

# ExecutiveMemo

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A newsletter of the Illinois Manufacturers' Association

February 18, 2009

## BRIEFLY

### Baise to speak to VIA

IMA President Greg Baise will speak about Card Check legislation at the Valley Industrial Association's Annual Luncheon on February 26 in Batavia. For reservations, visit <http://www.valleyindustrialassociation.org>.

### Business.gov has a new look

#### Find government resources more quickly

In direct response to user feedback [www.business.gov](http://www.business.gov) has a new look and features. Now, you can get to the most relevant government resources and information even faster than before . . . and get back to running your business.

What's New? Find information more quickly by accessing resources organized by business stages (starting, expanding, operating, etc.) with a focus on compliance and government programs for each stage.

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## 'Card Check' battle heats up

The looming debate in Congress concerning draconian changes to labor laws is reaching a boiling point and both sides are predicting a long, pitched battle.

The Employee Free Choice Act (EFCA) would radically transform the process by which a union organizes employees and make it much easier for a union to be established in a workplace. This legislation would eliminate the right to privacy in union elections and replace it with acceptance of a signed card (card check) as enough to form a union — a move that

would undermine a fundamental principle of democracy, the right to a private ballot.

Recently, the Chicago City Council passed a resolution by a wide margin supporting card check despite that city's struggling economy. And large labor unions are reportedly gearing up for a multi-million dollar campaign to promote the passage of the entire EFCA initiative. The initiative would also mandate government arbitration when employees first choose to unionize and allow unions to target sub-

See **CARD CHECK**, page 2

## Manufactured goods deficit fell \$60 billion in 2008

### NAM notes surplus with free trade partners

The trade figures for 2008 released February 11th by the U.S. Department of Commerce showed the United States manufactured goods trade deficit fell from \$499 billion to \$439 billion, a \$60 billion drop, and the U.S. recorded a trade surplus with its free trade partners.

"The improvement in manufactured goods was larger than the \$25 billion improvement in the services balance and the \$18 billion improvement in the agricultural balance combined," said Frank Vargo, NAM Vice President for International Economic Affairs. "The overall deficit declined only marginally, from \$700 billion in 2007 to \$677 billion in 2008, because of the cost of energy imports."

Manufactured goods exports rose seven percent in 2008, to \$1.05 trillion, while imports rose less than one percent, to \$1.49 trillion. "The brightest part of the U.S. trade picture was with our free trade partners, where U.S. manufactured goods trade moved into a surplus," Vargo said. "For the full year of 2008, trade with all U.S. free trade partners as a group was in surplus by \$17 billion. This reality is in

sharp contrast to the popular view that U.S. trade agreements are the principal reason for the U.S. trade deficit. Rather, these data confirm that free trade agreements are in our national interest."

Vargo noted that the trade picture looked a lot different at the end of the year than it did in earlier months. "U.S. manufactured goods exports boomed through August, with blistering double-digit rates of growth," he said. "However, the boom came to an end in September and since then exports have declined rapidly. December 2008 exports of manufactured goods were 10 percent smaller than December 2007."

The Commerce report showed that imports of manufactured goods grew slowly through most of the year. "This trend reflected the more competitive dollar and slowing demand for consumer goods in the United States," Vargo said. "However, like exports, imports plunged toward the end of the year as the decline in U.S. economic growth accelerated. December imports of manufactured goods were nine percent smaller than in December 2007."

## IMA'S EXECUTIVE MEMO IS UNDERWRITTEN BY:

plante  
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Manufacturing Expertise from  
One of the Midwest's Leading  
Accounting and Consulting Firms

divisions of a company to organize.

The IMA and other Midwestern business organizations have joined forces and are pooling their resources to complement national efforts to fight the passage of the EFCOA. They are working through the Economic Freedom Alliance ([www.economicfreedomalliance.org](http://www.economicfreedomalliance.org)) and have already started running radio ads in Chicago to educate voters about the problem.

