impact rules. Agencies promulgate thousands of rules a year, most of which are routine, uncontroversial, and unlikely to draw much public interest. Yet Regulations.gov provides the public no way of differentiating these rules from the larger, more controversial ones. Other browsing features could also make the site easier to use, [as the Center for Democracy and Technology discusses](#).
- Integrate information from agency electronic dockets. The administration is working to develop a government-wide e-docket for regulation, modeled on [EPA's docket](#). This should provide the entire rulemaking record for each regulation, including agency cost-benefit analyses, reports and studies, public comments, and any other documents influencing the agency's decision-making. Currently, Regulations.gov only provides a link to an agency's Federal Register notice; it should give access to the complete rulemaking record.

Online Rulemaking is one of 24 "E-Government Initiatives" outlined in the [E-Government Strategy](#) that implements the [President's Management Agenda](#) for e-government. The [Office of Management and Budget](#) (OMB) is carrying out the e-rulemaking initiative with EPA facilitating as the lead agency, [as OMB Watch previously discussed](#).

The E-Government Act, [signed by President Bush on December 17](#), also instructs regulatory agencies to provide online "electronic dockets for rulemakings" and accept public comments through electronic means (e.g., email). OMB is to establish a timeline for implementation of agency e-dockets.

## **Right-to-Know**

### **Emerging Coalition Against Government Secrecy**

Through claims of executive privilege, permitting industry to keep secret the information that companies voluntarily share with government, creating more loopholes to the Freedom of Information Act, and keeping information critical to environmental protection off the Internet, this administration and Congress are presiding over a new and unprecedented expansion of government secrecy. Recent interviews conducted by OMB Watch indicate that librarians, journalists, free speech and privacy advocates are increasingly concerned with the federal government's growing power to shield industry from the sunlight of disclosure, to withhold data useful in protecting wetlands, rivers, and public health, and to make decisions out of the glare of public scrutiny. In October, OMB Watch released a working paper, "[The Bush Administration's Secrecy Policy: A Call to Action to Protect Democratic Values.](#)" To comment on this paper, please email Rick Blum at [blumr@ombwatch.org](mailto:blumr@ombwatch.org). Watch this space in the coming months as we bring you updates and information on ways you can help protect our freedoms and stop this unprecedented attack on our fundamental liberties.