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Government Paperwork Burdens Have Increased Substantially under the Bush Administration

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EXECUTIVE SUMMARY

President Bush has made reducing the burdens of completing government paperwork a key item in his economic agenda. In speech after speech, he emphasizes that “we must reduce unnecessary government regulation and red tape so businesses can focus on consumers and customers, not paperwork.”

Contrary to the President’s rhetoric, however, total government paperwork has increased substantially under the Bush Administration to an estimated 8.1 billion hours in fiscal year 2003. Last year, Americans spent over 700 million more hours filling out government paperwork than in the last year of the Clinton Administration. The largest annual increase in paperwork burden ever measured occurred under the Bush Administration in fiscal year 2002.

Government paperwork increased again in fiscal year 2003. In its most recent data on paperwork burdens, the Bush Administration relies on “adjustments” to show a nominal reduction in the federal paperwork burden in fiscal year 2003. However, adjustments in agency paperwork estimates do not necessarily reflect any actual reduction in the number of hours that Americans spend filling out paperwork. Focusing on the real impacts on Americans, GAO reports that “[d]uring fiscal year 2003, the total paperwork burden, exclusive of adjustments, increased again by about 72 million burden hours.”

Statutory changes promoted by President Bush and enacted by Congress, particularly to the tax code, are among the largest sources of the increased paperwork burden. The Administration is also pursuing new regulatory changes that will impose additional paperwork burdens on Americans. These include increased paperwork requirements for low-income families and punitive reporting requirements for labor unions.

I. PRESIDENT BUSH'S PROMISES TO REDUCE PAPERWORK

President George W. Bush has frequently criticized the amount of “paperwork” required by the federal government. From the very outset of his campaign for the presidency, President Bush emphasized his commitment to reduce government paperwork. In an address in Los Angeles in September 1999, for example, President Bush said:

The only thing we know for sure is that federal money comes with a lot of regulations and paperwork. By one estimate, this consumes about 50 million hours each year — the equivalent of 25,000 full-time employees just to process the forms. . . . New layers of federal mandates and procedures have been added to the old until their original purpose is long forgotten. It is a sad story of high hopes, low achievement, grand plans, and unmet goals. My administration will do things differently.¹

Since being elected, President Bush has continued to promise to reduce government paperwork burdens. He argues that paperwork “stifle[s] innovation and the entrepreneurial spirit,”² and he has said that “we must reduce unnecessary government regulation and red tape so businesses can focus on consumers and customers, not paperwork.”³

In a speech last December, President Bush stated:

And a lot of times government has a tendency to over-regulate, which is a non-productive cost to these small business owners who would rather be employing people and making it easier for somebody to find work, than filling out reams of paperwork that probably doesn't get read anyway.⁴

President Bush has repeatedly stated his commitment to reducing federal paperwork requirements and he made doing so a key element of his “Six-Point

¹ *Governor George W. Bush (R-TX) Delivers Remarks to the Latin Business Association in Los Angeles, CA.*, FDCH Political Transcripts (Sept. 2, 1999).

² *George W. Bush Delivers Remarks in a Conversation on the Economy*, FDCH Political Transcripts (Feb. 16, 2004).

³ *George W. Bush Delivers Weekly Radio Address*, FDCH Political Transcripts (Dec. 6, 2003).

⁴ *George W. Bush Delivers Remarks on the Economy*, FDCH Political Transcripts (Dec. 1, 2003).