Watch for more news on this ongoing battle as the coming weeks unfold.

**Learn more about the "card check" fight at one of the following meetings:**

**February 25, 2009, 8:30-10:30 AM  
Hotel Baker**

100 W. Main Street  
St. Charles, IL

Presenter: Jeffrey Risch, Senior Attorney & Shareholder, Wessels Sherman

**March 3, 2009, 8:30-10:30 AM  
Joliet Junior College —**

**Renaissance Center**  
214 N. Ottawa Street  
Joliet, IL

Presenter: James Spizzo, Vedder Price

**March 10, 2009, 8:00-10:00 AM  
Marriott — Schaumburg**

50 N. Martingale Rd.  
Schaumburg, IL

Presenter: James Spizzo, Vedder Price

**To register, visit**

[https://www.ima-net.org/cardcheck\\_meets.cfm](https://www.ima-net.org/cardcheck_meets.cfm)

## Governor Pat Quinn orders cost-saving plan

Governor Pat Quinn announced a series of cost-saving measures aimed at easing Illinois' current budget crisis. The changes go into effect immediately at state agencies and apply to the state's Fiscal 2009 budget.

"Quick and decisive action is needed to address Illinois' unprecedented budgetary crisis," said Governor Quinn. "Better financial management and increased belt-tightening are necessary as we begin to deal with this serious problem."

Governor Quinn's cost-saving plan for Fiscal 2009 includes:

- Reduce spending — Spending will be cut by an additional one percent. This reduction is in addition to a previous three percent reduction for Fiscal 2009, ending

## NEW Family & Medical Leave Act Regulations: A Closer Look Tuesday • February 24 — NIU • Naperville

The Department of Labor has made many significant revisions to the Family and Medical Leave Act that went into effect January 16, 2009 including the new regulations regarding leave for family members in the military. To help employers familiarize themselves with these changes, the IMA and member law firm Neal, Gerber & Eisenberg will offer a half-day seminar taking a closer look into the regulations, examining their impact on your business operations and providing employers with "best practices." Bring your specific questions as there will be a 30 minute question & answer session following the presentation.

**Northern Illinois University–Naperville Campus — 8:30 a.m.–12:30 p.m. — Feb. 24**  
**Fee: \$125 IMA members; \$100 each add'l member attendee from same company; \$200 non-member**

**Register NOW for this important and informative seminar at:**



[www.ima-net.org/fmla\\_seminar.cfm](http://www.ima-net.org/fmla_seminar.cfm)

Questions? Contact Kimberly McNamara at

[kmcnamara@ima-net.org](mailto:kmcnamara@ima-net.org) or 800-482-0462, Ext. 2109.

June 30, 2009, and will allow the state to address continuing revenue decline.

- Cut travel expenses — Non-essential out-of-state travel for employees will be greatly limited. In addition, in-state travel will also be curtailed while use of teleconferencing will be increased.
- Defer major purchases — The acquisition of equipment and other major purchases will be delayed.
- Limit contract work — The number of existing contracts will be reduced and agencies will not enter into new contracts.
- Restrict hiring — Vacancies for non-essential positions will not be filled.

Governor Quinn said these cost reductions are the start in a series of tough fiscal decisions his Administration will be making as it deals with the state's estimated \$9 billion deficit for the current fiscal year and Fiscal 2010.

"I want everyone in Illinois to know that we are working every day to solve this budget crisis and restore the state's fiscal health," said Governor Quinn.

## How to manage price risk in a volatile energy market

Today's volatile energy markets and fuel prices make it nearly impossible for manufacturers to budget accurately, leaving some businesses dangerously vulnerable to erratic price swings. When faced with this type of uncertainty, it's sometimes necessary for energy consumers to pursue a more assertive and assured energy acquisition strategy. Here are some ways that may help you manage your costs and lower your exposure to risk.

### Identify your risk tolerance

Depending on how much fluctuation you can handle in your electricity and other energy costs, you can choose to pursue an Index-Based Contract or a Fixed-Price Contract.

