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Rhetoric Heats Up On Estate Tax as Political Reality Pushes Compromise

The Senate appears headed for another showdown on repeal of the estate tax, possibly before the August recess. With permanent repeal costing around $1 trillion over the first 10 years, there is discussion between Senate Republicans and Democrats on possible reform options. It is unclear whether these discussions on reform may turn into a back-door approach by pro-repeal groups to push through legislation that would amount to a virtual repeal of the estate tax.

This spring, Senate Minority Leader Harry Reid (D-NV) asked the chair of the Democratic Senatorial Campaign Committee, Sen. Charles Schumer (D-NY), to begin investigating a possible compromise with Senate Republicans on the estate tax issue. Advocates of permanent repeal have needed 60 votes in the Senate to achieve their objective, but have fallen short of the mark. Even after Republicans picked up four Senate seats in the last election, it is unlikely that repeal advocates have enough votes.

Nonetheless, pro-repeal groups, primarily business leaders and conservatives, have used the estate tax as a political wedge issue. For example, the National Beer Wholesalers Association has run print ads in support of repealing the tax. Many believe that similar ads were a factor in the loss by Minority Leader Tom Daschle in his re-election bid last November. Democrats, particularly senators up for re-election, remain nervous about the power of such ads.

On the other side, Sen. Jon Kyl (R-AZ), who is a champion of permanent repeal, is leading the reform negotiations for the GOP. Realizing that full repeal is out of reach in the Senate for at least the next

two years, Kyl and other Republicans are feeling pressure to compromise as well. Unlike their Democratic colleagues, however, it is not concerns over re-election, but rather over budget deficits, that is putting pressure on Republicans.

It is clear both sides agree the phase-out of the estate tax passed in 2001 is poor tax policy and needs to be changed. But any change or compromise that would raise the exemption levels or lower the rate (or in fact any reform that would extend the changes implemented in 2001) would have a drastic impact on the federal budget. Full repeal of the estate tax would cost close to $1 trillion over the first 10 years of repeal when debt interest is included. With deficits already soaring and many other high priority issues needing to be addressed (such as the Alternative Minimum Tax, Social Security, and huge increases in health care and defense/war costs), each year Republicans wait to act on the estate tax makes it that much more difficult to pass a compromise that is closest to repeal.

Strikingly, as time marches on, some who supported repeal of the estate tax are now questioning their position. For example, Sen. Ron Wyden (D-OR), who has regularly voted to repeal the estate tax recently told the publication Tax Analysts, "The deficit picture is different today and the choices are pretty darn hard… There's three or four horses in this race, and I wouldn't bet against the AMT." Wyden, and other Senators who have supported repeal in the past, such as Sen. George Voinovich (R-OH), are starting to realize they will have to make choices between some very expensive options.

Yet despite these realities, thus far the negotiations have not yielded many tangible results. Kyl and other Senate Republicans, including Majority Leader Bill Frist (R-TN) appear to be growing increasingly frustrated with the lack of a compromise. Both Frist and Kyl have been issuing statements in the press with threats of a vote on full repeal in order to force Democrats into a bad compromise. Such maneuvering is leading many to question whether Kyl is genuine in his desire for a compromise on this issue.

Negotiations are also being slowed by rumors of Kyl's unwillingness to move far from the proposal he introduced in a stand-alone bill earlier this year of a $10 million exemption ($20 million for couples) and a rate of 15 percent for the estate tax. This proposal, which would cost the federal government 90 percent as much in revenue as full repeal and is thus tantamount to full repeal, is largely unacceptable to Democrats.

Even costlier still, Kyl has floated a slight modification by lowering the amount exempted from the tax to $8 million ($16 million), but tying the taxable rate to the capital gains rate, rather than setting it specifically at 15 percent. If this were to take place and Republicans succeed in their efforts to lower or zero out the capital gains tax, the estate tax would be repealed. It is highly likely that the President's Advisory Panel on Federal Tax Reform will include in its recommendations lowering the capital gains rate significantly from its current level of 15 percent, perhaps even to zero percent. Even more so than Kyl's original proposal contained in his bill, this proposal opens the backdoor to full estate tax repeal.

As the negotiations move forward, it is essential for Democrats and moderate Republicans not to agree to a compromise at any cost. The importance of the estate tax, in terms of the progressivism it adds to the tax code, the incentive for charitable giving it provides, and the revenue it brings in for essential services and investments in communities compels a call for responsible reform. Bad reform could remove the estate tax as a hot-button election year issue, but it could lead to a back-door repeal of the estate tax.

Senate Investigates the Program Assessment Rating Tool

On Tuesday, June 14 the Senate subcommittee on Federal Financial Management, Government Information, and International Security held a hearing on accountability and results in federal budgeting. Specifically, the hearing was held to investigate the specific metrics and tools used by the Office of Management and Budget (OMB) to measure the effectiveness of federal programs, the advantages and disadvantages of using these systems of measurement, and how information obtained is used to increase accountability in federal budgeting. The most widely used mechanism, called the Program Assessment Rating Tool (PART), was the main topic of the hearing.

Four witnesses presented testimony at the hearing: GAO Comptroller David Walker, OMB Deputy Director Clay Johnson, Eileen Norcross, Research Fellow for the Mercatus Center, and Beryl Radin,

Professor of Government and Public Administration at American University.

The hearing was attended by the chairman and ranking member of the committee, Sens. Tom Coburn (R-OK) and Tom Carper (D-DE), and for a short period by Sen. Frank Lautenberg (D-NJ), who made a point of appearing to express concerns about Congress developing a new reliance on mechanisms like PART that are primarily White House tools. He expressed doubts about the unbiased nature of PART assessments and his hope that performance results are not manipulated to reinforce predetermined partisan or ideological conclusions about government programs, but rather to increase effectiveness in government.

The hearing reflected two key themes: the importance of implementing effective measurement tools in order to gauge program success, and how to use these tools to fund programs accordingly, so as to "get the most for the least amount of money." It was clear all four witnesses, as well as members of the subcommittee, agreed performance tools, if designed and used correctly, were a necessary part of working to enhance performance and increase accountability. There were differences, however, in which tools would be most valuable and in what context the information gained from the tools should be understood.

Walker began his testimony by once again stating that government is on an "unsustainable fiscal path." He voiced his belief that a comprehensive and cross-cutting approach to assessing policies is necessary and stated there must be a greater buy-in by Congress regarding holding programs accountable, and a resulting shift in fiscal policy priorities. Notably, Walker expressed multiple times his conviction that the performance and accountability process should be made less partisan. He suggested an organization such as the GAO, for example, should have a role in assessing programs along with more politically driven agencies such as the OMB.