Plan for the Economy.”⁵ In September 2003, President Bush stated: “We need to continue to work for regulatory relief on small and large businesses, so that instead of filing needless paperwork, you’re working to make your work force more productive and to meet the needs of your customers.”⁶ In November 2003, he stated: “We’ve got to cut useless government regulations. We need to do it at the federal level. . . . We need to make sure our entrepreneurs are focused on job creation, not filling out needless paperwork.”⁷ In March 2004, President Bush reiterated these points:

I bet you spend a lot of time filling out paperwork. I bet not much of your paperwork is ever read. The government needs to let you focus on your business, on developing goods and services. It needs to let you focus on hiring people, rather than spending hours filling out paperwork. In order for us to keep jobs here at home and expand the job base, we need better regulatory policy at the federal, state, and local level.⁸

Just over a month ago, President Bush said: “We need to stop harassing small business owners and entrepreneurs with endless amounts of regulation and paperwork.”⁹

President Bush has also touted actions he has taken to reduce paperwork. In May 2003, he highlighted the establishment of a task force on reducing paperwork:

To enhance economic security for working people throughout the economy we must reduce the burden of regulation and litigation on small businesses as well. Employers don’t want to spend their time and resources filling out forms or fighting junk lawsuits. They want to be out on the shop floor or behind the cash register creating profits and jobs. And that is why this administration has launched a task force to find ways to reduce paperwork for small-business owners in America. We must

⁵ White House, *Press Release: President Bush Outlines Six Point Plan for the Economy* (Sept. 4, 2003) (online at www.whitehouse.gov/news/releases/2003/09/20030904-5.html).

⁶ *George W. Bush Delivers Remarks on the Economy*, FDCH Political Transcripts (Sept. 5, 2003).

⁷ *George W. Bush Delivers Remarks on the Economy*, FDCH Political Transcripts (Nov. 3, 2003).

⁸ *George W. Bush Delivers Remarks at the Women’s Entrepreneurship in the 21st Century Forum*, FDCH Political Transcripts (Mar. 10, 2004).

⁹ *George W. Bush Delivers Remarks on the Economy*, FDCH Political Transcripts (Mar. 30, 2004).

enact regulatory and lawsuit reforms so that our business owners can do what they do best: create jobs.¹⁰

In June 2003, President Bush took credit for an executive order that purported to reduce paperwork burdens, stating: “I’m concerned and mindful about what paperwork and regulations do to small businesses. So I put down an executive order that requires all federal regulatory agencies to minimize the burden on our small businesses.”¹¹

II. PAPERWORK INCREASES UNDER THE BUSH ADMINISTRATION

There is a large gap between President Bush’s rhetoric about the need for paperwork reduction and the performance of his Administration. According to data from the General Accounting Office and the Office of Management and Budget, the burden of government paperwork on Americans citizens has actually increased substantially under the Bush Administration. At the same time as President Bush has been promising to reduce paperwork burdens, Americans are actually spending more time doing paperwork than ever before.

A. The Requirements of the Paperwork Reduction Act

The primary tool for measuring and controlling paperwork requirements imposed by federal law and regulations is the Paperwork Reduction Act.¹² Collecting information is essential for the government to collect taxes, administer programs, and enforce laws. The Paperwork Reduction Act aims to make these information collections as efficient as possible. It requires agencies to estimate the time it will take to fill out a form or otherwise provide information to the government, obtain approvals of larger information collection requests from the Office of Management and Budget, and reduce the overall hours of paperwork by a given percent each year.

Each agency is required to submit a report each year providing the number of paperwork burden hours that the agency imposed during the previous year. The

¹⁰ *George W. Bush Signs Jobs and Growth Tax Relief Reconciliation Act of 2003*, FDCH Political Transcripts (May 28, 2003).

¹¹ *George W. Bush Delivers Remarks to New Jersey Business Community*, FDCH Political Transcripts (June 16, 2003).

¹² P.L. 104-13.

annual PRA reports from each federal agency provide a picture of the total hours of paperwork required by the federal government. For the past several years, GAO has analyzed these reports annually at Congress' request. This report relies on the analyses provided by GAO, as well as data provided to Congress from the Office of Management and Budget.

B. Total Paperwork Burdens

The annual paperwork burden today is over 700 million burden hours higher than it was when President Bush took office. In fiscal year 2000, the annual paperwork burden imposed by the federal government was measured at about 7.4 billion hours.¹³ By the end of fiscal year 2003, the annual paperwork burden stood at 8.1 billion burden hours.¹⁴ This is an increase of nearly 10%.

