

CONCRETE MASONRY PRODUCTS RESEARCH, EDUCATION,  
AND PROMOTION ACT OF 2015

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JULY 8, 2016.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

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Mr. UPTON, from the Committee on Energy and Commerce,  
submitted the following

R E P O R T

[To accompany H.R. 985]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 985) to enable concrete masonry products manufacturers to establish, finance, and carry out a coordinated program of research, education, and promotion to improve, maintain, and develop markets for concrete masonry products, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Concrete Masonry Products Research, Education, and Promotion Act of 2015”.

**SEC. 2. DECLARATION OF POLICY.**

(a) **PURPOSE.**—The purpose of this Act is to authorize the establishment of an orderly program for developing, financing, and carrying out an effective, continuous, and coordinated program of research, education, and promotion, including funds for marketing and market research activities, that is designed to—

- (1) strengthen the position of the concrete masonry products industry in the domestic marketplace;
- (2) maintain, develop, and expand markets and uses for concrete masonry products in the domestic marketplace; and
- (3) promote the use of concrete masonry products in construction and building.

(b) **LIMITATION.**—Nothing in this Act may be construed to provide for the control of production or otherwise limit the right of any person to manufacture concrete masonry products.

**SEC. 3. DEFINITIONS.**

For the purposes of this Act:

(1) **BLOCK MACHINE.**—The term “block machine” means a piece of equipment that utilizes vibration and compaction to form concrete masonry products.

(2) **BOARD.**—The term “Board” means the Concrete Masonry Products Board established under section 5.

(3) **CAVITY.**—The term “cavity” means the open space in the mold of a block machine capable of forming a single concrete masonry unit having nominal plan dimensions of 8 inches by 16 inches.

(4) **COMMERCE.**—The term “commerce” includes interstate, foreign, and intrastate commerce.

(5) **CONCRETE MASONRY PRODUCTS.**—The term “concrete masonry products” refers to a broader class of products, including concrete masonry units as well as hardscape products such as concrete pavers and segmental retaining wall units, manufactured on a block machine using dry-cast concrete.

(6) **CONCRETE MASONRY UNIT.**—The term “concrete masonry unit” means a concrete masonry product that is a manmade masonry unit having an actual width of 3 inches or greater and manufactured from dry-cast concrete using a block machine. Such term includes concrete block and related concrete units used in masonry applications.

(7) **CONFLICT OF INTEREST.**—The term “conflict of interest” means, with respect to a member or employee of the Board, a situation in which such member or employee has a direct or indirect financial or other interest in a person that performs a service for, or enters into a contract with, for anything of economic value.

(8) **DEPARTMENT.**—The term “Department” means the Department of Commerce.

(9) **DRY-CAST CONCRETE.**—The term “dry-cast concrete” means a composite material that is composed essentially of aggregates embedded in a binding medium composed of a mixture of cementitious materials (including hydraulic cement, pozzolans, or other cementitious materials) and water of such a consistency to maintain its shape after forming in a block machine.

(10) **EDUCATION.**—The term “education” means programs that will educate or communicate the benefits of concrete masonry products in safe and environmentally sustainable development, advancements in concrete masonry product technology and development, and other information and programs designed to generate increased demand for commercial, residential, multi-family, and institutional projects using concrete masonry products and to generally enhance the image of concrete masonry products.

(11) **MACHINE CAVITIES.**—The term “machine cavities” means the cavities with which a block machine could be equipped.

(12) **MACHINE CAVITIES IN OPERATION.**—The term “machine cavities in operation” means those machine cavities associated with a block machine that have produced concrete masonry units within the last 6 months of the date set for determining eligibility and is fully operable and capable of producing concrete masonry units.

(13) **MANUFACTURER.**—The term “manufacturer” means any person engaged in the manufacturing of commercial concrete masonry products in the United States.

(14) **MASONRY UNIT.**—The term “masonry unit” means a noncombustible building product intended to be laid by hand or joined using mortar, grout, surface bonding, post-tensioning or some combination of these methods.

(15) **ORDER.**—The term “order” means an order issued under section 4.

(16) **PERSON.**—The term “person” means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(17) **PROMOTION.**—The term “promotion” means any action, including paid advertising, to advance the image and desirability of concrete masonry products with the express intent of improving the competitive position and stimulating sales of concrete masonry products in the marketplace.

(18) **RESEARCH.**—The term “research” means studies testing the effectiveness of market development and promotion efforts, studies relating to the improvement of concrete masonry products and new product development, and studies documenting the performance of concrete masonry.

(19) **SECRETARY.**—The term “Secretary” means the Secretary of Commerce.

(20) **UNITED STATES.**—The term “United States” means the several States and the District of Columbia.

#### **SEC. 4. ISSUANCE OF ORDERS.**

##### **(a) IN GENERAL.—**

(1) **ISSUANCE.**—The Secretary, subject to the procedures provided in subsection (b), shall issue orders under this Act applicable to manufacturers of concrete masonry products.

(2) **SCOPE.**—Any order shall be national in scope.

(3) **ONE ORDER.**—Not more than one order shall be in effect at any one time.

##### **(b) PROCEDURES.—**

(1) **DEVELOPMENT OR RECEIPT OF PROPOSED ORDER.**—A proposed order with respect to the generic research, education, and promotion with regards to concrete masonry products may be—

(A) proposed by the Secretary at any time; or

(B) requested by or submitted to the Secretary by—

(i) an existing national organization of concrete masonry product manufacturers; or

(ii) any person that may be affected by the issuance of an order.

(2) **PUBLICATION OF PROPOSED ORDER.**—If the Secretary determines that a proposed order received in accordance with paragraph (1)(B) is consistent with and will effectuate the purpose of this Act, the Secretary shall publish such proposed order in the Federal Register not later than 90 days after receiving the order, and give not less than 30 days notice and opportunity for public comment on the proposed order.

##### **(3) ISSUANCE OF ORDER.—**

(A) **IN GENERAL.**—After notice and opportunity for public comment are provided in accordance with paragraph (2), the Secretary shall issue the order, taking into consideration the comments received and including in the order such provisions as are necessary to ensure that the order is in conformity with this Act.

