



# CONCRETE CAPITOL CONNECTION

## UPDATES ON LEGISLATION, REGULATION AND CASE LAW - March 2010

Dear Member:

Senate, House Pass Jobs Bill, Extenders; Both Gridlocked. On February 24<sup>th</sup>, the U.S. Senate passed the *Hiring Incentives to Restore Employment Act* (H.R. 2847), by a vote of 70-28. Specifically, the *H.I.R.E. Act* would extend the current highway program through December 31<sup>st</sup>, 2010, transfer \$19.5 billion to the Highway Trust Fund, and restore last year's rescinded \$8.7 billion. It also includes Build America Bonds, and section 179 expensing to allow small businesses to write off more expenditures. Lastly, the bill contains an exemption for businesses from social security payroll taxes for workers hired in 2010, and an additional \$1,000 income tax credit for new employees retained for 52 weeks to be taken on the employer's 2011 tax return. On February 25<sup>th</sup>, the House passed the *Temporary Extension Act* (H.R. 4691) which, in part, also includes an extension of the current highway bill; but only through March 28<sup>th</sup>. Due to Senator Jim Bunning (R-KY) filibustering H.R. 4691 and subsequently neither chamber passing a transportation extension because of pay/go rules, as of midnight on March 2<sup>nd</sup> the U.S. Department of Transportation will suspend contributions to states and furlough more than 2,000 workers. It is unclear how long this stalemate will last; however both chambers are scheduled to take up the bills on March 2<sup>nd</sup> despite the political pandering.

Obama Holds Health Care Reform Summit. On February 25<sup>th</sup>, President Obama held a bipartisan, bicameral health care summit, including 21 democrats and 17 republicans. The summit, thought to be a key first step toward bipartisanship and to hatch out the two parties' differences over health care reform, didn't pan out. Before the summit even began, republicans were crying foul after President Obama posted online a White House drafted health care reform measure made up of portions of both the House and Senate bills (H.R. 3962 and H.R. 3590 respectively), which republicans have openly and continuously rejected. Unfortunately, the only thing that came from the summit was renewed talk among democrats of using the politically-charged, budget process known as reconciliation, to pass a health care measure.

Proposed Fly Ash Rule Delayed Again. On February 18<sup>th</sup>, the Environmental Protection Agency (EPA) announced, on a new EPA transparency website, the second postponement of its anticipated proposed rulemaking to designate fly ash as a hazardous waste. Originally scheduled to be published before the end of 2009, EPA postponed it due to opposition from fly ash stakeholders and because of the "complexity of the analysis the agency [was] currently finishing." The new due date for the rule is April 2010. NRMCA maintains that any hazardous waste classification poses significant negative implications for the ready mixed concrete industry. The larger implications could include: a negative stigma associated with concrete and concrete that contains fly ash, and certain markets and specifiers could disallow or not be able to use fly ash in concrete mixes.

EPA Pumps Brakes On Greenhouse Gas Rule. On February 22<sup>nd</sup>, Environmental Protection Agency (EPA) administrator, Lisa Jackson, responded to a letter from several coal-state democratic Senators who requested a clearer time frame on EPA regulation of greenhouse gas (GHG) emissions. Jackson assured them EPA will not regulate GHG emissions in calendar year 2010; but, EPA will start issuing emitting permits between 2011 and mid-2013 to major emitters. Jackson clarified, stating permits for smaller emitters won't be phased in until at least 2016, and the GHG threshold limit used to regulate primary emitters will be higher than the proposed 25,000 tons per year. During testimony before the Senate Environment and Public Works Committee on February 23<sup>rd</sup>, Jackson was questioned about the agency's intentions and whether EPA should proceed despite inquiries into some of the science used in determining the link between GHGs and climate change. Complicating the matter further, Senator Lisa Murkowski (R-AK) is whipping votes for a bill she authored aimed at stripping the EPA of any authority to regulate GHG emissions. On a similar front, Senator John (Jay) Rockefeller (D-WV) is drafting a bill which would temporarily halt EPA's actions to give Congress more time to enact climate change legislation. Despite EPA's actions or pending legislation, one thing is clear, the issue is still very fluid.

Sincerely,

*NRMCA Government Affairs*

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### Event reminder:



Don't forget to register for the 2010 NRMCA Annual Convention being held in Austin, TX, March 14<sup>th</sup>-16<sup>th</sup>. Please visit [www.nrmca.org/AnnualConvention/index.asp](http://www.nrmca.org/AnnualConvention/index.asp) for more information.



Also, remember to mark your calendar for the 2010 Transportation Construction Coalition (TCC) Fly-In, here in Washington D.C., at the Hyatt Regency, May 25<sup>th</sup>-26<sup>th</sup>.