Johnson testified on behalf of OMB. His testimony defended PART, saying agencies are better managed than they ever have been. His short and often simplistic testimony included somewhat aggressive pre-emptive responses to recurring criticisms of PART, many of which would later be summarized by Beryl Radin during the second panel. Specifically, Johnson iterated the claims that PART *has* had an effect on authorization, appropriations and oversight and that all programs *are* alike and thus can be assessed using a single tool. Yet these claims are directly contradicted by an analysis done by OMB Watch earlier this year and by the positions of scholars such as Radin. Many of the findings of the OMB Watch research were outlined in an opinion piece that appeared on tompaine.com in March. Johnson's testimony often strayed from the main focus of the hearing to touch on radical proposals the Bush administration is attempting to implement in the federal government. Johnson spent much of his time discussing sunset and results commissions as well as performance based pay for federal employees, rather than the merits of PART. Johnson commented sunset commissions are not just a way to "get rid of programs [the administration does not] like." He said we all "want to get programs to work better… and drive better program performance." In the long run, focusing on results, he said, would be better for taxpayers. Coburn stated his support for both requiring programs to justify their existence every ten years and for presidential commissions that would recommend consolidation or elimination of duplicative programs. These proposals represent yet another vehicle proposed by the Bush administration to extract and preempt the role of the Congress in assessing, authorizing and appropriating funds for government into a system controlled by the White House. Strong support for these proposals, as well as the PART, will only weaken the power of Congress in relation to the executive branch.

Norcross and Radin testified in the second panel. Norcross testified the underlying role of the PART in linking goals and objectives with budgets and holding programs to fact-based, rather than value-based standards, was positive. But she complained that budget requests from OMB had little or no relation to the ratings assigned to programs under the PART. She presented to the committee important PART statistics showing a lack of correlation between funding requests and PART ratings, stating that, of the 154 programs recommended for termination, only 22 of them had even been PARTed by the OMB. Norcross was forced to admit the PART has many limitations. She pointed out that fourteen agencies show no linkage of costs in operation to goals for output, that the "yes/no" format with which PART rates programs simplifies many agencies' answers, and that a degree of subjectivity does exist in the way ratings are assigned in PART.

Radin made clear in her testimony the many serious reservations she has about the PART, stating it was not the appropriate way to measure program performance. Many programs, she said, have multiple and conflicting goals that are not reflected in the PART process. Radin said the federal government's diverse array of programs is far too complex for a one-size-fits-all approach. In

addition, the PART process does not recognize purpose, priorities, and program guidelines instituted in statute by Congress. Radin pointed out that often programs end up being penalized for following the will of Congress instead of measures like cost-effectiveness that OMB would like them to use. In this way, the PART acts as a mechanism to replace the intent of Congress with the priorities of the administration. Radin also mentioned other limitations of the PART in her testimony, including that OMB budget examiners have a limited perspective on many programs, that a yearly budget is not the only way to measure detailed and complex programs, and that OMB calls for new data sources agencies can not always collect (due to both a lack of resources and a requirement in the Paperwork Reduction Act to reduce paperwork by five percent per year).

Radin suggested an alternative to mechanisms like PART during the hearing. She suggested the authorizing committees and other members of Congress should be more involved in program evaluation not only because they are more familiar with the programs, but also because Congress is in a unique position to utilize existing resources in order to develop more robust and diverse systems to determine effectiveness and results.

DeMint's Social Security Plan Gets Attention, But Does Nothing to Address Solvency

Sen. Jim DeMint (R-SC) revealed a proposal for Social Security overhaul last week that has received the attention of both the White House and the House Ways and Means Committee. According to DeMint, the proposal -- dubbed the initiative to Stop the Raid on Social Security Act (S. 274) -- would stop members of Congress from spending Social Security funds that exceed the amount currently needed to pay benefits on other priorities. Many analysts believe, however, that the DeMint proposal will not cause a change in policy makers' spending behavior, and will bring risk to a currently risk-free benefits program and increase what are already record-high deficits.

The DeMint proposal is co-sponsored by Sens. Rick Santorum (R-PA), Lindsey Graham (R-SC), Mike Crapo (R-ID), and Tom Coburn (R-OK). The DeMint legislation, according to his aides, would end the prevailing practice of artificially reducing the deficit by the size of the Social Security surplus and would instead treat the obligations to Social Security accounts as regular outlays. The government, however, could continue to spend the surplus on other needs, since the money would be invested in treasury bonds (just as payroll taxes are today). DeMint's plan also calls for the creation of an independent board that, starting in 2008, could offer individuals the opportunity to diversify their accounts into more risky stocks and away from bonds and mutual funds.

Senate Finance Committee Chairman Charles Grassley (R-IA) has had a lukewarm reaction to DeMint's plan. Grassley, who has been working to bring a separate Social Security overhaul bill out of the Finance Committee, told reporters at the Capitol, "It's a proposal that I would see as a fallback proposal.... It's not my first choice, but right now I don't have a majority for anything." Grassley has stated in the past that his first priority is to pass legislation making Social Security solvent. While he supports the creation of private accounts, Grassley lacks a majority on the Finance Committee backing the accounts, as all Democratic members as well as Sen. Olympia Snowe (R-ME) have voiced continued objections. Grassley stated, "I might have a majority for solvency on my committee, but I don't have a majority for personal accounts, so everything's on the table."

Many lawmakers and policy analysts have been quick to speak out against the DeMint plan, which they see as both costly and not sufficient to address solvency. Finance Committee Ranking Member Max Baucus (D-MT) characterized the DeMint plan as being part of a "bait-and-switch" strategy that will likely see the House approve a personal account plan and wrap it in a non-amendable conference report in an attempt to force enactment. House Minority Whip Steny Hoyer (D-MD) released a statement saying the proposal would do nothing to address solvency issues, and "would actually weaken Social Security's solvency by diverting the surpluses that are expected over the next several years and depleting the Social Security Trust Fund even sooner."

Social Security expert Jason Furman of the Center on Budget and Policy Priorities has stated in recent congressional testimony that the proposal would drain $600 billion from the Social Security trust fund in its first 10 years and would also increase the deficit to nearly $500 billion in 2007 -- more than double the projected deficit for that year. Much of the cost would be administrative, with Furman noting that thousands of new federal employees would be needed to administer the accounts.

The Social Security Actuary Committee has also looked at the DeMint proposal and released a memo

warning it would increase levels of public debt, both by driving up deficits and also increasing the interest paid by the government on the national debt. The memo said, "The total debt held by the public is increased indefinitely due to the incomplete compensation of the trust funds through benefit offsets.... Annual unified budget balances remain worsened throughout the period due to additional interest on the [increased] debt held by the public."