(B) **EFFECTIVE DATE.**—If there is an affirmative vote in a referendum as provided in section 7, the Secretary shall issue the order and such order shall be effective not later than 140 days after publication of the proposed order.

(c) **AMENDMENTS.**—The Secretary may, from time to time, amend an order. The provisions of this Act applicable to an order shall be applicable to any amendment to an order.

#### **SEC. 5. REQUIRED TERMS IN ORDERS.**

(a) **IN GENERAL.**—Any order issued under this Act shall contain the terms and provisions specified in this section.

##### **(b) CONCRETE MASONRY PRODUCTS BOARD.—**

###### **(1) ESTABLISHMENT AND MEMBERSHIP.—**

(A) **ESTABLISHMENT.**—The order shall provide for the establishment of a Concrete Masonry Products Board to carry out a program of generic promotion, research, and education regarding concrete masonry products.

###### **(B) MEMBERSHIP.—**

(i) **NUMBER OF MEMBERS.**—The board shall consist of not less than 15 and not more than 25 members.

(ii) **APPOINTMENT.**—The members of the Board shall be appointed by the Secretary from nominations submitted as provided in the order.

(iii) COMPOSITION.—The Board shall consist of manufacturers. No employee of an industry trade organization exempt from tax under paragraphs (3) or (6) of section 501(c) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)) representing the concrete masonry industry or related industries shall serve as a member of the Board and no member of the Board may serve concurrently as an officer of the board of directors of a national concrete masonry products industry trade association. Only two individuals from any single company or its affiliates may serve on the Board at any one time.

(2) DISTRIBUTION OF APPOINTMENTS.—

(A) REPRESENTATION.—To ensure fair and equitable representation of the concrete masonry products industry, the composition of the Board shall reflect the geographical distribution of the manufacture of concrete masonry products in the United States, the types of concrete masonry products manufactured, and the range in size of manufacturers in the United States.

(B) ADJUSTMENT IN BOARD REPRESENTATION.—Three years after the assessment of concrete masonry products commences pursuant to an order, and at the end of each 3-year period thereafter, the Board, subject to the review and approval of the Secretary, shall, if warranted, recommend to the Secretary the reapportionment of the Board membership to reflect changes in the geographical distribution of the manufacture of concrete masonry products and the types of concrete masonry products manufactured.

(3) NOMINATIONS PROCESS.—The Secretary may make appointments from nominations by manufacturers pursuant to the method set forth in the order.

(4) FAILURE TO APPOINT.—If the Secretary fails to make an appointment to the Board within 60 days of receiving nominations for such appointment, the first nominee for such appointment shall be deemed appointed, unless the Secretary provides reasonable justification for the delay to the Board and to Congress and provides a reasonable date by which approval or disapproval will be made.

(5) ALTERNATES.—The order shall provide for the selection of alternate members of the Board by the Secretary in accordance with procedures specified in the order.

(6) TERMS.—

(A) IN GENERAL.—The members and any alternates of the Board shall each serve for a term of 3 years, except that members and any alternates initially appointed to the Board shall serve for terms of not more than 2, 3, and 4 years, as specified by the order.

(B) LIMITATION ON CONSECUTIVE TERMS.—A member or an alternate may serve not more than 2 consecutive terms.

(C) CONTINUATION OF TERM.—Notwithstanding subparagraph (B), each member or alternate shall continue to serve until a successor is appointed by the Secretary.

(D) VACANCIES.—A vacancy arising before the expiration of a term of office of an incumbent member or alternate of the Board shall be filled in a manner provided for in the order.

(7) DISQUALIFICATION FROM BOARD SERVICE.—The order shall provide that if a member or alternate of the Board who was appointed as a manufacturer ceases to qualify as a manufacturer, such member or alternate shall be disqualified from serving on the Board.

(8) COMPENSATION.—

(A) IN GENERAL.—Members and any alternates of the Board shall serve without compensation.

(B) TRAVEL EXPENSES.—If approved by the Board, members or alternates shall be reimbursed for reasonable travel expenses, which may include per diem allowance or actual subsistence incurred while away from their homes or regular places of business in the performance of services for the Board.

(c) POWERS AND DUTIES OF THE BOARD.—The order shall specify the powers and duties of the Board, including the power and duty—

(1) to administer the order in accordance with its terms and conditions and to collect assessments;

(2) to develop and recommend to the Secretary for approval such bylaws as may be necessary for the functioning of the Board and such rules as may be necessary to administer the order, including activities authorized to be carried out under the order;

(3) to meet, organize, and select from among members of the Board a chairperson, other officers, and committees and subcommittees, as the Board determines appropriate;

(4) to establish regional organizations or committees to administer regional initiatives;

(5) to establish working committees of persons other than Board members;

(6) to employ such persons, other than the members, as the board considers necessary, and to determine the compensation and specify the duties of the persons;

(7) to prepare and submit for the approval of the Secretary, before the beginning of each fiscal year, rates of assessment under section 6 and an annual budget of the anticipated expenses to be incurred in the administration of the order, including the probable cost of each promotion, research, and information activity proposed to be developed or carried out by the Board;

(8) to borrow funds necessary for the startup expenses of the order;

(9) to carry out generic research, education, and promotion programs and projects relating to concrete masonry products, and to pay the costs of such programs and projects with assessments collected under section 6;

(10) subject to subsection (e), to enter into contracts or agreements to develop and carry out programs or projects of research, education, and promotion relating to concrete masonry products;

(11) to keep minutes, books, and records that reflect the actions and transactions of the Board, and promptly report minutes of each Board meeting to the Secretary;

(12) to receive, investigate, and report to the Secretary complaints of violations of the order;

(13) to furnish the Secretary with such information as the Secretary may request;

(14) to recommend to the Secretary such amendments to the order as the Board considers appropriate; and

(15) to provide the Secretary with advance notice of meetings to permit the Secretary or the Secretary's representative to attend the meetings.

(d) PROGRAMS AND PROJECTS; BUDGETS; EXPENSES.—

(1) PROGRAMS AND PROJECTS.—

(A) IN GENERAL.—The order shall require the Board to submit to the Secretary for approval any program or project of research, education, or promotion relating to concrete masonry products.

