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§§1,2,10
C.52:27D-141.15
to
52:27D-141.17
§3
C.54:32B-8.65
§4
C.54:10A-5.48
§5
C.54A:4-22
§6
C.52:32-62
§7
C.40A:11-4.13
§8
C.27:1B-21.38
§9
C.52:32-1b
§11
Note

P.L. 2021, CHAPTER 278, *approved November 8, 2021*
Senate, No. 3091 (*Third Reprint*)

1 AN ACT concerning the purchase and use of unit concrete products
2 that utilize carbon footprint-reducing technology and
3 supplementing Titles 27, 52, and 54 of the Revised ²[Statues]
4 Statutes², Title 54A of the New Jersey Statutes, and P.L.1971,
5 c.198.

6
7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:

9
10 1. The Legislature finds and declares that the burning of fossil
11 fuels and other industrial processes release harmful greenhouse
12 gases into the atmosphere, which in turn contribute to climate
13 change; that, in the coming years, New Jersey is likely to
14 experience increased flooding, drought, and other severe weather
15 effects caused by climate change; and that, in order to help mitigate
16 the serious impacts of climate change, the State must drastically
17 reduce its consumption of fossil fuels and its greenhouse gas
18 emissions.

19 The Legislature further finds that concrete is the most widely
20 used construction material in the world due to its low cost, strength,

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SSG committee amendments adopted December 14, 2020.

²Senate SBA committee amendments adopted January 21, 2021.

³Senate floor amendments adopted February 19, 2021.

1 and durability; that the production of ordinary Portland cement, the
2 critical ingredient in concrete, is responsible for almost eight
3 percent of the world's carbon dioxide emissions; that ordinary
4 Portland cement requires significant amounts of energy to produce,
5 resulting in high carbon dioxide emissions; that modern technology
6 allows concrete to be produced utilizing less energy, and the
7 emission of carbon dioxide from cement manufacturing can be
8 greatly reduced by capturing and utilizing carbon dioxide in the unit
9 concrete product manufacturing process, including the chemical
10 reaction that results in strength and durability of concrete; and that
11 this process can sequester carbon dioxide in the unit concrete
12 product or chemically transform the carbon dioxide into mineral
13 form, embedding it into the concrete and preventing its release
14 as a gas.

15 The Legislature therefore determines that it is in the public
16 interest to encourage and support the purchase of unit concrete
17 products that utilize carbon footprint-reducing technology in the
18 State; that unit concrete products that utilize carbon footprint-
19 reducing technology will greatly reduce greenhouse gas emissions
20 from the concrete and construction industries; and that incentives
21 for permeable pavers that are unit concrete products that utilize
22 carbon footprint-reducing technology will further help enhance
23 stormwater management, reduce stormwater runoff, and decrease
24 the risk of flooding in the State.

25

26 2. a. A ²[developer] builder² shall, for any new construction
27 that requires the use of unit concrete products, where technically
28 feasible, offer ²[to use] as an option² unit concrete products that
29 utilize carbon footprint-reducing technology in the new
30 construction, whenever a prospective ²[purchaser] client² enters
31 into negotiations with the ²[developer] builder² to construct or
32 purchase a new residential dwelling or commercial building in the
33 State.

34 ²The requirements of this section shall not apply whenever a
35 prospective client enters into negotiations with a builder for new
36 construction of an individual unit of condominiums as defined in
37 the "Condominium Act," P.L.1969, c. 257 (C.46:8B-1 et seq.) or
38 attached single-family townhouses or row houses for which title to
39 the individual condominium, townhouse, or row house unit will be
40 held in fee simple but the maintenance, repair, or replacement of
41 improvements constructed with unit concrete products are the
42 responsibility of a non-profit homeowners association.²

43 b. A ²[developer] builder² shall disclose ²[, in any advertising
44 or offer to construct a new residential dwelling or commercial
45 building] in writing pursuant to paragraph (3) of subsection c. of
46 this section² , in a form and manner as determined by the
47 commissioner:

- 1 (1) that the prospective ²**[purchaser]** client² may choose to use
2 unit concrete products that utilize carbon footprint-reducing
3 technology in the new construction;
- 4 (2) the total cost ²to be charged by the builder to the prospective
5 client² of using unit concrete products that utilize carbon footprint-
6 reducing technology in the new construction;
- 7 (3) general information on the environmental and other benefits
8 of using unit concrete products that utilize carbon footprint-
9 reducing technology; and
- 10 (4) information concerning any applicable tax credits, rebates,
11 or other incentives that may be available for the use of unit concrete
12 products that utilize carbon footprint-reducing technology pursuant
13 to P.L. , c. (C.) (pending before the Legislature as this bill
14 or any other law.
- 15 c. The commissioner, in consultation with the Department of
16 Environmental Protection, shall:
- 17 (1) publish educational materials to demonstrate how
18 ²**[developers]** builders² may incorporate unit concrete products that
19 utilize carbon footprint-reducing technology into new construction;
20 ²**[and]**²
- 21 (2) provide ²**[developers]** builders² with information
22 concerning applicable tax credits, rebates, or other incentives that
23 may be available for the use of unit concrete products that utilize
24 carbon footprint-reducing technology pursuant to
25 P.L. , c. (C.) (pending before the Legislature as this bill) or
26 any other law ²; and
- 27 (3) provide builders with a separate form that the builder shall
28 present, along with the materials required pursuant to subsection b.
29 and c. of this section, to the prospective client prior to entering into
30 a contract, which form shall allow a prospective client to accept or
31 decline the option to use unit concrete products that utilize carbon
32 footprint-reducing technology in the new construction² .
- 33 d. ³**[The]** Notwithstanding the provisions of the “Administrative
34 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary,
35 the³ commissioner, in consultation with the Department of
36 Environmental Protection, may adopt, ³**[pursuant to the**
37 **“Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-**
38 **1 et seq.)]** immediately upon filing the proper notice with the Office
39 of Administrative Law³ , rules and regulations ³that the commissioner
40 determines to be³ necessary to implement this section. ³These rules
41 and regulations shall be in effect for a period not to exceed 365
42 days after the date of the filing. The rules and regulations shall
43 thereafter be amended, adopted, or readopted in accordance with the
44 requirements of the “Administrative Procedure Act,” P.L.1968,
45 c.410 (C.52:14B-1 et seq.).³
- 46 e. The commissioner shall enforce the provisions of this
47 section and may penalize and assess violators of this section in

1 accordance with the penalties and procedures provided for under
2 section 18 of P.L.1977, c.419 (C.45:22A-38).

3 f. ²If a prospective client accepts, pursuant to a written contract,
4 the builder's offer to use unit concrete products that utilize carbon
5 footprint-reducing technology in the new construction, then the
6 builder shall use unit concrete products that utilize carbon footprint-
7 reducing technology subject to material availability or acts of force
8 majeure, in which case the builder shall complete construction as
9 soon as reasonably practical.

10 g.² As used in this section:

11 "Advertising" means the same as the term is defined in section 3
12 of P.L.1977, c.419 (C.45:22A-23).

13 ²"Builder" means a person who constructs, or offers to construct,
14 a new residential dwelling or commercial building in the State.²

15 "Commissioner" means the Commissioner of Community
16 Affairs.

17 ²["Developer" means a person who constructs, or offers to
18 construct, a new residential dwelling or commercial building in the
19 State.]²

20 "Prospective ²[purchaser] client² " means a person who
21 contemplates acquiring a legal or equitable interest in ²or
22 constructing² a new residential dwelling or commercial building.

23 "Unit concrete product" means a concrete building product that
24 is fabricated under controlled conditions separate and remote from
25 the intended point of use and is produced in a wet cast or dry cast
26 method in a factory setting and then transported to the location of
27 intended use for installation, including, but not limited to, all
28 concrete pavers, whether permeable or non-permeable, and concrete
29 block. ¹"Unit concrete product" shall not include ready mix
30 concrete, sand, stone, gravel, or bituminous concrete or asphalt.¹

31 "Unit concrete product that utilizes carbon footprint-reducing
32 technology" means a unit concrete product that is certified by the
33 Department of Environmental Protection, or any independent third
34 party authorized by the department, pursuant to section 10 of
35 P.L. , c. (C.) (pending before the Legislature as this bill), as
36 generating at least 50 percent less carbon dioxide emissions in the
37 production and utilization of the unit concrete product than
38 conventional unit concrete products made with ordinary Portland
39 cement. ²Such products shall also conform with the relevant
40 requirements of the "State Uniform Construction Code Act,"
41 P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by
42 reference TMS 402/602 Building Code Requirements and
43 Specification for Masonry Structures.²

44
45 3. a. Receipts from the sale of unit concrete products that
46 utilize carbon footprint-reducing technology, which may include
47 permeable pavement, used in the construction or improvement of

1 any residential dwelling or commercial building located in the State
2 shall be exempt from the tax imposed under the “Sales and Use Tax
3 Act,” P.L.1966, c.30 (C.54:32B-1 et seq.).

4 b. As used in this section:

5 “Permeable pavement” means a concrete product that allows
6 rainwater to penetrate the pavement and percolate into the
7 supporting soils and includes, but is not limited to, pervious
8 concrete, permeable interlocking concrete pavers, and concrete grid
9 pavers.

10 “Unit concrete product” means a concrete building product that
11 is fabricated under controlled conditions separate and remote from
12 the intended point of use and is produced in a wet cast or dry cast
13 method in a factory setting and then transported to the location of
14 intended use for installation, including, but not limited to, all
15 concrete pavers, whether permeable or non-permeable, and concrete
16 block. 1“Unit concrete product” shall not include ready mix
17 concrete, sand, stone, gravel, or bituminous concrete or asphalt.¹

18 “Unit concrete product that utilizes carbon footprint-reducing
19 technology” means a unit concrete product that is certified by the
20 Department of Environmental Protection, or any independent third
21 party authorized by the department, pursuant to section 10 of
22 P.L. , c. (C.) (pending before the Legislature as this bill), as
23 generating at least 50 percent less carbon dioxide emissions in the
24 production and utilization of the unit concrete product than
25 conventional unit concrete products made with ordinary Portland
26 cement. 2Such products shall also conform with the relevant
27 requirements of the “State Uniform Construction Code Act,”
28 P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by
29 reference TMS 402/602 Building Code Requirements and
30 Specification for Masonry Structures.²

31
32 4. a. A taxpayer 3who in a privilege period purchases unit
33 concrete products that utilize carbon footprint-reducing technology,
34 which may include permeable pavement, for use in the construction
35 or improvement of any residential dwelling or commercial building,
36 or in the replacement of an impervious surface with permeable
37 pavement, in the State³ shall be allowed a credit against the tax
38 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
39 an amount equal to \$2.00 per square foot 3[for the purchase and
40 installation]³ of unit concrete products that utilize carbon footprint-
41 reducing technology, which may include permeable pavement, used
42 in the construction or improvement of any residential dwelling or
43 commercial building, or in the replacement of an impervious
44 surface with permeable pavement 3[, in the State. Such purchases
45 and installations must be completed during] . The credit shall be
46 allowed in³ the privilege period 3in which the purchase is made³ .
47 The value of tax credits allowed to a taxpayer pursuant to this

1 section shall not exceed \$3,000 for a residential property, and
2 \$30,000 for a commercial property in a single privilege period. In
3 order to qualify for the tax credit pursuant to this section, a person
4 shall ³~~install~~ purchase³ at least 100 square feet of unit concrete
5 products that utilize carbon footprint-reducing technology, which
6 may include permeable pavement.

7 b. The order of priority of the application of the tax credit
8 allowed pursuant to this section, and any other credits allowed
9 against the tax imposed pursuant to section 5 of P.L.1945, c.162
10 (C.54:10A-5) for a privilege period, shall be as prescribed by the
11 director. The amount of the credit applied pursuant to this section
12 against the tax imposed pursuant to section 5 of P.L.1945, c.162
13 (C.54:10A-5) shall not reduce a taxpayer's tax liability to an amount
14 less than the statutory minimum provided in subsection (e) of
15 section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax
16 credit otherwise allowable under this section which cannot be
17 applied for the privilege period due to the limitations of this
18 subsection or under other provisions of P.L.1945, c.162 (C.54:10A-
19 1 et seq.) may be carried forward, if necessary, to the seven
20 privilege periods following the privilege period for which the tax
21 credit was allowed.

22 c. ³~~The~~ In order to be allowed a tax credit pursuant to
23 subsection a. of this section, a taxpayer who has purchased 100 or
24 more square feet of unit concrete products certified pursuant to
25 section 10 of P.L. , c. (C.) (pending before the Legislature
26 as this bill) shall attach receipts for the unit concrete products for
27 which the tax credit is claimed and an affidavit that the unit
28 concrete products are or will be used exclusively in the State to any
29 return the taxpayer is required to file under P.L.1945, c.162
30 (C.54:10A-1 et seq.). A credit shall be initially allowed for the
31 privilege period in which the unit concrete products are purchased,
32 and any unused portion thereof may be carried forward into
33 subsequent privilege periods as provided in subsection b. of this
34 section.

35 d. No amount of cost included in calculation of the credit
36 allowed under this section shall be included in the costs for
37 calculation of any other credit against the tax imposed pursuant to
38 section 5 of P.L.1945, c.162 (C.54:10A-5).

39 e. The value of tax credits allowed by the director pursuant to
40 this section and pursuant to section 5 of P.L. , c. (C.)
41 (pending before the Legislature as this bill) shall not exceed a
42 cumulative total of \$20,000,000 in each fiscal year to apply against
43 the tax imposed pursuant to the "New Jersey Gross Income Tax
44 Act," N.J.S.54A:1-1 et seq. and the tax imposed pursuant to section
45 5 of P.L.1945, c.162 (C.54:10A-5).

46 f. Notwithstanding the provisions of the "Administrative
47 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the
48 contrary, the³ director, in consultation with the Department of

1 Environmental Protection, shall adopt, ³[pursuant to the
2 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-
3 1 et seq.)] immediately upon filing the proper notice with the Office
4 of Administrative Law³, rules and regulations as are necessary to
5 implement the provisions of this section. ³These rules and
6 regulations shall be in effect for a period not to exceed 365 days
7 after the date of the filing. The rules and regulations shall
8 thereafter be amended, adopted, or readopted in accordance with the
9 requirements of the “Administrative Procedure Act,” P.L.1968,
10 c.410 (C.52:14B-1 et seq.).³ The director may require the
11 submission of any information the director deems necessary to
12 award a tax credit pursuant to this section.

13 ³[d.] g.³ As used in this section:

14 ³“Director” means the Director of the Division of Taxation in the
15 Department of the Treasury.³

16 “Permeable pavement” means a concrete product that allows
17 rainwater to penetrate the pavement and percolate into the
18 supporting soils and includes, but is not limited to, pervious
19 concrete, permeable interlocking concrete pavers, and concrete grid
20 pavers.

21 “Unit concrete product” means a concrete building product that
22 is fabricated under controlled conditions separate and remote from
23 the intended point of use and is produced in a wet cast or dry cast
24 method in a factory setting and then transported to the location of
25 intended use for installation, including, but not limited to, all
26 concrete pavers, whether permeable or non-permeable, and concrete
27 block. ¹“Unit concrete product” shall not include ready mix
28 concrete, sand, stone, gravel, or bituminous concrete or asphalt.¹

29 “Unit concrete product that utilizes carbon footprint-reducing
30 technology” means a unit concrete product that is certified by the
31 Department of Environmental Protection, or any independent third
32 party authorized by the department, pursuant to section 10 of
33 P.L. , c. (C.) (pending before the Legislature as this bill), as
34 generating at least 50 percent less carbon dioxide emissions in the
35 production and utilization of the unit concrete product than
36 conventional unit concrete products made with ordinary Portland
37 cement. ²Such products shall also conform with the relevant
38 requirements of the “State Uniform Construction Code Act,”
39 P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by
40 reference TMS 402/602 Building Code Requirements and
41 Specification for Masonry Structures.²

42
43 5. a. A taxpayer ³who in a privilege period purchases unit
44 concrete products that utilize carbon footprint-reducing technology,
45 which may include permeable pavement, for use in the construction
46 or improvement of any residential dwelling or commercial building,
47 or in the replacement of an impervious surface with permeable

1 pavement, in the State³ shall be allowed a credit against the tax
2 otherwise due for the taxable year under the “New Jersey Gross
3 Income Tax Act” N.J.S.54A:1-1 et seq., in an amount equal to
4 \$2.00 per square foot ³[for the purchase and installation]³ of unit
5 concrete products that utilize carbon footprint-reducing technology,
6 which may include permeable pavement, used in the construction or
7 improvement of any residential dwelling or commercial building, or
8 in the replacement of an impervious surface with permeable
9 pavement ³[, in the State, which purchase and installation is
10 completed during] . The credit shall be allowed in³ the taxable
11 year ³in which the purchase is made³ . The total amount of the tax
12 credit granted pursuant to this section shall not exceed \$3,000 for a
13 residential property, and \$30,000 for a commercial property in a
14 single taxable year. In order to qualify for the tax credit pursuant to
15 this section, a person shall ³[install] purchase³ at least 100 square
16 feet of unit concrete products that utilize carbon footprint-reducing
17 technology, which may include permeable pavement.

18 b. The order of priority of the application of the credit allowed
19 pursuant to this section, and any other credits allowed against the
20 tax imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year,
21 shall be as prescribed by the director. The amount of the credit
22 applied under this section against the New Jersey gross income tax
23 imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year, when
24 taken together with any other payments, credits, deductions, and
25 adjustments allowed by law, shall not reduce a taxpayer's tax
26 liability to an amount less than zero. The amount of the tax credit
27 otherwise allowable under this section which cannot be applied for
28 the taxable year due to the limitations of this section or other
29 provisions of N.J.S.54A:1-1 et seq. may be carried forward, if
30 necessary, to the seven taxable years following the taxable year for
31 which the tax credit was allowed.

32 c. (1) A business entity that is classified as a partnership for
33 federal income tax purposes shall not be allowed a credit under this
34 section directly, but the amount of credit of a taxpayer in respect of
35 a distributive share of partnership income under the “New Jersey
36 Gross Income Tax Act,” N.J.S.54A:1-1 et seq., shall be determined
37 by allocating to the taxpayer that proportion of the credit acquired
38 by the partnership that is equal to the taxpayer's share, whether or
39 not distributed, of the total distributive income or gain of the
40 partnership for its taxable year ending within or with the taxpayer's
41 taxable year.

42 (2) A New Jersey S Corporation shall not be allowed a credit
43 under this section directly, but the amount of the tax credit of a
44 taxpayer in respect of a pro rata share of S Corporation income,
45 shall be determined by allocating to the taxpayer that proportion of
46 the tax credit acquired by the New Jersey S Corporation that is
47 equal to the taxpayer's share, whether or not distributed, of the total
48 pro rata share of S Corporation income of the New Jersey S

1 Corporation for its privilege period ending within or with the
2 taxpayer's taxable year.

3 d. ³**[The]** In order to be allowed a tax credit pursuant to
4 subsection a. of this section, a taxpayer who has purchased 100 or
5 more square feet of unit concrete products certified pursuant to section
6 10 of P.L. , c. (C.) (pending before the Legislature as this bill)
7 shall attach receipts for the unit concrete products for which a tax
8 credit is claimed and an affidavit that the unit concrete products are or
9 will be used exclusively in New Jersey to any return the taxpayer is
10 required to file under the "New Jersey Gross Income Tax Act,"
11 N.J.S.54A:1-1 et seq. A credit shall be initially allowed for the taxable
12 year in which the unit concrete products are purchased, and any
13 unused portion thereof may be carried forward into subsequent taxable
14 years as provided in subsection b. of this section.

15 e. No amount of cost included in calculation of the credit allowed
16 under this section shall be included in the costs for calculation of any
17 other credit against the gross income tax imposed pursuant to
18 N.J.S.54A:1-1 et seq.

19 f. The value of tax credits allowed by the director pursuant to this
20 section and pursuant to section 4 of P.L. , c. (C.) (pending
21 before the Legislature as this bill) shall not exceed a cumulative total
22 of \$20,000,000 in each fiscal year to apply against the tax imposed
23 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
24 seq. and the tax imposed pursuant to section 5 of P.L.1945, c.162
25 (C.54:10A-5).