Meanwhile, the House Ways and Means Committee unveiled a proposal of its own on June 22, called "Growing Real Ownership for Workers" (GROW). The plan attempts to paint the creation of private accounts as more worker-friendly than they actually are. Under the plan, workers could elect to have their share of the Social Security surplus set aside in a private account.

Critics have stated, however, that both Congress and the administration continue to miss the point as the proposal also does nothing to solve the issue of solvency. Rep. Jim Kolbe (R-AZ) stated, "If it's an attempt to get us off dead center, to move us forward, that's fine. But it doesn't fix the solvency [problem]: You'd have to borrow the money from some place else." The Center on Budget and Policy Priorities has estimated this extra borrowing to be $89 billion in 2006, with expected increases in subsequent years.

The Ways and Means Subcommittee on Social Security also continues to hold hearings on the issue in preparation for a broad retirement reform bill that might possibly be offered by Chairman Bill Thomas (R-CA) later in the year. House aides are uncertain when exactly this legislation will be considered.

On June 23 the subcommittee held a notable hearing to examine various privatization approaches. While the hearing was meant to bring opposing parties together on the issue to attempt to find compromise, the testimony instead touched on a wide range of views on how complex privatization might be.

Barbara Bovbjerg, GAO's director of education, workforce, and income security issues, was pessimistic about private accounts, and testified that implementing private accounts would create major difficulties as lawmakers attempt to put into practice a system based on minimizing costs and unravel the complex administration process to make it work.

Francis Cavanaugh, a former investment policy official in the Treasury Department, testified that private accounts are highly impractical and more expensive to manage than pro-privatization forces are willing to admit. He said the administration's estimate of a 4.6 percent return for investors was unrealistic; pointing out that it is much higher than the Congressional Budget Office figure of 3.3 percent. He said the cost to most of the nation's small businesses would be too high to "provide the investment, recordkeeping, counseling and other services" to pay for the system. Large investment service managers that now provide similar services to large corporations for 401(k) plans, Cavanaugh said, are costing about $3,000 per year per employee.

Despite these repeated warnings of the risk and difficulties of private accounts, and despite the fact that no proposal for private accounts fixes the solvency problems of Social Security (in fact, most of the proposals make the system more insolvent), Republicans in Congress continue to make attempts to put private accounts into the Social Security system.

Senate Needs to Follow House's Lead On Appropriations in Order to Avoid Omnibus

The House has approached the appropriations process for FY 06 with the intent of completing work on the bills well before the start of the fiscal year in October. And while many on Capitol Hill are hoping the Senate will be able to focus mainly on appropriations during the month of July, it appears that Senate Majority Leader Bill Frist (R-TN) also plans to use that time to move other high-priority bills. Frist has stated his intent to work on both matters of border security and economic growth. However, legislation in the Senate has been slow moving all year due to repeated legislative and partisan disputes, so the ambitious agenda put forward by First has little chance of being completed.

If the current House schedule is met, all 11 spending bills will be passed before the July 4 congressional recess. In fact, the House only has the Foreign Operations and Transportation/Treasury/HUD/Judiciary/District of Columbia spending bills left to consider on the floor, while the Senate has not considered a single bill yet. The frantic pace with which the House is moving on appropriations work has not been seen in a decade of House GOP control, and is partially due to the new chairman of

the Appropriations Committee, Rep. Jerry Lewis (R-CA).

Last week, the House voted on both the Legislative Branch and Labor-HHS spending bills, on June 22 and June 24, respectively. In addition, last week, the House passed its version of the defense appropriations bill on June 20 by a vote of 398-19. The $408 billion bill allocates $363.7 billion in base military spending -- $3.3 billion below the budget resolution. The spending measure also includes $45.3 billion in emergency "bridge" funds to cover the cost of operations in Iraq and Afghanistan from October to March 2006.

On the other side of the Hill, Senate leaders are discussing plans to move at least five and as many as seven spending bills before the August recess, including two next week, leaving larger and more complex appropriations bills for this fall. What is unclear is the timing for work on the Senate's defense spending bill, which the White House and congressional leaders want signed into law before Sept. 30 to avoid potential interruptions in troop funding.

Senate GOP leaders are considering moving to a $26.2 billion FY06 Interior spending bill as early as June 27 and are pushing to complete work on a $30.9 billion FY 06 Homeland Security measure, which aides said is a priority to send to the president's desk before August. Yet much work still remains on all the other bills. Senate Appropriations Chairman Thad Cochran (R-MS) has iterated his major goals are to complete all Senate spending bills on time, and stay within the strict spending limits Congress has set for itself under the guise of "fiscal discipline."

With Frist's plans to possibly move legislation on both economic growth and border security, the Senate may begin to run out of time to devote to the spending bills before the end of the fiscal year. If so, as has become increasingly common in recent years, all unfinished spending bills may be folded together into one big omnibus package.

Omnibus bills are bad legislative practice: they remove transparency and accountability from the appropriations process and usually lead to fiscal irresponsibility. The bills are massive, with plenty of cover to hide extra spending items, legislative changes, and special interest items that end up making the bill more fiscally irresponsible than if the bills where passed separately. Removing transparency and accountability from the process by which Congress allocates government funds, even for other members of Congress, is troubling.

The Senate should follow the House's lead in order to avoid omnibus bills which have, in the past few years, seemed to have replaced the regular appropriations process with a complex, unaccountable, and irresponsible system.

President's Tax Reform Panel Gets Two Additional Months

The deadline by which the President's Advisory Panel on Federal Tax Reform needed to report their recommendations to Treasury Secretary John Snow was pushed back two months by order of President Bush last week. On June 16, Bush signed an amendment to the executive order establishing the parameters of the panel allowing the report to be sent to Treasury by September 30, a full two months after the original July 31 deadline. It is unknown whether this change was due to political calculations by the president and his advisors or if the panel was behind schedule and simply needed more time.

The president's tax reform panel was established in January to examine the U.S. tax code and make reform recommendations to the treasury secretary that would make the system simpler, more fair, and more growth-oriented. The panel has held nine public meetings around the country, has heard testimony from over 90 witnesses, and has received more than 4,300 written comments.

This delay essentially eliminates any chance President Bush had to institute comprehensive tax reform this year. It will then fall on the president to convince Congress to undertake his tax reform priorities in the heated atmosphere of an election year. With the president unable to convince Americans of the utility of his Social Security overhaul plan, this delay may be an acknowledgement that the president is running low on political capital to spend on his priorities. Having to operate on his two biggest second-term priorities simultaneously might have been too much.