(B) STATEMENT REQUIRED.—Any educational or promotional activity undertaken with funds provided by the Board shall include a statement that such activities were supported in whole or in part by the Board.

(2) BUDGETS.—

(A) SUBMISSION.—The order shall require the Board to submit to the Secretary for approval a budget of the anticipated expenses and disbursements of the Board in the implementation of the order, including the projected costs of concrete masonry products research, education, and promotion programs and projects.

(B) TIMING.—The budget shall be submitted before the beginning of a fiscal year and as frequently as may be necessary after the beginning of the fiscal year.

(C) APPROVAL.—If the Secretary fails to approve or reject a budget within 60 days of receipt, such budget shall be deemed approved, unless the Secretary provides to the Board and to Congress, in writing, reasonable justification for the delay and provides a reasonable date by which approval or disapproval will be made.

(3) ADMINISTRATIVE EXPENSES.—

(A) INCURRING EXPENSES.—The Board may incur the expenses described in paragraph (2) and other expenses for the administration, maintenance, and functioning of the Board as authorized by the Secretary.

(B) PAYMENT OF EXPENSES.—Expenses incurred under subparagraph (A) shall be paid by the Board using assessments collected under section 6, earnings obtained from assessments, and other income of the Board. Any funds borrowed by the Board shall be expended only for startup costs and capital outlays.

(C) LIMITATION ON SPENDING.—For fiscal years beginning 3 or more years after the date of the establishment of the Board, the Board may not expend for administration (except for reimbursement to the Secretary required under subparagraph (D)), maintenance, and functioning of the Board in a fiscal year an amount that exceeds 10 percent of the assessment and other income received by the Board for the fiscal year.

(D) REIMBURSEMENT OF SECRETARY.—The order shall require that the Secretary be reimbursed by the Board from assessments for all expenses incurred by the Secretary in the implementation, administration, and super-

vision of the order, including all referenda costs incurred in connection with the order.

(e) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—The order shall provide that, with the approval of the Secretary, the Board may—

(A) enter into contracts and agreements to carry out generic research, education, and promotion programs and projects relating to concrete masonry products, including contracts and agreements with manufacturer associations or other entities as considered appropriate by the Secretary;

(B) enter into contracts and agreements for administrative services; and

(C) pay the cost of approved generic research, education, and promotion programs and projects using assessments collected under section 6, earnings obtained from assessments, and other income of the Board.

(2) REQUIREMENTS.—Each contract or agreement shall provide that any person who enters into the contract or agreement with the Board shall—

(A) develop and submit to the Board a proposed program or project together with a budget that specifies the cost to be incurred to carry out the program or project;

(B) keep accurate records of all of transactions relating to the contract or agreement;

(C) account for funds received and expended in connection with the contract or agreement;

(D) make periodic reports to the Board of activities conducted under the contract or agreement; and

(E) make such other reports as the Board or the Secretary considers relevant.

(3) FAILURE TO APPROVE.—If the Secretary fails to approve or reject a contract or agreement entered into under paragraph (1) within 60 days of receipt, the contract or agreement shall be deemed approved, unless the Secretary provides to the Board and to Congress, in writing, reasonable justification for the delay and provides a reasonable date by which approval or disapproval will be made.

(f) BOOKS AND RECORDS OF BOARD.—

(1) IN GENERAL.—The order shall require the Board to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may require;

(B) collect and submit to the Secretary, at any time the Secretary may specify, any information the Secretary may request; and

(C) account for the receipt and disbursement of all funds in the possession, or under the control, of the Board.

(2) AUDITS.—The order shall require the Board to have—

(A) the books and records of the Board audited by an independent auditor at the end of each fiscal year; and

(B) a report of the audit submitted directly to the Secretary.

(g) PROHIBITED ACTIVITIES.—

(1) IN GENERAL.—Subject to paragraph (2), the Board shall not engage in any program or project to, nor shall any funds received by the Board under this Act be used to—

(A) influence legislation, elections, or governmental action;

(B) engage in an action that would be a conflict of interest;

(C) engage in advertising that is false or misleading;

(D) engage in any promotion, research, or education that would be disparaging to other construction materials; or

(E) engage in any promotion or project that would benefit any individual manufacturer.

(2) EXCEPTIONS.—Paragraph (1) does not preclude—

(A) the development and recommendation of amendments to the order;

(B) the communication to appropriate government officials of information relating to the conduct, implementation, or results of research, education, and promotion activities under the order except communications described in paragraph(1)(A); or

(C) any lawful action designed to market concrete masonry products directly to a foreign government or political subdivision of a foreign government.

(h) PERIODIC EVALUATION.—The order shall require the Board to provide for the independent evaluation of all research, education, and promotion programs or projects undertaken under the order, beginning five years after the date of enactment of this Act and every three years thereafter. The Board shall submit to the Secretary and make available to the public the results of each such evaluation.

(i) **OBJECTIVES.**—The Board shall establish annual research, education, and promotion objectives and performance metrics for each fiscal year subject to approval by the Secretary.

(j) **BIENNIAL REPORT.**—Every two years the Board shall prepare and make publicly available a comprehensive and detailed report that includes an identification and description of all programs and projects undertaken by the Board during the previous two years as well as those planned for the subsequent two years and detail the allocation or planned allocation of Board resources for each such program or project. Such report shall also include—

- (1) the Board's overall financial condition;
- (2) a summary of the amounts obligated or expended during the two preceding fiscal years; and
- (3) a description of the extent to which the Board's objectives were met according to the metrics required under subsection (i).

(k) **BOOKS AND RECORDS OF PERSONS COVERED BY ORDER.**—

(1) **IN GENERAL.**—The order shall require that manufacturers shall—

(A) maintain records sufficient to ensure compliance with the order and regulations; and

(B) make the records described in subparagraph (A) available, during normal business hours, for inspection by employees or agents of the Board or the Department.

(2) **TIME REQUIREMENT.**—Any record required to be maintained under paragraph (1) shall be maintained for such time period as the Secretary may prescribe.