26 g. Notwithstanding the provisions of the "Administrative
27 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the
28 contrary, the³ director, in consultation with the Department of
29 Environmental Protection, shall adopt, ³[pursuant to the
30 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
31 1 et seq.)] immediately upon filing the proper notice with the Office
32 of Administrative Law³ , rules and regulations as are necessary to
33 implement the provisions of this section. ³These rules and
34 regulations shall be in effect for a period not to exceed 365 days
35 after the date of the filing. The rules and regulations shall
36 thereafter be amended, adopted, or readopted in accordance with the
37 requirements of the "Administrative Procedure Act," P.L.1968,
38 c.410 (C.52:14B-1 et seq.).³ The director may require the
39 submission of any information the director deems necessary to
40 award a tax credit pursuant to this section.

41 ³**[e.] h.** ³ As used in this section:

42 ³"Director" means the Director of the Division of Taxation in the
43 Department of the Treasury.³

44 "Permeable pavement" means a concrete product that allows
45 rainwater to penetrate the pavement and percolate into the
46 supporting soils and includes, but is not limited to, pervious

1 concrete, permeable interlocking concrete pavers, and concrete grid
2 pavers.

3 “Unit concrete product” means a concrete building product that
4 is fabricated under controlled conditions separate and remote from
5 the intended point of use and is produced in a wet cast or dry cast
6 method in a factory setting and then transported to the location of
7 intended use for installation, including, but not limited to, all
8 concrete pavers, whether permeable or non-permeable, and concrete
9 block. ¹“Unit concrete product” shall not include ready mix
10 concrete, sand, stone, gravel, or bituminous concrete or asphalt.¹

11 “Unit concrete product that utilizes carbon footprint-reducing
12 technology” means a unit concrete product that is certified by the
13 Department of Environmental Protection, or any independent third
14 party authorized by the department, pursuant to section 10 of
15 P.L. , c. (C.) (pending before the Legislature as this bill), as
16 generating at least 50 percent less carbon dioxide emissions in the
17 production and utilization of the unit concrete product than
18 conventional unit concrete products made with ordinary Portland
19 cement. ²Such products shall also conform with the relevant
20 requirements of the “State Uniform Construction Code Act,”
21 P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by
22 reference TMS 402/602 Building Code Requirements and
23 Specification for Masonry Structures.²

24
25 6. a. Notwithstanding the provisions of any other law, rule, or
26 regulation to the contrary, the Director of the Division of Purchase
27 and Property in the Department of the Treasury, the Director of the
28 Division of Property Management and Construction in the
29 Department of the Treasury, and any State agency having authority
30 to contract for the purchase of goods or services, shall, whenever
31 ²**[possible, give preference to]** ³technically³ feasible, use or require
32 the use of² unit concrete products that utilize carbon footprint-
33 reducing technology, which may include permeable pavement,
34 when entering into a contract for the purchase of unit concrete
35 products, or for any construction or improvement project that
36 requires the use of unit concrete products, including the
37 replacement of impervious surfaces with permeable pavement. ²**[In**
38 **the event that more than one bidder offers to use unit concrete**
39 **products that utilize carbon footprint-reducing technology, the state**
40 **department or agency shall award the contract to the lowest**
41 **responsible bidder among them.]²**

42 b. The Division of Purchase and Property and the Division of
43 Property Management and Construction, in consultation with the
44 Department of Environmental Protection, shall develop and publish
45 guidelines for implementing the ²**[preference]** requirement
46 established² pursuant to subsection a. of this section. ²**[The**
47 **guidelines shall encourage and promote, to the maximum extent**

1 practicable, the purchase and use of unit concrete products that
2 utilize carbon footprint-reducing technology.² The guidelines
3 shall conform to any standards or procedures established ³[by the
4 State Treasurer and the Department of Environmental Protection]³
5 pursuant to section 10 of P.L. , c. (C.) (pending before the
6 Legislature as this bill). Whenever any agency or department of
7 State government purchases unit concrete products, or undertakes
8 any construction or improvement project that requires the use of
9 unit concrete products, the agency or department shall follow the
10 guidelines therefor established by the director.

11 c. In preparing the specifications for any contract for the
12 purchase of unit concrete products, or for any construction or
13 improvement project that requires the use of unit concrete products,
14 the Director of the Division of Purchase and Property, the Director
15 of the Division of Property Management and Construction, or any
16 State agency having authority to contract for the purchase of goods
17 or services shall include in the invitation to bid, where relevant, a
18 statement that any response to the invitation ²[that proposes or calls
19 for the use of] shall use² unit concrete products that utilize carbon
20 footprint-reducing technology ²[shall receive preference whenever
21 possible]² ³whenever technically feasible³ . ²The State agency shall
22 include in its project specifications a specific line item for each unit
23 concrete product to be used in the project.²

24 d. The provisions of this section shall not apply to:

25 (1) any binding contractual obligations for the purchase of
26 goods or services entered into prior to the effective date of
27 P.L. , c. (C.) (pending before the Legislature as this bill);

28 (2) bid packages advertised and made available to the public, or
29 to any competitive and sealed bids received by the State, prior to
30 the effective date of P.L. , c. (C.) (pending before the
31 Legislature as this bill); ³[or]³

32 (3) any amendment, modification, or renewal of a contract,
33 which contract was entered into prior to the effective date of
34 P.L. , c. (C.) (pending before the Legislature as this bill)
35 where the application would delay timely completion of a project or
36 involve an increase in the total moneys to be paid by the State under
37 that contract ³; or

38 (4) a contract when the Director of the Division of Purchase and
39 Property, the Director of the Division of Property Management and
40 Construction, or the head of any State agency having authority to
41 contract for the purchase of goods or services determines, in their
42 sole discretion, that the purchase and use of unit concrete products
43 that utilize carbon footprint-reducing technology would increase the
44 cost of the contract by an unreasonable amount³ .

45 e. As used in this section:

46 “Permeable pavement” means a concrete product that allows
47 rainwater to penetrate the pavement and percolate into the

1 supporting soils and includes, but is not limited to, pervious
2 concrete, permeable interlocking concrete pavers, and concrete grid
3 pavers.

4 “Unit concrete product” means a concrete building product that
5 is fabricated under controlled conditions separate and remote from
6 the intended point of use and is produced in a wet cast or dry cast
7 method in a factory setting and then transported to the location of
8 intended use for installation, including, but not limited to, all
9 concrete pavers, whether permeable or non-permeable, and concrete
10 block. ¹“Unit concrete product” shall not include ready mix
11 concrete, sand, stone, gravel, or bituminous concrete or asphalt.¹

12 “Unit concrete product that utilizes carbon footprint-reducing
13 technology” means a unit concrete product that is certified by the
14 Department of Environmental Protection, or any independent third
15 party authorized by the department, pursuant to section 10 of
16 P.L. , c. (C.) (pending before the Legislature as this bill), as
17 generating at least 50 percent less carbon dioxide emissions in the
18 production and utilization of the unit concrete product than
19 conventional unit concrete products made with ordinary Portland
20 cement. ²Such products shall also conform with the relevant
21 requirements of the “State Uniform Construction Code Act,”
22 P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by
23 reference TMS 402/602 Building Code Requirements and
24 Specification for Masonry Structures.²

25
26 7. a. Notwithstanding the provisions of any other law, rule, or
27 regulation to the contrary, a local contracting unit shall, whenever
28 ²**[possible, give preference to a bid that uses]** ³**technically³ feasible,**
29 **use or require the use of²** unit concrete products that utilize carbon
30 footprint-reducing technology, which may include permeable
31 pavers, when entering into a contract for the purchase of unit
32 concrete products, or for any construction or improvement project
33 that requires the use of unit concrete products, including the
34 replacement of impervious surfaces with permeable pavement. ²**[In**
35 **the event that more than one bidder offers to use unit concrete**
36 **products that utilize carbon footprint-reducing technology, the local**
37 **contracting unit shall award the contract to the lowest responsible**
38 **bidder among them.]²**

39 b. The director, in consultation with the Department of
40 Environmental Protection, shall develop and publish guidelines for
41 implementing the ²**[preference] requirement established²** pursuant
42 to subsection a. of this section. ²**[These guidelines shall encourage**
43 **and promote, to the maximum extent practicable, the purchase and**
44 **use of unit concrete products that utilize carbon footprint-reducing**
45 **technology.]²** The guidelines shall conform to any standards or
46 procedures established ³**[by the State Treasurer and the Department**
47 **of Environmental Protection]³** pursuant to section 10 of

1 P.L. , c. (C.) (pending before the Legislature as this bill).
 2 Whenever a local contracting unit purchases unit concrete products,
 3 or undertakes any construction or improvement project that requires
 4 the use of unit concrete products, the local contracting unit shall
 5 follow the guidelines therefor established by the director.

6 c. In preparing the specifications for a contract for the purchase
 7 of unit concrete products, or for any construction or improvement
 8 project that requires the use of unit concrete products, a local
 9 contracting unit shall include in the invitation to bid, including in
 10 the specifications for all contracts for county or municipal work or
 11 for work for which it will pay any part of the cost, or work which
 12 by contract or ordinance it will ultimately own and maintain, where
 13 relevant, a statement that any response to the invitation ²that
 14 proposes or calls for the use of] shall use² unit concrete products
 15 that utilize carbon footprint-reducing technology ²shall receive
 16 preference whenever possible] ² whenever technically feasible³ .
 17 ²The local contracting unit shall include in its project specifications
 18 a specific line item for each unit concrete product to be used in the
 19 project.²

20 d. ²that No priority shall be granted pursuant to subsection a. of
 21 this section with respect to] The provisions of this section shall not
 22 apply to²:

23 (1) any binding contractual obligations for the purchase of
 24 goods or services entered into prior to the effective date of
 25 P.L. , c. (C.) (pending before the Legislature as this bill);

26 (2) bid packages advertised and made available to the public, or
 27 to any competitive and sealed bids received by the local contracting
 28 unit, prior to the effective date of P.L. , c. (C.)(pending
 29 before the Legislature as this bill); ³or³

30 (3) any amendment, modification, or renewal of a contract,
 31 which contract was entered into prior to the effective date of
 32 P.L. , c. (C.) (pending before the Legislature as this bill)
 33 where the application would delay timely completion of a project or
 34 involve an increase in the total moneys to be paid by the local
 35 contracting unit under that contract ³; or

36 (4) a contract when the head of a local contracting unit determines,
 37 in their sole discretion, that the purchase and use of unit concrete
 38 products that utilize carbon footprint-reducing technology would
 39 increase the cost of the contract³ .

40 e. As used in this section:

41 "Director" means the Director of the Division of Local
 42 Government Services in the Department of Community Affairs.

43 "Local contracting unit" means any public agency subject to the
 44 provisions of the "Local Public Contracts Law," P.L.1971, c.198
 45 (C.40A:11-1 et seq.), the "Public School Contracts Law,"
 46 N.J.S.18A:18A-1 et seq., the "State College Contracts Law,"

1 P.L.1986, c.43 (C.18A:64-52 et seq.), or the "County College
2 Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.).

3 "Permeable pavement" means a concrete product that allows
4 rainwater to penetrate the pavement and percolate into the
5 supporting soils and includes, but is not limited to, pervious
6 concrete, permeable interlocking concrete pavers, and concrete grid
7 pavers.

8 "Unit concrete product" means a concrete building product that
9 is fabricated under controlled conditions separate and remote from
10 the intended point of use and is produced in a wet cast or dry cast
11 method in a factory setting and then transported to the location of
12 intended use for installation, including, but not limited to, all
13 concrete pavers, whether permeable or non-permeable, and concrete
14 block. ¹"Unit concrete product" shall not include ready mix
15 concrete, sand, stone, gravel, or bituminous concrete or asphalt.¹

16 "Unit concrete product that utilizes carbon footprint-reducing
17 technology" means a unit concrete product that is certified by the
18 Department of Environmental Protection, or any independent third
19 party authorized by the department, pursuant to section 10 of
20 P.L. , c. (C.) (pending before the Legislature as this bill), as
21 generating at least 50 percent less carbon dioxide emissions in the
22 production and utilization of the unit concrete product than
23 conventional unit concrete products made with ordinary Portland
24 cement. ²Such products shall also conform with the relevant
25 requirements of the "State Uniform Construction Code Act,"
26 P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by
27 reference TMS 402/602 Building Code Requirements and
28 Specification for Masonry Structures.²

29
30 8. a. The Department of Transportation shall establish and
31 implement a program to ²**[prioritize]** use², to the greatest extent
32 practicable as determined by the Commissioner of Transportation,
33 ²**[the use of]**² unit concrete products that utilize carbon footprint-
34 reducing technology, which may include permeable pavement, in
35 the design, construction, reconstruction, or repair of any public
36 highway, parking lot, sidewalk, walkway, patio, or other public
37 infrastructure project that requires the use of unit concrete products,
38 or in the replacement of an impervious surface with permeable
39 pavement, and that is funded in whole or in part from the "Special
40 Transportation fund" established pursuant to section 21 of
41 P.L.1984, c.73 (C.27:1B-21).

42 b. As used in this section:

43 "Permeable pavement" means a concrete product that allows
44 rainwater to penetrate the pavement and percolate into the
45 supporting soils and includes, but is not limited to, pervious
46 concrete, permeable interlocking concrete pavers, and concrete grid
47 pavers.

1 “Unit concrete product” means a concrete building product that
2 is fabricated under controlled conditions separate and remote from
3 the intended point of use and is produced in a wet cast or dry cast
4 method in a factory setting and then transported to the location of
5 intended use for installation, including, but not limited to, all
6 concrete pavers, whether permeable or non-permeable, and concrete
7 block. ¹“Unit concrete product” shall not include ready mix
8 concrete, sand, stone, gravel, or bituminous concrete or asphalt.¹

9 “Unit concrete product that utilizes carbon footprint-reducing
10 technology” means a unit concrete product that is certified by the
11 Department of Environmental Protection, or any independent third
12 party authorized by the department, pursuant to section 10 of
13 P.L. , c. (C.) (pending before the Legislature as this bill), as
14 generating at least 50 percent less carbon dioxide emissions in the
15 production and utilization of the unit concrete product than
16 conventional unit concrete products made with ordinary Portland
17 cement. ²Such products shall also conform with the relevant
18 requirements of the “State Uniform Construction Code Act,”
19 P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by
20 reference TMS 402/602 Building Code Requirements and
21 Specification for Masonry Structures.²

22
23 9. a. Any person or entity that purchases unit concrete
24 products, or that undertakes any construction or improvement that
25 requires the use of unit concrete products, including the
26 replacement of impervious surface with permeable pavement, the
27 cost or contract price of which is financed, in whole or in part, by
28 State funds, shall, as a condition of receiving State funds, use unit
29 concrete products that utilize carbon footprint-reducing technology,
30 provided that such utilization does not conflict with federal funding
31 conditions.

32 b. As used in this section:

33 “Permeable pavement” means a concrete product that allows
34 rainwater to penetrate the pavement and percolate into the
35 supporting soils and includes, but is not limited to, pervious
36 concrete, permeable interlocking concrete pavers, and concrete grid
37 pavers.

38 “Unit concrete product” means a concrete building product that
39 is fabricated under controlled conditions separate and remote from
40 the intended point of use and is produced in a wet cast or dry cast
41 method in a factory setting and then transported to the location of
42 intended use for installation, including, but not limited to, all
43 concrete pavers, whether permeable or non-permeable, and concrete
44 block. ¹“Unit concrete product” shall not include ready mix
45 concrete, sand, stone, gravel, or bituminous concrete or asphalt.¹

46 “Unit concrete product that utilizes carbon footprint-reducing
47 technology” means a unit concrete product that is certified by the
48 Department of Environmental Protection, or any independent third

1 party authorized by the department, pursuant to section 10 of
2 P.L. , c. (C.) (pending before the Legislature as this bill), as
3 generating at least 50 percent less carbon dioxide emissions in the
4 production and utilization of the unit concrete product than
5 conventional unit concrete products made with ordinary Portland
6 cement. ²Such products shall also conform with the relevant
7 requirements of the “State Uniform Construction Code Act,”
8 P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by
9 reference TMS 402/602 Building Code Requirements and
10 Specification for Masonry Structures.²

11
12 10. a. The Commissioner of Environmental Protection shall
13 establish any standards and procedures necessary to implement the
14 provisions of P.L. , c. (C.) (pending before the Legislature
15 as this bill), including, but not limited to, production and use
16 standards, and a process for certifying whether the production and
17 use of a unit concrete product generates at least 50 percent less
18 carbon dioxide emissions than conventional unit concrete products
19 made with ordinary Portland cement. ³The commissioner shall
20 publish on the department’s Internet website a list of unit concrete
21 products certified by the department pursuant to this subsection.³
22 The Department of Environmental Protection shall consider a
23 consensus evaluation and reporting standard developed by an
24 independent private organization such as the International
25 Organization for Standardization or the American National
26 Standards Institute that creates a uniform system for self-evaluation
27 and self-reporting by unit concrete product manufacturers, and shall
28 give preference to a standard supported by the unit concrete product
29 industry or industry associations.

30 b. ³**【The】** Notwithstanding the provisions of the
31 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
32 seq.), to the contrary, the³ State Treasurer, the Commissioner of
33 Environmental Protection, ³**【and】**³ the Commissioner of
34 Transportation ³, the Commissioner of Community Affairs, and the
35 Secretary of Higher Education³ may adopt, ³**【pursuant to the**
36 **“Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et**
37 **seq.)】** immediately upon filing the proper notice with the Office of
38 Administrative Law³ , any rules and regulations necessary to
39 implement the provisions of P.L. , c. (C.) (pending before
40 the Legislature as this bill). ³These rules and regulations shall be in
41 effect for a period not to exceed 365 days after the date of the filing.
42 The rules and regulations shall thereafter be amended, adopted, or
43 readopted in accordance with the requirements of the
44 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
45 seq.).³

1 11. This act shall take effect immediately ³and sections 4 and 5
2 shall apply to purchases of unit concrete products that utilize carbon
3 footprint-reducing technology made on or after the first day of the
4 second month next following the date of enactment³.

5

6

7

8

9 Requires builders to offer unit concrete products that utilize
10 carbon footprint-reducing technology as option in new construction;
11 establishes tax incentives, and State and local purchasing
12 requirements, for unit concrete products that utilize carbonfootprint-
13 reducing technology.

SENATE, No. 3091

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED OCTOBER 29, 2020

Sponsored by:

Senator DAWN MARIE ADDIEGO

District 8 (Atlantic, Burlington and Camden)

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Co-Sponsored by:

Senator Turner

SYNOPSIS

Requires developers to offer unit concrete products that utilize carbon footprint-reducing technology as option in new construction; establishes tax incentives, and State and local purchasing preferences, for unit concrete products that utilize carbon footprint-reducing technology.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/14/2020)

1 AN ACT concerning the purchase and use of unit concrete products
2 that utilize carbon footprint-reducing technology and
3 supplementing Titles 27, 52, and 54 of the Revised Statutes, Title
4 54A of the New Jersey Statutes, and P.L.1971, c.198.

5

6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8

9 1. The Legislature finds and declares that the burning of fossil
10 fuels and other industrial processes release harmful greenhouse
11 gases into the atmosphere, which in turn contribute to climate
12 change; that, in the coming years, New Jersey is likely to
13 experience increased flooding, drought, and other severe weather
14 effects caused by climate change; and that, in order to help mitigate
15 the serious impacts of climate change, the State must drastically
16 reduce its consumption of fossil fuels and its greenhouse gas
17 emissions.

18 The Legislature further finds that concrete is the most widely
19 used construction material in the world due to its low cost, strength,
20 and durability; that the production of ordinary Portland cement, the
21 critical ingredient in concrete, is responsible for almost eight
22 percent of the world's carbon dioxide emissions; that ordinary
23 Portland cement requires significant amounts of energy to produce,
24 resulting in high carbon dioxide emissions; that modern technology
25 allows concrete to be produced utilizing less energy, and the
26 emission of carbon dioxide from cement manufacturing can be
27 greatly reduced by capturing and utilizing carbon dioxide in the unit
28 concrete product manufacturing process, including the chemical
29 reaction that results in strength and durability of concrete; and that
30 this process can sequester carbon dioxide in the unit concrete
31 product or chemically transform the carbon dioxide into mineral
32 form, embedding it into the concrete and preventing its release as a
33 gas.

34 The Legislature therefore determines that it is in the public
35 interest to encourage and support the purchase of unit concrete
36 products that utilize carbon footprint-reducing technology in the
37 State; that unit concrete products that utilize carbon footprint-
38 reducing technology will greatly reduce greenhouse gas emissions
39 from the concrete and construction industries; and that incentives
40 for permeable pavers that are unit concrete products that utilize
41 carbon footprint-reducing technology will further help enhance
42 stormwater management, reduce stormwater runoff, and decrease
43 the risk of flooding in the State.

