Dear Member:

**Federal Budget is Top Priority When Congress Returns After Labor Day:** Congress has until September 30 to pass the FY2017 budget before the current funding expires. Since passing all twelve appropriations bills are no longer a viable option, Congress must decide how long to extend a Continuing Resolution (CR). In the past two fiscal years, Congress has extended both CRs until December 11 of each year. However, there will be a lame duck session at the end of this year and some Republicans are pushing for a CR that extends past the lame duck and into March 2017. Others are pushing for a three month CR followed by an omnibus package for FY2017 funding.

**Jet Fuel Taxes Wrongly Transferred to Highway Trust Fund:** On August 8, the Government Accountability Office (GAO) released a study on the incorrect transfer of fuel taxes to the Highway Trust Fund (HTF) instead of the Airport and Airway Trust Fund (AATF). After the passage of the highway bill in 2005, a provision contained in the bill made jet fuel and diesel fuel taxes equal in order to deter diesel fuel fraud. The tax rate was set for $0.244 per gallon for diesel and jet fuel, but for noncommercial jet fuel it was $0.219 per gallon. The noncommercial jet vendors could claim the refund of $0.025 per gallon, which would trigger the transfer of the taxes from the HTF to the AATF. Since only a small portion of refunds were claimed, between $1 billion and $2 billion in taxes have instead been diverted to the HTF for over a decade. The funds in the AATF are used for airport maintenance and infrastructure improvements on runways and terminals. The GAO did not make any recommendations, but the National Air Transportation Association is asking Congress to repeal the provision that transfers noncommercial jet fuel taxes into the HTF.

**Petition to Rescind 30 Minute Break Denied:** On August 18, the Federal Motor Carrier Safety Administration (FMCSA) denied the petition from the Commercial Vehicle Safety Alliance (CVSA) to rescind the 30 minute break requirement. In November, CVSA filed the petition reiterating their concerns about the enforceability of the break requirement and that an inspector does not have the ability to know if the driver has taken the proper rest period or not. In the denial, FMCSA stated that there are no studies or evidence from roadside data taken during 2013 and 2015 correlating a negative safety benefit to the 30-minute break provision. NRMCA successfully lobbied to have the 30 minute break exemption issued by FMCSA in 2015 made permanent in the FAST Act for ready mixed concrete truck drivers.

**Lawsuit Filed Against DOL Persuader Rule:** On August 19, the Department of Labor (DOL) filed a brief in response to the lawsuit from several business groups in Arkansas on the persuader rule. The plaintiffs made their case stating that the final rule infringes on attorney-client privilege. In the brief, the DOL stated that “the rule does not require disclosure of attorney-client privileged information and even if such conflict existed, the statutory requirements of the Labor Management Reporting and Disclosure Act would prevail.” In June, a Texas judge issued a nationwide injunction for the persuader rule which requires employers to disclose when they seek legal advice before an employee union election or campaign. The injunction prohibits the DOL from implementing the rule until the legal challenge from business groups is settled. The DOL appealed this ruling on August 26.

**GOP Accuses NLRB of Putting Labor Before Small Businesses:** On August 9, Republicans on the House Education and Workforce Committee accused federal regulators of putting the interests of labor before small businesses, citing the National Labor Relations Board (NLRB) decision in the Browning-Ferris case on the joint employer standard. Republicans argue that labor unions have much to gain from this ruling and the massive increase in organizing strength for campaigns is proof. Numerous groups including the Coalition for a Democratic Workplace, of which NRMCA is a member, have filed suit against the joint employer ruling, but have not had success thus far. The board ruled in the Browning-Ferris case that a company is responsible for labor violations that its subcontractor commits. The new standard for joint-employer now considers a company that has direct or indirect control of the workforce responsible for labor violations of those workers. The standard also states that a company could be deemed a joint employer if it has the potential to have direct control of the workforce.

**White House Highlights Disaster Resilience and Mitigation:** On August 3, the White House hosted a forum on Smart Finance for Disaster Resilience to bring to light disaster mitigation and resilience innovation with financing for state and local communities. The White House included stronger building codes, retrofitting houses to be resilient and restoring floodplains as ways to pre-mitigate for disasters. A congressionally mandated study has proven that investing in disaster mitigation prior to a disaster provides a huge cost savings to the federal government, while protecting property and saving lives. The forum highlighted new innovative financing mechanisms such as tax credits, insurance rebates and premium reductions, resilience bonds and others that will reduce the cost of disasters through mitigation and resilient construction. NRMCA is working to pass H.R. 3397, the Disaster Savings and Resilient Construction Act of 2015, which provides a tax credit to homeowners and building owners who rebuild post federally declared disaster using FORTIFIED® Program standards.

Sincerely,

**CONCRETE CAPITOL CONNECTION**

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**NRMCA Government Affairs**

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