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Happenings On The Hill

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Let's Talk Budget!! - A Special Look!!

Budget Deal Reached – Until The Next Time!

Just in time for the upcoming holidays Congress passed, and the President signed, a budget accord that left most on the Hill with smiles on their faces and a belief that they could actually get something done. Even the President said this is the way Washington should work. But note I said "most" in Congress had smiles on their faces, not all; and depending on how you feel about federal spending you may agree with both sides. So let's take a look at what really happened and the impact on occupational safety and health.

What happened:

- Congress raised the debt limit (which was to have been reached today) until the end of March 2017. Without raising this limit the government would have been unable to pay the bills. That's the good news. The bad news is that in March 2017 the debt limit will once again be reached. The political angle – note that what Congress did was get rid of this problem until after the presidential election (and most of their own re-elections. No political problems during their campaign!

- Congress enacted a budget for two years to run through September 30, 2017. That's the good news since an actual budget had not been enacted for several years. The bad news is that we still have no idea where the appropriations will be spent. While Congress set total spending for the two years - no individual funds have been appropriated for individual agencies. In other words, Congress has until December 11 to divvy up the funds. Until that time we won't have any idea what OSHA or NIOSH will be provided. The political angle – once again no budget concerns until after the 2016 presidential election.

- Spending is increased across the board. The budget provides an increase in spending of $80 billion over the two years, with half providing an increase in defense spending and the other half in discretionary spending. That's the good news since the Republicans had wanted to increase defense spending and Democrats wanted to increase discretionary spending. The bad news is that Congress overrode its own spending caps (called sequestration) for the second time. Sequestration was to have cut federal spending $100 billion per year for ten years. This new budget threw that plan right out the window. (Note – This is the second time Congress has thrown out the sequestration cuts.) The political angle – Congress says the budget deal really doesn't increase the debt by $80 billion since Congress provided offsets in other areas to cover the increase of $80 billion in spending. Here's where the politicians found this $80 billion –
    - Sell off a portion of the U.S. strategic petroleum reserve (uh, won't we eventually have to replace this?)
    - Sell off some of the airwave spectrum currently owned by the federal government.
    - Move up the due date of pension insurance premiums to the federal government by a month (won't that just mean that sooner or later we will be a month short? It's like paying your mortgage interest one extra month one year to get a bigger tax deduction. Unfortunately the next year you only have 11 months to deduct.)
    - Other savings areas centered on provider Medicare payments as well as solving an upcoming shortage in the Social Security disability trust fund.

We must still await the final appropriation totals for each agency – due by December 11. While the total dollars appropriated is the biggie, we must also wait to see if there are any specific "policy riders" included. As an example – will Congress place a policy rider on the OSHA budget that prohibits the agency from implementing the silica standard?

And the fun times just keep on coming!

Budget Impact on Occupational Safety and Health

We have to wait until December 11 to find out what OSHA, NIOSH and other federal agencies will receive. Best guess is that there will be a small increase in total funding for the agencies, perhaps not as much as the President requested but not the reduction in funding proposed by the Republicans. I am somewhat confident that NIOSH will retain funding for the Education Research Centers in the final deal, notwithstanding the President's recommendation to cut this funding.

Fines to be Raised

However, there is one thing in the final budget deal that will impact occupational safety and health. This is the issue of the maximum penalties OSHA imposes for worker health and safety violations.

For years, AIHA and others have argued that OSHA should raise its monetary penalties for violations. Those in favor of raising these penalties argue that increased fines do have an impact on employers. A recent study cited by OSHA seems to back up the argument that increased fines do result in employers addressing worker health and safety. Opponents of increased fines say OSHA doesn't even use the existing cap on fines anyhow so there is no need to increase the cap. Fines were last raised in 1990 and OSHA is one of the few federal agencies with civil penalties that don't increase with inflation.

The budget deal approved by Congress and the President makes some changes to this area.

- OSHA would be allowed to raise fines annually in line with the Consumer Price Index.
- OSHA would be allowed to have a one-time "catch-up" adjustment of 82 percent to make up for no increases since 1990.

Whether or not OSHA chooses to increase fines by 82 percent in one step is up for debate. No word from OSHA on what the agency is thinking in this area. Will be interesting to see how this plays out. What is actually more interesting is how this ended up in the final budget deal in the first place. OSHA is usually a "forgotten" agency on the Hill so to have this specific inclusion is very unusual.

Regulatory Reform Still Hot Button issue

Nearly 30 legislative measures looking at the issue of regulatory have been introduced in this session of Congress. While many of these measures will never even have a hearing there are several that have the interest of both Democrats and Republicans. Too soon to tell if any of these measures will be enacted but a bi-partisan group of Senators have taken the issue one step further by forming a "Senate Regulations Caucus" to address the long-term issue of regulatory reform. The new Senate Caucus is composed of two Republicans, one Democrat and one Independent. The purpose of the caucus is to "spearhead an overhaul of ineffective, duplicative, or outdated regulations so that businesses across the country can what they do best – create jobs and grow the economy". Sounds good, but proof of success is a long ways away!

Federal and State Legislative Action Centers

Visit the AIHA Federal Legislative Action Center to stay abreast of national issues important to occupational health and safety. Simply go to the AIHA home page. Click on "government affairs", located on the "stay connected" tab at the top of the page. Once in government affairs, click on "Federal Legislation Action Center". Also available within this Action Center is the opportunity for any member to directly contact their elected officials in Washington simply by inserting their zip code. You can send an email or learn how to contact them by phone or mail. Take a look!

The State Center offers AIHA members the opportunity to monitor all state legislative sites, scan IH professional recognition/title protection laws in states where adopted, and even review and follow all state legislation being monitored in the state legislatures throughout the year. Included under each State site is access to the various state agencies, including the Governor's office and OSHA state plan sites. If professional recognition/title protection legislation has been enacted in a particular state, this law can also be found.

Another important feature is member access to each of the weekly legislative/regulatory reports sent to each state. With this access, members can follow any piece of legislation that may be of interest.

For information on any of the items in this report, please contact Aaron Trippler.