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Representing America's Finest

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Democrats Move on Next COVID Aid Package

President Biden rolled out his Administration's COVID relief plan and stated that this is his top priority for his first 100 days. The \$1.9 trillion aid package, which the Administration is calling the "American Rescue Plan", is comprised of emergency measures to meet what they view as the nation's most-pressing health care and economic needs related to the pandemic.

President Biden's aid package includes \$350 billion in additional aid to state and local governments to help address budget and revenue shortfalls caused by the pandemic and to help with vaccine distribution. The package also includes additional \$1,400 tax rebate checks, \$400 of weekly federal unemployment insurance through September, \$440 billion for communities and small businesses, an additional \$30 billion for FEMA's Disaster Relief Fund for health care and first responder personal protective equipment and supplies, \$130 billion to help schools reopen safely, and \$20 billion to establish a universal vaccination program. It also includes a raise in the federal minimum wage to \$15/hour, which has many business groups, Republicans and a few moderate Democrats balking at the plan.

On February 8, the House started the process for budget reconciliation, a procedure which will allow for budget-related aspects of the COVID relief plan (a majority of it) to pass with a simple majority vote. This is important as it allows Democrats to avoid the filibuster in the Senate, which requires a 60-vote threshold. The Democrats' budget proposal was passed by both chambers on February 5 and House Committees immediately began the work of marking up the various sections of the bill, drafting the actual policies that will implement the President's "American Rescue Plan".

State and Local Aid

The House Committee on Oversight and Reform marked up the provisions related to state and local government aid, which would provide \$350 billion to state and local governments to help fill budget holes caused by the pandemic and assist in covering the continue costs of responding to the coronavirus. In the Committee report, it states that this direct funding would go towards saving "the jobs of essential public servants like... first responders during the coronavirus pandemic".

The largest portion of the direct aid - \$195.3 billion – would go to state governments, most of which (\$169 billion) will be distributed based on a state's share of total unemployed workers and the rest (\$25.5 billion) will be evenly divided among the states. \$130.2 billion will go directly to local governments and be evenly divided between cities and counties.

Paid Leave

The House Ways and Means Committee included in their portion of the reconciliation package an extension of the payroll tax credit for employers to provide additional COVID-related paid sick leave to their employees. The Families First Coronavirus Response Act, which mandated employers provide this paid leave but exempted emergency responders and health care workers from benefiting from this leave, expired on December 31, 2020. The Ways and Means Committee did not have enough support to renew the mandate in the reconciliation package, so they extended the tax credit to employers and amended it to include state and local governments so that first responders would be covered. Paid sick leave coverage for all employers would be voluntary and the hope is that the tax credit would be an incentive for employers to provide COVID-related paid sick leave for their employees.

As it is a payroll tax credit, state and local governments would recoup the FICA Social Security and Medicare taxes they pay for the qualified paid leave wages. This is not a perfect solution as those states that do not pay into Social Security would not benefit as much from the credit, but they would recoup some of the costs of providing additional leave. The tax credit would begin with amounts paid after March 31, 2021 and end on September 30, 2021.

The overall cost of the package and the \$15 minimum wage remain sticking points for most Republicans and even a few moderate Democrats. There is still a chance the package will change before it hits the House floor and again when the Senate considers it. While Speaker Pelosi is confident she has the votes in the House with both measures included in the package, the Senate is a different story. Senators Kristen Sinema (D-AZ) and Joe Manchin (D-WV) have already come out against including the increase in federal minimum wage.

The House is expected to take up and pass the reconciliation package by the end of February by a largely party-line vote. The Senate will then take it up for debate and a vote. Majority Leader Schumer will need every Senate Democrat voting yes to get this bill over the finish line. If no Republicans cross the line, Vice President Kamala Harris would be the deciding vote. Democrats and the Administration are aiming to pass this COVID aid package by March 14 when the enhanced federal unemployment insurance ends.

Outside of the “American Rescue Plan”, President Biden plans to pay back states and localities for some of the COVID-related costs that qualify for FEMA reimbursement, including PPE. While not a significant amount, it will provide some monetary relief to state and local budgets without having to go through Congress.