Index-Based Contracts are more volatile. They vary with the markets and have greater risk than Fixed-Price Contracts because there is no upside price protection. If market prices go down, so does your cost for energy. If market prices go up, your costs will likely increase, too. You can also choose a "trigger" price and lock-in a fixed price when the specific target is met.

Fixed-Price Contracts are more conservative. You can be assured of the same price for energy month after month for the entire term of your contract. This stability does make budgeting easier. However, a fixed price also limits your ability to take advantage of possible market dips during your contract term.

Custom Solutions are also available. Index-Based or Fixed-Price Contracts are easy choices if you have a clearly defined risk tolerance. If your company does not, however, Constellation Energy may be able to offer more sophisticated contracts and enable you to match your comfort level with price volatility.

### Blend your rates

Blend in by Volume and Products You can choose to fix a percentage of your energy contract (e.g., 50 percent of your anticipated volume). When market prices become more favorable, you may choose to fix the remaining percentage.

### Use seasonality to your advantage

Buying when the market is high is something everyone wants to avoid.

See **PRICE RISK**, page 3

Historically, prices are generally lower in the first and third quarters and higher during the second and fourth quarters. Although the future is unpredictable, by dollar cost averaging, you may be able to help mitigate the risk of buying at the high price of the market.

### Hit the sweet spots

An opportunity to keep in mind is the availability of sweet spots in the forward market. Consider different options for contract term length rather than a standard 12 month or 24 month term. For example, prices may be more attractive if your electricity term ends prior to the summer months.

### Have a plan

Shopping for a lower rate is only one component of choosing an energy provider. Many times a buyer will get in the position of shopping and have the market move while deciding on the provider.

Whether you choose Constellation Energy or another provider, lay out a comprehensive plan that will enable you to be proactive, aggressive and successful at managing your cost for energy.

Contact Denise Haggerty at [Denise.Haggerty@constellation.com](mailto:Denise.Haggerty@constellation.com) or 312-704-8525 to get started on an energy plan that makes sense in a volatile market.

## Antarctic warming claims greeted with skepticism

A controversial article in the science magazine *Nature*, which claims Antarctica is warming despite data showing the continent is cooling, has attracted the attention of scientists and policy analysts openly skeptical about claims of manmade global warming.

### No data, no validation

The article, coauthored by global warming alarmist Michael Mann and published in the January 22 issue, claims computer simulations and data "smoothing" show increasing temperatures in the Antarctic.

"One must be very cautious with such results because they have no real way to be validated," cautioned John Christy, PhD, distinguished professor of atmospheric science at the University of Alabama in Huntsville, who oversees NASA satellite temperature data. Christy told *USA Today* for a January 21 report, "In other words, we will never know what the temperature was over the very large missing areas that this technique attempts to fill in so that it can be

tested back through time."

"The article appears to argue that due to incredibly bad luck, many temperature stations scattered throughout the continent are located in random, isolated pockets of cooling that defy the overall warming trend," said James M. Taylor, senior fellow for environment policy at The Heartland Institute and managing editor of *Environment & Climate News*.

"The odds of this being the case are quite remote, and the theory is notably short on reliable evidence. Adding to the dubious nature of the study's conclusion is the authors' self-interest in silencing an embarrassing mountain of raw temperature data that contradict their global warming theory," Taylor added.

### Best instruments ignored

"What's strange is that [the authors] used a satellite that was not specifically designed to measure temperature," said Patrick Michaels, research professor of environmental sciences at the University of Virginia and former Virginia state climatologist.

Michaels suggested the authors sought to confirm a global warming hypothesis, not discover the truth about the Antarctic temperature record. "They could have used the Spencer/Christy MSU data, but that wouldn't have given the desired result, even though it is the remote-sensing reference standard, but that wouldn't have told the proper story," he said.