Senate Votes to Stop Sweeping Secrecy Laws

The Senate voted on Friday, June 24, to better explain when Congress keeps information from the public. The move is intended to push Congress to be clear when keeping secrets from the public and stop secrecy that Congress does not intend.

The bill (S. 1181), introduced by Sens. John Cornyn (R-TX) and Patrick Leahy (D-VT), would require legislation enacted after July 1, 2005, that exempts government-held information from public access to specifically say so. The bill sets the intent of Congress that documents should be available to the public under FOIA unless Congress explicitly creates an exception. Congress can either specifically state that the information is intended to be held secret "in such a manner as to leave no discretion on the issue" or refer to particulars that should be exempt under provisions of the Freedom of Information Act.

In addition to Cornyn and Leahy, the bill was co-sponsored by Sens. Lamar Alexander (R-TN), Russ Feingold (D-WI), Johnny Isakson (R-GA), and Arlen Specter (R-PA). It was passed on a voice vote in the Senate.

The bill amends what is commonly known as the (b)(3) exemption in FOIA, which states that records that are specifically exempted by statute may be withheld from disclosure. According to data from the Justice Department, the number of identifiable statutes exempting information from FOIA stands at approximately 140, and many other laws encourage government employees to "protect," "safeguard," or otherwise think twice before providing public access to a government document. For example, one bill currently in Congress, the Port Security Act (H.R. 173) would require the heads of all U.S. seaports to "secure and protect all sensitive information, including information that is currently available to the public, related to the seaport." The bill does not specify whether the information should be completely withheld from the public or how the port captain should decide whether to make public or keep secret certain information. In fact, the bill defers all these questions to the port captain. Less-than-explicit exemptions result in ambiguity and court battles. The bill modifies the (b)(3) exemption provision in FOIA to require Congress to explicitly state its intent to withhold the information from the public and to specifically say it is intending to creating a (b)(3) exemption.

The bill, if passed by the House and signed by the president, could change the current secrecy climate in at least two small but significant ways. First, the bill asks agencies and courts to err on the side of disclosure when a statute is vague about whether certain government-held information should be kept secret or made available to the public. This should help reduce costly court deliberations. Second, it would allow better tracking of the number of laws currently on the books that call for exemptions from public disclosure.

A number of public access advocates supported the bill, including many members of the OpenTheGovernment.org, co-chaired by OMB Watch. Cornyn was pleased to announce that three conservative groups -- Defenders of Property Rights, One Nation Indivisible, and Liberty Legal Institute -- also endorsed the bill.

The bill was originally part of a broader package of FOIA reforms that Cornyn and Leahy put together in the OPEN Government Act. The two senators broke off this narrow provision to attract broader support for reforming the nation's open government laws and begin to address the problem of excessive secrecy in government. It is expected that the senators will pursue other parts of the OPEN Government Act in the future.

Citizens Protest New Jersey's Proposed Homeland Security Secrecy

Workers and environmentalists picketed outside the office of New Jersey Attorney General Peter Harvey on June 22 to protest proposed changes to the state's Open Public Records Act (OPRA). Harvey has proposed exempting various facilities from the public records law, including chemical plants, in the interest of homeland security. Protesters expressed concern that the new exemptions are too broad and would conceal from the public important information about toxins in their communities.

More than 50 protesters waved signs saying "Stop the Information Lockout" and "Safety, Not Secrecy," outside of Harvey's office, demanding that the attorney general withdraw the proposed rule.

New Jersey's 2002 OPRA is one of the strongest 'open records' acts in the country. The proposed revision attempts to safeguard critical infrastructure targets from possible terrorist attack by withholding government records concerning these facilities from the public. Unfortunately, toxic-chemical inventories and other records widely used to monitor health, safety, workplace and environmental issues could be included among the restricted information.

If approved, the new provisions would place the burden on the public to convince a state official of their "need-to-know" before being able to get certain information. Protesters urged that the process be reversed and that records about any hazards posed by a chemical facility remain public unless government officials can prove that disclosure would hamper homeland security.

According to Rick Engler, executive director of the New Jersey Work Environment Council (WEC), "The proposed rule to roll back New Jersey's Open Public Records Act would restrict the right to know about genuine hazards to our health, safety, and environment -- without reducing the threats or consequences of terrorism. The public deserves safety, not secrecy." WEC advocates for safe, secure jobs and a healthy, sustainable environment.

State open records laws not only provide people with health and safety information but also help citizens hold government officials accountable. For example, a previous *OMB Watcher* article reported that two citizens used Virginia's Freedom of Information Act to uncover that state officials paid for vacations with public funds.

New Jersey officials note that the rule has not been finalized and have scheduled a July 22 public hearing on the rule.

American Chemical Society Tries to Limit Public Database of Chemicals

Congress is considering intervening in a dispute about publicly available scientific information. The American Chemical Society (ACS) has asked that Congress limit or refocus the National Institute of Health's (NIH) PubChem database. PubChem is a freely accessible database that provides information about small molecules primarily used by medical researchers. ACS has raised its objections because PubChem overlaps with its commercial enterprise, Chemical Abstracts Service (CAS) Registry.

ACS wants PubChem limited to cover only compounds derived from NIH research. The industry group objects to the government becoming a publisher of scientific data. However, the group ignores the fact that the federal government has long been a major publisher of data and that it has a duty to collect and disseminate data that will help protect health and safety.

Their complaint that the government should not compete with the private sector has been advanced before. Industry advocates have contented that public-private competition should be the paramount issue. Fortunately, public health and welfare have continued to be the deciding factor. Often, public health is better served by freely available and objective scientific data. This has been NIH's position as it has rejected repeated complaints from ACS on the PubChem database.

Unfortunately, some in Congress appear to be listening to the industry advocates this time. After receiving input from ACS the House Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies added language on PubChem to a report accompanying the

Labor, Health & Human Services (HHS) & Education appropriations bill.

The subcommittee, chaired by Rep. Ralph Regula (R-OH), added the language requesting NIH reevaluate the database. Specifically, "The committee is concerned that NIH is replicating scientific information services that already exist in the private sector. In order to properly focus PubChem, the committee urges NIH to work with private-sector providers to avoid unnecessary duplication and competition with private-sector chemical databases."

It remains to be seen what impact this new language from Congress will have on the PubChem database. Since it does not require the database to be scaled back, it places the issue back in the hands of NIH.