House Scheduled to Vote on George Floyd Justice in Policing Act

On February 16, House Majority Leader Steny Hoyer (D-MD) announced the House’s floor schedule through the middle of March. During the week of March 1, the House is slated to vote on the George Floyd Justice in Policing Act – the exact same bill the House passed on June 25, 2020 – under a closed rule, meaning no amendments are allowed unless they unanimously supported. NAPO is disappointed that House Democrats are moving forward with a vote on this bill without even a conversation about our significant concerns with it. NAPO has indicated that we want to be part of the discussion around the overhaul of the law enforcement profession and we stand ready to work with all parties to achieve this goal. However, there has been no outreach over the past eight months since the bill initially passed the House. It seems as if this is a political move to check off a box rather than an honest attempt to develop policies to change policing practices for the better in this country.

NAPO supports improving policing practices, particularly regarding ensuring greater transparency, accountability, and training in law enforcement. We have not stood by and opposed any and all efforts to make policing better. We worked closely with Senator Tim Scott (R-SC) on the JUSTICE Act, which addresses many of the same issues as the George Floyd Justice in Policing Act. The biggest difference is that in the drafting of the JUSTICE Act, the law enforcement community was included at the table. The JUSTICE Act largely takes into account our concerns around ensuring officer due process, protecting qualified immunity for officers, supporting the [National Consensus Policy on Use of Force](#) which NAPO helped author, and guarding officer privacy and confidentiality rights.

NAPO also worked closely with the Trump Administration on the President's Executive Order on Safe Policing for Safe Communities and the subsequent guidelines issued by Attorney General Barr to implement the Executive Order. The guidelines require agencies to be certified and to have strict policies in place governing the use of force, including the use of choke holds, de-escalation, duty to intervene, and no-knock warrants, amongst others. These policies would help us move forward with improving our relationship with our communities and enhance their trust in our profession.

Those efforts on the JUSTICE Act and President Trump's Executive Order mean nothing if Democrats continue to ignore the needs and concerns of the law enforcement community in developing and implementing police reform. NAPO will continue to oppose the George Floyd Justice in Policing Act until our issues are addressed.

The most concerning aspects of the George Floyd Justice in Policing Act are the practical elimination of qualified immunity, the change of the *Graham v Connor* legal standard of "objective reasonableness" for the use of force to "only when necessary", and the clear disdain for officer due process, which runs throughout the bill. These provisions are incredibly concerning taken together as they remove any legal protections for officers while making it easier to prosecute them for mistakes on the job, not just criminal acts.

While there are a few of the areas in the legislation where we have strong opposition, there are others where we agree on the intention and goal. It is by gaining the buy-in of the law enforcement community that any reforms will enjoy greater implementation and execution by agencies across the country.

NAPO is making our disappointment with this move by House Democrats to vote on an unchanged George Floyd Justice in Policing Act and our continued opposition to the bill known to House Leadership and members of Congress.

NAPO on the Hill: Senate Law Enforcement Caucus

NAPO spoke with the staff of Senator Roy Blunt (R-MO), co-chair of the Senate Law Enforcement Caucus, to discuss our priority issues and legislation for the first session of the 117th Congress. We discussed the need for legislation to enhance officer safety by increasing penalties for the murder, attempted murder, or assault of federal, state, and local law enforcement officers, the Protecting America's First Responders Act, the need to limit the scope and timeframe of consent decrees, and COVID relief.

Increased penalties for the murder, attempted murder, or assault of a federal, state or local law enforcement officer because of their status as a public safety officer will deter such crimes and bring greater protections to officers and the communities they serve. NAPO is backing two bills that would

provide increased penalties for such violent crimes against officers – the **Back the Blue Act** and the **Protect and Serve Act**.

Protecting America’s First Responders Act. This bill would make it easier for public safety officers disabled in the line of duty to qualify for the Public Safety Officer’s Benefits (PSOB) Program’s disability benefits. It would also ensure that beneficiaries receive the highest award amount possible and it will make certain that all children of public safety officers disabled or killed in the line of duty are able to benefit from the Public Safety Officers’ Education Assistance program.

Limiting the scope and duration of federal consent decrees. The Biden Administration is expected to use consent decrees to a much higher degree than the Trump Administration. NAPO believes the Department of Justice should provide state and local governmental entities an adequate opportunity to respond to any allegations of legal violations; require special caution before using a consent decree to resolve disputes with state or local governmental entities; limit the circumstances in which a consent decree may be appropriate; and limit the terms for consent decrees with state and local governmental entities, including terms requiring the use of monitors. The Senator’s staff agreed that we must support protecting the interests of state and local governments in managing their own affairs when pattern and practice investigations and consent decrees are concerned.