44

45 2. a. A developer shall, for any new construction that requires
46 the use of unit concrete products, where technically feasible, offer
47 to use unit concrete products that utilize carbon footprint-reducing
48 technology in the new construction, whenever a prospective

1 purchaser enters into negotiations with the developer to construct or
2 purchase a new residential dwelling or commercial building in the
3 State.

4 b. A developer shall disclose, in any advertising or offer to
5 construct a new residential dwelling or commercial building, in a
6 form and manner as determined by the commissioner:

7 (1) that the prospective purchaser may choose to use unit
8 concrete products that utilize carbon footprint-reducing technology
9 in the new construction;

10 (2) the total cost of using unit concrete products that utilize
11 carbon footprint-reducing technology in the new construction;

12 (3) general information on the environmental and other benefits
13 of using unit concrete products that utilize carbon footprint-
14 reducing technology; and

15 (4) information concerning any applicable tax credits, rebates,
16 or other incentives that may be available for the use of unit concrete
17 products that utilize carbon footprint-reducing technology pursuant
18 to P.L. , c. (C.)(pending before the Legislature as this bill
19 or any other law.

20 c. The commissioner, in consultation with the Department of
21 Environmental Protection, shall:

22 (1) publish educational materials to demonstrate how developers
23 may incorporate unit concrete products that utilize carbon footprint-
24 reducing technology into new construction; and

25 (2) provide developers with information concerning applicable
26 tax credits, rebates, or other incentives that may be available for the
27 use of unit concrete products that utilize carbon footprint-reducing
28 technology pursuant to P.L. , c. (C.)(pending before the
29 Legislature as this bill) or any other law.

30 d. The commissioner, in consultation with the Department of
31 Environmental Protection, may adopt, pursuant to the
32 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
33 seq.), rules and regulations necessary to implement this section.

34 e. The commissioner shall enforce the provisions of this
35 section and may penalize and assess violators of this section in
36 accordance with the penalties and procedures provided for under
37 section 18 of P.L.1977, c.419 (C.45:22A-38).

38 f. As used in this section:

39 “Advertising” means the same as the term is defined in section 3
40 of P.L.1977, c.419 (C.45:22A-23).

41 “Commissioner” means the Commissioner of Community
42 Affairs.

43 “Developer” means a person who constructs, or offers to
44 construct, a new residential dwelling or commercial building in the
45 State.

46 “Prospective purchaser” means a person who contemplates
47 acquiring a legal or equitable interest in a new residential dwelling
48 or commercial building.

1 “Unit concrete product” means a concrete building product that
2 is fabricated under controlled conditions separate and remote from
3 the intended point of use and is produced in a wet cast or dry cast
4 method in a factory setting and then transported to the location of
5 intended use for installation, including, but not limited to, all
6 concrete pavers, whether permeable or non-permeable, and concrete
7 block.

8 “Unit concrete product that utilizes carbon footprint-reducing
9 technology” means a unit concrete product that is certified by the
10 Department of Environmental Protection, or any independent third
11 party authorized by the department, pursuant to section 10 of
12 P.L. , c. (C.)(pending before the Legislature as this bill), as
13 generating at least 50 percent less carbon dioxide emissions in the
14 production and utilization of the unit concrete product than
15 conventional unit concrete products made with ordinary Portland
16 cement.

17

18 3. a. Receipts from the sale of unit concrete products that
19 utilize carbon footprint-reducing technology, which may include
20 permeable pavement, used in the construction or improvement of
21 any residential dwelling or commercial building located in the State
22 shall be exempt from the tax imposed under the “Sales and Use Tax
23 Act,” P.L.1966, c.30 (C.54:32B-1 et seq.).

24 b. As used in this section:

25 “Permeable pavement” means a concrete product that allows
26 rainwater to penetrate the pavement and percolate into the
27 supporting soils and includes, but is not limited to, pervious
28 concrete, permeable interlocking concrete pavers, and concrete grid
29 pavers.

30 “Unit concrete product” means a concrete building product that
31 is fabricated under controlled conditions separate and remote from
32 the intended point of use and is produced in a wet cast or dry cast
33 method in a factory setting and then transported to the location of
34 intended use for installation, including, but not limited to, all
35 concrete pavers, whether permeable or non-permeable, and concrete
36 block.

37 “Unit concrete product that utilizes carbon footprint-reducing
38 technology” means a unit concrete product that is certified by the
39 Department of Environmental Protection, or any independent third
40 party authorized by the department, pursuant to section 10 of
41 P.L. , c. (C.)(pending before the Legislature as this bill), as
42 generating at least 50 percent less carbon dioxide emissions in the
43 production and utilization of the unit concrete product than
44 conventional unit concrete products made with ordinary Portland
45 cement.

46

47 4. a. A taxpayer shall be allowed a credit against the tax
48 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in

1 an amount equal to \$2.00 per square foot for the purchase and
2 installation of unit concrete products that utilize carbon footprint-
3 reducing technology, which may include permeable pavement, used
4 in the construction or improvement of any residential dwelling or
5 commercial building, or in the replacement of an impervious
6 surface with permeable pavement, in the State. Such purchases and
7 installations must be completed during the privilege period. The
8 value of tax credits allowed to a taxpayer pursuant to this section
9 shall not exceed \$3,000 for a residential property, and \$30,000 for a
10 commercial property in a single privilege period. In order to
11 qualify for the tax credit pursuant to this section, a person shall
12 install at least 100 square feet of unit concrete products that utilize
13 carbon footprint-reducing technology, which may include
14 permeable pavement.

15 b. The order of priority of the application of the tax credit
16 allowed pursuant to this section, and any other credits allowed
17 against the tax imposed pursuant to section 5 of P.L.1945, c.162
18 (C.54:10A-5) for a privilege period, shall be as prescribed by the
19 director. The amount of the credit applied pursuant to this section
20 against the tax imposed pursuant to section 5 of P.L.1945, c.162
21 (C.54:10A-5) shall not reduce a taxpayer's tax liability to an amount
22 less than the statutory minimum provided in subsection (e) of
23 section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax
24 credit otherwise allowable under this section which cannot be
25 applied for the privilege period due to the limitations of this
26 subsection or under other provisions of P.L.1945, c.162 (C.54:10A-
27 1 et seq.) may be carried forward, if necessary, to the seven
28 privilege periods following the privilege period for which the tax
29 credit was allowed.

30 c. The director, in consultation with the Department of
31 Environmental Protection, shall adopt, pursuant to the
32 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
33 seq.), rules and regulations as are necessary to implement the
34 provisions of this section. The director may require the
35 submission of any information the director deems necessary to
36 award a tax credit pursuant to this section.

37 d. As used in this section:

38 "Permeable pavement" means a concrete product that allows
39 rainwater to penetrate the pavement and percolate into the
40 supporting soils and includes, but is not limited to, pervious
41 concrete, permeable interlocking concrete pavers, and concrete grid
42 pavers.

43 "Unit concrete product" means a concrete building product that
44 is fabricated under controlled conditions separate and remote from
45 the intended point of use and is produced in a wet cast or dry cast
46 method in a factory setting and then transported to the location of
47 intended use for installation, including, but not limited to, all

1 concrete pavers, whether permeable or non-permeable, and concrete
2 block.

3 “Unit concrete product that utilizes carbon footprint-reducing
4 technology” means a unit concrete product that is certified by the
5 Department of Environmental Protection, or any independent third
6 party authorized by the department, pursuant to section 10 of
7 P.L. , c. (C.)(pending before the Legislature as this bill), as
8 generating at least 50 percent less carbon dioxide emissions in the
9 production and utilization of the unit concrete product than
10 conventional unit concrete products made with ordinary Portland
11 cement.

12

13 5. a. A taxpayer shall be allowed a credit against the tax
14 otherwise due for the taxable year under the “New Jersey Gross
15 Income Tax Act” N.J.S.54A:1-1 et seq., in an amount equal to
16 \$2.00 per square foot for the purchase and installation of unit
17 concrete products that utilize carbon footprint-reducing technology,
18 which may include permeable pavement, used in the construction or
19 improvement of any residential dwelling or commercial building, or
20 in the replacement of an impervious surface with permeable
21 pavement, in the State, which purchase and installation is completed
22 during the taxable year. The total amount of the tax credit granted
23 pursuant to this section shall not exceed \$3,000 for a residential
24 property, and \$30,000 for a commercial property in a single taxable
25 year. In order to qualify for the tax credit pursuant to this section, a
26 person shall install at least 100 square feet of unit concrete products
27 that utilize carbon footprint-reducing technology, which may
28 include permeable pavement.

29 b. The order of priority of the application of the credit allowed
30 pursuant to this section, and any other credits allowed against the
31 tax imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year,
32 shall be as prescribed by the director. The amount of the credit
33 applied under this section against the New Jersey gross income tax
34 imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year, when
35 taken together with any other payments, credits, deductions, and
36 adjustments allowed by law, shall not reduce a taxpayer's tax
37 liability to an amount less than zero. The amount of the tax credit
38 otherwise allowable under this section which cannot be applied for
39 the taxable year due to the limitations of this section or other
40 provisions of N.J.S.54A:1-1 et seq. may be carried forward, if
41 necessary, to the seven taxable years following the taxable year for
42 which the tax credit was allowed.

43 c. (1) A business entity that is classified as a partnership for
44 federal income tax purposes shall not be allowed a credit under this
45 section directly, but the amount of credit of a taxpayer in respect of
46 a distributive share of partnership income under the “New Jersey
47 Gross Income Tax Act,” N.J.S.54A:1-1 et seq., shall be determined
48 by allocating to the taxpayer that proportion of the credit acquired

1 by the partnership that is equal to the taxpayer's share, whether or
2 not distributed, of the total distributive income or gain of the
3 partnership for its taxable year ending within or with the taxpayer's
4 taxable year.

5 (2) A New Jersey S Corporation shall not be allowed a credit
6 under this section directly, but the amount of the tax credit of a
7 taxpayer in respect of a pro rata share of S Corporation income,
8 shall be determined by allocating to the taxpayer that proportion of
9 the tax credit acquired by the New Jersey S Corporation that is
10 equal to the taxpayer's share, whether or not distributed, of the total
11 pro rata share of S Corporation income of the New Jersey S
12 Corporation for its privilege period ending within or with the
13 taxpayer's taxable year.

14 d. The director, in consultation with the Department of
15 Environmental Protection, shall adopt, pursuant to the
16 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
17 seq.), rules and regulations as are necessary to implement the
18 provisions of this section. The director may require the submission
19 of any information the director deems necessary to award a tax
20 credit pursuant to this section.

21 e. As used in this section:

22 "Permeable pavement" means a concrete product that allows
23 rainwater to penetrate the pavement and percolate into the
24 supporting soils and includes, but is not limited to, pervious
25 concrete, permeable interlocking concrete pavers, and concrete grid
26 pavers.

27 "Unit concrete product" means a concrete building product that
28 is fabricated under controlled conditions separate and remote from
29 the intended point of use and is produced in a wet cast or dry cast
30 method in a factory setting and then transported to the location of
31 intended use for installation, including, but not limited to, all
32 concrete pavers, whether permeable or non-permeable, and concrete
33 block.

34 "Unit concrete product that utilizes carbon footprint-reducing
35 technology" means a unit concrete product that is certified by the
36 Department of Environmental Protection, or any independent third
37 party authorized by the department, pursuant to section 10 of
38 P.L. , c. (C.)(pending before the Legislature as this bill), as
39 generating at least 50 percent less carbon dioxide emissions in the
40 production and utilization of the unit concrete product than
41 conventional unit concrete products made with ordinary Portland
42 cement.

43

44 6. a. Notwithstanding the provisions of any other law, rule, or
45 regulation to the contrary, the Director of the Division of Purchase
46 and Property in the Department of the Treasury, the Director of the
47 Division of Property Management and Construction in the
48 Department of the Treasury, and any State agency having authority

1 to contract for the purchase of goods or services, shall, whenever
2 possible, give preference to unit concrete products that utilize
3 carbon footprint-reducing technology, which may include
4 permeable pavement, when entering into a contract for the purchase
5 of unit concrete products, or for any construction or improvement
6 project that requires the use of unit concrete products, including the
7 replacement of impervious surfaces with permeable pavement. In
8 the event that more than one bidder offers to use unit concrete
9 products that utilize carbon footprint-reducing technology, the state
10 department or agency shall award the contract to the lowest
11 responsible bidder among them.

12 b. The Division of Purchase and Property and the Division of
13 Property Management and Construction, in consultation with the
14 Department of Environmental Protection, shall develop and publish
15 guidelines for implementing the preference pursuant to subsection
16 a. of this section. The guidelines shall encourage and promote, to
17 the maximum extent practicable, the purchase and use of unit
18 concrete products that utilize carbon footprint-reducing technology.
19 The guidelines shall conform to any standards or procedures
20 established by the State Treasurer and the Department of
21 Environmental Protection pursuant to section 10 of P.L. , c.
22 (C.)(pending before the Legislature as this bill). Whenever
23 any agency or department of State government purchases unit
24 concrete products, or undertakes any construction or improvement
25 project that requires the use of unit concrete products, the agency or
26 department shall follow the guidelines therefor established by the
27 director.

28 c. In preparing the specifications for any contract for the
29 purchase of unit concrete products, or for any construction or
30 improvement project that requires the use of unit concrete products,
31 the Director of the Division of Purchase and Property, the Director
32 of the Division of Property Management and Construction, or any
33 State agency having authority to contract for the purchase of goods
34 or services shall include in the invitation to bid, where relevant, a
35 statement that any response to the invitation that proposes or calls
36 for the use of unit concrete products that utilize carbon footprint-
37 reducing technology shall receive preference whenever possible.

38 d. The provisions of this section shall not apply to:

39 (1) any binding contractual obligations for the purchase of
40 goods or services entered into prior to the effective date of P.L. ,
41 c. (C.)(pending before the Legislature as this bill);

42 (2) bid packages advertised and made available to the public, or
43 to any competitive and sealed bids received by the State, prior to
44 the effective date of P.L. , c. (C.)(pending before the
45 Legislature as this bill); or

46 (3) any amendment, modification, or renewal of a contract,
47 which contract was entered into prior to the effective date of
48 P.L. , c. (C.)(pending before the Legislature as this bill)

1 where the application would delay timely completion of a project or
2 involve an increase in the total moneys to be paid by the State under
3 that contract.

4 e. As used in this section:

5 “Permeable pavement” means a concrete product that allows
6 rainwater to penetrate the pavement and percolate into the
7 supporting soils and includes, but is not limited to, pervious
8 concrete, permeable interlocking concrete pavers, and concrete grid
9 pavers.

10 “Unit concrete product” means a concrete building product that
11 is fabricated under controlled conditions separate and remote from
12 the intended point of use and is produced in a wet cast or dry cast
13 method in a factory setting and then transported to the location of
14 intended use for installation, including, but not limited to, all
15 concrete pavers, whether permeable or non-permeable, and concrete
16 block.

17 “Unit concrete product that utilizes carbon footprint-reducing
18 technology” means a unit concrete product that is certified by the
19 Department of Environmental Protection, or any independent third
20 party authorized by the department, pursuant to section 10 of
21 P.L. , c. (C.)(pending before the Legislature as this bill), as
22 generating at least 50 percent less carbon dioxide emissions in the
23 production and utilization of the unit concrete product than
24 conventional unit concrete products made with ordinary Portland
25 cement.

26

27 7. a. Notwithstanding the provisions of any other law, rule, or
28 regulation to the contrary, a local contracting unit shall, whenever
29 possible, give preference to a bid that uses unit concrete products
30 that utilize carbon footprint-reducing technology, which may
31 include permeable pavers, when entering into a contract for the
32 purchase of unit concrete products, or for any construction or
33 improvement project that requires the use of unit concrete products,
34 including the replacement of impervious surfaces with permeable
35 pavement. In the event that more than one bidder offers to use unit
36 concrete products that utilize carbon footprint-reducing technology,
37 the local contracting unit shall award the contract to the lowest
38 responsible bidder among them.

39 b. The director, in consultation with the Department of
40 Environmental Protection, shall develop and publish guidelines for
41 implementing the preference pursuant to subsection a. of this
42 section. These guidelines shall encourage and promote, to the
43 maximum extent practicable, the purchase and use of unit concrete
44 products that utilize carbon footprint-reducing technology. The
45 guidelines shall conform to any standards or procedures established
46 by the State Treasurer and the Department of Environmental
47 Protection pursuant to section 10 of P.L. , c. (C.)(pending
48 before the Legislature as this bill). Whenever a local contracting

1 unit purchases unit concrete products, or undertakes any
2 construction or improvement project that requires the use of unit
3 concrete products, the local contracting unit shall follow the
4 guidelines therefor established by the director.

5 c. In preparing the specifications for a contract for the purchase
6 of unit concrete products, or for any construction or improvement
7 project that requires the use of unit concrete products, a local
8 contracting unit shall include in the invitation to bid, including in
9 the specifications for all contracts for county or municipal work or
10 for work for which it will pay any part of the cost, or work which
11 by contract or ordinance it will ultimately own and maintain, where
12 relevant, a statement that any response to the invitation that
13 proposes or calls for the use of unit concrete products that utilize
14 carbon footprint-reducing technology shall receive preference
15 whenever possible.

16 d. No priority shall be granted pursuant to subsection a. of this
17 section with respect to:

18 (1) any binding contractual obligations for the purchase of
19 goods or services entered into prior to the effective date of P.L. ,

20 c. (C.)(pending before the Legislature as this bill);

21 (2) bid packages advertised and made available to the public, or
22 to any competitive and sealed bids received by the local contracting
23 unit, prior to the effective date of P.L. , c. (C.)(pending
24 before the Legislature as this bill); or

25 (3) any amendment, modification, or renewal of a contract,
26 which contract was entered into prior to the effective date of
27 P.L. , c. (C.)(pending before the Legislature as this bill)
28 where the application would delay timely completion of a project or
29 involve an increase in the total moneys to be paid by the local
30 contracting unit under that contract.

31 e. As used in this section:

32 "Director" means the Director of the Division of Local
33 Government Services in the Department of Community Affairs.

34 "Local contracting unit" means any public agency subject to the
35 provisions of the "Local Public Contracts Law," P.L.1971, c.198
36 (C.40A:11-1 et seq.), the "Public School Contracts Law,"
37 N.J.S.18A:18A-1 et seq., the "State College Contracts Law,"
38 P.L.1986, c.43 (C.18A:64-52 et seq.), or the "County College
39 Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.).

40 "Permeable pavement" means a concrete product that allows
41 rainwater to penetrate the pavement and percolate into the
42 supporting soils and includes, but is not limited to, pervious
43 concrete, permeable interlocking concrete pavers, and concrete grid
44 pavers.

45 "Unit concrete product" means a concrete building product that
46 is fabricated under controlled conditions separate and remote from
47 the intended point of use and is produced in a wet cast or dry cast
48 method in a factory setting and then transported to the location of

1 intended use for installation, including, but not limited to, all
2 concrete pavers, whether permeable or non-permeable, and concrete
3 block.

4 “Unit concrete product that utilizes carbon footprint-reducing
5 technology” means a unit concrete product that is certified by the
6 Department of Environmental Protection, or any independent third
7 party authorized by the department, pursuant to section 10 of
8 P.L. , c. (C.)(pending before the Legislature as this bill), as
9 generating at least 50 percent less carbon dioxide emissions in the
10 production and utilization of the unit concrete product than
11 conventional unit concrete products made with ordinary Portland
12 cement.

13

14 8. a. The Department of Transportation shall establish and
15 implement a program to prioritize, to the greatest extent practicable
16 as determined by the Commissioner of Transportation, the use of
17 unit concrete products that utilize carbon footprint-reducing
18 technology, which may include permeable pavement, in the design,
19 construction, reconstruction, or repair of any public highway,
20 parking lot, sidewalk, walkway, patio, or other public infrastructure
21 project that requires the use of unit concrete products, or in the
22 replacement of an impervious surface with permeable pavement,
23 and that is funded in whole or in part from the “Special
24 Transportation fund” established pursuant to section 21 of
25 P.L.1984, c.73 (C.27:1B-21).