Louisville, Kentucky Finalizes New Air Quality Program

On June 21, the Louisville Air Pollution Control Board unanimously approved the Strategic Toxic Air Reduction (STAR) program to require industrial facilities to reduce emissions of hazardous air pollutants. The process that led to the program, which will be implemented July 1, demonstrates how invaluable public access to environmental information is in protecting the health and safety of communities.

For years Louisville residents have been plagued with poor air quality. Environmental Protection Agency (EPA) air monitors throughout Louisville showed dangerously high levels of 18 hazardous air pollutants. Citizens and local officials connected the air monitoring data with information from the federal Toxics Release Inventory to identify the facilities responsible for the hazardous air pollution. This connection led directly to the city's formulation of the STAR program.

According to Tim Duncan, a member of Rubbertown Emergency Action (REACT), "Without the air monitoring, and citizen access to that data, industries could have kept saying there is not a problem, and we would not have been able to push the city to deal with the industrial sources of our air pollution problems."

OMB Watch comments on the STAR proposal

Louisville Courier Journal STAR program article

Past Government Secrecy Takes its Toll on Steelworkers

Proponents of government secrecy would do well to consider the story of Bethlehem Steel when pushing for greater secrecy in the name of homeland security. The federal government admitted in 2000, that it had knowingly exposed thousands of workers in steel mills to radiation without any protection or warning during the 1940s and 50s. The workers, kept in the dark about the exposure because of national security concerns, have paid for years -- at times with their very lives.

In the late 1940s and early 50s national security concerns were as high as our homeland security concerns are now. The federal government contracted with Bethlehem Steel to produce rolled uranium for use in nuclear bombs. However, the contract also required that the nature of the material being handled be kept secret from workers and the public.

As a result, workers spent long hours working on the material without any special protective gear to shield them from the radiation, breathing in radioactive dust as they moved about the plants. As the decades passed, the steelworkers developed numerous types of cancer at much higher rates then the general public. The Cold War ended and still our government said nothing.

After finally acknowledging the catastrophic consequences to workers wrought under the secrecy of national security, Congress passed the Energy Employees Occupational Illness Compensation Program Act of 2000 that provides government compensation to the thousands of exposed steelworkers and their survivors. Over 1,200 families have filed claims under the program.

The misfortune of these workers and their families offers us a cautionary tale of how easily government secrecy can spin out of control and wind up harming the people it's claiming to protect.

Panel on Nonprofit Sector Makes Final Recommendations to Senate Committee

On June 22, the Panel on the Nonprofit Sector released its Final Report on reform for charities, saying the measures are "intended to strengthen the ability of the nation's 1.3 million charities and foundations to serve as responsible stewards of the public's generosity." The 116-page report, which makes over 120 recommendations in 15 areas of nonprofit governance and financial reporting, was well received by Senate Finance Committee Chair Charles Grassley (R-IA) and Internal Revenue Service (IRS) Commissioner Mark Everson.

The panel involved "thousands of people representing diverse organizations," according to the final report, in which many of these organizations are listed. Independent Sector, a coalition of leading nonprofits, foundations and corporations, put considerable resources into shaping the final recommendations to Congress. For example, they created working groups to assemble recommendations. Interim recommendations were developed and presented in local, state, and regional meetings. Moreover, Independent Sector presented information about the recommendations on conference calls and accepted comments via the Internet from coalition members and other stakeholders.

Despite this effort, which remarkably was completed in a matter of months, the process was largely an inside-the-beltway style of operation that mostly engaged very elite players. The panel membership did not reflect the diversity of the sector: small groups, community-based organizations, and rural groups were not on the panel. Community-based groups, to the extent they were consulted, were invited to comment on recommendations that were already developed and limited to a narrow scope of topics.

Independent Sector argued that limits had to be placed primarily because of time constraints imposed by the Senate Finance Committee. The Senate committee required recommendations to be made by this summer in order for that the committee to use the input in developing its own legislation regarding nonprofit oversight and governance. In this context, the panel moved with incredible alacrity.

The panel's first recommendation was greater IRS enforcement of current laws and increased funding by Congress to allow the IRS to accomplish this. The panel further recommends modification of the law to allow the IRS to share information with state charity regulators. Many feel that this is the heart of the problem; in fact, Everson praised the idea of changing the law to allow the IRS to share information with state enforcers.

For years the nonprofit sector has argued that the IRS needs greater resources to implement effective enforcement. Several have pointed out that recent abuses identified by the news media were mostly violations of existing law that could have been prevented by improved enforcement.

Strikingly, even though the first recommendation of the panel's report was aimed at enforcement, the main message, conveyed by the panel, its director, a press release, and even the report's title, is that of encouraging self-regulation and voluntary compliance (e.g., greater transparency). Many in the nonprofit sector resist new requirements and greater intrusion by government. It appears the panel tried to balance these competing interests of self-regulation and governmental regulation, but may have missed the mark.

The panel provides tough-minded recommendations in a very small number of areas (e.g., donor-advised funds), but avoids some of the biggest issues, such as abuses by foundations. It proposes no caps for foundation trustee fees; nor does it make recommendations on compensation for board members, beyond suggesting the reimbursement for expenses be subject to explanation and disclosure. These issues have emerged in the news media as potential abuses, yet go unaddressed by the Panel.

It appears the panel mostly developed recommendations that were responsive to a paper developed by the staff of the Senate Finance Committee. That paper, prepared last year, provides a number of recommendations in a wide range of areas.

This raises a broader question about the purpose of the panel's recommendations. The panel provides no introduction that describes the problem that needs to be resolved. Are there systemic violations of law? Are there gaps in laws that need to be addressed? Is there a problem with existing enforcement? Should that enforcement be controlled by the federal government, state governments, or both? The report never defines the problem to be corrected, but rather establishes a rebuttal to the Senate staffer's paper of last year. In the end, the report seems like recommendations in search of a problem.

This is not to say that the panel's recommendations are bad or wrong-headed. It is simply that it is difficult to evaluate the need for them. For example, the panel report relies heavily on the numerous changes to the Form 990, the tax return nonprofits file annually, as a means of establishing nonprofit transparency. However, many in the nonprofit sector, lead by the Urban Institute, have been proposing improvements to Form 990 for years. The IRS has been in the process of revising it for a long time, without result. Yet there is no evidence that having myriad check-offs on the 990 will create greater accountability. It certainly will, however, create more busy work for nonprofits. Greater detail in financial reporting, along with increased penalties proposed, is a move in the right direction. But what is the objective to be achieved by more 990 check-offs?

There are other recommendations, such as development of performance-based measurements that should be disclosed on the 990, that seem highly controversial. The federal government has been unsuccessfully trying to develop performance measures for federal programs for some years. The problem stems from uncertainty about the appropriate benchmarks to use when it comes to social values and services, along with a heavy emphasis on quantification of such measures. Applying performance measures to nonprofits will be equally difficult and will have the added challenge of assuring consistency from one organization to another on what measures are used.