### Models vs. real data

Mann and his colleagues contend decades of raw temperature data show a false cooling trend in Antarctica, because measuring stations don't record temperatures between the stations, where, the authors claim, significant warming is taking place.

"Our reconstructions show more significant temperature change in Antarctica, and a different pattern for that change than reported in some previous reconstructions," the article claims.

### Media jumps aboard

The news media treated the article as a groundbreaking revelation that eradicates the embarrassment of a long-term Antarctic cooling trend.

"*Antarctic Warming Detected by Scientists Dashes Crichton Theory*," *Bloomberg reported*.

"*It's Getting Warmer in Antarctica*," *reported the Christian Science Monitor*.

"For a long time now, Antarctic cooling has been a stone in the shoe of global warming alarmists. Now, conveniently,

See **ANTARCTIC WARMING**, page 4

## DATES OF NOTE

More information/events may be found at <http://www.ima-net.org/calendar.cfm> and <http://www.ima-net.org/MIT/open.cfm>  
Email: [jstanley@ima-net.org](mailto:jstanley@ima-net.org)

**February 24, 2009**

**IMA seminar: New Family & Medical Leave Act Regulations: A closer look**  
(See ad on page 2 for details)

**IMA-MIT Event: Kanban/Pull System/ Inventory Reduction**  
**March 16, 2009 — Decatur Conference Center & Hotel, US Hwy. 36, Decatur**  
**March 17, 2009 — DePaul University, 150 W. Warrenville Rd., Naperville**

A key component of most Lean Manufacturing strategies, this one-day Kanban workshop incorporates basic skills necessary to participate in Kanban implementation. Designed for individuals who may use or facilitate the use of Kanbans to move material and reduce waste. Kanban automates manufactured and purchased parts inventory cycles to reduce unwanted inventory and create waste-free processes.

**Thursday, March 19, 2009**

**IMA seminar: R&D Tax Credit Breakfast Briefing: Is Your Company Eligible?**  
**With guest speaker Rick Meyer, CPA, MBA, MST, alliantgroup**

8:30 – 11:00 AM

NIU-Naperville Campus — 1120 E. Diehl Rd., Naperville. Cost: \$65 IMA member; \$90 Non-members. To register visit [https://www.ima-net.org/rdtax\\_seminar.cfm](https://www.ima-net.org/rdtax_seminar.cfm). Contact: Kimberly McNamara at [kmcnamara@ima-net.org](mailto:kmcnamara@ima-net.org) or 630-368-5300 with questions.

**IMA-MIT Event: Mistake Proofing**  
**March 30, 2009 — Decatur Conference Center & Hotel, US Hwy. 36, Decatur**  
**March 31, 2009 — DePaul University, 150 W. Warrenville Rd., Naperville**

Designed to expedite effective application of Mistake Proofing methodology, this workshop focuses on effective methods of applying Mistake Proofing as a practical method of improving and maintaining process. Learn about standard inspection, Mistake Proofing principles, red flag conditions and review practical examples.

*Mark your calendar...*

**IMA's Business Day at the Capitol**

**Wednesday, May 6, 2009**

**Springfield**

alarmists claim they have 'statistically smoothed' the data to show Antarctica is warming, even though surface temperature stations show a significant, long-term cooling trend," Taylor explained.

"I would be quite wary of assigning much value to this article," said Taylor. "Raw temperature data and a number of studies over many years have determined Antarctica is cooling. Now we have a single article, reliant on subjective data interpretation from well-known global warming alarmists, saying the opposite."

*Reprinted from The Heartland Institute's Environment & Climate News, March 2009 issue. (<http://www.heartland.org>)  
Author Penny Rodriguez ([rodcoready@juno.com](mailto:rodcoready@juno.com))  
writes from Parrish, Florida.*

## Exports are a bright spot in economic downturn

### Report documents small firms' role in economy

A better market for U.S. exports was the highlight of the fading economy of 2007, according to The Small Business Economy report released recently by the U.S. Small Business Administration's Office of Advocacy. Small businesses, like other firms, faced growing challenges, as housing starts fell and energy prices increased. A year that showed strong growth in the second and third quarters ended with fourth quarter growth down an annualized 0.2 percent. The economy still generated 1.1 million net new jobs, largely in the service sectors populated in large part by small firms. Small firms continued to lead job growth in the first quarter, creating 74 percent of the net new jobs; by the fourth quarter, firms of all sizes were shedding jobs. Many of these trends continued into 2008.