Finally, we discussed NAPO’s priorities for the reconciliation package that is making its way through the House: direct aid to state and local governments to offset budget holes created by the coronavirus pandemic and the payroll tax credit for employers who provide additional paid sick leave to their employees. The direct aid to states and localities will help stave off the furlough and layoffs of law enforcement officers and ensure law enforcement agencies are able to continue to serve and protect their communities. The tax credit for COVID-related paid sick leave will protect officers’ hard earned paid time off, which many have been unfairly forced to use to quarantine due to exposure to COVID-19 in the line of duty.

Senator Blunt’s staff expressed support for our criminal justice priorities and thanked us for making them aware of our support for those provisions within the reconciliation package. We look forward to working with them to move these priorities forward. NAPO will continue meeting with members of the House and Senate to gain support for our priority legislation.

NAPO on the Hill: HELPS Retirees Fix

NAPO, together with our public safety pension partners, is working on having legislation introduced that would enhance and address issues with the HELPS Retirees provision of the Pension Protection Act. This provision provides public safety officers, who often retire earlier than other occupations because of the physical demands and unique job hazards they face, with means to more affordable healthcare options. This is important as many law enforcement retirees lose their employer-provided health insurance and are years away from being Medicare-eligible, forcing them to spend their retirement money on health insurance premiums.

Since the enactment of the HELPS Retirees provision in 2006, health care costs have gone up dramatically and the \$3,000 per year permitted under the provision is no longer adequate to cover even half a year’s worth of health insurance premiums. In this legislation, the amount public safety retirees can take out of their pensions tax free to pay for health or long-term care insurance premiums would increase from \$3,000

per year to \$6,000 per year and it would be indexed to inflation to ensure the benefit keeps up with the rising costs of healthcare.

To qualify for the HELPS Retirees provision, a public safety officer must have attained normal retirement age or retired due to a disability and has insurance premiums deducted from their retirement benefit. The money must go directly from the pension fund to the health or insurance company in order to get the tax-free benefit. Unfortunately, due to the administrative burden of this direct payment requirement, many public pension plans, particularly small plans, have not implemented this important provision. For retirees to benefit from HELPS, the pension plan must pay the money directly to the insurer – it does not go to the retiree. In states and localities that do not provide retiree healthcare that can mean hundreds of different insurance plans that must be tracked. To address this issue, the bill NAPO is proposing would repeal the direct payment requirement, making it easier for public pension plans to implement the HELPS Retirees provision.

NAPO believes this legislation would help preserve the retirement security and the health of those public servants who selflessly serve and protect our communities.

Merrick Garland Confirmation Hearing Set

Senate Judiciary Committee Chair Richard Durbin (D-IL) announced that the Committee will hold Merrick Garland's confirmation hearing to be United States Attorney General on February 22 and 23 with a vote to confirm him slated for March 1.

Judge Garland was nominated to the U.S. Supreme Court in 2016 by President Obama to replace the late Justice Antonin Scalia, but the Senate, controlled by Republicans, never took up his nomination. He is currently serving as a judge on the D.C. Circuit Court of Appeals. While Judge Garland is considered a relatively moderate pick for Biden, the President has nominated more progressive candidates to serve under him in the Department of Justice (DOJ). It is expected that Judge Garland will have strong bipartisan support in the Senate for his confirmation.

Law Enforcement Officers Equity Act Reintroduced

Representative Bill Pascrell, Jr. (D-NJ) reintroduced the NAPO-supported Law Enforcement Officers Equity Act. This bill would expand the definition of "law enforcement officer" for retirement purposes to include certain Federal law enforcement officers, who, despite their classification as GS-0083 police officers, are not granted the same retirement benefits as other law enforcement officers in that class. These officers face the same risks and challenges as the law enforcement personnel currently classified as law enforcement officers.

The Law Enforcement Officers Equity Act is important because it ensures that all federal law enforcement officers are treated equally regarding retirement benefits. It will also improve the ability of agencies to recruit and retain experienced officers. This bill will ensure that officers across the country receive the benefits that they have earned. NAPO thanks Representative Pascrell for his key role with this important legislation.

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