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White House releases plans for improving energy efficiency in public schools, opportunity for NAED members

Earlier in the week, the White House introduced an infrastructure plan for public schools that provides a new selling opportunity for electrical distributors. The plan entails using funds granted by last year's bipartisan infrastructure law (also known as IIJA) to make energy efficiency upgrades including lighting and power systems. While the commercial building sector has relied on tax incentives such as the Commercial Building Energy Efficiency Tax Deduction (Section 179D), public buildings have had no way to directly benefit from these incentives. The funding for energy efficiency upgrades is another opportunity for distributors to sell commercial equipment to schools and promote better energy efficiency.

Tens of billions of dollars were invested in k-12 public schools for facility improvements through a multitude of bills since the Coronavirus pandemic, however none of them focuses specifically on energy efficiency. According to the Department of Energy, off-the-shelf energy improvements, including new lighting systems, can reduce school energy use by 10-30 percent.

The bipartisan Infrastructure Investment and Jobs Act (IIJA), provides \$500 million in grants to public school facilities. The bill specifies the term "energy improvement" as the following:

- any improvement, repair, or renovation to a school that results in a direct reduction in school energy costs, including improvements to the envelope, air conditioning system, ventilation system, heating system, domestic hot water heating system, compressed air system, distribution system, lighting system, power system, and controls of a building
- any improvement, repair, or renovation to, or installation in, a school that leads to an improvement in teacher and student health, including indoor air quality; and achieves energy savings
- any improvement, repair, or renovation to a school involving the installation of renewable energy technologies

The Department of Energy (DOE) and Office of Energy Efficiency and Renewable Energy (EERE) formally started their Request for Information (RIF) process to follow through on the IIJA grant program. This is a good opportunity for wholesaler-distributors to work with their contractor customers to proactively reach out to local school districts.

NAED Joins Trade Associations Supporting Sen. Scott's Employee Rights Act to Counter Union Overreach PRO Act

NAED and 26 other trade associations sent a letter supporting Senator Tim Scott's (R-SC) Employee Rights Act (ERA). This legislation protects workers from union overreach including intimidation by organizers. Democrats have been pushing for passage of the Protecting the Right to Organize Act (PRO Act) which would codify several harmful decisions by National Labor Relations Board (NLRB) and expand union ability to unfairly influence workers during union organizing efforts. ERA protects workers by codifying the following:

- **Secret Ballot Elections.** The ERA will ensure that any vote to organize a workplace or hold a strike is done via private ballot. Today, unions can bypass private votes in favor of a public "card check" election – a means by which unions organize by collecting signatures or "cards." Without a private ballot, workers can be subject to harassment or intimidation to sign a card authorizing the union to represent them.
- **Criminalized Union Threats.** The ERA has provisions to federally prohibit and criminalize coercion or threats by union officials while establishing privacy protections for employees to limit calls and other election activities outside the workplace.
- **Political Protection.** Many workers join a union in hopes that their dues will help improve their workplace. But hundreds of millions of dollars in union dues are spent each year supporting political candidates and causes, rather than collective bargaining issues. The ERA would require workers to consent to their union dues being used for anything other than collective bargaining efforts.
- **Union Decertification.** Under this provision, evidence of a union's actual loss of majority support, if received by an employer within 90 days prior to contract expiration, conclusively rebuts a union's presumptive continuing majority status when the contract expires.
- **Gig Worker Benefits.** The ERA also includes the Modern Worker Empowerment Act, a subsection that updates the law to keep the definition of an "employee" in line with the common-law definition used by numerous state statutes and in recent Supreme Court rulings.
- **Protection for Local Businesses.** The ERA includes the Save Local Business Act, which clarifies the joint employer standard to provide clarity and certainty for small business owners and workers.
- **NLRB and NLRA Reform.** The Employee Rights Acts includes many other structural reforms to address issues that have long been ignored by our unchanging labor code.

NAED fully supports protecting workers from union intimidation and unfair organizing practices. We will continue to update you as either the ERA or PRO Act move forward.

DOL to bring back overtime rule settled during Trump Administration

The Department of Labor (DOL) has put the overtime rule on their regulatory agenda for 2022. There was a flurry of activity on the overtime rule at the end of the Obama Administration and beginning of the Trump Administration. NAED believed the rule to be settled but with the appearance of the rule on the agenda a coalition of trade associations has formed to stop DOL from putting effort into restarting the rulemaking process.

During the Obama Administration, the Department issued a rule that would make non-exempt employees earning less than \$47,476 per year in salary eligible for overtime pay. This rule was challenged by the business community and many states, and the rule was invalidated by the courts in 2017. The Trump Administration then updated the overtime threshold to \$35,568 in salaried wages per year. We expect the Biden DOL to seek an increase similar to the Obama era rule.

In [this letter](#) by 110 trade associations, NAED and the rest of the coalition urged, "DOL to follow past precedents and hold meetings with the regulated community to obtain input on the potential impact of any changes to the overtime exemption requirements." The letter further states, "The labor markets today are very different than when both the Trump and Obama administrations updated the regulations. In development of an appropriate proposed rule, DOL

would benefit from stakeholder insights into the current economic environment and the practical implications certain policies could have on the economy, workers, and the employer community.”

DOL recently announced five regional listening sessions to hear from business owners on the topic. NAED participated in a trade association focused listening session in March. NAED members that wish to provide feedback directly to DOL can find the dates of the future listening sessions [here](#).

For more information:

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