"The export market was a highlight of the 2007 economy, driven by a drop in the dollar's value against other currencies," said Advocacy Chief Economist Chad Moutray. "This report reviews changes in the economy of 2007 and also showcases new research by economists on the small business role in the economy, including exporting."

Moutray released the report at the Small Business Congress of the National Small Business Association in Fort Lauderdale, Florida. The 2008 edition of The Small Business Economy: A Report to the President, is the latest in the Office of Advocacy's annual research reports.

The report reviews the economic environment for small businesses in the year 2007, including the financial and federal procurement marketplaces. New research focuses on small businesses in international trade, small business training and development, tax policy, and business creation, including startup activities and the launch of new ventures. Other chapters and appendices provide data on small business and an update on Office of Advocacy initiatives.

For more information and a complete copy of the report, visit the Office of Advocacy website at [www.sba.gov/advo](http://www.sba.gov/advo). Print copies are also available.

*The Office of Advocacy of the federal government, examines the role and status of small business in the economy and independently represents the views of small business to federal agencies, Congress, and the President.*

## U.S. wins WTO dispute over deficiencies in China's intellectual property rights laws

Acting U.S. Trade Representative Peter Allgeier announced January 26th that a World Trade Organization (WTO) dispute settlement panel has found important aspects of China's intellectual property rights (IPR) regime to be inconsistent with China's obligations under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). The United States brought claims against China because of serious concerns about several shortcomings in China's legal regime for protecting and enforcing copyrights and trademarks on a wide range of products.

"These findings are an important victory, because they confirm the importance of IPR protection and enforcement, and clarify key enforcement provisions of the TRIPS Agreement. Having achieved this significant legal ruling, we will engage vigorously with China on appropriate corrective actions to ensure that U.S. rights holders obtain the benefits of this decision," said Ambassador Allgeier.

He added, "We are pleased that the Panel found that China's denial of copyright protection to works that do not meet China's 'content review' standards is impermissible under the TRIPS Agreement. Additionally, we are pleased that the Panel found it impermissible for China to provide for simple removal of an infringing trademark as the only precondition for the

sale at public auction of counterfeit goods seized by Chinese customs authorities."

"We also welcome the Panel's clarification of China's obligation to provide for criminal procedures and penalties to be applied to willful trademark counterfeiting and copyright piracy on a commercial scale," Allgeier continued. "The Panel did find, however, that it needed more evidence in order to conclude that actual thresholds for prosecution in China's criminal law are so high as to allow commercial-scale counterfeiting and piracy to occur without the possibility of criminal prosecution. While this conclusion is disappointing, the United States is encouraged that the Panel, facing a case of first impression, set forth a market-based analytical approach that should help WTO Members and panels avoid or resolve future disputes concerning obstacles to criminal enforcement against counterfeiting and piracy."

The findings in the panel report will make an important contribution to China's efforts to improve its IPR enforcement regime, just as the imminent prospect of a WTO dispute contributed to China's cutting its threshold for criminal prosecution of copyright infringement in half just before the United States filed its complaint.

Importantly, the Panel clarified that whether acts of counterfeiting or piracy are "on a commercial scale" depends on factors such as the product at issue — whether it is a designer watch, DVD, or a software title — and the particular market in which it is sold. The Panel also made clear that determining what constitutes "commercial scale" must take into account the impact of technological developments, such as the Internet and the evolution of marketing practices that can enable pirates and counterfeiters to flourish with lower costs and in more pervasive ways.

Both the United States and China have an opportunity to appeal the report.