The role of state charity regulators is not given adequate attention, beyond information sharing with the IRS, and the report fails to follow through on the potential this sharing can have. For example, as the primary regulators of nonprofits, many states require all organizations to file annual reports, or register if they raise funds in the state. The National Association of State Charity Officials has a Unified Registration Statement program (see http://www.multistatefiling.org) that is "an effort to consolidate the information and data requirements of all states." Yet, the recommendations would create a largely duplicative annual reporting requirement for nonprofits that are so small they do not file Form 990.

The panel's report should prove useful as the Senate Finance Committee begins to draft legislation addressing the oversight of nonprofit organizations. The committee recently held a hearing on the subject and appears to be headed toward legislation addressing conservation easements, donor advised funds, abusive tax shelters and other accountability measures.

What we find most striking about the panel's effort to develop recommendations is the speed with which the nonprofit sector took action. Clearly, leaders in the nonprofit sector see the need to address governance and oversight issues and provided the resources to make things happen quickly. So the question remains: why can't the nonprofit sector leadership address other high-level crises with the same vigor and commitment of resources?

Nonprofits today are concerned about the rapidly diminishing public resources available for social service programs, infrastructure that supports education, transportation, health and safety protections, environmental protections, the arts and humanities, and other basic government services. Why can't the leadership of the nonprofit sector -- from foundations to grantseekers -- put the same level of energy and resources into challenging the threats that nonprofits really face as it has into addressing the threat of abuse by a few bad apples?

Scam by Lobbyists Could Have Negative Consequences for Legitimate Nonprofits

A June 22 hearing of the Senate Indian Affairs Committee revealed details of a scam by lobbyists Jack Abramoff and Michael Scanlon to pocket millions of dollars in donations to nonprofit groups they controlled or on whose board they sat. They used these groups as intermediaries, with subgrants going to other nonprofits and consulting firms they controlled, and ultimately into their pockets. This abuse, and other recently reported cases of professional lobbyists using nonprofits to avoid ethics and disclosure rules, has raised questions about the need for greater transparency and oversight of the identity of donors and of financial transactions between groups.

Sen. John McCain (R-AZ), chair of the Indian Affairs Committee, called the emerging scandal "simply and sadly a tale of betrayal." Abramoff, a former Republican lobbyist, and Scanlon, a former spokesman for House Majority Leader Tom DeLay (R-TX), appear to have pocketed $6.5 million of $7.7 million in fees charged to the Mississippi tribe of Choctaw Indians. The fees were supposed to pay for lobbying and public education efforts on behalf of the tribe's casino gaming operations. The Justice Department is now investigating these transactions.

On Abramoff's advice, the tribe made two donations to the National Center for Public Policy Research, (NCPPR) a conservative think tank where Abramoff served on the board of directors. The president of NCPPR, Amy Ridenour, said she believed the funds were for an education campaign on the benefits the tribe received from its casino operations. The first donation of $1 million, made in October 2002, was re-granted on Abramoff's instructions to:

- $450,000 to the Capital Athletic Foundation (CAP), which is controlled by Abramoff, which re-granted funds to a school in Maryland that Abramoff founded, as well as a sniper school in Israel
- $500,000 to Capital Campaign Strategies, which was controlled by Scanlon
- $50,000 to Nuremberger and Associates, purportedly for project coordination, but apparently used to pay off a personal loan of Abramoff's.

In 2003 NCPPR received $1.5 million from the tribe for the project, and, again on Abramoff's instructions, re-granted $250,000 to CAP and paid $1.25 million to Kaygold, an operation Ridenour that believed Scanlon operated but was, in fact, owned by Abramoff.

Ridenour told the committee she had expected to be involved in the educational campaign, but was not. Abramoff did not respond to her requests for documentation of project expenses. When she learned he controlled Kaygold, Ridenour determined Abramoff had violated NCPPR's conflict of interest policy, and he resigned from the board. Another witness, David Grosh, testifying on the American International Center, a research organization founded by Scanlon, stated its only function was to divert money from Abramoff's clients to personal use. Abramoff and Scanlon did not testify before the committee as requested, invoking their Fifth Amendment protection against self-incrimination.

Around the time NCPPR first received a grant from the Choctaw tribe, it was funding a much publicized trip to Scotland by DeLay. Congressional ethics rules make it illegal for registered lobbyists to pay for member travel, and the funding from NCPPR, with registered lobbyist Abramoff on its board, has come under scrutiny. USA Today, in a story entitled "Lobbyists showing Congress the world" recently reported on a number of groups with ties to lobbying firms that have funded expensive congressional travel. The story said, "The nonprofit groups don't have to disclose their donors; lobbyists, by forming these groups, can evade rules designed to limit their influence…"

These abuses may cause serious problems for legitimate nonprofits engaged in public policy work. At the Indian Affairs Committee hearing, Ranking Member Byron Dorgan (D-ND) said these nonprofit issues are not within the committee's jurisdiction, and asked McCain to seek joint action with the Senate Finance Committee. The Finance Committee has written to Abramoff seeking information on CAF and NCPPR, among other groups, but there has been no announcement of further committee action.

The Finance Committee letter asked Abramoff for an explanation on why donations should not be viewed as attempts to influence legislation and public policy. This is a troubling question, since it is perfectly legal for nonprofits to influence policy and lobby. The First Amendment ensure this nonprofit right to participate in the democratic process. Although individuals seeking to avoid disclosure and taxes could donate to a nonprofit, the intent of the donor should be irrelevant if the group spends the

funds on legitimate program activities. If a group is a sham, the donor has illegally abused the nonprofit form.

Dorgan also expressed concern about funds transferred from one group to another with little documentation or accountability. The example cited was the Choctaw donation to Americans for Tax Reform (ATR), a 501(c)(4) organization run by conservative Grover Norquist, that passed funds on to conservative activist Ralph Reed for anti-gambling campaigns. The donation to ATR was made at Abramoff's suggestion. The question in this case is whether the funds were spent for a legitimate purpose or used for personal benefit.

Panel Explores Threats to Charity in the Post-9/11 Regulatory Environment

On June 14 the Georgetown Public Policy Institute's Center for Public and Nonprofit Leadership (CPNL) hosted *Safeguarding Charity in the War on Terror*, a panel discussion on the impact of government anti-terrorism programs on the nonprofit sector. A diverse group of scholars and practitioners charged that the government's campaign against terrorist financing has proven ineffective, inefficient, and harmful to philanthropy and charitable programs.

