

Testimony of Ellen Herbst  
Chief Financial Officer and Assistant Secretary for Administration  
U.S. Department of Commerce  
before the  
Subcommittee on Commerce, Manufacturing and Trade  
Energy and Commerce Committee  
House of Representatives  
on  
H.R. 985, the “Concrete Masonry Products Research, Education, and Promotion Act of  
2015”  
July 10, 2015

Good morning Chairman Burgess, Ranking Member Schakowsky, and Members of the Committee. Thank you for inviting me to testify today on H.R. 985, the “Concrete Masonry Products Research, Education, and Promotion Act of 2015.”

My name is Ellen Herbst. I am the Department of Commerce’s Chief Financial Officer and Assistant Secretary for Administration (CFO/ASA). I oversee the establishment and execution of Departmental policies and procedures for administrative functions affecting program operations in Commerce’s operating units. This includes budget, human resources, procurement, travel, and strategic planning and performance measurement. In my role, I seek to strengthen the Department’s capacity to achieve its objectives, maximize return on program investments, and deliver quality, timely service.

As part of the Administration’s economic team, the Secretary of Commerce serves as the voice of all U.S. business. The Department of Commerce promotes job creation, economic growth, sustainable development and improved standards of living for all Americans by working in partnership with businesses, universities, communities and our nation’s workers. The Department’s “Open for Business” Agenda is a bold strategic plan and policy blueprint focused on expanding trade and investment, unleashing government data for economic benefit, spurring innovation, protecting the environment, and executing these priorities with operational excellence as careful stewards of taxpayer dollars.

Our bureaus are hard at work every day on behalf of American businesses and workers. For example, the International Trade Administration is charged with promoting the export of U.S. goods and services in foreign markets, and ensuring fair trade and compliance with trade laws and agreements. Through its administration of the patent and trademark laws, the U.S. Patent and Trademark Office enables the protection of new ideas and spurs innovation, creativity and the development of new technology globally. The Economic Development Administration plays a critical role in fostering regional economic development efforts in communities across the nation. With a varied research portfolio, world-class facilities, national networks and international partnerships

on standards and technology, the National Institute of Standards and Technology works to support U.S. industry and innovation.

As we understand the bill, H.R. 985 would establish the Concrete Masonry Products Board (Board), upon approval of a referendum by producers of masonry products made from concrete. The Board would develop research and education programs as well as programs to promote concrete masonry products (CMP) in domestic and foreign markets. Funding for those activities would be derived from mandatory assessments on CMP manufacturers based on the number of masonry units sold each year. The bill directs the Secretary of Commerce to organize and hold the initial referendum and would require the Secretary of Commerce to assume a significant ongoing oversight and enforcement role. Among those responsibilities would be issuing orders to manufacturers of concrete masonry products; conducting subsequent referenda among manufacturers required to pay an assessment; appointing members of the board; approving all programs or projects of research, education, or promotion proposed by the Board; holding hearings and issuing rulings on petitions filed with the Secretary; assessing civil penalties, issuing cease and desist orders, and holding hearings on violations of orders or regulations issued by the Secretary; performing investigations and holding administrative hearings to determine whether violations of the legislation have occurred; and issuing regulations necessary to carry out the legislation.

While the Department supports the efforts of the masonry industry to coordinate research, education, and promotion activities for the industry, we have identified a number of challenges to implementation of this program within the Commerce Department. First, although the legislation provides that the cost of the Department's activities in carrying out this program are intended to be reimbursed using assessments collected by the Board, it is unclear how that process would work in practice. In addition, the Department does not have the expertise, staff, or the resources to establish and administer a commodity research and promotion program, also known as a checkoff program. Such an office would need to be established and located within one of the Department's bureaus. There are no bureaus within the Department that currently administer commodity checkoff or similar programs. Nor does such a program fit within the current mandates or missions of our bureaus. The oversight and enforcement responsibilities proposed by the bill would be extensive.

An option would be for the concrete masonry industry to organize voluntary cooperative arrangements to encourage generic marketing, education and research activities. We also note that other competing construction material producers might oppose creation of such a program that could be viewed as unfairly favoring one type of construction material over others. This could lead to requests from other competing construction material producers to establish their own checkoff programs resulting in an ever-expanding number of checkoff programs that could end up housed within the Department.

I appreciate the Committee's time and attention and welcome any questions.