26 b. As used in this section:

27 “Permeable pavement” means a concrete product that allows
28 rainwater to penetrate the pavement and percolate into the
29 supporting soils and includes, but is not limited to, pervious
30 concrete, permeable interlocking concrete pavers, and concrete grid
31 pavers.

32 “Unit concrete product” means a concrete building product that
33 is fabricated under controlled conditions separate and remote from
34 the intended point of use and is produced in a wet cast or dry cast
35 method in a factory setting and then transported to the location of
36 intended use for installation, including, but not limited to, all
37 concrete pavers, whether permeable or non-permeable, and concrete
38 block.

39 “Unit concrete product that utilizes carbon footprint-reducing
40 technology” means a unit concrete product that is certified by the
41 Department of Environmental Protection, or any independent third
42 party authorized by the department, pursuant to section 10 of
43 P.L. , c. (C.)(pending before the Legislature as this bill), as
44 generating at least 50 percent less carbon dioxide emissions in the
45 production and utilization of the unit concrete product than
46 conventional unit concrete products made with ordinary Portland
47 cement.

1 9. a. Any person or entity that purchases unit concrete
2 products, or that undertakes any construction or improvement that
3 requires the use of unit concrete products, including the
4 replacement of impervious surface with permeable pavement, the
5 cost or contract price of which is financed, in whole or in part, by
6 State funds, shall, as a condition of receiving State funds, use unit
7 concrete products that utilize carbon footprint-reducing technology,
8 provided that such utilization does not conflict with federal funding
9 conditions.

10 b. As used in this section:

11 “Permeable pavement” means a concrete product that allows
12 rainwater to penetrate the pavement and percolate into the
13 supporting soils and includes, but is not limited to, pervious
14 concrete, permeable interlocking concrete pavers, and concrete grid
15 pavers.

16 “Unit concrete product” means a concrete building product that
17 is fabricated under controlled conditions separate and remote from
18 the intended point of use and is produced in a wet cast or dry cast
19 method in a factory setting and then transported to the location of
20 intended use for installation, including, but not limited to, all
21 concrete pavers, whether permeable or non-permeable, and concrete
22 block.

23 “Unit concrete product that utilizes carbon footprint-reducing
24 technology” means a unit concrete product that is certified by the
25 Department of Environmental Protection, or any independent third
26 party authorized by the department, pursuant to section 10 of
27 P.L. , c. (C.)(pending before the Legislature as this bill), as
28 generating at least 50 percent less carbon dioxide emissions in the
29 production and utilization of the unit concrete product than
30 conventional unit concrete products made with ordinary Portland
31 cement.

32

33 10. a. The Commissioner of Environmental Protection shall
34 establish any standards and procedures necessary to implement the
35 provisions of P.L. , c. (C.)(pending before the Legislature
36 as this bill), including, but not limited to, production and use
37 standards, and a process for certifying whether the production and
38 use of a unit concrete product generates at least 50 percent less
39 carbon dioxide emissions than conventional unit concrete products
40 made with ordinary Portland cement. The Department of
41 Environmental Protection shall consider a consensus evaluation and
42 reporting standard developed by an independent private
43 organization such as the International Organization for
44 Standardization or the American National Standards Institute that
45 creates a uniform system for self-evaluation and self-reporting by
46 unit concrete product manufacturers, and shall give preference to a
47 standard supported by the unit concrete product industry or industry
48 associations.

1 b. The State Treasurer, the Commissioner of Environmental
2 Protection, and the Commissioner of Transportation may adopt,
3 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
4 (C.52:14B-1 et seq.), any rules and regulations necessary to
5 implement the provisions of P.L. , c. (C.)(pending before
6 the Legislature as this bill).

7
8 11. This act shall take effect immediately.

9
10
11 STATEMENT

12
13 This bill would require developers to offer unit concrete products
14 that utilize carbon footprint-reducing technology as an option in
15 new construction, and establish various tax incentives, and State
16 and local government purchasing preferences, for unit concrete
17 products that utilize carbon footprint-reducing technology.

18 Under the bill a "unit concrete product that utilizes carbon
19 footprint-reducing technology" means a unit concrete product that
20 is certified by the Department of Environmental Protection (DEP),
21 or an independent third party authorized by the DEP, as generating
22 at least 50 percent less carbon dioxide emissions in the production
23 and utilization of the unit concrete product than conventional unit
24 concrete products made with ordinary Portland cement. A "unit
25 concrete product" is a concrete building product that is fabricated
26 under controlled conditions separate and remote from the intended
27 point of use and is produced in a wet cast or dry cast method in a
28 factory setting and then transported to the location of intended use
29 for installation, including all concrete pavers, whether permeable or
30 non-permeable, and concrete block.

31 The bill would require a developer, for any new construction that
32 requires the use of unit concrete products, where technically
33 feasible, to offer unit concrete products that utilize carbon footprint-
34 reducing technology in the new construction. This requirement
35 would apply whenever a prospective purchaser enters into
36 negotiations with a developer to construct or purchase a new
37 residential dwelling or commercial building in the State. Under the
38 bill, the developer would be required to disclose, in any advertising
39 or offer to construct a new residential dwelling or commercial
40 building, certain information about the cost and environmental
41 benefits of unit concrete products that utilize carbon footprint-
42 reducing technology, and tax incentives available under the bill.
43 The bill would require the Commissioner of Community Affairs to
44 publish educational materials concerning unit concrete products that
45 utilize carbon footprint-reducing technology, and provide
46 developers with information concerning the tax incentives
47 established in the bill.

S3091 ADDIEGO, BATEMAN

14

1 Under the bill, receipts from the sale of unit concrete products
2 that utilize carbon footprint-reducing technology, including
3 permeable pavement, used in the construction or improvement of
4 any residential dwelling or commercial building in the State would
5 be exempt from the State Sales and Use Tax. The bill would also
6 provide both corporation business tax credits and gross income tax
7 credits for persons who purchase and install unit concrete products
8 that utilize carbon footprint-reducing technology, including
9 permeable pavement, in the construction or improvement of any
10 residential dwelling or commercial building, or in the replacement
11 of an impervious surface with permeable pavement. The tax credit
12 would be equal to \$2.00 per square foot of qualified unit concrete
13 products purchased and installed. The value of the tax credits
14 allowed under the bill would be capped at \$3,000 for a residential
15 property and \$30,000 for a commercial property in a single
16 privilege period. In order to qualify for a tax credit, a person would
17 be required to install at least 100 square feet of qualified unit
18 concrete products.

19 The bill would require the Director of the Division of Purchase
20 and Property, the Director of the Division of Property Management
21 and Construction, and any State agency having authority to contract
22 for the purchase of goods or services, wherever possible, to give
23 preference to unit concrete products that utilize carbon footprint-
24 reducing technology. This requirement would apply whenever a
25 State agency enters into a contract for the purchase of unit concrete
26 products, or for any construction or improvement project that
27 requires the use of unit concrete products, including the
28 replacement of impervious surfaces with permeable pavement. The
29 Division of Purchase and Property and the Division of Property
30 Management and Construction, in consultation with the DEP, would
31 be required to publish guidelines for implementing this preference.
32 A State agency would be required to include in an invitation to bid,
33 where relevant, a statement that any response to the invitation that
34 proposes or calls for the use of unit concrete products that utilize
35 carbon footprint-reducing technology will receive preference
36 whenever possible.

37 The bill would also require a local contracting unit, whenever
38 possible, to give preference to a bid that uses unit concrete products
39 that utilize carbon footprint-reducing technology, including
40 permeable pavers. This requirement would apply whenever a local
41 contracting units enters into a contract for the purchase of unit
42 concrete products, or for any construction or improvement project
43 that requires the use of unit concrete products, including the
44 replacement of impervious surfaces with permeable pavement.
45 Under the bill, the Director of the Division of Local Government
46 Services, in consultation with the DEP, would be required to
47 publish guidelines for implementing the preference. In preparing
48 specification for a contract, a local unit would be required to

1 include in an invitation to bid, where relevant, a statement that any
2 response to the invitation that proposes or calls for the use of unit
3 concrete products that utilize carbon footprint-reducing technology
4 will receive preference whenever possible.

5 The bill would require the Department of Transportation to
6 establish a implement a program to prioritize, to the greatest extent
7 practicable, the use of unit concrete products that utilize carbon
8 footprint-reducing technology, including permeable pavement, in
9 the design, construction, reconstruction, or repair of any public
10 transportation infrastructure project that is funded in whole or in
11 part from the “Special Transportation fund” established pursuant to
12 section 21 of P.L.1984, c.73 (C.27:1B-21). The bill would also
13 require any person or entity that purchases unit concrete products,
14 or that undertakes any construction or improvement that requires
15 the use of unit concrete products, including the replacement of
16 impervious surface with permeable pavement, to use unit concrete
17 products that utilize carbon footprint-reducing technology, if the
18 project is financed, in whole or in part, with State funds.

19 Finally, the bill would require the Commissioner of
20 Environmental Protection to establish any standards and procedures
21 necessary to implement the bill, including a process for certifying
22 whether a unit concrete product generates at least 50 percent less
23 carbon dioxide emissions in the production and utilization of the
24 unit concrete product than conventional unit concrete products
25 made with ordinary Portland cement. The DEP would be required
26 to consider a consensus evaluation and reporting standard,
27 developed by an independent private organization, that creates a
28 uniform system for self-evaluation and self-reporting by unit
29 concrete product manufacturers, and would give preference to a
30 standard supported by the unit concrete product industry or industry
31 associations.

32 Concrete is the most widely used constructional material in the
33 world due to its low cost, strength, and durability. The production
34 of ordinary Portland cement, the critical ingredient in concrete, is
35 responsible for almost eight percent of the world’s carbon dioxide
36 emissions, and is a significant contributor to climate change.
37 Ordinary Portland cement requires significant amounts of energy to
38 produce, resulting in high carbon dioxide emissions. However,
39 modern technology allows concrete to be produced utilizing less
40 energy, and the emission of carbon dioxide from cement
41 manufacturing can be greatly reduced by capturing and utilizing
42 carbon dioxide in the unit concrete product manufacturing process,
43 including the chemical reaction that results in strength and
44 durability of concrete. This process can sequester carbon dioxide in
45 the unit concrete product or chemically transform the carbon
46 dioxide into mineral form, embedding it into the concrete and
47 preventing its release as a gas. Unit concrete products that utilize
48 carbon footprint-reducing technology can greatly reduce greenhouse

S3091 ADDIEGO, BATEMAN

16

1 gas emissions from the concrete and construction industries, and it
2 is therefore in the public interest to incentivize their purchase and
3 use.

SENATE STATE GOVERNMENT, WAGERING, TOURISM &
HISTORIC PRESERVATION COMMITTEE

STATEMENT TO

SENATE, No. 3091

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 14, 2020

The Senate State Government, Wagering, Tourism and Historic Preservation Committee reports favorably and with committee amendments Senate Bill No. 3091.

As amended by the committee, this bill would require developers to offer unit concrete products that utilize carbon footprint-reducing technology as an option in new construction, and establish various tax incentives, and State and local government purchasing preferences, for unit concrete products that utilize carbon footprint-reducing technology.

Under the bill, a “unit concrete product that utilizes carbon footprint-reducing technology” means a unit concrete product that is certified by the Department of Environmental Protection (DEP), or an independent third party authorized by the DEP, as generating at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. A “unit concrete product” is a concrete building product that is fabricated under controlled conditions separate and remote from the intended point of use and is produced in a wet cast or dry cast method in a factory setting and then transported to the location of intended use for installation, including all concrete pavers, whether permeable or non-permeable, and concrete block. “Unit concrete product” does not include ready mix concrete, sand, stone, gravel, or bituminous concrete or asphalt.

The bill would require a developer, for any new construction that requires the use of unit concrete products, where technically feasible, to offer unit concrete products that utilize carbon footprint-reducing technology in the new construction. This requirement would apply whenever a prospective purchaser enters into negotiations with a developer to construct or purchase a new residential dwelling or commercial building in the State. Under the bill, the developer would be required to disclose, in any advertising or offer to construct a new residential dwelling or commercial building, certain information about the cost and environmental

benefits of unit concrete products that utilize carbon footprint-reducing technology, and tax incentives available under the bill. The bill would require the Commissioner of Community Affairs to publish educational materials concerning unit concrete products that utilize carbon footprint-reducing technology, and provide developers with information concerning the tax incentives established in the bill.

Under the bill, receipts from the sale of unit concrete products that utilize carbon footprint-reducing technology, including permeable pavement, used in the construction or improvement of any residential dwelling or commercial building in the State would be exempt from the State Sales and Use Tax. The bill would also provide both corporation business tax credits and gross income tax credits for persons who purchase and install unit concrete products that utilize carbon footprint-reducing technology, including permeable pavement, in the construction or improvement of any residential dwelling or commercial building, or in the replacement of an impervious surface with permeable pavement. The tax credit would be equal to \$2.00 per square foot of qualified unit concrete products purchased and installed. The value of the tax credits allowed under the bill would be capped at \$3,000 for a residential property and \$30,000 for a commercial property in a single privilege period. In order to qualify for a tax credit, a person would be required to install at least 100 square feet of qualified unit concrete products.

The bill would require the Director of the Division of Purchase and Property, the Director of the Division of Property Management and Construction, and any State agency having authority to contract for the purchase of goods or services, wherever possible, to give preference to unit concrete products that utilize carbon footprint-reducing technology. This requirement would apply whenever a State agency enters into a contract for the purchase of unit concrete products, or for any construction or improvement project that requires the use of unit concrete products, including the replacement of impervious surfaces with permeable pavement. The Division of Purchase and Property and the Division of Property Management and Construction, in consultation with the DEP, would be required to publish guidelines for implementing this preference. A State agency would be required to include in an invitation to bid, where relevant, a statement that any response to the invitation that proposes or calls for the use of unit concrete products that utilize carbon footprint-reducing technology will receive preference whenever possible.

The bill would also require a local contracting unit, whenever possible, to give preference to a bid that uses unit concrete products that utilize carbon footprint-reducing technology, including permeable pavers. This requirement would apply whenever a local

contracting units enters into a contract for the purchase of unit concrete products, or for any construction or improvement project that requires the use of unit concrete products, including the replacement of impervious surfaces with permeable pavement. Under the bill, the Director of the Division of Local Government Services, in consultation with the DEP, would be required to publish guidelines for implementing the preference. In preparing specification for a contract, a local unit would be required to include in an invitation to bid, where relevant, a statement that any response to the invitation that proposes or calls for the use of unit concrete products that utilize carbon footprint-reducing technology will receive preference whenever possible.

The bill would require the Department of Transportation to establish and implement a program to prioritize, to the greatest extent practicable, the use of unit concrete products that utilize carbon footprint-reducing technology, including permeable pavement, in the design, construction, reconstruction, or repair of any public transportation infrastructure project that is funded in whole or in part from the “Special Transportation fund” established pursuant to section 21 of P.L.1984, c.73 (C.27:1B-21). The bill would also require any person or entity that purchases unit concrete products, or that undertakes any construction or improvement that requires the use of unit concrete products, including the replacement of impervious surface with permeable pavement, to use unit concrete products that utilize carbon footprint-reducing technology, if the project is financed, in whole or in part, with State funds.

Finally, the bill would require the Commissioner of Environmental Protection to establish any standards and procedures necessary to implement the bill, including a process for certifying whether a unit concrete product generates at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. The DEP would be required to consider a consensus evaluation and reporting standard, developed by an independent private organization, that creates a uniform system for self-evaluation and self-reporting by unit concrete product manufacturers, and would give preference to a standard supported by the unit concrete product industry or industry associations.

COMMITTEE AMENDMENTS

The committee amended the bill to clarify that the provisions of the bill do not apply to ready mix concrete, sand, stone, gravel, or bituminous concrete or asphalt.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 3091

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 21, 2021

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3091 (1R), with committee amendments.

As amended, this bill would require builders to offer unit concrete products that utilize carbon footprint-reducing technology as an option in new construction, and establish various tax incentives, and State and local government purchasing requirements, for unit concrete products that utilize carbon footprint-reducing technology.

Under the bill, a “unit concrete product that utilizes carbon footprint-reducing technology” means a unit concrete product that is certified by the Department of Environmental Protection (DEP), or an independent third party authorized by the DEP, as generating at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. These products would also be required to conform with the relevant requirements of the “State Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by reference TMS 402/602 Building Code Requirements and Specification for Masonry Structures. A “unit concrete product” is a concrete building product that is fabricated under controlled conditions separate and remote from the intended point of use and is produced in a wet cast or dry cast method in a factory setting and then transported to the location of intended use for installation, including all concrete pavers, whether permeable or non-permeable, and concrete block. “Unit concrete product” does not include ready mix concrete, sand, stone, gravel, or bituminous concrete or asphalt.

The bill would require a builder, for any new construction that requires the use of unit concrete products, where technically feasible, to offer as an option unit concrete products that utilize carbon footprint-reducing technology in the new construction. This requirement would apply whenever a prospective client enters into negotiations with a builder to construct or purchase a new residential dwelling or commercial building in the State, except that

this would not apply to the construction of certain condominiums, attached single-family townhouses, row houses.

Under the bill, the builder would be required to disclose in writing certain information about the cost and environmental benefits of unit concrete products that utilize carbon footprint-reducing technology, and tax incentives available under the bill. The bill would require the Commissioner of Community Affairs to publish educational materials concerning unit concrete products that utilize carbon footprint-reducing technology, and provide builders with information concerning the tax incentives established in the bill.

Under the bill, receipts from the sale of unit concrete products that utilize carbon footprint-reducing technology, including permeable pavement, used in the construction or improvement of any residential dwelling or commercial building in the State would be exempt from the State Sales and Use Tax. The bill would also provide both corporation business tax credits and gross income tax credits for persons who purchase and install unit concrete products that utilize carbon footprint-reducing technology, including permeable pavement, in the construction or improvement of any residential dwelling or commercial building, or in the replacement of an impervious surface with permeable pavement. The tax credit would be equal to \$2.00 per square foot of qualified unit concrete products purchased and installed. The value of the tax credits allowed under the bill would be capped at \$3,000 for a residential property and \$30,000 for a commercial property in a single privilege period. In order to qualify for a tax credit, a person would be required to install at least 100 square feet of qualified unit concrete products.

The bill would require the Director of the Division of Purchase and Property, the Director of the Division of Property Management and Construction, and any State agency having authority to contract for the purchase of goods or services, wherever feasible, to use or require the use of unit concrete products that utilize carbon footprint-reducing technology. This requirement would apply whenever a State agency enters into a contract for the purchase of unit concrete products, or for any construction or improvement project that requires the use of unit concrete products, including the replacement of impervious surfaces with permeable pavement. The Division of Purchase and Property and the Division of Property Management and Construction, in consultation with the DEP, would be required to publish guidelines for implementing this requirement. A State agency would be required to include in an invitation to bid, where relevant, a statement that any response to the invitation shall use unit concrete products that utilize carbon footprint-reducing technology.

The bill would also require a local contracting unit, whenever feasible, to use or require the use of unit concrete products that utilize carbon footprint-reducing technology, including permeable pavers. This requirement would apply whenever a local contracting unit enters into a contract for the purchase of unit concrete products, or for any construction or improvement project that requires the use of unit concrete products, including the replacement of impervious surfaces with permeable pavement. Under the bill, the Director of the Division of Local Government Services, in consultation with the DEP, would be required to publish guidelines for implementing the requirement. In preparing specification for a contract, a local unit would be required to include in an invitation to bid, where relevant, a statement that any response to the invitation shall use unit concrete products that utilize carbon footprint-reducing technology.

The bill would require the Department of Transportation to establish a program to use, to the greatest extent practicable, unit concrete products that utilize carbon footprint-reducing technology, including permeable pavement, in the design, construction, reconstruction, or repair of any public transportation infrastructure project that is funded in whole or in part from the “Special Transportation fund” established pursuant to section 21 of P.L.1984, c.73 (C.27:1B-21). The bill would also require any person or entity that purchases unit concrete products, or that undertakes any construction or improvement that requires the use of unit concrete products, including the replacement of impervious surface with permeable pavement, to use unit concrete products that utilize carbon footprint-reducing technology, if the project is financed, in whole or in part, with State funds.

Finally, the bill would require the Commissioner of Environmental Protection to establish any standards and procedures necessary to implement the bill, including a process for certifying whether a unit concrete product generates at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. The DEP would be required to consider a consensus evaluation and reporting standard, developed by an independent private organization, that creates a uniform system for self-evaluation and self-reporting by unit concrete product manufacturers, and would give preference to a standard supported by the unit concrete product industry or industry associations.