Panelists included:

- Teresa Odendahl, 2004/2005 Waldemar A. Nielsen Chair in Philanthropy, CPNL,
- David Cole, Professor of Law, Georgetown University Law Center,
- Nancy Billica, Political Advisor, Urgent Action Fund for Women's Human Rights,
- Daniel Mitchell, McKenna Senior Fellow in Political Economy, The Heritage Foundation, and
- Laila Al-Marayati, Chairperson, KinderUSA.

The centerpiece of the government's anti-terrorist financing campaign is the Treasury Department's Anti-Terrorist Financing Guidelines: *Voluntary* Practices of U.S. Based Charities. The Guidelines were released in November of 2002 in response to a request by Muslim charities for a set of due diligence standards that would help them avoid sanctions. Yet, far from offering guidance and a safe harbor, the procedures outlined in this document are widely regarded as unrealistic, impractical, costly, and potentially dangerous. Drafted and released without meaningful consultation with the nonprofit sector, the guidelines betray a startling lack of knowledge about domestic and international grant-making and the body of laws already in place to ensure fiscal responsibility and due diligence.

Odendahl opened the discussion with the charge that charities have been inaccurately identified as significant sources of terrorist financing and unfairly targeted in the war on terror. Cole gave an overview of the constitutional rights and freedoms at stake, noting that the war on terror has led to the erosion of freedom of association. Billica noted her concern that current policies lead to increased administrative burdens that have a disproportionate impact on small organizations with few resources. Mitchell pointed out that the government's campaign against terrorist financing fails a cost/benefit analysis: for the billions of dollars it has cost and the sweeping invasion of privacy involved, the effort has simply failed to yield significant results. Al-Marayati concluded the discussion by reporting the effects post-9/11 policies have had on the Muslim community, accusing the government of singling out Muslim organizations for investigation and prosecution. Click here for a detailed summary of their remarks.

Clashing 527 Bills Moving in the House

On June 23, Rep. Robert Ney (R-OH), chair of the House Administration Committee, sent a letter to Reps. Martin Meehan (D-MA) and Christopher Shays (R-CT) informing them he intends to schedule their proposed legislation, H.R. 513, the 527 Reform Act, for committee consideration. Ney also said that, although he supports a competing 527 bill, he will vote to send the Shays-Meehan proposal to the floor.

Ney prefers H.R. 1316, the 527 Fairness Act, introduced in March by Reps. Mike Pence (R-IN) and Al Wynn (D-MD). Ney believes that the Bi-Partisan Campaign Reform Act (BCRA) went too far in regulating the fundraising and coordinating capabilities of the national political parties, state parties and committees.

At a June 23 debate sponsored by the Campaign Finance Institute, Wynn called the 527 Fairness Act "philosophically a different take on the regulation of 527 organizations than the Shays-Meehan bill." While Shays-Meehan strives to heavily regulate the independent 527 organizations, Pence-Wynn does not impose contribution limits and other regulations on them. Instead, it eliminates aggregate limits on how much money individuals can give to influence federal elections, removing the choice between contributing to parties, candidates and other groups. The Pence-Wynn bill also allows state and local party organizations to spend unlimited funds on voter registration drives (GOTV) and sample ballots.

At the debate both Wynn and Cleta Mitchell, an attorney with Foley & Lardner LLP who helped author the Pence-Wynn bill, advocated for allowing donors to contribute funds into the hard money system where it is regulated and documented, and allowing 527 groups to continue with their work unhindered. Shays and Trevor Potter, of the Campaign Legal Center, disagreed. Shays said that the point of BCRA was to take legislators out of the game of raising money. Although BCRA did this in the 2004 election, he is concerned about millionaires that gave large donations to independent 527 groups.

The drive to regulate independent 527 organizations appears to come from a desire by some members of Congress to suppress the ability of those organizations to run advertisements against candidates. Shays, in response to a question, took exception to a comment that 527 groups did much needed GOTV work. He responded that the independent 527s primarily ran attack ads. Both proponents and opponents of the competing 527 bills are concerned that the two bills will be melded together in a House-Senate conference, creating a situation which greatly undermines BCRA and restricts the First Amendment rights of nonprofit organizations to participate in the political process.

OMB Report on Regulation Misguided, Misleading

An annual draft report from the White House Office of Management and Budget (OMB) misleads the public on regulatory safeguards and makes OMB appear poised to impose misguided anti-regulatory policies, OMB Watch and other public interest groups told the White House last week.

About the Report

OMB's annual report on the costs and benefits of federal regulations is required by what is often referred to as the "Regulatory Right to Know Act." *See* Consolidated Appropriations Act of 2001, Pub. L. No. 106-554, 114 Stat. 2763A-161 to -162, App.C §§ 624-25 (2000). Under the act, OMB is also required to submit a draft of each year's report for public comment and peer review.

This year, as in years past, the Bush White House has used the annual report as a vehicle to promote controversial anti-regulatory initiatives. In 2001, 2002, and 2004, OMB used the report to solicit from industry a hit list of regulatory safeguards to be weakened or eliminated. Last year's hit list is still an active controversy. In 2003, OMB used the report to propose new policies to govern cost-benefit analysis by agencies in rulemaking.

This year's report does not propose any new policies to alter the regulatory process, but it does have a chapter that invites reform suggestions. In one section of the report, OMB finally acknowledges the objections from public interest groups that agency cost-benefit analyses rely on estimates of

compliance costs that are significantly overblown. After a discussion of the value of studies that look back to compare *ex ante* estimates with *ex post* results, OMB lists a limited number of currently available look-back studies and invites the public to suggest reforms to the regulatory process that would follow from new insights gained by conducting more look-back studies.

The White House and industry leaders have been repeatedly calling for automatic sunsets of regulatory protections. Such sunsets would theoretically apply even to proven protections, such as the ban on lead in gasoline. As a first step to such a destructive policy, one bill would increase the number of reviews conducted under the Regulatory Flexibility Act and would call on agencies to ask, during these reviews, whether existing protections should be eliminated. The draft report's emphasis on look-back studies and regulatory "reforms" could be laying the groundwork for a new regulatory sunset policy.

In a separate section, OMB explores net benefits as an alternative method of regulatory accounting. In the past, OMB has tallied up the total range of estimated costs for a subset of "major rules" and set that range side by side with the total range of estimated benefits. This year, OMB offered an alternative approach that tallies net benefits rule-by-rule by picking the central tendency of each rule's cost and benefit estimates, subtracting cost from benefit for each rule to derive a net, and then totaling the sum of all major rules' net.