(3) **CONFIDENTIALITY OF INFORMATION.**—

(A) **IN GENERAL.**—Except as otherwise provided in this subparagraph (B) trade secrets and commercial or financial information that is privileged or confidential reported to, or otherwise obtained by the Board or the Secretary (or any representative of the Board or the Secretary) under this Act shall not be disclosed by any officers, employees, and agents of the Department or the Board.

(B) **SUITS AND HEARINGS.**—Information referred to in subparagraph (A) may be disclosed only if—

(i) the Secretary considers the information relevant; and

(ii) the information is revealed in a judicial proceeding or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party.

(C) **GENERAL STATEMENTS AND PUBLICATIONS.**—This paragraph does not prohibit—

(i) the issuance of general statements based on reports or on information relating to a number of persons subject to an order if the statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating any order and a statement of the particular provisions of the order violated by the person.

(D) **PENALTY.**—Any officer, employee, or agent of the Department of Commerce or any officer, employee, or agent of the Board who willfully violates this subsection shall be fined not more than \$1,000 and imprisoned for not more than 1 year, or both.

(4) **WITHHOLDING INFORMATION.**—This subsection does not authorize the withholding of information from Congress.

#### **SEC. 6. ASSESSMENTS.**

(a) **ASSESSMENTS.**—The order shall provide that assessments shall be paid by a manufacturer if the manufacturer has manufactured concrete masonry products during a period of at least 180 days prior to the date the assessment is to be remitted.

(b) **COLLECTION.**—

(1) **IN GENERAL.**—Assessments required under the order shall be remitted by the manufacturer to the Board in the manner prescribed by the order.

(2) **TIMING.**—The order shall provide that assessments required under the order shall be remitted to the Board not less frequently than quarterly.

(3) **RECORDS.**—As part of the remittance of assessments, manufacturers shall identify the total amount due in assessments on all sales receipts, invoices or other commercial documents of sale as a result of the sale of concrete masonry units in a manner as prescribed by the Board to ensure compliance with the order.

(c) **ASSESSMENT RATES.**—With respect to assessment rates, the order shall contain the following terms:

- (1) INITIAL RATE.—The assessment rate on concrete masonry products shall be \$0.01 per concrete masonry unit sold.
- (2) CHANGES IN THE RATE.—
- (A) AUTHORITY TO CHANGE RATE.—The Board shall have the authority to change the assessment rate. A two-thirds majority of voting members of the Board shall be required to approve a change in the assessment rate.
- (B) LIMITATION ON INCREASES.—An increase or decrease in the assessment rate with respect to concrete masonry products may not exceed \$0.01 per concrete masonry unit sold.
- (C) MAXIMUM RATE.—The assessment rate shall not be in excess of \$0.05 per concrete masonry unit.
- (D) LIMITATION ON FREQUENCY OF CHANGES.—The assessment rate may not be increased or decreased more than once annually.
- (d) LATE-PAYMENT AND INTEREST CHARGES.—
- (1) IN GENERAL.—Late-payment and interest charges may be levied on each person subject to the order who fails to remit an assessment in accordance with subsection (b).
- (2) RATE.—The rate for late-payment and interest charges shall be specified by the Secretary.
- (e) INVESTMENT OF ASSESSMENTS.—Pending disbursement of assessments under a budget approved by the Secretary, the Board may invest assessments collected under this section in—
- (1) obligations of the United States or any agency of the United States;
- (2) general obligations of any State or any political subdivision of a State;
- (3) interest-bearing accounts or certificates of deposit of financial institutions that are members of the Federal Reserve System; or
- (4) obligations fully guaranteed as to principal and interest by the United States.
- (f) ASSESSMENT FUNDS FOR REGIONAL INITIATIVES.—
- (1) IN GENERAL.—The order shall provide that no less than 50 percent of the assessments (less administration expenses) paid by a manufacturer shall be used to support research, education, and promotion programs and projects in support of the geographic region of the manufacturer.
- (2) GEOGRAPHIC REGIONS.—The order shall provide for the following geographic regions:
- (A) Region I shall comprise Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia.
- (B) Region II shall comprise Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.
- (C) Region III shall comprise Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.
- (D) Region IV shall comprise Arizona, Arkansas, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.
- (E) Region V shall comprise Alaska, California, Colorado, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.
- (3) ADJUSTMENT OF GEOGRAPHIC REGIONS.—The order shall provide that the Secretary may, upon recommendation of the Board, modify the composition of the geographic regions described in paragraph (2).

#### SEC. 7. REFERENDA.

- (a) INITIAL REFERENDUM.—
- (1) REFERENDUM REQUIRED.—During the 60-day period immediately preceding the proposed effective date of the order issued under section 4, the Secretary shall conduct a referendum among manufacturers eligible under subsection (b)(2) subject to assessments under section 6.
- (2) APPROVAL OF ORDER NEEDED.—The order shall become effective only if the Secretary determines that the order has been approved by a majority of manufacturers voting who also represent a majority of the machine cavities in operation of those manufacturers voting in the referendum.
- (b) VOTES PERMITTED.—
- (1) IN GENERAL.—Each manufacturer eligible to vote in a referendum conducted under this section shall be entitled to cast one vote.
- (2) ELIGIBILITY.—For purposes of paragraph (1), a manufacturer shall be considered to be eligible to vote if the manufacturer has manufactured concrete masonry products during a period of at least 180 days prior to the first day of the period during which voting in the referendum will occur.
- (c) MANNER OF CONDUCTING REFERENDA.—

(1) IN GENERAL.—Referenda conducted pursuant to this section shall be conducted in a manner determined by the Secretary.

(2) ADVANCE REGISTRATION.—A manufacturer who chooses to vote in any referendum conducted under this section shall register with the Secretary prior to the voting period, after receiving notice from the Secretary concerning the referendum under paragraph (4).

(3) VOTING.—The Secretary shall establish procedures for voting in any referendum conducted under this section. The ballots and other information or reports that reveal or tend to reveal the identity or vote of voters shall be strictly confidential.