The committee amendments to the bill:

(1) replace, in section 2 of the bill, the terms “developer” and “prospective purchaser” with “builder” and “prospective client”;

(2) amend, throughout the bill, the definition of “unit concrete product that utilizes carbon footprint-reducing technology” to

specify that such products are required to also conform with certain relevant requirements of the “State Uniform Construction Code Act”;

(3) provide that the requirements of section 2 of the bill do not apply to the construction of certain condominiums, attached single-family townhouses, row houses;

(4) provide, in section 2 of the bill, that developers shall provide certain specified information in writing to prospective clients, rather than in any advertising;

(5) remove the State and local purchasing preferences in sections 6 through 8 of the bill, and instead require State and local entities to use unit concrete products that utilize carbon footprint-reducing technology when entering into certain contracts, whenever feasible; and

(6) require State and local entities to include in their project specifications a specific line item for each unit concrete product to be used in a project.

FISCAL IMPACT:

The Office of Legislative Services (OLS) recognizes that the bill will result in increased annual State expenditures and a decrease in annual State revenues. On the expenditure side, the bill’s requirements to publish materials, modify contracting practices, and establish programs that either require, when feasible, the use of unit concrete products that utilize carbon footprint-reducing technology or certify those products may increase administrative expenses for Executive departments. However, the OLS cannot predict how those departments will implement the bill’s requirements; thus, the magnitude of the annual expenditure increase is indeterminate.

Further, the bill’s exemption of unit concrete products that utilize carbon footprint-reducing technology from the State’s Sales and Use tax which, along with the utilization of gross income tax and corporation business tax credits, will reduce revenues earmarked for both the State’s General Fund and Property Tax Relief Fund by an indeterminate amount annually.

The OLS notes that those products may not be as prevalent in residential and commercial construction or improvement projects around the State, so the impact on sales tax collections may be negligible immediately following the bill’s enactment. Likewise, the OLS anticipates fewer applications for the bill’s tax credits immediately following enactment. However, if the bill induces more unit concrete products that utilize carbon footprint-reducing technology usage and sales across the State, the State’s annual revenue loss could increase over time as a result of forgone revenue from both the sales tax exemption and tax credit applications.

STATEMENT TO
[Second Reprint]
SENATE, No. 3091

with Senate Floor Amendments
(Proposed by Senator ADDIEGO)

ADOPTED: FEBRUARY 19, 2021

These floor amendments:

(1) provide, throughout the bill, that any initial rulemakings undertaken pursuant to the bill would, notwithstanding the provisions of the “Administrative Procedure Act,” be effective immediately upon filing with the Office of Administrative Law, and that such rules and regulations may be in effect for a period not to exceed 365 days, after which the rules and regulations would be required to be amended, adopted, or readopted in accordance with the requirements of the “Administrative Procedure Act”;

(2) provide that the tax credits provided in sections 4 and 5 of the bill are available to a taxpayer who purchases, rather than purchases and installs, unit concrete products that utilize carbon footprint-reducing technology, and provide that the tax credits are allowed in the taxable year in which the purchase is made;

(3) add language, in sections 4 and 5 of the bill, to:

(a) require a taxpayer seeking a tax credit to submit receipts for the unit concrete products for which the tax credit is claimed and an affidavit that the unit concrete products are or will be used exclusively in the State;

(b) specify that no costs included in calculation of a credit allowed under the bill can be included in the costs for calculation of any other corporation business tax credit or gross income tax credit; and

(c) specify that the value of tax credits allowed under the bill not exceed a cumulative total of \$20 million in each fiscal year;

(4) provide, in both sections 6 and 7 of the bill, that contracts use or require unit concrete products that utilize carbon footprint-reducing technology whenever *technically* feasible;

(5) provide, in section 6 of the bill, that the contracting provisions of the section would not apply to any contract when the applicable State contracting agency determines, in their sole discretion, that the purchase and use of unit concrete products that utilize carbon footprint-reducing technology would increase the cost of the contract by an unreasonable amount;

(6) provide, in section 7 of the bill, that the contracting provisions of the section would not apply to any contract where the head of the local contracting unit determines, in their sole discretion, that the purchase and use of unit concrete products that utilize carbon

footprint-reducing technology would increase the cost of the contract;

(7) require, in section 10 of the bill, the DEP Commissioner to publish on the department's Internet website a list of unit concrete products that are certified by the department pursuant to the bill;

(8) amend section 10 to also provide the Commissioner of Community Affairs and the Secretary of Higher Education with rulemaking authority; and

(9) amend the effective date of the bill to provide that sections 4 and 5 of the bill (providing tax credits) would apply to purchases of unit concrete products that utilize carbon footprint-reducing technology made on or after the first day of the second month next following the date of enactment of the bill into law.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 3091

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: JANUARY 28, 2021

SUMMARY

- Synopsis:** Requires builders to offer unit concrete products that utilize carbon footprint-reducing technology as option in new construction; establishes tax incentives, and State and local purchasing requirements, for unit concrete products that utilize carbon footprint-reducing technology.
- Type of Impact:** Annual expenditure increase and annual revenue loss to State General Fund and Property Tax Relief Fund.
- Agencies Affected:** Department of Community Affairs.
Department of Environmental Protection.
Department of Transportation.
Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2021 and Thereafter</u>
Annual State Expenditure Increase	Indeterminate
Annual State Revenue Loss	Indeterminate

- The Office of Legislative Services (OLS) recognizes that the bill will result in increased annual State expenditures and a decrease in annual State revenues.
- The bill's requirements to publish materials, modify contracting practices, and establish programs that require, when feasible, the use of unit concrete products that utilize carbon footprint-reducing technology or certify those products may annually increase administrative expenses for Executive departments.
- The bill's exemption of unit concrete products that utilize carbon footprint-reducing technology from the State's Sales and Use tax which, along with the utilization of gross income tax and corporation business tax credits, will reduce revenues earmarked for both the State's General Fund and Property Tax Relief Fund by an indeterminate amount annually.

BILL DESCRIPTION

The bill requires builders to offer unit concrete products that utilize carbon footprint-reducing technology as an option in new construction, and establish various tax incentives and exemptions, and State and local government purchasing preferences, for unit concrete products that utilize carbon footprint-reducing technology.

The bill requires a builder, for any new construction that requires the use of unit concrete products, where technically feasible, to offer unit concrete products that utilize carbon footprint-reducing technology in the new construction. The bill requires the Commissioner of Community Affairs to publish educational materials concerning unit concrete products that utilize carbon footprint-reducing technology, and provide builders with information concerning the tax incentives established in the bill.

The bill exempts receipts from the sale of unit concrete products that utilize carbon footprint-reducing technology, including permeable pavement, used in the construction or improvement of any residential dwelling or commercial building in the State from the Sales and Use Tax. The bill also provides both corporation business tax credits and gross income tax credits for persons who purchase and install unit concrete products that utilize carbon footprint-reducing technology, including permeable pavement, in the construction or improvement of any residential dwelling or commercial building, or in the replacement of an impervious surface with permeable pavement. The tax credit would be equal to \$2.00 per square foot of qualified unit concrete products purchased and installed. The value of the tax credits allowed under the bill would be capped at \$3,000 for a residential property and \$30,000 for a commercial property in a single privilege period. In order to qualify for a tax credit, a person would be required to install at least 100 square feet of qualified unit concrete products.

The bill requires the Director of the Division of Purchase and Property, the Director of the Division of Property Management and Construction, and any State agency having authority to contract for the purchase of goods or services, wherever feasible, use or require the use of unit concrete products that utilize carbon footprint-reducing technology. The bill also requires a local contracting unit, whenever feasible, use or require the use of unit concrete products that utilize carbon footprint-reducing technology, including permeable pavers.

The bill requires the Department of Transportation to implement a program to use, to the greatest extent practicable, unit concrete products that utilize carbon footprint-reducing technology, including permeable pavement, in the design, construction, reconstruction, or repair of any public transportation infrastructure project that is funded in whole or in part from the "Special Transportation fund".

The bill requires the Commissioner of Environmental Protection to establish any standards and procedures necessary to implement the bill, including a process for certifying whether a unit concrete product generates at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS recognizes that the bill will result in increased annual State expenditures and a decrease in annual State revenues. On the expenditure side, the bill's requirements to publish materials, modify contracting practices, and establish programs that require, when feasible, the use of unit concrete products that utilize carbon footprint-reducing technology or certify those products may increase administrative expenses for Executive departments. However, the OLS cannot predict how those departments will implement the bill's requirements; thus, the magnitude of the annual expenditure increase is indeterminate. Further, the bill's exemption of unit concrete products that utilize carbon footprint-reducing technology from the State's Sales and Use Tax which, along with the utilization of gross income tax and corporation business tax credits, will reduce revenues earmarked for both the State's General Fund and Property Tax Relief Fund by an indeterminate amount annually. The OLS notes that those products may not be as prevalent in residential and commercial construction or improvement projects around the State, so the impact on sales tax collections may be negligible immediately following the bill's enactment. Likewise, the OLS anticipates fewer applications for the bill's tax credits immediately following enactment. However, if the bill induces more unit concrete products that utilize carbon footprint-reducing technology usage and sales across the State, the State's annual revenue loss could increase over time as a result of forgone revenue from both the sales tax exemption and tax credit applications.

Section: Revenue, Finance and Appropriations

Analyst: Jordan M. DiGiovanni
Revenue Analyst

Approved: Thomas Koenig
Assistant Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

SENATE, No. 3091

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: JUNE 4, 2021

SUMMARY

- Synopsis:** Requires builders to offer unit concrete products that utilize carbon footprint-reducing technology as option in new construction; establishes tax incentives, and State and local purchasing requirements, for unit concrete products that utilize carbon footprint-reducing technology.
- Type of Impact:** Annual expenditure increase and annual revenue loss to State General Fund and Property Tax Relief Fund.
- Agencies Affected:** Department of Community Affairs.
Department of Environmental Protection.
Department of Transportation.
Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2022 and Thereafter</u>
Annual State Expenditure Increase	Indeterminate
Annual State Revenue Loss	Indeterminate

- The Office of Legislative Services (OLS) recognizes that the bill will result in increased annual State expenditures and a decrease in annual State revenues.
- The bill's requirements to publish materials, modify contracting practices, and establish programs that require, when feasible, the use of unit concrete products that utilize carbon footprint-reducing technology or certify those products may annually increase administrative expenses for Executive departments.
- The bill's exemption of unit concrete products that utilize carbon footprint-reducing technology from the State's Sales and Use tax which, along with the utilization of gross income tax and corporation business tax credits, will reduce revenues earmarked for both the State's General Fund and Property Tax Relief Fund by an indeterminate amount annually. The OLS notes that the tax credits are capped at \$20 million for each fiscal year.

BILL DESCRIPTION

The bill requires builders to offer unit concrete products that utilize carbon footprint-reducing technology as an option in new construction, and establish various tax incentives and exemptions, and State and local government purchasing preferences, for unit concrete products that utilize carbon footprint-reducing technology.

The bill requires a builder, for any new construction that requires the use of unit concrete products, where technically feasible, to offer unit concrete products that utilize carbon footprint-reducing technology in the new construction. The bill requires the Commissioner of Community Affairs to publish educational materials concerning unit concrete products that utilize carbon footprint-reducing technology, and provide builders with information concerning the tax incentives established in the bill.

The bill exempts receipts from the sale of unit concrete products that utilize carbon footprint-reducing technology, including permeable pavement, used in the construction or improvement of any residential dwelling or commercial building in the State from the Sales and Use Tax. The bill also provides both corporation business tax credits and gross income tax credits for the taxable year or privilege period during which purchases of unit concrete products that utilize carbon footprint-reducing technology are made. The tax credit would be equal to \$2.00 per square foot of qualified unit concrete products purchased. The value of the tax credits allowed under the bill would be capped at \$3,000 for a residential property and \$30,000 for a commercial property in a single privilege period. Tax credits across both the corporation business tax and the gross income tax are capped at \$20 million each fiscal year. In order to qualify for a tax credit, a person would be required to purchase at least 100 square feet of qualified unit concrete products.

The bill requires a taxpayer seeking a tax credit to submit receipts for the unit concrete products for which the tax credit is claimed and an affidavit that the unit concrete products are or will be used exclusively in the State. The bill also specifies that no costs included in calculation of a credit allowed under the bill can be included in the costs for calculation of any other corporation business tax credit or gross income tax credit.

The bill requires the Director of the Division of Purchase and Property, the Director of the Division of Property Management and Construction, and any State agency having authority to contract for the purchase of goods or services, whenever technically feasible, use or require the use of unit concrete products that utilize carbon footprint-reducing technology. The bill also requires a local contracting unit, whenever technically feasible, use or require the use of unit concrete products that utilize carbon footprint-reducing technology, including permeable pavers.

The bill requires the Department of Transportation to implement a program to use, to the greatest extent practicable, unit concrete products that utilize carbon footprint-reducing technology, including permeable pavement, in the design, construction, reconstruction, or repair of any public transportation infrastructure project that is funded in whole or in part from the Special Transportation fund.

The bill requires the Commissioner of Environmental Protection to establish any standards and procedures necessary to implement the bill, including a process for certifying whether a unit concrete product generates at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. The commissioner is required to publish certified products on the department's website.

FISCAL ANALYSIS***EXECUTIVE BRANCH***

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS recognizes that the bill will result in increased annual State expenditures and a decrease in annual State revenues. On the expenditure side, the bill's requirements to publish materials, modify contracting practices, and establish programs that require, when feasible, the use of unit concrete products that utilize carbon footprint-reducing technology or certify those products may increase administrative expenses for Executive departments. However, the OLS cannot predict how those departments will implement the bill's requirements; thus, the magnitude of the annual expenditure increase is indeterminate.

The bill's exemption of unit concrete products that utilize carbon footprint-reducing technology from the State's Sales and Use Tax which, along with the utilization of gross income tax and corporation business tax credits, will reduce revenues earmarked for both the State's General Fund and Property Tax Relief Fund by an indeterminate amount annually. The tax credits are capped at \$20 million for each fiscal year.

The OLS notes that those products may not be very prevalent in residential and commercial construction or improvement projects around the State, so the impact on sales tax collections may be negligible immediately following the bill's enactment. Likewise, the OLS anticipates fewer applications for the bill's tax credits immediately following enactment. However, if the bill induces more unit concrete products that utilize carbon footprint-reducing technology usage and sales across the State, the State's annual revenue loss could increase over time as a result of forgone revenue from both the sales tax exemption and tax credit applications.

Section: Revenue, Finance and Appropriations

*Analyst: Jordan M. DiGiovanni
Revenue Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 4933

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED NOVEMBER 5, 2020

Sponsored by:

Assemblyman JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

SYNOPSIS

Requires developers to offer unit concrete products that utilize carbon footprint-reducing technology as option in new construction; establishes tax incentives, and State and local purchasing preferences, for unit concrete products that utilize carbon footprint-reducing technology.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/5/2020)

1 AN ACT concerning the purchase and use of unit concrete products
2 that utilize carbon footprint-reducing technology and
3 supplementing Titles 27, 52, and 54 of the Revised Statutes, Title
4 54A of the New Jersey Statutes, and P.L.1971, c.198.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. The Legislature finds and declares that the burning of fossil
10 fuels and other industrial processes release harmful greenhouse
11 gases into the atmosphere, which in turn contribute to climate
12 change; that, in the coming years, New Jersey is likely to
13 experience increased flooding, drought, and other severe weather
14 effects caused by climate change; and that, in order to help mitigate
15 the serious impacts of climate change, the State must drastically
16 reduce its consumption of fossil fuels and its greenhouse gas
17 emissions.

18 The Legislature further finds that concrete is the most widely
19 used construction material in the world due to its low cost, strength,
20 and durability; that the production of ordinary Portland cement, the
21 critical ingredient in concrete, is responsible for almost eight
22 percent of the world's carbon dioxide emissions; that ordinary
23 Portland cement requires significant amounts of energy to produce,
24 resulting in high carbon dioxide emissions; that modern technology
25 allows concrete to be produced utilizing less energy, and the
26 emission of carbon dioxide from cement manufacturing can be
27 greatly reduced by capturing and utilizing carbon dioxide in the unit
28 concrete product manufacturing process, including the chemical
29 reaction that results in strength and durability of concrete; and that
30 this process can sequester carbon dioxide in the unit concrete
31 product or chemically transform the carbon dioxide into mineral
32 form, embedding it into the concrete and preventing its release as a
33 gas.

34 The Legislature therefore determines that it is in the public
35 interest to encourage and support the purchase of unit concrete
36 products that utilize carbon footprint-reducing technology in the
37 State; that unit concrete products that utilize carbon footprint-
38 reducing technology will greatly reduce greenhouse gas emissions
39 from the concrete and construction industries; and that incentives
40 for permeable pavers that are unit concrete products that utilize
41 carbon footprint-reducing technology will further help enhance
42 stormwater management, reduce stormwater runoff, and decrease
43 the risk of flooding in the State.

44

45 2. a. A developer shall, for any new construction that requires
46 the use of unit concrete products, where technically feasible, offer
47 to use unit concrete products that utilize carbon footprint-reducing
48 technology in the new construction, whenever a prospective

1 purchaser enters into negotiations with the developer to construct or
2 purchase a new residential dwelling or commercial building in the
3 State.

4 b. A developer shall disclose, in any advertising or offer to
5 construct a new residential dwelling or commercial building, in a
6 form and manner as determined by the commissioner:

7 (1) that the prospective purchaser may choose to use unit
8 concrete products that utilize carbon footprint-reducing technology
9 in the new construction;

10 (2) the total cost of using unit concrete products that utilize
11 carbon footprint-reducing technology in the new construction;

12 (3) general information on the environmental and other benefits
13 of using unit concrete products that utilize carbon footprint-
14 reducing technology; and

15 (4) information concerning any applicable tax credits, rebates, or
16 other incentives that may be available for the use of unit concrete
17 products that utilize carbon footprint-reducing technology pursuant
18 to P.L. , c. (C.)(pending before the Legislature as this bill
19 or any other law.

20 c. The commissioner, in consultation with the Department of
21 Environmental Protection, shall:

22 (1) publish educational materials to demonstrate how developers
23 may incorporate unit concrete products that utilize carbon footprint-
24 reducing technology into new construction; and

25 (2) provide developers with information concerning applicable
26 tax credits, rebates, or other incentives that may be available for the
27 use of unit concrete products that utilize carbon footprint-reducing
28 technology pursuant to P.L. , c. (C.)(pending before the
29 Legislature as this bill) or any other law.

30 d. The commissioner, in consultation with the Department of
31 Environmental Protection, may adopt, pursuant to the
32 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
33 seq.), rules and regulations necessary to implement this section.

34 e. The commissioner shall enforce the provisions of this
35 section and may penalize and assess violators of this section in
36 accordance with the penalties and procedures provided for under
37 section 18 of P.L.1977, c.419 (C.45:22A-38).

38 f. As used in this section:

39 “Advertising” means the same as the term is defined in section 3
40 of P.L.1977, c.419 (C.45:22A-23).

41 “Commissioner” means the Commissioner of Community
42 Affairs.

43 “Developer” means a person who constructs, or offers to
44 construct, a new residential dwelling or commercial building in the
45 State.

46 “Prospective purchaser” means a person who contemplates
47 acquiring a legal or equitable interest in a new residential dwelling
48 or commercial building.

1 “Unit concrete product” means a concrete building product that
2 is fabricated under controlled conditions separate and remote from
3 the intended point of use and is produced in a wet cast or dry cast
4 method in a factory setting and then transported to the location of
5 intended use for installation, including, but not limited to, all
6 concrete pavers, whether permeable or non-permeable, and concrete
7 block.

8 “Unit concrete product that utilizes carbon footprint-reducing
9 technology” means a unit concrete product that is certified by the
10 Department of Environmental Protection, or any independent third
11 party authorized by the department, pursuant to section 10 of
12 P.L. , c. (C.)(pending before the Legislature as this bill), as
13 generating at least 50 percent less carbon dioxide emissions in the
14 production and utilization of the unit concrete product than
15 conventional unit concrete products made with ordinary Portland
16 cement.

17

18 3. a. Receipts from the sale of unit concrete products that
19 utilize carbon footprint-reducing technology, which may include
20 permeable pavement, used in the construction or improvement of
21 any residential dwelling or commercial building located in the State
22 shall be exempt from the tax imposed under the “Sales and Use Tax
23 Act,” P.L.1966, c.30 (C.54:32B-1 et seq.).