Comments

OMB Watch and other public interest groups used their opportunity to file comments to call OMB to task for its hostility toward regulatory protections of the public interest.

OMB Watch's comments on the regulatory policy sections of the report hit five main points:

1. OMB needs to improve the transparency of this annual process and must be more responsive to the public's comments. Among other problems, OMB has repeated several mistakes in this year's report that were brought to its attention last year. Some of these mistakes have been pointed out multiple times over the years.

2. OMB continues to present the unproven argument that regulation to protect the public interest impedes the competitiveness of American businesses in the global marketplace. OMB offers evidence that is not only weak but, worse, irrelevant to this argument. As to be expected, OMB ignores the wealth of evidence that regulation does not impede national competitiveness but, instead, *improves* business operations by encouraging companies to create innovative new technologies and to discover more efficient ways of doing business.

3. OMB's section exploring net benefits as an alternative regulatory accounting methodology is both misguided and misleading. It masks highly debatable moral and ethical concerns in a simplistic final number that means, ultimately, nothing for reasonable social policy to protect the public welfare. It appears to be useful for little more than a public relations game, in which OMB's careful caveats about the methodological flaws and limitations of the net benefits numbers are buried far from the pages on which those numbers themselves are presented, allowing the Bush administration to present its pattern of failure to protect the public as though it signified real accomplishment.

4. OMB has provided a puzzlingly limited bibliography of look-back studies, some of which are so deeply flawed that they do not belong on any reasonable list of studies that have something meaningful to say. OMB must take steps to ensure that its use of look-back studies does not result in uninformed "reforms" of the regulatory process.

5. Whatever might be learned from any new look-back studies, we already have a significant body of research that has proven, again and again, that regulatory protections of the public interest not only satisfy their public interest purposes but also improve the economy. Any future reforms, therefore, should not add further burdens to the regulatory process but, instead, should remove unnecessary constraints on agency action, eliminate navel-gazing, and facilitate regulation to protect the public interest.

OMB Watch's information policy group also filed a separate set of comments addressing a chapter of the report on implementation of the Data Quality Act.

Other public interest groups filing comments include the Center for Progressive Reform and Public Citizen.

Costs of Work-Related Harms Underestimated but Soaring

Even as the cost of serious workplace injury continues to soar, new research concludes that those costs are significantly underestimated.

A recent report by insurance company Liberty Mutual revealed that the cost of serious workplace injuries has skyrocketed in recent years. After adjusting for inflation in both health care costs and wages, Liberty Mutual calculated that the cost of serious workplace injuries increased by 12.1 percent between 1998 and 2002, with over half of that increase occurring in 2002.

In fact, the costs have soared while the number of serious injuries has actually dropped in those four years. Thus, even if there are fewer serious injuries in the workplace, they are costlier than ever.

The problems of work-related injury and illness may well be greater than the Liberty Mutual data suggest. According to a new literature review in the June issue of the *Journal of Occupational and Environmental Medicine*, data on the incidence and cost of occupational illness and injury are significantly underestimated because of data gaps and systematic methodological flaws in research on the burden of workplace harm. These limitations include the following:

Making the Link with Workplace Conditions

Because many workplace illness and injuries are either not reported as work-related or not reported at all, their actual incidence rate is likely underestimated.

- Occupational disease and injury have long been recognized to be underreported.
- Many primary care providers are untrained in occupational health and, thus, may not recognize a disease as work-related.
- The U.S. lacks a comprehensive occupational health data collection system. What we know about occupational health comes from "piecemeal data sets produced by systems not designed for surveillance. These systems filter out work-related health problems at each step," according to the report.
- Diseases often have many possible causes. Workplace-related etiology may be neglected entirely in many cases.
- For illnesses with multiple potential causes, some researchers assess the attributable risk (AR), counting only a fraction of disease incidence based on workplace exposure risk. (AR is the percentage of disease incidence that would be eliminated if the workplace risk disappeared.) "The standard definitions of attributable fraction of disease, resulting from an exposure, capture only excess cases and not all cases that are etiologically linked by the exposures in question," according to the report.
- The limited time horizon of some AR methods can also miss cases with earlier or later onsets than assumed by the time frame of the study.
- Job turnover can also limit studies of the burden of occupational illness and injury. Some more recent studies of occupational carcinogens and respirable particulates such as silica and asbestos are now beginning to account for turnover.

Getting a Good Count

Some methodological flaws constrain efforts to assess the bigger picture of workplace-related illness and injury.

- Some researchers measure the burden of occupational injury and disease through disability-

adjusted life years, or DALYs. DALYs, like the much maligned quality-adjusted life years (QALYs) measure, are an attempt to count cases of occupational health problems in common units and in terms of time affected. If 0 is death and 1 is one year of perfect health, a DALY would take one year spent in some disabled condition as a fraction between 0 and 1. Moreover, the cases themselves are not counted as whole entities but, instead, as units of time in the disabling condition. The disabled health state fraction is multiplied by the number of years afflicted. "The definition of DALYs combines information on morbidity and mortality with value choices such as disability weighting, age weighting, and discounting. These value choices may lead to an inaccurate portrayal of the true burden of occupational disease and injury because of differential valuation of effects on young workers and failure to account for long-term effects in older workers and retirees," the study maintains.

- It can also be challenging to get a birds-eye view of population patterns for occupational health, in part because the burden of work-related injury and illness is not distributed evenly among the population. According to the report, some occupations are riskier than others: "For example, although healthcare workers globally are 0.6% of the population, they experience an appreciable proportion of disease from bloodborne pathogens acquired through 'sharps' contacts."

Calculating the Cost

Measuring the economic costs also results in underestimates of the burden of occupational illness and injury. Given that agency cost-benefit analyses for potential regulations sometimes use cost of illness estimates to put a cash value on the future benefits of regulation, these limitations could have significant policy consequences. Among the deficiencies are the following:

- According to an earlier literature review, "most studies tended to underestimate the true economic costs from a social welfare perspective, particularly in how they accounted for occupational fatalities and losses arising from work disabilities. Many of the estimates of costs of occupational disease and injury depend on a combination of methodolgic assumptions, extrapolation methods, and known and unknown biases."
- Most cost estimates ignore the wider social consequences of one person's injury for "labor relations, family dynamics, domestic activities, community involvement, and personal mental health."

The article concludes with recommendations for occupational health advocates to improve the evidence supporting their calls for workplace health and safety protections, including heightened surveillance and further epidemiological study. Given that this administration, which is already averse to workplace health and safety protections, demands a cost-benefit justification for new health and safety rules, these data limitations may make strong new safeguards even less likely.

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