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NIOSH AIHA Occupational
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HAPPENINGS FROM THE HILL

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Congress Moving Forward on '06 Appropriations

- Concerns About NIOSH and OSHA Continue

Congress is currently on a short Fourth of July recess, to return next week prior to a long summer recess that is scheduled to begin on August 1 and run through September 2. Prior to taking off this past week, Congress continued efforts to move the '06 federal appropriations bills. In previous years, Congress was unable to move any of the bills this early.

Of substantial interest to AIHA are the budgets of OSHA and NIOSH, both contained in the Labor-HHS-Education bill. This bill is continually one of the last bills to receive approval by Congress, however this year the bill has already been approved by the House. A Senate Committee is expected to hold deliberations and mark-up on their version sometime in mid-July. When the Senate version is approved, a conference committee will be appointed to work out any of the differences between the House and Senate versions.

Here's a look at where things stand on issues of interest to AIHA:

OSHA

In fiscal year 2005, OSHA was appropriated \$464 million. The President proposed a slight increase in the budget to \$467 million. However, part of the President's proposal was to delete all funding for the Susan Harwood training grants. AIHA expected these funds to be returned to the budget and the House did just that. On June 24, the full House approved an OSHA budget in the amount of \$477 million.

As part of the OSHA budget, there were several other issues of importance. As was done in the previous budget, the House approved language that would prohibit OSHA from enforcing annual respirator fit-testing for occupational exposure to tuberculosis. This issue continues to be a huge issue in the health care field and both sides have expended a great deal of time and resources to push their point of view. AIHA again supported OSHA and our view that annual fit-testing is needed. The debate over this issue now goes to the Senate.

The House bill also contained language chiding OSHA for its “lack of progress” on finalizing the proposed rule on employer payment for personal protective equipment. The House has requested OSHA to report on the status of this issue within 30 days after the spending bill is enacted.

NIOSH

The spending figures for NIOSH are finalized, yet somewhat difficult to interpret. NIOSH received approximately \$287 million in fiscal year 2005. For 2006, the President proposed a slight decrease to around \$286 million. This figure included funds that were eventually transferred to CDC for overhead expenses. In the '06 bill just approved by the House, a total of \$251,241 million was appropriated for NIOSH in fiscal year 2006. However, the House also approved a permanent transfer of \$34,800,000 from the NIOSH budget to CDC to pay for “continued business service assessments” - overhead expenses incurred by CDC.

Language within the NIOSH portion of the budget also states that “NIOSH should be recognized as one of the agency’s five coordinating centers. This language is very important, as it means the House believes that NIOSH should be a separate coordinating center under the new CDC reorganization.

While the language on the coordinating center is encouraging, the language on the permanent transfer of funds to CDC remains of concern. AIHA and others have been working hard to have these “overhead expenses” limited. The \$34 million transfer is in line with this concern; however the language does not provide a limit on future transfers. AIHA will be pushing for a permanent limit on overhead expenses.

NACOSH To Meet in Mid-July

The National Advisory Committee on Occupational Safety and Health (NACOSH) will meet on July 14 for its first meeting in many months. This meeting also includes the appointment of two new members and five reappointed members.

AIHA is pleased to have at least two members on the Committee: Joe Holtshouser, a former AIHA board member, has been appointed to serve as a management representative. Vickie Wells, former California Industrial Hygiene Council President and ACGIH Past President, was reappointed as a public representative.

OSHA Legislative Activity Update

Norwood Bills – The full House of Representatives is expected to vote sometime in the next two weeks on the four Norwood bills amending the OSH Act. All four bills are expected to receive approval and move to the Senate.

Owens-Kennedy Bills – Rep. Major Owens and Sen. Edward Kennedy have introduced companion measures that lay out the Democratic views on how OSHA should be amended.

Known as the “Protecting America’s Workers Act, the measures include provisions that would:

- Increase employer criminal penalties for OSHA violations that result in the death of a worker;
- Extend OSHA coverage to all workers not now covered by OSHA;
- Strengthen whistleblower protections for workers;
- Require employers to pay for personal protective equipment for their employees.

Enzi Proposal – Word is that Sen. Michael Enzi is finalizing a package of proposals to address OSHA. In the past, Sen. Enzi introduced a measure known as the “SAFE Act” with several provisions, including a third party workplace review program, increasing criminal penalties for violations of the OSH Act, updating requirements for material safety data sheets, and creating a Commission to review the U.S. response to the Globally Harmonized System.

AIHA has learned that this time around, Senator Enzi has decided to introduce some of these measures in individual bills. Word is that one bill will be introduced addressing the criminal penalties issue, one bill will be introduced to address the issue of MSDS and the Globally Harmonized System and perhaps one bill entailing the third party workplace review program and other provisions of the original SAFE Act.

AIHA has also heard that the criminal penalties bill may include all four of the Norwood bills. If this were the case, it would make it difficult for the Senate to enact such a bill.

Florida Governor Vetoes Mold Legislation

In action that was not totally unexpected, Florida Governor Jeb Bush vetoed Florida House Bill 315 on June 22. The bill addressed several issues regarding building assessment and remediation for mold, but was somewhat ambiguous and did not provide clear guidance in numerous areas. As an example, the bill required contractors who spent more than half of their time in mold remediation to become certified by the state. Yet those contractors who provided less than half their time in mold remediation were not required to become certified in any areas.

In looking at state mold legislation thus far in 2005, this bill was the only major legislative measure that had been enacted. There are still several measures pending, but it looks as if no major bills will be enacted this year.

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. The center can be found within the members-only section of the AIHA web page.

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 Tripler.