24 b. As used in this section:

25 “Permeable pavement” means a concrete product that allows
26 rainwater to penetrate the pavement and percolate into the
27 supporting soils and includes, but is not limited to, pervious
28 concrete, permeable interlocking concrete pavers, and concrete grid
29 pavers.

30 “Unit concrete product” means a concrete building product that
31 is fabricated under controlled conditions separate and remote from
32 the intended point of use and is produced in a wet cast or dry cast
33 method in a factory setting and then transported to the location of
34 intended use for installation, including, but not limited to, all
35 concrete pavers, whether permeable or non-permeable, and concrete
36 block.

37 “Unit concrete product that utilizes carbon footprint-reducing
38 technology” means a unit concrete product that is certified by the
39 Department of Environmental Protection, or any independent third
40 party authorized by the department, pursuant to section 10 of
41 P.L. , c. (C.)(pending before the Legislature as this bill), as
42 generating at least 50 percent less carbon dioxide emissions in the
43 production and utilization of the unit concrete product than
44 conventional unit concrete products made with ordinary Portland
45 cement.

46

47 4. a. A taxpayer shall be allowed a credit against the tax
48 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in

1 an amount equal to \$2.00 per square foot for the purchase and
2 installation of unit concrete products that utilize carbon footprint-
3 reducing technology, which may include permeable pavement, used
4 in the construction or improvement of any residential dwelling or
5 commercial building, or in the replacement of an impervious
6 surface with permeable pavement, in the State. Such purchases and
7 installations must be completed during the privilege period. The
8 value of tax credits allowed to a taxpayer pursuant to this section
9 shall not exceed \$3,000 for a residential property, and \$30,000 for a
10 commercial property in a single privilege period. In order to
11 qualify for the tax credit pursuant to this section, a person shall
12 install at least 100 square feet of unit concrete products that utilize
13 carbon footprint-reducing technology, which may include
14 permeable pavement.

15 b. The order of priority of the application of the tax credit
16 allowed pursuant to this section, and any other credits allowed
17 against the tax imposed pursuant to section 5 of P.L.1945, c.162
18 (C.54:10A-5) for a privilege period, shall be as prescribed by the
19 director. The amount of the credit applied pursuant to this section
20 against the tax imposed pursuant to section 5 of P.L.1945, c.162
21 (C.54:10A-5) shall not reduce a taxpayer's tax liability to an amount
22 less than the statutory minimum provided in subsection (e) of
23 section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax
24 credit otherwise allowable under this section which cannot be
25 applied for the privilege period due to the limitations of this
26 subsection or under other provisions of P.L.1945, c.162 (C.54:10A-
27 1 et seq.) may be carried forward, if necessary, to the seven
28 privilege periods following the privilege period for which the tax
29 credit was allowed.

30 c. The director, in consultation with the Department of
31 Environmental Protection, shall adopt, pursuant to the
32 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
33 seq.), rules and regulations as are necessary to implement the
34 provisions of this section. The director may require the
35 submission of any information the director deems necessary to
36 award a tax credit pursuant to this section.

37 d. As used in this section:

38 "Permeable pavement" means a concrete product that allows
39 rainwater to penetrate the pavement and percolate into the
40 supporting soils and includes, but is not limited to, pervious
41 concrete, permeable interlocking concrete pavers, and concrete grid
42 pavers.

43 "Unit concrete product" means a concrete building product that
44 is fabricated under controlled conditions separate and remote from
45 the intended point of use and is produced in a wet cast or dry cast
46 method in a factory setting and then transported to the location of
47 intended use for installation, including, but not limited to, all

1 concrete pavers, whether permeable or non-permeable, and concrete
2 block.

3 “Unit concrete product that utilizes carbon footprint-reducing
4 technology” means a unit concrete product that is certified by the
5 Department of Environmental Protection, or any independent third
6 party authorized by the department, pursuant to section 10 of
7 P.L. , c. (C.)(pending before the Legislature as this bill), as
8 generating at least 50 percent less carbon dioxide emissions in the
9 production and utilization of the unit concrete product than
10 conventional unit concrete products made with ordinary Portland
11 cement.

12

13 5. a. A taxpayer shall be allowed a credit against the tax
14 otherwise due for the taxable year under the “New Jersey Gross
15 Income Tax Act” N.J.S.54A:1-1 et seq., in an amount equal to
16 \$2.00 per square foot for the purchase and installation of unit
17 concrete products that utilize carbon footprint-reducing technology,
18 which may include permeable pavement, used in the construction or
19 improvement of any residential dwelling or commercial building, or
20 in the replacement of an impervious surface with permeable
21 pavement, in the State, which purchase and installation is completed
22 during the taxable year. The total amount of the tax credit granted
23 pursuant to this section shall not exceed \$3,000 for a residential
24 property, and \$30,000 for a commercial property in a single taxable
25 year. In order to qualify for the tax credit pursuant to this section, a
26 person shall install at least 100 square feet of unit concrete products
27 that utilize carbon footprint-reducing technology, which may
28 include permeable pavement.

29 b. The order of priority of the application of the credit allowed
30 pursuant to this section, and any other credits allowed against the
31 tax imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year,
32 shall be as prescribed by the director. The amount of the credit
33 applied under this section against the New Jersey gross income tax
34 imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year, when
35 taken together with any other payments, credits, deductions, and
36 adjustments allowed by law, shall not reduce a taxpayer's tax
37 liability to an amount less than zero. The amount of the tax credit
38 otherwise allowable under this section which cannot be applied for
39 the taxable year due to the limitations of this section or other
40 provisions of N.J.S.54A:1-1 et seq. may be carried forward, if
41 necessary, to the seven taxable years following the taxable year for
42 which the tax credit was allowed.

43 c. (1) A business entity that is classified as a partnership for
44 federal income tax purposes shall not be allowed a credit under this
45 section directly, but the amount of credit of a taxpayer in respect of
46 a distributive share of partnership income under the “New Jersey
47 Gross Income Tax Act,” N.J.S.54A:1-1 et seq., shall be determined
48 by allocating to the taxpayer that proportion of the credit acquired

1 by the partnership that is equal to the taxpayer's share, whether or
2 not distributed, of the total distributive income or gain of the
3 partnership for its taxable year ending within or with the taxpayer's
4 taxable year.

5 (2) A New Jersey S Corporation shall not be allowed a credit
6 under this section directly, but the amount of the tax credit of a
7 taxpayer in respect of a pro rata share of S Corporation income,
8 shall be determined by allocating to the taxpayer that proportion of
9 the tax credit acquired by the New Jersey S Corporation that is
10 equal to the taxpayer's share, whether or not distributed, of the total
11 pro rata share of S Corporation income of the New Jersey S
12 Corporation for its privilege period ending within or with the
13 taxpayer's taxable year.

14 d. The director, in consultation with the Department of
15 Environmental Protection, shall adopt, pursuant to the
16 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
17 seq.), rules and regulations as are necessary to implement the
18 provisions of this section. The director may require the submission
19 of any information the director deems necessary to award a tax
20 credit pursuant to this section.

21 e. As used in this section:

22 "Permeable pavement" means a concrete product that allows
23 rainwater to penetrate the pavement and percolate into the
24 supporting soils and includes, but is not limited to, pervious
25 concrete, permeable interlocking concrete pavers, and concrete grid
26 pavers.

27 "Unit concrete product" means a concrete building product that
28 is fabricated under controlled conditions separate and remote from
29 the intended point of use and is produced in a wet cast or dry cast
30 method in a factory setting and then transported to the location of
31 intended use for installation, including, but not limited to, all
32 concrete pavers, whether permeable or non-permeable, and concrete
33 block.

34 "Unit concrete product that utilizes carbon footprint-reducing
35 technology" means a unit concrete product that is certified by the
36 Department of Environmental Protection, or any independent third
37 party authorized by the department, pursuant to section 10 of
38 P.L. , c. (C.)(pending before the Legislature as this bill), as
39 generating at least 50 percent less carbon dioxide emissions in the
40 production and utilization of the unit concrete product than
41 conventional unit concrete products made with ordinary Portland
42 cement.

43

44 6. a. Notwithstanding the provisions of any other law, rule, or
45 regulation to the contrary, the Director of the Division of Purchase
46 and Property in the Department of the Treasury, the Director of the
47 Division of Property Management and Construction in the
48 Department of the Treasury, and any State agency having authority

1 to contract for the purchase of goods or services, shall, whenever
2 possible, give preference to unit concrete products that utilize
3 carbon footprint-reducing technology, which may include
4 permeable pavement, when entering into a contract for the purchase
5 of unit concrete products, or for any construction or improvement
6 project that requires the use of unit concrete products, including the
7 replacement of impervious surfaces with permeable pavement. In
8 the event that more than one bidder offers to use unit concrete
9 products that utilize carbon footprint-reducing technology, the state
10 department or agency shall award the contract to the lowest
11 responsible bidder among them.

12 b. The Division of Purchase and Property and the Division of
13 Property Management and Construction, in consultation with the
14 Department of Environmental Protection, shall develop and publish
15 guidelines for implementing the preference pursuant to subsection
16 a. of this section. The guidelines shall encourage and promote, to
17 the maximum extent practicable, the purchase and use of unit
18 concrete products that utilize carbon footprint-reducing technology.
19 The guidelines shall conform to any standards or procedures
20 established by the State Treasurer and the Department of
21 Environmental Protection pursuant to section 10 of P.L. ,

22 c. (C.)(pending before the Legislature as this bill). Whenever
23 any agency or department of State government purchases unit
24 concrete products, or undertakes any construction or improvement
25 project that requires the use of unit concrete products, the agency or
26 department shall follow the guidelines therefor established by the
27 director.

28 c. In preparing the specifications for any contract for the
29 purchase of unit concrete products, or for any construction or
30 improvement project that requires the use of unit concrete products,
31 the Director of the Division of Purchase and Property, the Director
32 of the Division of Property Management and Construction, or any
33 State agency having authority to contract for the purchase of goods
34 or services shall include in the invitation to bid, where relevant, a
35 statement that any response to the invitation that proposes or calls
36 for the use of unit concrete products that utilize carbon footprint-
37 reducing technology shall receive preference whenever possible.

38 d. The provisions of this section shall not apply to:

39 (1) any binding contractual obligations for the purchase of
40 goods or services entered into prior to the effective date of P.L. ,
41 c. (C.)(pending before the Legislature as this bill);

42 (2) bid packages advertised and made available to the public, or
43 to any competitive and sealed bids received by the State, prior to
44 the effective date of P.L. , c. (C.)(pending before the
45 Legislature as this bill); or

46 (3) any amendment, modification, or renewal of a contract,
47 which contract was entered into prior to the effective date of
48 P.L. , c. (C.)(pending before the Legislature as this bill)

1 where the application would delay timely completion of a project or
2 involve an increase in the total moneys to be paid by the State under
3 that contract.

4 e. As used in this section:

5 “Permeable pavement” means a concrete product that allows
6 rainwater to penetrate the pavement and percolate into the
7 supporting soils and includes, but is not limited to, pervious
8 concrete, permeable interlocking concrete pavers, and concrete grid
9 pavers.

10 “Unit concrete product” means a concrete building product that
11 is fabricated under controlled conditions separate and remote from
12 the intended point of use and is produced in a wet cast or dry cast
13 method in a factory setting and then transported to the location of
14 intended use for installation, including, but not limited to, all
15 concrete pavers, whether permeable or non-permeable, and concrete
16 block.

17 “Unit concrete product that utilizes carbon footprint-reducing
18 technology” means a unit concrete product that is certified by the
19 Department of Environmental Protection, or any independent third
20 party authorized by the department, pursuant to section 10 of
21 P.L. , c. (C.)(pending before the Legislature as this bill), as
22 generating at least 50 percent less carbon dioxide emissions in the
23 production and utilization of the unit concrete product than
24 conventional unit concrete products made with ordinary Portland
25 cement.

26

27 7. a. Notwithstanding the provisions of any other law, rule, or
28 regulation to the contrary, a local contracting unit shall, whenever
29 possible, give preference to a bid that uses unit concrete products
30 that utilize carbon footprint-reducing technology, which may
31 include permeable pavers, when entering into a contract for the
32 purchase of unit concrete products, or for any construction or
33 improvement project that requires the use of unit concrete products,
34 including the replacement of impervious surfaces with permeable
35 pavement. In the event that more than one bidder offers to use unit
36 concrete products that utilize carbon footprint-reducing technology,
37 the local contracting unit shall award the contract to the lowest
38 responsible bidder among them.

39 b. The director, in consultation with the Department of
40 Environmental Protection, shall develop and publish guidelines for
41 implementing the preference pursuant to subsection a. of this
42 section. These guidelines shall encourage and promote, to the
43 maximum extent practicable, the purchase and use of unit concrete
44 products that utilize carbon footprint-reducing technology. The
45 guidelines shall conform to any standards or procedures established
46 by the State Treasurer and the Department of Environmental
47 Protection pursuant to section 10 of P.L. , c. (C.)(pending
48 before the Legislature as this bill). Whenever a local contracting

1 unit purchases unit concrete products, or undertakes any
2 construction or improvement project that requires the use of unit
3 concrete products, the local contracting unit shall follow the
4 guidelines therefor established by the director.

5 c. In preparing the specifications for a contract for the purchase
6 of unit concrete products, or for any construction or improvement
7 project that requires the use of unit concrete products, a local
8 contracting unit shall include in the invitation to bid, including in
9 the specifications for all contracts for county or municipal work or
10 for work for which it will pay any part of the cost, or work which
11 by contract or ordinance it will ultimately own and maintain, where
12 relevant, a statement that any response to the invitation that
13 proposes or calls for the use of unit concrete products that utilize
14 carbon footprint-reducing technology shall receive preference
15 whenever possible.

16 d. No priority shall be granted pursuant to subsection a. of this
17 section with respect to:

18 (1) any binding contractual obligations for the purchase of
19 goods or services entered into prior to the effective date of P.L. ,
20 c. (C.)(pending before the Legislature as this bill);

21 (2) bid packages advertised and made available to the public, or
22 to any competitive and sealed bids received by the local contracting
23 unit, prior to the effective date of P.L. , c. (C.)(pending
24 before the Legislature as this bill); or

25 (3) any amendment, modification, or renewal of a contract,
26 which contract was entered into prior to the effective date of
27 P.L. , c. (C.)(pending before the Legislature as this bill)
28 where the application would delay timely completion of a project or
29 involve an increase in the total moneys to be paid by the local
30 contracting unit under that contract.

31 e. As used in this section:

32 "Director" means the Director of the Division of Local
33 Government Services in the Department of Community Affairs.

34 "Local contracting unit" means any public agency subject to the
35 provisions of the "Local Public Contracts Law," P.L.1971, c.198
36 (C.40A:11-1 et seq.), the "Public School Contracts Law,"
37 N.J.S.18A:18A-1 et seq., the "State College Contracts Law,"
38 P.L.1986, c.43 (C.18A:64-52 et seq.), or the "County College
39 Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.).

40 "Permeable pavement" means a concrete product that allows
41 rainwater to penetrate the pavement and percolate into the
42 supporting soils and includes, but is not limited to, pervious
43 concrete, permeable interlocking concrete pavers, and concrete grid
44 pavers.

45 "Unit concrete product" means a concrete building product that
46 is fabricated under controlled conditions separate and remote from
47 the intended point of use and is produced in a wet cast or dry cast
48 method in a factory setting and then transported to the location of

1 intended use for installation, including, but not limited to, all
2 concrete pavers, whether permeable or non-permeable, and concrete
3 block.

4 “Unit concrete product that utilizes carbon footprint-reducing
5 technology” means a unit concrete product that is certified by the
6 Department of Environmental Protection, or any independent third
7 party authorized by the department, pursuant to section 10 of
8 P.L. , c. (C.)(pending before the Legislature as this bill), as
9 generating at least 50 percent less carbon dioxide emissions in the
10 production and utilization of the unit concrete product than
11 conventional unit concrete products made with ordinary Portland
12 cement.

13

14 8. a. The Department of Transportation shall establish and
15 implement a program to prioritize, to the greatest extent practicable
16 as determined by the Commissioner of Transportation, the use of
17 unit concrete products that utilize carbon footprint-reducing
18 technology, which may include permeable pavement, in the design,
19 construction, reconstruction, or repair of any public highway,
20 parking lot, sidewalk, walkway, patio, or other public infrastructure
21 project that requires the use of unit concrete products, or in the
22 replacement of an impervious surface with permeable pavement,
23 and that is funded in whole or in part from the “Special
24 Transportation fund” established pursuant to section 21 of
25 P.L.1984, c.73 (C.27:1B-21).

26 b. As used in this section:

27 “Permeable pavement” means a concrete product that allows
28 rainwater to penetrate the pavement and percolate into the
29 supporting soils and includes, but is not limited to, pervious
30 concrete, permeable interlocking concrete pavers, and concrete grid
31 pavers.

32 “Unit concrete product” means a concrete building product that
33 is fabricated under controlled conditions separate and remote from
34 the intended point of use and is produced in a wet cast or dry cast
35 method in a factory setting and then transported to the location of
36 intended use for installation, including, but not limited to, all
37 concrete pavers, whether permeable or non-permeable, and concrete
38 block.

39 “Unit concrete product that utilizes carbon footprint-reducing
40 technology” means a unit concrete product that is certified by the
41 Department of Environmental Protection, or any independent third
42 party authorized by the department, pursuant to section 10 of
43 P.L. , c. (C.)(pending before the Legislature as this bill), as
44 generating at least 50 percent less carbon dioxide emissions in the
45 production and utilization of the unit concrete product than
46 conventional unit concrete products made with ordinary Portland
47 cement.

1 9. a. Any person or entity that purchases unit concrete
2 products, or that undertakes any construction or improvement that
3 requires the use of unit concrete products, including the
4 replacement of impervious surface with permeable pavement, the
5 cost or contract price of which is financed, in whole or in part, by
6 State funds, shall, as a condition of receiving State funds, use unit
7 concrete products that utilize carbon footprint-reducing technology,
8 provided that such utilization does not conflict with federal funding
9 conditions.

10 b. As used in this section:

11 “Permeable pavement” means a concrete product that allows
12 rainwater to penetrate the pavement and percolate into the
13 supporting soils and includes, but is not limited to, pervious
14 concrete, permeable interlocking concrete pavers, and concrete grid
15 pavers.

16 “Unit concrete product” means a concrete building product that
17 is fabricated under controlled conditions separate and remote from
18 the intended point of use and is produced in a wet cast or dry cast
19 method in a factory setting and then transported to the location of
20 intended use for installation, including, but not limited to, all
21 concrete pavers, whether permeable or non-permeable, and concrete
22 block.

23 “Unit concrete product that utilizes carbon footprint-reducing
24 technology” means a unit concrete product that is certified by the
25 Department of Environmental Protection, or any independent third
26 party authorized by the department, pursuant to section 10 of
27 P.L. , c. (C.)(pending before the Legislature as this bill), as
28 generating at least 50 percent less carbon dioxide emissions in the
29 production and utilization of the unit concrete product than
30 conventional unit concrete products made with ordinary Portland
31 cement.

32
33 10. a. The Commissioner of Environmental Protection shall
34 establish any standards and procedures necessary to implement the
35 provisions of P.L. , c. (C.)(pending before the Legislature
36 as this bill), including, but not limited to, production and use
37 standards, and a process for certifying whether the production and
38 use of a unit concrete product generates at least 50 percent less
39 carbon dioxide emissions than conventional unit concrete products
40 made with ordinary Portland cement. The Department of
41 Environmental Protection shall consider a consensus evaluation and
42 reporting standard developed by an independent private
43 organization such as the International Organization for
44 Standardization or the American National Standards Institute that
45 creates a uniform system for self-evaluation and self-reporting by
46 unit concrete product manufacturers, and shall give preference to a
47 standard supported by the unit concrete product industry or industry
48 associations.