(4) NOTICE.—Not later than 30 days before a referendum is conducted under this section with respect to an order, the Secretary shall notify all manufacturers, in such a manner as determined by the Secretary, of the period during which voting in the referendum will occur. The notice shall explain any registration and voting procedures established under this subsection.

(d) SUBSEQUENT REFERENDA.—If an order is approved in a referendum conducted under subsection (a), the Secretary shall conduct a subsequent referendum—

(1) at the request of the Board, subject to the voting requirements of subsections (b) and (c), to ascertain whether eligible manufacturers favor suspension, termination, or continuance of the order; or

(2) effective beginning on the date that is 5 years after the date of the approval of the order, and at 5-year intervals thereafter, at the request of 25 percent or more of the total number of persons eligible to vote under subsection (b).

(e) SUSPENSION OR TERMINATION.—If, as a result of a referendum conducted under subsection (d), the Secretary determines that suspension or termination of the order is favored by a majority of all votes cast in the referendum as provided in subsection (a)(2), the Secretary shall—

(1) not later than 180 days after the referendum, suspend or terminate, as appropriate, collection of assessments under the order; and

(2) suspend or terminate, as appropriate, programs and projects under the order as soon as practicable and in an orderly manner.

(f) COSTS OF REFERENDA.—The Board established under an order with respect to which a referendum is conducted under this section shall reimburse the Secretary from assessments for any expenses incurred by the Secretary to conduct the referendum.

#### SEC. 8. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order issued under this Act may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order, is not established in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARING.—The Secretary shall give the petitioner an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After the hearing, the Secretary shall make a ruling on the petition. The ruling shall be final, subject to review as set forth in subsection (b).

(4) LIMITATION ON PETITION.—Any petition filed under this subsection challenging an order, any provision of the order, or any obligation imposed in connection with the order, shall be filed not less than 2 years after the effective date of the order, provision, or obligation subject to challenge in the petition.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which a person who is a petitioner under subsection (a) resides or conducts business shall have jurisdiction to review the ruling of the Secretary on the petition of the person, if a complaint requesting the review is filed no later than 30 days after the date of the entry of the ruling by the Secretary.

(2) PROCESS.—Service of process in proceedings under this subsection shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) REMANDS.—If the court in a proceeding under this subsection determines that the ruling of the Secretary on the petition of the person is not in accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion the court, the law requires.

(c) ENFORCEMENT.—The pendency of proceedings instituted under this section shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief under section 9.

**SEC. 9. ENFORCEMENT.**

(a) JURISDICTION.—A district court of the United States shall have jurisdiction to enforce, and to prevent and restrain any person from violating, this Act or an order or regulation issued by the Secretary under this Act.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General of the United States for appropriate action.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—A person who willfully violates an order or regulation issued by the Secretary under this Act may be assessed by the Secretary a civil penalty of not more than \$5,000 for each violation.

(2) SEPARATE OFFENSE.—Each violation and each day during which there is a failure to comply with an order or regulation issued by the Secretary shall be considered to be a separate offense.

(3) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, a civil penalty, the Secretary may issue an order requiring a person to cease and desist from violating the order or regulation.

(4) NOTICE AND HEARING.—No order assessing a penalty or cease-and-desist order may be issued by the Secretary under this subsection unless the Secretary provides notice and an opportunity for a hearing on the record with respect to the violation.

(5) FINALITY.—An order assessing a penalty or a cease-and-desist order issued under this subsection by the Secretary shall be final and conclusive unless the person against whom the order is issued files an appeal from the order with the appropriate district court of the United States.

(d) ADDITIONAL REMEDIES.—The remedies provided in this Act shall be in addition to, and not exclusive of, other remedies that may be available.

**SEC. 10. INVESTIGATION AND POWER TO SUBPOENA.**

(a) INVESTIGATIONS.—The Secretary may conduct such investigations as the Secretary considers necessary for the effective administration of this Act, or to determine whether any person has engaged or is engaging in any act that constitutes a violation of this Act or any order or regulation issued under this Act.

(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—

(1) INVESTIGATIONS.—For the purpose of conducting an investigation under subsection (a), the Secretary may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The production of the records may be required from any place in the United States.

(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 8(a)(2) or section 9(c)(4), the presiding officer may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of the records may be required from any place in the United States.

(c) AID OF COURTS.—

(1) IN GENERAL.—In the case of contumacy by, or refusal to obey a subpoena issued under subsection (b) to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is conducted, or where the person resides or conducts business, in order to enforce a subpoena issued under subsection (b).

(2) ORDER.—The court may issue an order requiring the person referred to in paragraph (1) to comply with a subpoena referred to in paragraph (1).

(3) FAILURE TO OBEY.—Any failure to obey the order of the court may be punished by the court as a contempt of court.

(4) PROCESS.—Process in any proceeding under this subsection may be served in the United States judicial district in which the person being proceeded against resides or conducts business, or wherever the person may be found.

**SEC. 11. SUSPENSION OR TERMINATION.**

(a) MANDATORY SUSPENSION OR TERMINATION.—The Secretary shall suspend or terminate an order or a provision of an order if the Secretary finds that an order or provision of an order obstructs or does not tend to effectuate the purpose of this Act, or if the Secretary determines that the order or a provision of an order is not favored by a majority of all votes cast in the referendum as provided in section 7(a)(2).

(b) IMPLEMENTATION OF SUSPENSION OR TERMINATION.—If, as a result of a referendum conducted under section 7, the Secretary determines that the order is not approved, the Secretary shall—

- (1) not later than 180 days after making the determination, suspend or terminate, as the case may be, collection of assessments under the order; and
- (2) as soon as practicable, suspend or terminate, as the case may be, activities under the order in an orderly manner.

**SEC. 12. AMENDMENTS TO ORDERS.**

The provisions of this Act applicable to the order shall be applicable to any amendment to the order, except that section 8 shall not apply to an amendment.

**SEC. 13. EFFECT ON OTHER LAWS.**

This Act shall not affect or preempt any other Federal or State law authorizing research, education, and promotion relating to concrete masonry products.

**SEC. 14. REGULATIONS.**

The Secretary may issue such regulations as may be necessary to carry out this Act and the power vested in the Secretary under this Act.

