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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

To strengthen and enhance the competitiveness of cement, concrete, asphalt binder, and asphalt mixture production in the United States through the research, development, demonstration, and commercial application of technologies to reduce emissions from cement, concrete, asphalt binder, and asphalt mixture production, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. FOUSHEE introduced the following bill; which was referred to the Committee on _____

A BILL

To strengthen and enhance the competitiveness of cement, concrete, asphalt binder, and asphalt mixture production in the United States through the research, development, demonstration, and commercial application of technologies to reduce emissions from cement, concrete, asphalt binder, and asphalt mixture production, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “IMPACT Act 2.0”.

3 **SEC. 2. FEDERAL HIGHWAY ADMINISTRATION.**

4 (a) **PURPOSE.**—The purpose of this section is to en-
5 courage States to improve State-level cement, concrete, as-
6 phalt binder, and asphalt mixture specifications and
7 standards to facilitate the purchase of low-emissions ce-
8 ment, concrete, asphalt binder, or asphalt mixtures.

9 (b) **ESTABLISHMENT.**—The Administrator of the
10 Federal Highway Administration (referred to in this sec-
11 tion as the “Administrator”) shall provide to States—

12 (1) reimbursement for the additional cost of
13 using low-emissions cement, concrete, asphalt bind-
14 er, and asphalt mixtures used in Federal highway
15 projects of the State, including the costs of research,
16 lab and field testing, and pilot demonstrations of
17 using such mixtures, including test development,
18 equipment rental and purchase, and replacement of
19 test sections;

20 (2) incentives for the acquisition of low-emis-
21 sions cement, concrete, asphalt binder, and asphalt
22 mixtures for use in Federal highway projects of the
23 State;

24 (3) technical assistance, including reimburse-
25 ments to States for the provision of technical assist-
26 ance from third party entities, to update the speci-

1 fications and standards of the State to be perform-
2 ance-based specifications and standards; and

3 (4) technical assistance, including reimburse-
4 ments to States for the provision of technical assist-
5 ance from third party entities, to benchmark and
6 quantify embodied greenhouse gas emissions.

7 (c) REIMBURSEMENT AND INCENTIVE AMOUNTS.—

8 (1) REIMBURSEMENT AMOUNT.—The amount
9 of reimbursement under subsection (b)(1) shall be
10 equal to the incrementally higher cost of using such
11 materials relative to the cost of using traditional ma-
12 terials, as determined by the State and verified by
13 the Administrator.

14 (2) INCENTIVE AMOUNT.—The amount of an
15 incentive under subsection (b)(2) shall be equal to 2
16 percent of the cost of using low-emissions cement,
17 concrete, asphalt binder, and asphalt mixtures on a
18 Federal highway project of the State.

19 (3) LIMITATION.—Amounts provided for reim-
20 bursement and incentives under this section may not
21 exceed the amount authorized to be appropriated
22 under subsection (h).

23 (d) ELIGIBILITY.—To be eligible to receive reim-
24 bursement or incentives under this section, a State shall
25 have in effect, as appropriate, special provisions, specifica-

1 tions, or standards, such as engineering performance
2 standards, or a collection of embodied greenhouse gas
3 emissions reporting tools, such as environmental product
4 declarations, that facilitate the purchase of low-emissions
5 cement, concrete, asphalt binder, and asphalt mixtures.

6 (e) DECISION DEADLINE.—

7 (1) IN GENERAL.—Not later than 180 days
8 after the date on which the Administrator receives
9 an application from a State for reimbursement or in-
10 centives under this section, the Administrator shall
11 approve the application or deny the application.

12 (2) WRITTEN REASONS FOR DENIAL.—If the
13 Administrator denies an application under para-
14 graph (1), the Administrator shall provide the State
15 a written explanation for the denial.

16 (f) DIRECTORY OF LOW-EMISSION CEMENT, CON-
17 CRETE, ASPHALT BINDER, OR ASPHALT MIXTURES.—

18 (1) IN GENERAL.—Not later than 180 days
19 after the date of enactment of this Act, the Adminis-
20 trator shall establish and maintain a publicly avail-
21 able directory of low-emissions cement, concrete, as-
22 phalt binder, or asphalt mixtures submitted by
23 States, solely as an information resource, that the
24 Administrator determines to be eligible for reim-
25 bursement or incentives under this subsection.

1 (2) RULE OF CONSTRUCTION.—Nothing in this
2 subsection shall be construed as prohibiting eligi-
3 bility for reimbursement or incentives under sub-
4 section (d).

5 (g) COORDINATION.—In carrying out this section, the
6 Administrator shall leverage the Every Day Counts Initia-
7 tive of the Department of Transportation to promote the
8 commercialization of low-emissions cement, concrete, as-
9 phalt binder, and asphalt mixtures.

