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Representing America's Finest

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2-Year Delay of Cadillac Tax Passed in Short-Term Spending Bill; Federal Government Shuts Down Over Dreamers

On January 18, the House passed a short term continuing resolution to fund the government through February 16. Also included in that spending bill was a two-year delay of the 40 percent excise tax on employer-sponsored health plans, or “Cadillac Tax”, and a six-year reauthorization of the Children’s Health Insurance Program (CHIP). The two-year delay will push the implementation date of the “Cadillac Tax” to January 1, 2022.

Employers and health plans have already started the long benefits planning period to make changes to their health insurance plans that will affect the health coverage and affordability of those plans for employees in 2020. A two-year delay of the tax is vital to ensuring that those changes do not become permanent benefit losses for public safety officers across the country. NAPO has been working to repeal or delay the tax and we consider it a victory for our members that it was included in the must-pass spending bill.

When it was the Senate’s turn to take up the continuing resolution, Democrats filibustered the bill over the lack of an agreement on what to do with Dreamers – children who were brought into this country as illegal immigrants. While both Republicans and Democrats want to address the issue of Dreamers and ensure those children and young adults maintain their protected immigration status, there is no agreement on how to do it and what other immigration enforcement and border security measures will be included in such a deal. Due to the filibuster, Congress did not pass the spending bill and fund the federal government before the January 19 deadline and consequently the federal government shut down except for essential employees.

On January 22 – the final and third day of the federal government shutdown – Democrats agreed to support an even shorter spending measure, which would keep the federal government open until February 8, after Republican Senate leadership committed to immediately consider immigration legislation on the floor if no immigration agreement is reached by the February 8 deadline.

The Senate only amended the spending measure approved by the House to include the new end date of February 8, so we have won a two-year delay of the Cadillac Tax. This gives NAPO and our members breathing room to work on either a longer-term delay or full repeal of the tax before changes to plan benefits must seriously be considered.

During a federal government shutdown, federal law enforcement are considered essential employees so task force work and investigations continue. Within the Department of Justice (DOJ), the Bureau of Justice Assistance, the Office of Justice Programs and the Office of Community Oriented Policing Services (COPS) close during a shut

down, so those departments and agencies with grants through those offices and bureaus are not able to reach staff regarding grant programs. The Asset Forfeiture Program is also shut down, and the Public Safety Officer's Benefits (PSOB) Office is closed and will not be processing cases until the government reopens. For the sakes of police departments, their officers and families, NAPO is glad the shutdown only lasted three days.

Additionally, the back-to-back short-term spending measures to fund the government also impact state and local law enforcement as it delays federal grants for Fiscal 2018. Departments hoping to get funding for hiring officers or purchasing bulletproof vests will have to wait until Congress passes a long-term spending bill for the remainder of the fiscal year. It is most likely that grant funding will not be announced until the August or September.

NAPO will keep our members updated on the status of government funding as we approach the February 8 deadline.

NAPO Supports Reintroduction of National Public Safety Collective Bargaining Bill

With the U.S. Supreme Court agreeing to take up the *Janus v. AFSCME* case, and as part of our effort to increase employee protections for law enforcement officers, NAPO is supporting the reintroduction of our Public Safety Employer-Employee Cooperation Act, which would extend basic collective bargaining rights to state and local public safety officers. Congressmen Dan Kildee (D-MI) and John Duncan (R-TN) introduced the legislation (H.R. 4846) on January 19.

Janus v. AFSCME will potentially have a big impact on public sector unions and employee associations (including NAPO members) in those states which currently allow a "closed shop" collective bargaining unit. In *Janus*, an employee in Illinois, who works in a position in a bargaining unit covered by a collective bargaining agreement recognizing AFSCME as the proper representative of all employees in that unit, has challenged the right of the American Federation of State, County and Municipal Employees (AFSCME) to collect "fair share" payments from non-union members who still work within the bargaining unit. Such fees are common across the United States, and serve to help defray the costs which the union incurs in negotiating and administering a contract that covers all unit workers, including those who have chosen not to join the union itself. This practice has long been upheld by the courts, including the U.S. Supreme Court in a 1977 case known as *Abood*.

In the current *Janus* case, Mr. Janus is asking the Supreme Court to overturn its previous opinion in *Abood*, and declare all "fair share" fee arrangements unconstitutional under the First Amendment. If the Court agrees, and most observers think it will, "fair share" policies will be struck down all across the nation. The Court has now said that it will hear this case, and although an exact date for arguments has not yet been set, it will most likely be this fall or winter.