**SEC. 15. LIMITATION ON EXPENDITURES FOR ADMINISTRATIVE EXPENSES.**

Funds appropriated to carry out this Act may not be used for the payment of the expenses or expenditures of the Board in administering the order.

**SEC. 16. STUDY AND REPORT BY THE GOVERNMENT ACCOUNTABILITY OFFICE.**

Not later than 5 years and 8 years after the date of enactment of this Act, the Comptroller General of the United States shall prepare a study and submit to Congress and the Secretary a report examining—

- (1) how the Board spends assessments collected;
- (2) the extent to which the Board's reported activities help achieve its annual objectives;
- (3) any changes in demand for concrete masonry products relative to other building materials;
- (4) any impact of the Board's activities on the market share of competing products;
- (5) any impact of the Board's activities on the overall size of the market for building products;
- (6) any impact of the Board's activities on the total number of concrete masonry related jobs, including manufacturing, sales, and installation;
- (7) any significant effects of the Board's activities on downstream purchasers of concrete masonry products and real property into which concrete masonry products are incorporated;
- (8) effects on prices of concrete masonry products as a result of the Board's activities;
- (9) the cost to the federal government of an increase in concrete masonry product prices, if any, as a result of the program established by this Act;
- (10) the extent to which key statutory requirements are met;
- (11) the extent and strength of federal oversight of the program established by this Act;
- (12) the appropriateness of administering the program from within the Office of the Secretary of Commerce and the appropriateness of administering the program from within any division of the Department of Commerce, including whether the Department has the expertise, knowledge, or other capabilities necessary to adequately administer the program; and
- (13) any other topic that the Comptroller General considers appropriate.

**SEC. 17. STUDY AND REPORT BY THE DEPARTMENT OF COMMERCE.**

Not later than 3 years after the date of enactment of this Act, the Secretary shall prepare a study and submit to Congress a report examining the appropriateness and effectiveness of applying the commodity check-off program model (such as those programs established under subchapter II of chapter 101 of title 7, United States Code) to a nonagricultural industry, taking into account the program established by this Act and any other check-off program involving a nonagricultural industry.

PURPOSE AND SUMMARY

The purpose of H.R. 985, the Concrete Masonry Products Research, Education, and Promotion Act of 2015, is to enable concrete masonry products manufacturers to establish, finance, and carry out a “check-off” program—a coordinated program of research, edu-

cation, and promotion to improve, maintain, and develop markets—for concrete masonry products.

#### BACKGROUND AND NEED FOR LEGISLATION

Designed to enable cooperation among generic commodity products—such as beef, milk, mushrooms, peanuts, and certain heating fuel products—check-off programs support generic research, education, and promotion campaigns and are established at the request of the affected industry. Funding for check-off program activities typically comes from mandatory fees assessed on relevant members of the affected industry. Board members from industry producers carry out the check-off program’s activities, while the appropriate federal agency oversees the Board to ensure compliance with the law and to ensure resources support activities in furtherance of the Board’s purposes.

Most check-off programs cover agricultural commodities and are authorized under the Commodity Promotion, Research, and Information Act of 1996.<sup>1</sup> Under that statute, the Agricultural Marketing Service (AMS), a division of the U.S. Department of Agriculture (USDA), is responsible for overseeing at least 20 check-off programs.<sup>2</sup> AMS is authorized to establish new check-off programs and to promulgate regulations fleshing out additional rules for each of the programs.

The activities of each agricultural check-off program are carried out and governed by a board appointed by the Secretary of Agriculture from producers’ nominations. All existing check-off programs are funded and operated by the relevant industries. According to the USDA, every \$1 dollar spent in a check-off program can yield an investment return as high as \$18.<sup>3</sup>

In addition to the USDA administered programs, there are also two check-off programs for heating fuel products. The first involves propane and was authorized by the Propane Education and Research Act of 1996.<sup>4</sup> The second covers heating oil, which was initially authorized by the National Oilheat Research Alliance Act of 2000,<sup>5</sup> and was recently reauthorized by the 2014 Agricultural Act.<sup>6</sup> The Department of Energy oversees both programs. The intent of H.R. 985 is to establish a similar check-off program for the concrete masonry industry.

#### HEARINGS

The Subcommittee on Commerce, Manufacturing, and Trade held a hearing on H.R. 985 on July 10, 2015. The Subcommittee received testimony from:

- Ellen Herbst, Chief Financial Officer and Assistant Secretary for Administration, U.S. Department of Commerce;

<sup>1</sup>Pub. L. No. 104–127.

<sup>2</sup>U.S. Department of Agriculture, Federal Research and Promotion Programs (Jul. 27, 2015), (online at <http://www.ams.usda.gov/AMSV1.0/ams.fetch.Template.Data.do?template=TemplateB&leftNav=ResearchandPromotion&page=ResearchandPromotion>).

<sup>3</sup>U.S. Department of Agriculture, Industry Insight: Checkoff Programs Empower Business (Sept. 21, 2011) (online at <http://blogs.usda.gov/2011/09/21/industry-insight-checkoff-programs-empower-business>).

<sup>4</sup>Pub. L. No. 104–284.

<sup>5</sup>Pub. L. No. 106–469.

<sup>6</sup>Pub. L. No. 113–79.

- Franklin Rusco, Director, Natural Resources and Environment-Energy Issues, U.S. Government Accountability Office;
- Major Ogilvie, General Manager, Ready Mix USA, LLC.;
- Kent Waide, President, Ruby Concrete Company; and
- Kate Offringa, President, Vinyl Siding Institute Incorporated.

#### COMMITTEE CONSIDERATION

On July 23, 2015, the Subcommittee on Commerce, Manufacturing, and Trade met in open markup session and forwarded H.R. 985 to the full Committee, as amended, by a voice vote. On July 29, 2015, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 985 reported to the House, as amended, by a voice vote.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no record votes taken in connection with ordering H.R. 985 reported.

#### COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held a hearing and made findings that are reflected in this report.

#### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

The goal of H.R. 985 is to enable concrete masonry products manufacturers to establish, finance, and carry out a “check-off” program—a coordinated program of research, education, and promotion to improve, maintain, and develop markets—for concrete masonry products.

#### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 985 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

#### EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives, the Committee finds that H.R. 985 contains no earmarks, limited tax benefits, or limited tariff benefits.

#### COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

U.S. CONGRESS,  
 CONGRESSIONAL BUDGET OFFICE,  
 Washington, DC, September 4, 2015.

Hon. FRED UPTON,  
 Chairman, Committee on Energy and Commerce  
 House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 985, the Concrete Masonry Products Research, Education, and Promotion Act of 2015.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

KEITH HALL.

Enclosure.

*H.R. 985—Concrete Masonry Products Research, Education, and Promotion Act of 2015*

Summary: H.R. 985 would establish the Concrete Masonry Products Board (Board), upon approval of a referendum by producers of masonry products made from concrete (CMP), such as cinder blocks. The Board would develop research and education programs as well as efforts to promote CMP in domestic markets. Funding for those activities would be derived from assessments on CMP manufacturers based on the number of masonry units sold each year. The bill would direct the Secretary of Commerce to organize and hold the referendum; the agency’s costs would be reimbursed by the Board from initial collections of assessments.

CBO estimates that enacting H.R. 985 would increase direct spending by \$111 million and increase net revenues by \$85 million over the 2016–2025 period, leading to a net increase in the deficit of \$26 million over the 10-year period. Pay-as-you-go procedures apply because enacting the legislation would affect direct spending and revenues. In addition, CBO estimates that implementing H.R. 985 would cost \$2 million over the 2016–2020 period; such spending would be subject to the availability of appropriated funds.

H.R. 985 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

H.R. 985 would impose private-sector mandates on manufacturers of CMP. Based on information from industry experts, CBO estimates that the annual cost of the mandates would fall well below the threshold established in UMRA for private-sector mandates (\$154 million in 2015, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary effects of H.R. 985 are shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By fiscal year, in millions of dollars—											
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2016–2020	2016–2025
CHANGES IN DIRECT SPENDING												
Estimated Budget Authority .....	0	9	12	12	13	13	13	14	14	14	46	114

	By fiscal year, in millions of dollars—											2016– 2020	2016– 2025
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025			
Estimated Outlays .....	0	6	12	12	13	13	13	14	14	14	14	43	111
	CHANGES IN REVENUES <sup>a</sup>												
Estimated Revenues .....	0	7	9	9	10	10	10	10	10	10	10	35	85
	NET INCREASE OR DECREASE (–) IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES												
Impact on Deficit .....	0	–1	3	3	3	3	3	4	4	4	4	8	26

Notes: Components may not sum to totals because of rounding.

CBO estimates that implementing H.R. 985 would cost about \$2 million over the 2016–2020 period for administrative costs and reports; such spending would be subject to the availability of appropriated funds.

<sup>a</sup>When excise taxes and other types of revenue, such as assessments by the Board, are imposed on goods or services, they tend to reduce income for workers or business owners in that industry and through the economy. As a consequence, revenue derived from other tax sources—such as income and payroll taxes—will be diminished. As a result, CBO applies an offset when estimating the net revenue effect for proposals that generate such indirect tax. The amount of the offset ranges from 25.6 percent in 2016 to 26.2 percent in 2025.

**Basis of estimate:** In CBO’s view, the Board that would be established under H.R. 985 should be considered to be acting on behalf of the federal government, thus all of its financial transactions should be reflected in the federal budget. While the Board would be formed only upon approval by a majority of the producers of CMP, once created, the requirement to pay assessments would be compulsory and could be enforced by the federal government’s sovereign authority.

Based on information from industry representatives, CBO anticipates that the referendum would be approved by the industry and that the Board and supporting staff would be appointed near the end fiscal year 2016. We expect that assessments would be collected beginning in the first half of fiscal year 2017; the bill would require assessments to be paid quarterly.

While the bill would apply to producers of both concrete block and concrete pavers, CBO expects that only producers of concrete block would participate in the referendum. Because there is little differentiation among concrete blocks across manufacturers, all producers of concrete blocks would benefit from an industry-wide research and promotion program. Manufacturers of concrete pavers, on the other hand, are able to distinguish their products in a way that allows consumers to recognize individual brands. Consequently, those producers have little incentive to participate in an industry-wide marketing effort. Based on information from manufacturers of concrete pavers, CBO expects that those producers would not participate in the referendum.

### *Direct spending*

H.R. 985 would authorize the Board to spend amounts collected, without further appropriation, on research and education efforts as well as on programs to promote sales of CMP. The bill also would authorize the Board to borrow funds to cover the Board’s start-up expenses and to invest collections in interest-bearing securities issued by the Treasury, thereby generating additional funding for its activities. Expenditures of assessments and accrued interest would be considered direct spending. Based on historical patterns for similar activities, CBO estimates that expenditures by the proposed Board would total \$111 million over the 2016–2025 period.

*Revenues*

H.R. 985 would authorize the Board to levy an assessment of one cent on each concrete block product sold by all CMP manufacturers in the United States. Based on information from industry experts and historical sales information, CBO expects about 1.2 billion concrete blocks will be sold in 2016 and we expect sales to grow with inflation, yielding, on average, estimated collections of \$13 million per year. Those amounts would be recorded in the budget as revenues, because payment of the assessments would be compulsory, and could be enforced by federal courts. CBO estimates that enacting H.R. 985 would increase gross revenues by \$114 million over the 2016–2025 period.

Because excise taxes and other indirect business taxes (such as assessments by the Board) reduce the base of income and payroll taxes, higher amounts of those indirect business taxes would lead to reductions in revenues from income and payroll taxes. As a result, gross assessments would be partially offset by a loss of receipts of about 25 percent each year. Thus, CBO estimates that enacting H.R. 985 would increase net revenues by \$85 million over the 2016–2025 period.