The Internal Revenue Service (IRS) accounts for more paperwork than any other federal agency, with 81% of the total paperwork hours.¹⁶ In contrast, EPA currently accounts for only 1.8% of federal paperwork burden, and the Department of Labor, including OSHA, accounts for only 2.0% of federal paperwork burden.¹⁷

C. A Record Increase in Paperwork Burdens in Fiscal Year 2002

The first two years of the Bush Administration saw large increases in the number of hours of paperwork burden. In fiscal year 2001, the federal government required 7.6 billion hours of paperwork, an increase of 290 million hours from the year before.¹⁸

¹³ U.S. General Accounting Office, *Paperwork Reduction Act: Burden Estimates Continue to Increase* (Apr. 2001) (GAO-01-648T).

¹⁴ U.S. General Accounting Office, *Paperwork Reduction Act: Agencies' Paperwork Burden Estimates Due to Federal Actions Continue to Increase* (Apr. 2004) (GAO-04-676T).

¹⁶ U.S. General Accounting Office, *supra* note 14.

¹⁷ *Id.*

¹⁸ U.S. General Accounting Office, *Paperwork Reduction Act: Burden Increases and Violations Persist* (Apr. 2002) (GAO-02-598T).

In fiscal year 2002, the increase in the paperwork burden was approximately 570 million hours. Almost 300 million hours of this increase was due to program changes that added or reinstated paperwork obligations.¹⁹ This was the largest increase in paperwork since the Paperwork Reduction Act was amended in 1995. The total paperwork burden for fiscal year 2002 was 8.2 billion hours.²⁰

D. Increases in Paperwork Burdens in Fiscal Year 2003

This year, the Administration is reporting a small decline in the overall number of reported paperwork burden hours from last year's record high of 8.2 billion hours to 8.1 billion hours.²²

According to the General Accounting Office, however, "[t]his year, the story, while on the surface may appear encouraging, is not."²³ GAO's analysis reveals that the purported drop in government paperwork is entirely due to "adjustments" that "are not the result of direct federal government action but rather are caused by factors such as . . . agency reestimates of the burden associated with a collection of information."²⁴ GAO concludes that "[d]uring fiscal year 2003 the total paperwork burden, exclusive of adjustments, increased again by about 72 million burden hours."²⁵

E. Causes of the Paperwork Increases

Much of the increase in paperwork burden since fiscal year 2000 has been driven by statutory changes proposed by the Administration and passed by Congress. The largest sources of statutory increases in paperwork have been the recent tax

¹⁹ U.S. General Accounting Office, *supra* note 14.

²⁰ U.S. General Accounting Office, *Paperwork Reduction Act: Record Increase in Agencies' Burden Estimates* (Apr. 2003) (GAO-03-691T).

²² U.S. General Accounting Office, *supra* note 14.

²³ *Id.* at 4.

²⁴ *Id.* at 7.

²⁵ *Id.*

²⁷ U.S. General Accounting Office, *supra* note 20.

law changes, which have introduced substantial additional complexity and burden for individuals and small businesses in filling out their tax forms. For example, Americans spent an additional 330 million hours filling out tax paperwork in fiscal year 2002, with the implementation of the Economic Growth and Tax Relief Reconciliation Act of 2001 and other IRS regulations.²⁷

Similarly, the IRS reports that its implementation of the Jobs and Growth Tax Relief Reconciliation Act of 2003 “generated an estimated 113.9 million additional hours of burden.”²⁸

One example of the increased paperwork is the changes to the taxation of capital gains in the Jobs and Growth Tax Relief Reconciliation Act of 2003. To implement these provisions, the IRS made numerous changes to Form 1040, Form 1040A, and associated schedules. Among other changes, the IRS added 13 extra lines to Schedule D, which taxpayers must file to report their capital gains and losses. Overall, just this portion of the paperwork changes driven by the Jobs and Growth Tax Relief Reconciliation Act of 2003 increased the paperwork burden for individual taxpayers by over 16 million hours in fiscal year 2003.²⁹ For families with modest incomes and few capital gains, the increased paperwork burdens significantly offset any benefit from the capital gains tax reductions.