The Supreme Court overturning its opinion in *Abood* would be a huge victory for right-to-work proponents. While NAPO has several member organizations in right-to-work states such as Florida, Texas and Arizona that have been successful in maintaining and growing membership in such environments, NAPO has long believed all law enforcement officers should have the basic right to bargain collectively. It is for this reason that we are supporting the reintroduction of the Public Safety Employer-Employee Cooperation Act.

The Public Safety Employer-Employee Cooperation Act would:

- Give public safety officers the right to form and join a union or association of their own choosing, if they wish to;
- Give public safety officers the right to bargain over wages, hours, and working conditions;

- Provide for binding interest arbitration;
- Prohibit strikes and lockouts by public safety officers and agencies;
- Protect current state laws, certifications, and collective bargaining agreements; and
- Preserve legitimate management rights.

History shows that denying workers the right to bargain collectively causes poor morale, the waste of resources, unfair and inadequate working conditions, and low productivity. Ultimately, it is the public's safety and security that is jeopardized by such poor working conditions.

Further, as part of our efforts to increase employee protections for law enforcement, we continue to pursue the reintroduction of the Law Enforcement Officer's Procedural Bills of Rights. This bill would establish standards to guide law enforcement agencies in developing and operating a fair and effective investigative process. Individuals should have the right to file a complaint, to have the complaint investigated, and to be informed of its final disposition, including learning the outcome of the investigation and any resulting disciplinary action.

NAPO is working to protect the rights of our members with Congress, the Administration and the Supreme Court. If you have any questions about the bills mentioned above, please contact Andy Edmiston at aedmiston@napo.org. If you have any questions about *Janus v. AFSCME*, contact Bill Johnson at bjohnson@napo.org.

NAPO on the Hill: Law Enforcement Bill of Rights & Thin Blue Line

NAPO continues its meetings with members of Congress to discuss and build support for the reintroduction of the Law Enforcement Officers' Procedural Bill of Rights Act and last week we spoke again with staff of **Senator Patrick Toomey (R-PA)**, who is interested in supporting this legislation. This bill would establish standards to guide law enforcement agencies in developing and operating a fair and effective investigative process. Individuals should have the right to file a complaint, to have the complaint investigated, and to be informed of its final disposition, including learning the outcome of the investigation and any resulting disciplinary action.

Many of NAPO's members are facing attacks to their due process rights from activists who believe that the due process rights given to officers either through their collective bargaining agreements or their state's law enforcement officers' bill of rights creates a double standard and gives officers undue protections against criminal investigations. With the President and the Attorney General declaring that supporting state and local law enforcement is a top priority for the Administration, anti-cop activists are taking to the state and local level to wage a war against officer rights.

Throughout the country, many states lack coherent guidelines and procedures for law enforcement officers' due process rights. Sworn law enforcement officers are held to an extremely high standard of personal and professional conduct, due to the enormous responsibilities they exercise. However, many officers are denied the same basic due process rights that all other citizens enjoy. In approximately fifty percent of the states, officers enjoy some legal protections against false accusations and abusive conduct. Nevertheless, this leaves hundreds of thousands of officers with limited or no due process or who face limitations or retaliation when exercising these rights.

Taking away an officers' due process rights is not the way to improve police accountability and transparency. In fact, most officer bill of rights laws and provisions include guidelines and procedures for handling and investigating complaints, ensuring the department takes complaints against officers seriously and conducts a thorough inquiry. The Law Enforcement Officers' Procedural Bill of Rights Act would ensure that all states have

at least a minimum of standards and procedures in place to guide both state and local law enforcement agencies and law enforcement officers during internal investigations, administrative hearings, and evaluation of citizen complaints.

Senator Toomey has not been one to shy away from controversial legislation and is currently championing the NAPO-backed Thin Blue Line Act (S. 1085) to increase penalties for those who violently attack public safety officers. His staff is continuing to take a deeper dive into the issue to see if this could be another issue for the Senator to champion for us.

As for the Thin Blue Line Act, we are working with Senator Toomey to ensure that this bill moves and is voted on in the Senate. We are currently making a push for cosponsors as a show of support for the bill. The House passed this vital legislation in May 2017 and we cannot lose that momentum. It is a priority for NAPO to pass the Thin Blue Line Act this year and we will expend every effort to see it happen.

If you have any questions about NAPO's efforts to create a national Law Enforcement Officer Bill of Rights or the Thin Blue Line Act, please contact Andy Edmiston at aedmiston@napo.org.

Please monitor NAPO's website, www.napo.org, and Facebook page: National Association of Police Organizations, and follow us on Twitter at NAPOpolice for breaking news and updates.