10 (h) LOW-EMISSIONS CEMENT, CONCRETE, AND AS-
11 PHALT DEFINED.—In this Act, the term “low-emissions
12 cement, concrete, and asphalt” means cement, concrete,
13 asphalt binder, or asphalt mixture that reduces, to the
14 maximum extent practicable, greenhouse gas or directly
15 related pollutant emissions to levels below commercially
16 available cement, concrete, or asphalt.

17 (i) AUTHORIZATION OF APPROPRIATIONS.—There is
18 authorized to be appropriated to the Secretary to carry
19 out this section \$15,000,000 for the period of fiscal years
20 2025 through 2027.

21 **SEC. 3. ADVANCE PURCHASE COMMITMENT PROGRAM.**

22 (a) PURPOSE.—The purposes of this section are—

23 (1) to increase State flexibility to allow States
24 to purchase or contractually guarantee the direct

1 purchase of innovative, high-performing cement, con-
2 crete, asphalt binder, or asphalt mixtures; and

3 (2) to encourage continuous innovation in the
4 production and use of cement, concrete, asphalt
5 binder, and asphalt mixtures boost manufacturing,
6 taxpayer savings, and supply chain security.

7 (b) ELIGIBLE PROJECTS.—Section 133 of title 23,
8 United States Code, is amended—

9 (1) in subsection (b) by adding at the end the
10 following:

11 “(25) A project that includes the use of innova-
12 tive, domestically produced cement, concrete, asphalt
13 mixture, or asphalt binder manufactured using a
14 process described in subsection (l).

15 “(26) Subject to subsection (m), a project that
16 is carried out through an advance multiyear contract
17 with a producer for a specified quantity and speci-
18 fied price of innovative, domestically produced ce-
19 ment, concrete, asphalt mixture, or asphalt binder
20 manufactured using a process described in sub-
21 section (l).”; and

22 (2) by adding at the end the following:

23 “(1) REQUIREMENTS FOR CERTAIN PROJECTS.—The
24 process referred to in paragraphs (25) and (26) of sub-
25 section (b) is a manufacturing process that—

1 “(1) produces materials with—

2 “(A) superior durability to conventional
3 materials; and

4 “(B) superior performance with respect
5 to—

6 “(i) compressive strength;

7 “(ii) tensile strength; or

8 “(iii) workability; or

9 “(2) produces materials that meet the engineer-
10 ing specifications of the State and achieve superior
11 performance with respect to—

12 “(A) environmental performance; or

13 “(B) energy efficiency.”.

14 (c) STATE FLEXIBILITY.—Section 133(h)(6) of title
15 23, United States Code, is amended by adding at the end
16 the following:

17 “(D) PROCUREMENT FOR INNOVATIVE
18 BUILDING MATERIALS.—

19 “(i) IN GENERAL.—A State may use
20 the funds set aside under this subsection
21 to enter into an advance multi-year con-
22 tract described in subsection (m) for a
23 specified quantity and specified price of in-
24 novative, domestically produced cement,

1 concrete, asphalt mixture, or asphalt bind-
2 er.

3 “(ii) USE OF FUNDS.—States may not
4 provide payments to the producer as part
5 of the advance procurement under clause
6 (i) unless materials have been delivered ac-
7 cording to contract terms and conditions.”.

8 (d) LIMITATION.—Section 133 of title 23, United
9 States Code, is further amended by adding at the end the
10 following:

11 “(m) ADVANCE MULTI-YEAR CONTRACTS.—Except
12 as otherwise provided in this section, none of the funds
13 made available under this section may be used for a multi-
14 year contract unless—

15 “(1) cancellation provisions in the contract do
16 not include consideration of recurring manufacturing
17 costs of the producer associated with the production
18 of unfunded units to be delivered under the contract;

19 “(2) the contract provides that payments to the
20 producer under the contract shall not be made in ad-
21 vance of incurred costs on funded units;

22 “(3) the contract does not provide for a price
23 adjustment based on a failure to award a follow-on
24 contract;

1 “(4) the producer submits a statement describ-
2 ing the quantity and cost of the cement, concrete,
3 asphalt mixture, and asphalt binder;

4 “(5) the producer demonstrates material steps
5 towards commercial production and operational ca-
6 pacity of cement, concrete, asphalt mixture, or as-
7 phalt binder production with respect to logistics,
8 planned material storage, handling capacities, and
9 delivery mechanisms, of which failure to demonstrate
10 material progress towards commercial production
11 and operational capacity may result in termination
12 of a portion or all of the advance procurement at the
13 sole discretion of the State; and

14 “(6) the contract fulfills, to the maximum ex-
15 tent possible, preference criteria set by the State.”.