The paperwork increases have also hit small businesses. Together the Jobs and Growth Tax Relief Reconciliation Act of 2003 and the 2000 Community Renewal Act added complexity to Form 1120S and its associated schedules. These forms are used by S corporations, which are often small businesses or the self-employed. Due to these added complexities, S corporation filers spent almost 12 million additional hours filling out tax forms in fiscal year 2003.³⁰

F. Increases in Future Paperwork Burdens

Additional paperwork increases are likely in fiscal year 2004 and future years under policies being pursued by the Bush Administration. For example, the Bush Administration will require labor unions to report extensive new financial

²⁸ Testimony of IRS Commissioner Mark W. Everson, *supra* note 26.

²⁹ See Office of Management and Budget, *Managing Information Collection: Information Collection Budget of the United States Government, Fiscal Year 2004*, 75 (undated).

³⁰ *Id.* at 76.

information starting in fiscal year 2004.³¹ Under the new rule, all unions with annual receipts of at least \$250,000 will be required to report almost all of their receipts and disbursements.³³ It is estimated that roughly 4,500 labor organizations will have to comply with this requirement, only 65 of which are large international unions.³⁴ One union, the Airline Pilots Association, estimates that the required reports will produce 15,863 pages, or about five-and-a-half feet of paper, each year.³⁵

Based on a survey of unions, as proposed, the new reporting requirements were estimated to cost unions somewhere in the range of \$700 million to \$1.1 billion per year.³⁶ The same report estimated that fulfilling the new reporting requirements would require on average, roughly 353 hours per union employee, per year.³⁷

The Bush Administration is also currently testing new paperwork requirements for low- and moderate-income families to demonstrate their eligibility for the Child Tax Credit portion of the Earned Income Tax Credit. This is an important tax credit for workers in low wage jobs and the recently unemployed who have children to support.

³¹ Department of Labor, *Labor Organization Annual Financial Reports; Final Rule*, 68 Fed. Reg. 58374 (Oct. 9, 2003).

³³ *Id.* Specifically, unions would have to report all receipts and disbursements of \$5,000 or more, as well as receipts not reported elsewhere from, or disbursements to, a single entity that total \$5,000 or more in the reporting year, in specified categories.

³⁴ Communication with AFL-CIO staff (May 17, 2004).

³⁵ AFL-CIO, *Basics on New Financial Reporting Rules for Unions Proposed by the Department of Labor* (online at <http://www.aflcio.org/issues/politics/bushwatch/lmregs.cfm>).

³⁶ Report of Dr. Ruth Ruttenberg, Prepared for the AFL-CIO on the Economic Burden Associated with Proposed Changes in Union Financial Reporting (Mar. 2003). This report analyzed the proposed rule, and the totals for the final rule would likely be somewhat, but not substantially, lower.

³⁷ *Id.*

Under the pilot program that applies to 50,000 taxpayers, taxpayers must supply proof from a third party that the child they are claiming under the Earned Income Tax Credit lived with them for more than six months in that year.³⁹ The taxpayer must produce official records meeting the proof requirements, an affidavit from a third party, signed under penalty of perjury, or a letter on official letterhead from a third party, such as a landlord or social service agency employee.⁴⁰ The IRS estimates that this new requirement imposes an additional 40 minutes of paperwork burden for each taxpayer filling out these forms.⁴¹

III. CONCLUSION

As a candidate, George Bush railed against government paperwork burdens and promised that “[m]y administration will do things differently.” As President, Mr. Bush continues to urge reductions in government paperwork burdens. But in practice, the Bush Administration has actually increased paperwork burdens. Today, Americans are filling out far more paperwork under the Bush Administration than ever before.

³⁹ See IRS, *Instructions for Form 8836, Qualifying Children Residency Statement* (2003).

⁴⁰ *Id.*

⁴¹ *Id.*