*Spending subject to appropriation*

H.R. 985 would direct the Secretary of Commerce to develop an order to establish the Board and set out its authorities, and to conduct a referendum among eligible CMP manufacturers to approve the order. After passage of the referendum, the Secretary would be responsible for approving the Board’s programs and budgets each year. The bill also would direct the Secretary of Commerce and the Government Accountability Office to prepare several reports for the Congress to explain the effect the Board has on the concrete masonry block industry and the effectiveness of the referendum model on a nonagricultural industry.

Based on the cost of similar reports and activities, CBO estimates that implementing those provisions would cost about \$2 million over the 2016–2020 period, assuming the availability of appropriated funds.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO Estimate of Pay-As-You-Go Effects for H.R. 985 as ordered reported by the House Committee on Energy and Commerce on July 29, 2015

	By fiscal year, in millions of dollars—													2016–2020	2016–2025
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025					
NET INCREASE OR DECREASE (–) IN THE DEFICIT															
Statutory Pay-As-You-Go Impact .....	0	–1	3	3	3	3	3	4	4	4		8	26		
Memorandum:															
Changes in Outlays .....	0	6	12	12	13	13	13	14	14	14		43	111		
Changes in Revenues .....	0	7	9	9	10	10	10	10	10	10		35	85		

Note: Components may not sum to totals because of rounding.

Estimated impact on state, local, and tribal governments: H.R. 985 contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimated impact on the private sector: H.R. 985 would impose private-sector mandates on manufacturers of concrete masonry products, such as cinder blocks. Those manufacturers would be required to pay to the Board an assessment of one cent per masonry unit sold. CBO estimates that the cost of this mandate would amount to about \$13 million annually on average. The bill also would impose mandates on CMP manufacturers by requiring them to maintain records and make those records available for inspection as required by the Board. Based on information from industry experts, the cost of complying with the recordkeeping requirements would be small. Consequently, CBO estimates that the aggregate cost of the private-sector mandates in the bill would fall well below the annual threshold established in UMRA (\$154 million in 2015, adjusted annually for inflation).

Estimate prepared by: Federal costs: Susan Willie; Impact on state, local, and tribal governments: Melissa Merrell; Impact on the private sector: Logan Smith.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

#### DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 985 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting H.R. 985 specifically directs to be completed 1 rulemaking within the meaning of 5 U.S.C. 551.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Short title*

Section 1 provides that this Act may be cited as the “Concrete Masonry Products Research, Education, and Promotion Act of 2015.”

*Section 2. Declaration of policy*

Section 2 sets forth the purpose of the Act to establish a program that strengthens the market position and promotes the use of concrete masonry products.

*Section 3. Definitions*

Section 3 sets forth definitions for terms contained within the Act.

*Section 4. Issuance of orders*

Section 4 authorizes the Secretary of the Department of Commerce to issue orders under this Act that are applicable to manufacturers of concrete masonry products. It also sets forth procedures the Secretary must follow in issuing a proposed order, amending a current order, and making orders available for public comment and review.

*Section 5. Required terms in orders*

Section 5 sets forth the specified terms and conditions that an order must contain. This section authorizes the establishment of a Concrete Masonry Products Board, the criteria for board membership, and the powers and duties of the board in carrying out the promotion, research, and education programs related to concrete masonry products.

*Section 6. Assessments*

Section 6 requires and authorizes the collection of mandatory assessments paid by manufacturers of concrete masonry products manufactured and marketed in the United States. It also sets forth the collection processes of the assessment and details how the assessments must be disbursed to support research, education, and promotion programs and projects.

*Section 7. Referenda*

Section 7 requires the Secretary to conduct a referendum among manufacturers required to pay the assessments to formally adopt an order under this Act. The Secretary will deem the order in effect only if it has been approved by a majority of manufacturers voting who also represent a majority of the machine cavities in operation of those manufacturers voting in the referendum. This section also sets forth the terms of eligibility among manufacturers to participate and cast votes on the referendum.

*Section 8. Petition and review*

Section 8 authorizes concrete masonry product manufacturers covered by an order to file a petition challenging the legality of the order. It also authorizes manufacturers to file a petition requesting a modification to the order or an exemption from the order.

*Section 9. Enforcement*

Section 9 gives U.S. District courts authority to enforce this Act. It also authorizes the U.S. Attorney General to bring civil actions. It establishes civil penalties and orders for violations of the Act of not more than \$5,000 for each violation. It also provides that any remedies for enforcement listed in this Act are in addition to, and not exclusive of, other remedies that may be available.

*Section 10. Investigation and power to subpoena*

Section 10 authorizes the Secretary to conduct investigations, issue subpoenas, and take other actions to determine whether any persons are engaging in conduct that violates the Act.

*Section 11. Suspension or termination*

Section 11 gives the Secretary authority to suspend or terminate an order or provision of an order that obstructs or does not effectuate the purpose of the Act. It also gives the Secretary authority to suspend or terminate the collection of assessments under an order and all other activities if it is determined that the order is not approved as a result of a referendum conducted under Section 7.

*Section 12. Amendments to orders*

Section 12 establishes that all the provisions of the Act that are applicable to the order will be applicable to any amendment to the order, except Section 8 will not apply to an amendment.

*Section 13. Effect on other laws*

Section 13 establishes that this Act will not affect or preempt any other Federal or State laws authorizing research, education, and promotion relating to concrete masonry products.

*Section 14. Regulations*

Section 14 authorizes the Secretary to issue regulations that may be necessary under the power vested in the Secretary under this Act to carry out the Act.

*Section 15. Limitation on expenditures for administrative expenses*

Section 15 prohibits the use of any funds appropriated to carry out the Act to be used for the payment of expenses or expenditures of the Board in administering the order.

*Section 16. Study and report by the Government Accountability Office*

Section 16 requires the Government Accountability Office to conduct two studies examining several factors related to the efficacy of the program. The first study must be submitted to Congress no later than five years after the Act's enactment, and the second study must be submitted no later than eight years after the Act's enactment.

*Section 17. Study and report by the Department of Commerce*

Section 17 requires the Department of Commerce to prepare a study and submit to Congress a report examining the appropriate-

ness and effectiveness of applying the Department of Agriculture's check-off program model to other non-agricultural industries.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

This legislation does not amend any existing Federal statute.