1 Under the bill, receipts from the sale of unit concrete products
2 that utilize carbon footprint-reducing technology, including
3 permeable pavement, used in the construction or improvement of
4 any residential dwelling or commercial building in the State would
5 be exempt from the State Sales and Use Tax. The bill would also
6 provide both corporation business tax credits and gross income tax
7 credits for persons who purchase and install unit concrete products
8 that utilize carbon footprint-reducing technology, including
9 permeable pavement, in the construction or improvement of any
10 residential dwelling or commercial building, or in the replacement
11 of an impervious surface with permeable pavement. The tax credit
12 would be equal to \$2.00 per square foot of qualified unit concrete
13 products purchased and installed. The value of the tax credits
14 allowed under the bill would be capped at \$3,000 for a residential
15 property and \$30,000 for a commercial property in a single
16 privilege period. In order to qualify for a tax credit, a person would
17 be required to install at least 100 square feet of qualified unit
18 concrete products.

19 The bill would require the Director of the Division of Purchase
20 and Property, the Director of the Division of Property Management
21 and Construction, and any State agency having authority to contract
22 for the purchase of goods or services, wherever possible, to give
23 preference to unit concrete products that utilize carbon footprint-
24 reducing technology. This requirement would apply whenever a
25 State agency enters into a contract for the purchase of unit concrete
26 products, or for any construction or improvement project that
27 requires the use of unit concrete products, including the
28 replacement of impervious surfaces with permeable pavement. The
29 Division of Purchase and Property and the Division of Property
30 Management and Construction, in consultation with the DEP, would
31 be required to publish guidelines for implementing this preference.
32 A State agency would be required to include in an invitation to bid,
33 where relevant, a statement that any response to the invitation that
34 proposes or calls for the use of unit concrete products that utilize
35 carbon footprint-reducing technology will receive preference
36 whenever possible.

37 The bill would also require a local contracting unit, whenever
38 possible, to give preference to a bid that uses unit concrete products
39 that utilize carbon footprint-reducing technology, including
40 permeable pavers. This requirement would apply whenever a local
41 contracting units enters into a contract for the purchase of unit
42 concrete products, or for any construction or improvement project
43 that requires the use of unit concrete products, including the
44 replacement of impervious surfaces with permeable pavement.
45 Under the bill, the Director of the Division of Local Government
46 Services, in consultation with the DEP, would be required to
47 publish guidelines for implementing the preference. In preparing
48 specification for a contract, a local unit would be required to

1 include in an invitation to bid, where relevant, a statement that any
2 response to the invitation that proposes or calls for the use of unit
3 concrete products that utilize carbon footprint-reducing technology
4 will receive preference whenever possible.

5 The bill would require the Department of Transportation to
6 establish a implement a program to prioritize, to the greatest extent
7 practicable, the use of unit concrete products that utilize carbon
8 footprint-reducing technology, including permeable pavement, in
9 the design, construction, reconstruction, or repair of any public
10 transportation infrastructure project that is funded in whole or in
11 part from the “Special Transportation fund” established pursuant to
12 section 21 of P.L.1984, c.73 (C.27:1B-21). The bill would also
13 require any person or entity that purchases unit concrete products,
14 or that undertakes any construction or improvement that requires
15 the use of unit concrete products, including the replacement of
16 impervious surface with permeable pavement, to use unit concrete
17 products that utilize carbon footprint-reducing technology, if the
18 project is financed, in whole or in part, with State funds.

19 Finally, the bill would require the Commissioner of
20 Environmental Protection to establish any standards and procedures
21 necessary to implement the bill, including a process for certifying
22 whether a unit concrete product generates at least 50 percent less
23 carbon dioxide emissions in the production and utilization of the
24 unit concrete product than conventional unit concrete products
25 made with ordinary Portland cement. The DEP would be required
26 to consider a consensus evaluation and reporting standard,
27 developed by an independent private organization, that creates a
28 uniform system for self-evaluation and self-reporting by unit
29 concrete product manufacturers, and would give preference to a
30 standard supported by the unit concrete product industry or industry
31 associations.

32 Concrete is the most widely used constructional material in the
33 world due to its low cost, strength, and durability. The production
34 of ordinary Portland cement, the critical ingredient in concrete, is
35 responsible for almost eight percent of the world’s carbon dioxide
36 emissions, and is a significant contributor to climate change.
37 Ordinary Portland cement requires significant amounts of energy to
38 produce, resulting in high carbon dioxide emissions. However,
39 modern technology allows concrete to be produced utilizing less
40 energy, and the emission of carbon dioxide from cement
41 manufacturing can be greatly reduced by capturing and utilizing
42 carbon dioxide in the unit concrete product manufacturing process,
43 including the chemical reaction that results in strength and
44 durability of concrete. This process can sequester carbon dioxide in
45 the unit concrete product or chemically transform the carbon
46 dioxide into mineral form, embedding it into the concrete and
47 preventing its release as a gas. Unit concrete products that utilize
48 carbon footprint-reducing technology can greatly reduce greenhouse

1 gas emissions from the concrete and construction industries, and it
2 is therefore in the public interest to incentivize their purchase and
3 use.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4933

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 7, 2021

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4933, with committee amendments.

This bill would require developers to offer unit concrete products that utilize carbon footprint-reducing technology as an option in new construction, and establish various tax incentives, and State and local government purchasing requirements, for unit concrete products that utilize carbon footprint-reducing technology.

Under the bill a “unit concrete product that utilizes carbon footprint-reducing technology” means a unit concrete product that is certified by the Department of Environmental Protection (DEP), or an independent third party authorized by the DEP, as generating at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. A “unit concrete product” is a concrete building product that is fabricated under controlled conditions separate and remote from the intended point of use and is produced in a wet cast or dry cast method in a factory setting and then transported to the location of intended use for installation, including all concrete pavers, whether permeable or non-permeable, and concrete block. “Unit concrete product” does not include ready mix concrete, sand, stone, gravel, or bituminous concrete or asphalt.

The bill would require a developer, for any new construction that requires the use of unit concrete products, where technically feasible, to offer unit concrete products that utilize carbon footprint-reducing technology in the new construction. This requirement would apply whenever a prospective purchaser enters into negotiations with a developer to construct or purchase a new residential dwelling or commercial building in the State. Under the bill, the developer would be required to disclose, in any advertising or offer to construct a new residential dwelling or commercial building, certain information about the cost and environmental benefits of unit concrete products that utilize carbon footprint-reducing technology, and tax incentives available under the bill. The bill would require the Commissioner of Community Affairs to publish educational materials concerning unit concrete products that

utilize carbon footprint-reducing technology, and provide developers with information concerning the tax incentives established in the bill.

Under the bill, receipts from the sale of unit concrete products that utilize carbon footprint-reducing technology, including permeable pavement, used in the construction or improvement of any residential dwelling or commercial building in the State would be exempt from the State Sales and Use Tax. The bill would also provide both corporation business tax credits and gross income tax credits for persons who purchase and install unit concrete products that utilize carbon footprint-reducing technology, including permeable pavement, in the construction or improvement of any residential dwelling or commercial building, or in the replacement of an impervious surface with permeable pavement. The tax credit would be equal to \$2.00 per square foot of qualified unit concrete products purchased and installed. The value of the tax credits allowed under the bill would be capped at \$3,000 for a residential property and \$30,000 for a commercial property in a single privilege period. In order to qualify for a tax credit, a person would be required to install at least 100 square feet of qualified unit concrete products.

The bill would require the Director of the Division of Purchase and Property, the Director of the Division of Property Management and Construction, and any State agency having authority to contract for the purchase of goods or services, wherever feasible, to use or require the use of unit concrete products that utilize carbon footprint-reducing technology. This requirement would apply whenever a State agency enters into a contract for the purchase of unit concrete products, or for any construction or improvement project that requires the use of unit concrete products, including the replacement of impervious surfaces with permeable pavement. The Division of Purchase and Property and the Division of Property Management and Construction, in consultation with the DEP, would be required to publish guidelines for implementing this requirement. A State agency would be required to include in an invitation to bid, where relevant, a statement that any response to the invitation shall use unit concrete products that utilize carbon footprint-reducing technology.

The bill would also require a local contracting unit, whenever feasible, to use or require the use of unit concrete products that utilize carbon footprint-reducing technology, including permeable pavers. This requirement would apply whenever a local contracting unit enters into a contract for the purchase of unit concrete products, or for any construction or improvement project that requires the use of unit concrete products, including the replacement of impervious surfaces with permeable pavement. Under the bill, the Director of the Division of Local Government

Services, in consultation with the DEP, would be required to publish guidelines for implementing the requirement. In preparing specification for a contract, a local unit would be required to include in an invitation to bid, where relevant, a statement that any response to the invitation shall use unit concrete products that utilize carbon footprint-reducing technology.

The bill would require the Department of Transportation to establish a program to use, to the greatest extent practicable, unit concrete products that utilize carbon footprint-reducing technology, including permeable pavement, in the design, construction, reconstruction, or repair of any public transportation infrastructure project that is funded in whole or in part from the “Special Transportation fund” established pursuant to section 21 of P.L.1984, c.73 (C.27:1B-21). The bill would also require any person or entity that purchases unit concrete products, or that undertakes any construction or improvement that requires the use of unit concrete products, including the replacement of impervious surface with permeable pavement, to use unit concrete products that utilize carbon footprint-reducing technology, if the project is financed, in whole or in part, with State funds.

Finally, the bill would require the Commissioner of Environmental Protection to establish any standards and procedures necessary to implement the bill, including a process for certifying whether a unit concrete product generates at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. The DEP would be required to consider a consensus evaluation and reporting standard, developed by an independent private organization, that creates a uniform system for self-evaluation and self-reporting by unit concrete product manufacturers, and would give preference to a standard supported by the unit concrete product industry or industry associations.

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

(1) specify that the definition of “unit concrete product” does not include ready mix concrete, sand, stone, gravel, or bituminous concrete or asphalt;

(2) remove the State and local purchasing preferences in sections 6 through 8 of the bill, and instead *require* State and local entities to use unit concrete products that utilize carbon footprint-reducing technology when entering into certain contracts, whenever feasible; and

(3) require State and local entities to include in their project specifications a specific line item for each unit concrete product to be used in a project.

FISCAL IMPACT:

The Office of Legislative Services (OLS) recognizes that the bill will result in increased annual State expenditures and a decrease in annual State revenues. On the expenditure side, the bill's requirements to publish materials, modify contracting practices, and establish programs that either require, when feasible, the use of unit concrete products that utilize carbon footprint-reducing technology or certify those products may increase administrative expenses for Executive departments. However, the OLS cannot predict how those departments will implement the bill's requirements; thus, the magnitude of the annual expenditure increase is indeterminate.

Further, the bill's exemption of unit concrete products that utilize carbon footprint-reducing technology from the State's Sales and Use tax which, along with the utilization of gross income tax and corporation business tax credits, will reduce revenues earmarked for both the State's General Fund and Property Tax Relief Fund by an indeterminate amount annually.

The OLS notes that those products may not be as prevalent in residential and commercial construction or improvement projects around the State, so the impact on sales tax collections may be negligible immediately following the bill's enactment. Likewise, the OLS anticipates fewer applications for the bill's tax credits immediately following enactment. However, if the bill induces more unit concrete products that utilize carbon footprint-reducing technology usage and sales across the State, the State's annual revenue loss could increase over time as a result of forgone revenue from both the sales tax exemption and tax credit applications.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 4933

with Assembly Floor Amendments
(Proposed by Assemblyman BURZICHELLI)

ADOPTED: MARCH 1, 2021

These floor amendments:

(1) replace, in section 2 of the bill, the terms “developer” and “prospective purchaser” with “builder” and “prospective client”;

(2) amend, throughout the bill, the definition of “unit concrete product that utilizes carbon footprint-reducing technology” to specify that such products are required to also conform with certain relevant requirements of the “State Uniform Construction Code Act”;

(3) provide that the requirements of section 2 of the bill do not apply to the construction of certain condominiums, attached single-family townhouses, row houses;

(4) provide, in section 2 of the bill, that builders shall provide certain specified information in writing to prospective clients, rather than in any advertising;

(5) provide, throughout the bill, that any initial rulemakings undertaken pursuant to the bill would, notwithstanding the provisions of the “Administrative Procedure Act,” be effective immediately upon filing with the Office of Administrative Law, and that such rules and regulations may be in effect for a period not to exceed 365 days, after which the rules and regulations would be required to be amended, adopted, or readopted in accordance with the requirements of the “Administrative Procedure Act”;

(6) provide that the tax credits provided in sections 4 and 5 of the bill are available to a taxpayer who purchases, rather than purchases and installs, unit concrete products that utilize carbon footprint-reducing technology, and provide that the tax credits are allowed in the taxable year in which the purchase is made;

(7) add language, in sections 4 and 5 of the bill, to:

(a) require a taxpayer seeking a tax credit to submit receipts for the unit concrete products for which the tax credit is claimed and an affidavit that the unit concrete products are or will be used exclusively in the State;

(b) specify that no costs included in calculation of a credit allowed under the bill can be included in the costs for calculation of any other corporation business tax credit or gross income tax credit; and

(c) specify that the value of tax credits allowed under the bill not exceed a cumulative total of \$20 million in each fiscal year;

(8) provide, in both sections 6 and 7 of the bill, that contracts use or require unit concrete products that utilize carbon footprint-reducing technology whenever *technically* feasible;

(9) provide, in section 6 of the bill, that the contracting provisions of the section would not apply to any contract when the applicable State contracting agency determines, in their sole discretion, that the purchase and use of unit concrete products that utilize carbon footprint-reducing technology would increase the cost of the contract by an unreasonable amount;

(10) provide, in section 7 of the bill, that the contracting provisions of the section would not apply to any contract where the head of the local contracting unit determines, in their sole discretion, that the purchase and use of unit concrete products that utilize carbon footprint-reducing technology would increase the cost of the contract;

(11) require, in section 10 of the bill, the DEP Commissioner to publish on the department's Internet website a list of unit concrete products that are certified by the department pursuant to the bill;

(12) amend section 10 to also provide the Commissioner of Community Affairs and the Secretary of Higher Education with rulemaking authority;

(13) amend the effective date of the bill to provide that sections 4 and 5 of the bill (providing tax credits) would apply to purchases of unit concrete products that utilize carbon footprint-reducing technology made on or after the first day of the second month next following the date of enactment of the bill into law; and

(14) make technical changes to the title and synopsis.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 4933

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: JANUARY 20, 2021

SUMMARY

- Synopsis:** Requires developers to offer unit concrete products that utilize carbon footprint-reducing technology as option in new construction; establishes tax incentives, and State and local purchasing preferences, for unit concrete products that utilize carbon footprint-reducing technology.
- Type of Impact:** Annual expenditure increase and annual revenue loss to State General Fund and Property Tax Relief Fund.
- Agencies Affected:** Department of Community Affairs.
Department of Environmental Protection.
Department of Transportation.
Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2021 and Thereafter</u>
Annual State Expenditure Increase	Indeterminate
Annual State Revenue Loss	Indeterminate

- The Office of Legislative Services (OLS) recognizes that the bill will result in increased annual State expenditures and a decrease in annual State revenues.
- The bill's requirements to publish materials, modify contracting practices, and establish programs that require, when feasible, the use of unit concrete products that utilize carbon footprint-reducing technology or certify those products may annually increase administrative expenses for Executive departments.
- The bill's exemption of unit concrete products that utilize carbon footprint-reducing technology from the State's Sales and Use Tax which, along with the utilization of gross income tax and corporation business tax credits, will reduce revenues earmarked for both the State's General Fund and Property Tax Relief Fund by an indeterminate amount annually.

BILL DESCRIPTION

The bill requires developers to offer unit concrete products that utilize carbon footprint-reducing technology as an option in new construction, and establishes various tax incentives and exemptions, and State and local government purchasing preferences, for unit concrete products that utilize carbon footprint-reducing technology.

The bill requires a developer, for any new construction that requires the use of unit concrete products, where technically feasible, to offer unit concrete products that utilize carbon footprint-reducing technology in the new construction. The bill requires the Commissioner of Community Affairs to publish educational materials concerning unit concrete products that utilize carbon footprint-reducing technology, and provide developers with information concerning the tax incentives established in the bill.

The bill exempts receipts from the sale of unit concrete products that utilize carbon footprint-reducing technology, including permeable pavement, used in the construction or improvement of any residential dwelling or commercial building in the State from the Sales and Use Tax. The bill also provides both corporation business tax credits and gross income tax credits for persons who purchase and install unit concrete products that utilize carbon footprint-reducing technology, including permeable pavement, in the construction or improvement of any residential dwelling or commercial building, or in the replacement of an impervious surface with permeable pavement. The tax credit would be equal to \$2.00 per square foot of qualified unit concrete products purchased and installed. The value of the tax credits allowed under the bill would be capped at \$3,000 for a residential property and \$30,000 for a commercial property in a single privilege period. In order to qualify for a tax credit, a person would be required to install at least 100 square feet of qualified unit concrete products.

The bill requires the Director of the Division of Purchase and Property, the Director of the Division of Property Management and Construction, and any State agency having authority to contract for the purchase of goods or services, wherever feasible, use or require the use of unit concrete products that utilize carbon footprint-reducing technology. The bill also requires a local contracting unit, whenever feasible, use or require the use of unit concrete products that utilize carbon footprint-reducing technology, including permeable pavers.

The bill requires the Department of Transportation to implement a program to use, to the greatest extent practicable, unit concrete products that utilize carbon footprint-reducing technology, including permeable pavement, in the design, construction, reconstruction, or repair of any public transportation infrastructure project that is funded in whole or in part from the "Special Transportation Fund".

The bill requires the Commissioner of Environmental Protection to establish any standards and procedures necessary to implement the bill, including a process for certifying whether a unit concrete product generates at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS recognizes that the bill will result in increased annual State expenditures and a decrease in annual State revenues. On the expenditure side, the bill's requirements to publish materials, modify contracting practices, and establish programs that require, when feasible, the use of unit concrete products that utilize carbon footprint-reducing technology or certify those products may increase administrative expenses for Executive departments. However, the OLS cannot predict how those departments will implement the bill's requirements; thus, the magnitude of the annual expenditure increase is indeterminate. Further, the bill's exemption of unit concrete products that utilize carbon footprint-reducing technology from the State's Sales and Use Tax which, along with the utilization of gross income tax and corporation business tax credits, will reduce revenues earmarked for both the State's General Fund and Property Tax Relief Fund by an indeterminate amount annually. The OLS notes that those products may not be as prevalent in residential and commercial construction or improvement projects around the State, so the impact on sales tax collections may be negligible immediately following the bill's enactment. Likewise, the OLS anticipates fewer applications for the bill's tax credits immediately following enactment. However, if the bill induces more unit concrete products that utilize carbon footprint-reducing technology usage and sales across the State, the State's annual revenue loss could increase over time as a result of forgone revenue from both the sales tax exemption and tax credit applications.

Section: Revenue, Finance and Appropriations

Analyst: Jordan M. DiGiovanni
Revenue Analyst

Approved: Thomas Koenig
Assistant Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 4933

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: JUNE 7, 2021

SUMMARY

- Synopsis:** Requires builders to offer unit concrete products that utilize carbon footprint-reducing technology as option in new construction; establishes tax incentives, and State and local purchasing requirements, for unit concrete products that utilize carbon footprint-reducing technology.
- Type of Impact:** Annual expenditure increase and annual revenue loss to State General Fund and Property Tax Relief Fund.
- Agencies Affected:** Department of Community Affairs.
Department of Environmental Protection.
Department of Transportation.
Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2022 and Thereafter</u>
Annual State Expenditure Increase	Indeterminate
Annual State Revenue Loss	Indeterminate

- The Office of Legislative Services (OLS) recognizes that the bill will result in increased annual State expenditures and a decrease in annual State revenues.
- The bill's requirements to publish materials, modify contracting practices, and establish programs that require, when feasible, the use of unit concrete products that utilize carbon footprint-reducing technology or certify those products may annually increase administrative expenses for Executive departments.
- The bill's exemption of unit concrete products that utilize carbon footprint-reducing technology from the State's Sales and Use tax which, along with the utilization of gross income tax and corporation business tax credits, will reduce revenues earmarked for both the State's

General Fund and Property Tax Relief Fund by an indeterminate amount annually. The OLS notes that the tax credits are capped at \$20 million for each fiscal year.

BILL DESCRIPTION

The bill requires builders to offer unit concrete products that utilize carbon footprint-reducing technology as an option in new construction, and establish various tax incentives and exemptions, and State and local government purchasing preferences, for unit concrete products that utilize carbon footprint-reducing technology.

The bill requires a builder, for any new construction that requires the use of unit concrete products, where technically feasible, to offer unit concrete products that utilize carbon footprint-reducing technology in the new construction. The bill requires the Commissioner of Community Affairs to publish educational materials concerning unit concrete products that utilize carbon footprint-reducing technology, and provide builders with information concerning the tax incentives established in the bill.

The bill exempts receipts from the sale of unit concrete products that utilize carbon footprint-reducing technology, including permeable pavement, used in the construction or improvement of any residential dwelling or commercial building in the State from the Sales and Use Tax. The bill also provides both corporation business tax credits and gross income tax credits for the taxable year or privilege period during which purchases of unit concrete products that utilize carbon footprint-reducing technology are made. The tax credit would be equal to \$2.00 per square foot of qualified unit concrete products purchased. The value of the tax credits allowed under the bill would be capped at \$3,000 for a residential property and \$30,000 for a commercial property in a single privilege period. Tax credits across both the corporation business tax and the gross income tax are capped at \$20 million each fiscal year. In order to qualify for a tax credit, a person would be required to purchase at least 100 square feet of qualified unit concrete products.

The bill requires a taxpayer seeking a tax credit to submit receipts for the unit concrete products for which the tax credit is claimed and an affidavit that the unit concrete products are or will be used exclusively in the State. The bill also specifies that no costs included in calculation of a credit allowed under the bill can be included in the costs for calculation of any other corporation business tax credit or gross income tax credit.

The bill requires the Director of the Division of Purchase and Property, the Director of the Division of Property Management and Construction, and any State agency having authority to contract for the purchase of goods or services, whenever technically feasible, use or require the use of unit concrete products that utilize carbon footprint-reducing technology. The bill also requires a local contracting unit, whenever technically feasible, use or require the use of unit concrete products that utilize carbon footprint-reducing technology, including permeable pavers.

The bill requires the Department of Transportation to implement a program to use, to the greatest extent practicable, unit concrete products that utilize carbon footprint-reducing technology, including permeable pavement, in the design, construction, reconstruction, or repair of any public transportation infrastructure project that is funded in whole or in part from the Special Transportation fund.

The bill requires the Commissioner of Environmental Protection to establish any standards and procedures necessary to implement the bill, including a process for certifying whether a unit concrete product generates at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. The commissioner is required to publish certified products on the department's website.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS recognizes that the bill will result in increased annual State expenditures and a decrease in annual State revenues. On the expenditure side, the bill's requirements to publish materials, modify contracting practices, and establish programs that require, when feasible, the use of unit concrete products that utilize carbon footprint-reducing technology or certify those products may increase administrative expenses for Executive departments. However, the OLS cannot predict how those departments will implement the bill's requirements; thus, the magnitude of the annual expenditure increase is indeterminate.

The bill's exemption of unit concrete products that utilize carbon footprint-reducing technology from the State's Sales and Use Tax which, along with the utilization of gross income tax and corporation business tax credits, will reduce revenues earmarked for both the State's General Fund and Property Tax Relief Fund by an indeterminate amount annually. The tax credits are capped at \$20 million for each fiscal year.

The OLS notes that those products may not be very prevalent in residential and commercial construction or improvement projects around the State, so the impact on sales tax collections may be negligible immediately following the bill's enactment. Likewise, the OLS anticipates fewer applications for the bill's tax credits immediately following enactment. However, if the bill induces more unit concrete products that utilize carbon footprint-reducing technology usage and sales across the State, the State's annual revenue loss could increase over time as a result of forgone revenue from both the sales tax exemption and tax credit applications.

Section: Revenue, Finance and Appropriations

*Analyst: Jordan M. DiGiovanni
Revenue Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Takes Action on Legislation

11/8/2021

TRENTON – Today, Governor Murphy signed the following bills into law:

S-249/A-1259 (Singleton, Turner/Schaer, DeCroce, Vainieri Huttle) – Requires pharmacy benefits manager providing services within Medicaid program to disclose certain information to DHS

S-324/A-3533 (Diegnan, A.M. Bucco/Benson, Freiman, DeCroce) – Authorizes operators of motor vehicles to display electronic proof of registration; requires MVC to send application for registration renewal to lessee of leased vehicle

SCS for S-399 and 1645/ACS for A-869 and 1380 (Lagana, Weinberg, Stack, Turner, Cunningham/Chiaravalloti, Holley) – Requires residential landlords to install covers on steam radiators upon request of tenant

S-537/A-3110 (Codey/McKeon, Verrelli, Vainieri Huttle) – Establishes certain minimum and maximum temperatures in rooming and boarding houses, dementia care homes, and certain nursing homes and residential health care facilities

S-550/A-1616 (Codey, Pennacchio/Lampitt, Conaway, Vainieri Huttle) – Requires certain student identification cards to contain telephone number for suicide prevention hotline

SCS for S-647/A-4825 (Greenstein, Singleton/McKeon, Karabinchak, Stanley) – Revises cybersecurity, asset management, and related reporting requirements in “Water Quality Accountability Act”

S-828/A-2101 (Lagana, Greenstein/Swain, Tully, Verrelli) – Requires public utilities and local units to provide notice prior to initiating certain infrastructure projects

S-829/A-2135 (Lagana, Singleton/Tully, Swain, Murphy) – Requires property condition disclosure statement to indicate presence of lead plumbing in residential property

S-830/A-2134 (Lagana, Greenstein/Tully, Swain, Conaway) – Requires public water systems to offer drinking water tests to customers in certain circumstances

S-894/A-3874 (Pou, Greenstein/Lopez, Vainieri Huttle) – Prohibits sale of paint or coating removal products that contain methylene chloride unless purchaser meets certain safety standards for use

S-1010/A-2103 (Lagana, Turner/Swain, Tully, Johnson) – Permits counties and municipalities to bond for alternative fuel vehicles

S-1047/A-1712 (Cryan, Pou/Burzichelli, Karabinchak, Giblin) – Concerns disclosure of certain information prior to sale of real estate

S-1148/A-1221 (Ruiz, Pou/Chaparro, Speight, Wimberly) – Requires emergency contact information and access instructions for social services hotline to be provided to tenants of multiple dwellings

S-1239/A-5131 (Codey/McKeon, Danielsen, Jasey) – Authorizes imposition of fee for connection to municipal electric distribution system

S-1259/A-2628 (Singleton/Murphy) – Concerns labor contractors

S-1726/A-795 (Lagana, Pou/Verrelli, Swain, Zwicker) – Prohibits sale of cosmetic products that have been tested on animals

- S-2727/A-4775 (Pennacchio, Pou/Vainieri Huttie, Jasey, McKnight)** – Establishes Multigenerational Family Housing Continuity Commission; provides municipal guidance to periodically analyze local advancement of commission’s senior citizen housing recommendations
- S-2861/A-5390 (Singleton, Addiego/Quijano, McKnight, Speight)** – Concerns certain restrictive covenants on real property
- S-2996/A-5019 (Testa, Sweeney/McClellan, Taliaferro, Johnson)** – Allows Board of Cosmetology and Hairstyling licensees to operate mobile facilities when providing services
- S-3000/A-4688 (Weinberg, Greenstein/Benson, Verrelli, Vainieri Huttie)** – Codifies and establishes certain network adequacy standards for pediatric primary and specialty care in Medicaid program
- S-3032/A-4855 (Sweeney, Vitale/Benson, Vainieri Huttie, Chiaravalloti)** – Requires DOH to develop Statewide plan for infection control and prevention infrastructure improvements in nursing homes
- S-3091/A-4933 (Addiego, Bateman/Burzichelli, Benson, Mukherji)** – Requires builders to offer unit concrete products that utilize carbon footprint-reducing technology as option in new construction; establishes tax incentives, and State and local purchasing requirements, for unit concrete products that utilize carbon footprint-reducing technology
- S-3253/A-2619 (Singleton, Ruiz/Murphy, Speight, Mukherji)** – Establishes alternate route to expedite certification of teachers at early college high school programs
- S-3318/A-5893 (Sweeney, Pou/Vainieri Huttie, Caputo, Karabinchak)** – Provides for voluntary contributions by taxpayers on gross income tax returns for Special Olympics New Jersey
- S-3590/A-5536 (Diegnan, Turner/Burzichelli, Giblin)** – Allows formation of limited liability companies by real estate salespersons and broker-salespersons to receive commission income and requires certain disclosures on promotions
- S-3811/A-5769 (Sweeney, Scutari/Reynolds-Jackson, Quijano, Carter)** – Establishes Kean University as public urban research university
- S-3948/A-5896 (Addiego, Gopal/Houghtaling, Downey)** – Authorizes supplemental State aid to school districts receiving certain federal Impact Aid; makes appropriation
- SJR-41/AJR-33 (Cruz-Perez, Addiego/Lopez, McKnight)** – Designates June 2 of each year as “Gun Violence Awareness Day”
- SJR-109/AJR-208 (Weinberg, Pou/McKnight, Benson, Vainieri Huttie)** – Condemns hate and violent extremism and commits to defense of safe and just democracy
- A-637/S-2670 (Caputo, Dancer, Houghtaling/Beach)** – Revises permit and license processes for sports pools operators and online sports pool operators; revises definitions of certain sports events; allows for transactional waiver for sports wagering lounge
- A-853/S-797 (Chiaravalloti, Karabinchak, McKnight/Cunningham, Doherty)** – Prohibits municipal licensure of children operating temporary businesses
- A-2311/S-356 (Calabrese, Jasey/Cryan, Codey)** – Establishes study commission to examine development of mutually beneficial relationships between institutions of higher education and municipalities
- A-3027/S-793 (Lampitt, Jasey, Houghtaling/Cunningham, Singleton)** – Commits \$3 million from Supplemental Workforce Fund for Basic Skill to NJ Community College Consortium for Workforce and Economic Development
- ACS for A-3352/S-3504 (Kennedy, Stanley, Calabrese/Smith)** – Requires certain newly constructed warehouses to be solar-ready buildings

A-3897/S-3263 (Armato, Mazzeo, DiMaso/Beach, Gopal) – Increases fee for New Jersey Waterfowl Stamps

A-4138/S-2701 (Vainieri Huttle, Benson, Giblin/Gopal, Codey) – Requires Department of Human Services to develop public emergency response plan for licensed providers of services to individuals with developmental disabilities

A-4367/S-2794 (Mukherji, Sumter, Taliaferro/Pou, Scutari) – Provides that AOC shall administer program for municipal courts allowing defendants to engage in online plea negotiations, entry of guilty plea, and payment of fine or penalty

A-4484/S-3153 (McKnight, Kennedy, Mukherji, Gove/Pou, Vitale) – Requires State Long-Term Care Ombudsman to establish long-term care advocacy and educational training program

A-4538/S-3131 (Lampitt, Quijano/Pou, A.M. Bucco) – Requires dental insurers to provide credits for reduced usage during coronavirus disease 2019 pandemic

A-4544/S-3150 (Caputo, Jasey, Murphy/Pou, Codey) – Permits school nurse who is retired from TPAF to return to employment for up to two years without reenrollment in TPAF

A-4633/S-2856 (Giblin, DeCroce/Pou) – Permits certain nonresident Certified Public Accountants to provide attest services

A-4831/S-3953 (Chaparro, Kennedy, Murphy/Scutari) – Clarifies classification in this State of criminal offenses committed in other states or under federal law

A-4836/S-3313 (Giblin, Benson, Downey/Pou, Turner) – Establishes task force to evaluate quality, efficacy, costs, and educational outcomes of online courses offered by public and independent institutions of higher education and degree-granting proprietary institutions during COVID-19 pandemic

A-4861/S-3041 (Vainieri Huttle, Armato, Verrelli/Vitale, Gopal) – Requires DOH to publish total number of COVID-19 deaths and cases in long-term care facilities

A-4869/S-2414 (Wirths, Verrelli, Space/Singleton, Madden) – Requires certain bidders for prevailing wage public work to provide proof that prevailing wage will be paid

A-5059/S-3031 (Conaway, Vainieri Huttle, Benson/Sweeney, Vitale) – Requires DOH to establish certain nursing education and professional advancement programs

A-5212/S-3638 (Conaway, Verrelli, Karabinchak/Turner, Diegnan) – Permits dentists to administer vaccines under certain circumstances

A-5751/S-3823 (Swain, Timberlake, Carter, Johnson/Weinberg, Gopal) – Expands State corrections officers training to include topics contributing to their core mission of treating inmates with dignity, fairness, and respect

A-5817/S-3852 (Tully, Swain, Benson/Lagana, Diegnan) – Revises violation and fines for approving or assigning unauthorized individuals as school bus drivers

A-5818/S-3849 (Tully, Swain, Benson/Lagana, Diegnan) – Provides for debarment of school bus contractors for certain violations; requires certain information in pupil transportation contract bid

AJR-204/SJR-105 (Jasey, Benson, Reynolds-Jackson/Cunningham, T. Kean) – Designates April of each year as “Educational Opportunity Fund (EOF) Month” in New Jersey

AJR-238/SJR-123 (Burzichelli/Sweeney, Singleton) – Urges U.S. President and EPA to take appropriate action, through waivers and other reforms, to allow blending of renewable fuels under the federal “Clean Air Act”

Governor Murphy conditionally vetoed the following bills:

S-108/A-169 (Gill, Turner/Caputo, Wirths) – **CONDITIONAL** - Concerns speech rights of student journalists at public schools and public institutions of higher education

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S-2078/A-5008 (Weinberg, Addiego/Lampitt, Benson, Vainieri Huttle) – CONDITIONAL - Establishes “Stillbirth Resource Center” and regional Fetal and Infant Mortality Review Committee, and programs for the prevention and reduction of incidences of stillbirth; expands list of professionals authorized to provide stillbirth-related care

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S-2160/A-5701 (Sweeney, Oroho, Singer/Carter, Lampitt, Jasey) – CONDITIONAL - Creates special education unit within the Office of Administrative Law; requires annual report

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S-2525/A-4274 (Rice, Singleton, Turner/Conaway, Sumter, Stanley) – CONDITIONAL - Expands powers and duties of State Chief Diversity Officer to promote diversity in State government and public contracting

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S-2559/ACS for A-4179 and 4200 (Gopal, Gill/Downey, Conaway, Benson, Houghtaling, Karabinchak) – CONDITIONAL - Revises requirements for health insurance providers and Medicaid to cover services provided using telemedicine and telehealth; appropriates \$5 million

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S-2834/A-5312 (Ruiz, Cunningham/Quijano, Lampitt, McKnight) – CONDITIONAL - Mandates training on culturally responsive teaching for all candidates for teaching certification

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S-2953/A-4785 (Sweeney, Cunningham/Quijano, Verrelli, Mukherji) – CONDITIONAL - Expands scope of inmate reentry assistance and benefits

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S-3238/A-5213 (Ruiz, Pou/Verrelli, McKnight, McKeon) – CONDITIONAL - Establishes New Jersey Easy Enrollment Health Insurance Program

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S-3488/A-5537 (Sweeney, Gopal, O'Scanlon/Burzichelli, Dancer, Spearman) – CONDITIONAL - Modifies certain procedures pertaining to school district regionalization; establishes grant program for cost reimbursement of conducting regionalization feasibility studies; and provides financial incentives for regionalization

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S-3867/A-5868 (Addiego, Singleton/Benson, Verrelli, Vainieri Huttle) – CONDITIONAL - Establishes Opioid Recovery and Remediation Fund and Opioid Recovery and Remediation Fund Advisory Council; provides for funds received from opioid settlements to support substance use disorder prevention and treatment programs

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S-3955/A-5905 (Ruiz/Timberlake, Speight, Spearman) – CONDITIONAL - Establishes “Rental Assistance Navigation Program” in DCA; makes appropriation

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A-1533/S-3321 (Spearman, Reynolds-Jackson, Schaer/Stack, Turner) – CONDITIONAL - Requires reservation of portion of tenant-based vouchers under State rental assistance program for persons displaced due to redevelopment of an affordable housing development; provides displaced persons with affordable housing priority status

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A-2455/S-2204 (Benson, Vainieri Huttie, DeAngelo/Greenstein, Oroho) – CONDITIONAL - Establishes pilot program in DOE to support FIRST Robotics Programs in school districts

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A-3062/S-1196 (Pintor Marin, Moen, Reynolds-Jackson/Pou, Cruz-Perez) – CONDITIONAL - Establishes three year Financial Empowerment Pilot Program

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A-4002/S-2257 (Caputo, Dancer, Murphy/Gopal, Sarlo) – CONDITIONAL - Allows deduction of promotional gaming credit from gross revenue on sports wagering

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A-4433/S-2715 (Greenwald, Mukherji, Lampitt/Beach, Corrado) – CONDITIONAL - Creates grant program to encourage school districts to partner with institutions of higher education in training school-based mental health services providers

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A-4435/S-2717 (Verrelli, Greenwald, Speight, Lampitt/Beach, Corrado) – CONDITIONAL - Requires DCF to give priority to certain school districts with student mental health counseling centers in awarding grants under School Based Youth Services Program

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A-4630/S-577 (Burzichelli/Madden, Singleton) – CONDITIONAL - Concerns labor harmony agreements in retail and distribution center projects

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A-4746/S-3947 (Mosquera, Lopez, Chaparro, Dunn/Vitale, Turner) – CONDITIONAL - Requires that certain provider subsidy payments for child care services be based on enrollment

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A-4834/S-3474 (Mazzeo, Quijano, Downey/Pou, Turner) – CONDITIONAL - Requires disclosure letter be included with mail falsely implying State government connection

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A-4850/S-3095 (Karabinchak, Freiman, Calabrese, Greenwald/Diegnan) – CONDITIONAL - Establishes expedited construction inspection program

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A-5033/S-3279 (Benson, Dancer, Verrelli/Gopal) – CONDITIONAL - Authorizes motor vehicle dealers to sell motor vehicles online and obtain electronic signatures for motor vehicle transactions

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A-5353/S-3421 (Conaway, Vainieri Huttie, Benson/Madden, Turner) – CONDITIONAL - Provides for certification of temporary nurse aides

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A-5599/S-3916 (Chiaravalloti, Vainieri Huttie, McKnight/Scutari, Gill) – CONDITIONAL - Establishes order of protection for current or former judge; upgrades and clarifies harassment against current or former judge; bars firearms possession by persons against whom current or former judge order of protection is entered

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A-5864/S-3939 (Speight, Pintor Marin, Chaparro, McKnight, DeAngelo, Bergen/Gopal, Cryan) – CONDITIONAL - Allows law enforcement officers to review body worn camera recordings prior to creating initial report

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Governor Murphy absolute vetoed the following bills:

S-415/A-4685 (Turner/Quijano, Verrelli) – ABSOLUTE - Requires reentry assistance to be provided to certain inmates who have served their maximum sentence

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S-969/ACS for A-2687 (Ruiz, Turner/Mazzeo, Lampitt, Moen) – CONDITIONAL - Establishes loan redemption program for teachers in certain fields to redeem loan amounts received under New Jersey College Loans to Assist State Students Loan Program through employment in certain low performing schools

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S-2261/A-4265 (Singleton/Conaway) – ABSOLUTE - Revises law relating to common interest communities

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S-2347/A-4030 (Sweeney, Greenstein, T. Kean/Mukherji, Benson, Murphy) – ABSOLUTE - Establishes Employment and Business-Related Tax Deferral Assistance Program in EDA to allow small businesses to defer the payment and remittance of certain employment and business-related taxes during COVID-19 public health emergency

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S-3093/A-4910 (Gopal, Sweeney, Singleton/Burzichelli, Johnson, Danielsen) – ABSOLUTE - Establishes county-based mitigation plan to allow businesses to operate during pandemic

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S-3505/A-5371 (Scutari, Weinberg/Mukherji, Johnson, Quijano) – ABSOLUTE - Requires assignment of unemployment claims handlers to legislative districts and partisan offices during COVID-19 pandemic state of emergency; appropriates \$1.8 million

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S-3868/A-5895 (Sarlo/Giblin) – ABSOLUTE - Concerns construction code enforcing agency fee revenue

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A-2722/S-1862 (Mukherji/Gopal, Oroho) – ABSOLUTE - Requires Commissioner of Corrections to institute 30-minute shift overlap in State correctional facilities

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A-4297/S-2631 (Houghtaling, Downey, Space/Gopal, Oroho) – ABSOLUTE - Permits conduct of bingos and raffles remotely; permits online sale of tickets for all bingos and raffles

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A-5231/S-3806 (Lopez, Coughlin, Freiman/Vitale) – ABSOLUTE - Allows county or municipal governing body to enter into revenue sharing agreement for alcoholic beverage sales by concessionaire permit holder

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