

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: Yes

Committee Meeting of Senate Environment and Energy Committee: "The Committee will meet to hear testimony from invited guests on actions the State could take to foster a circular, clean energy economy"; "The Committee will also take testimony, for discussion only, on Senate Bill 426, which requires producers of packaging products sold in New Jersey to adopt and implement packaging product stewardship plans," June 13, 2022
<https://hdl.handle.net/10929/101060>

NEWSPAPER ARTICLES: Yes

Matthew Fazelpoor, 'New law incentivizing concrete decarbonization is a 'win-win'', *NJBIZ* (online), 31 Jan 2023

CL/JA

§1
C.13:1D-70
§§2,3
C.54:10A-5.49
and 54:10A-5.50
§§4,5
C.54A:4-23
and 54A:4-24
§7
Note

P.L. 2023, CHAPTER 4, *approved January 30, 2023*
Senate Committee Substitute (*First Reprint*) for
Senate, No. 287

1 AN ACT concerning the purchase and use of low embodied carbon
2 concrete and supplementing Titles 13 and 54 of the Revised
3 Statutes and Title 54A of the New Jersey Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. The Department of Environmental Protection, in
9 consultation with the Director of the Division of Taxation in the
10 Department of the Treasury, shall provide:

11 (1) for the purpose of calculating tax credits to be issued
12 pursuant to P.L. , c. (C.) (pending before the Legislature
13 as this bill), global warming potential baselines for concrete mixes
14 supplied pursuant to contracts with State agencies;

15 (2) thresholds for low embodied carbon concrete and concrete
16 that incorporates carbon capture, utilization, and storage technology
17 to qualify for a tax credit pursuant to P.L. , c. (C.)
18 (pending before the Legislature as this bill), which the department
19 may review and modify pursuant to advancements in low carbon
20 concrete technology or future State laws, regulations, or orders
21 pertaining to the reduction of greenhouse gas emissions;

22 (3) formulae for the tax credits issued pursuant to
23 P.L. , c. (C.) (pending before the Legislature as this bill)
24 for (1) low embodied carbon concrete and (2) concrete that
25 incorporates carbon capture, utilization, and storage technology.
26 The formulae shall provide that the amount of each tax credit is
27 proportional to the reduction of the global warming potential value
28 below the baseline;

29 (4) a uniform process for concrete producers to certify that
30 concrete is low embodied carbon concrete, or that it utilizes carbon

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 SBA committee amendments adopted June 27, 2022.

1 capture, utilization, and storage technology, and for determining the
2 global warming potential value of concrete; and

3 (5) any forms and guidance that the department determines are
4 necessary for the submissions required to receive the tax credits
5 allowed pursuant to P.L. , c. (C.) (pending before the
6 Legislature as this bill) or to otherwise implement the provisions of
7 P.L. , c. (C.) (pending before the Legislature as this bill).

8 b. No later than three years after the effective date of
9 P.L. , c. (C.) (pending before the Legislature as this bill),
10 the Commissioner of Environmental Protection, in consultation with
11 the State Treasurer, shall prepare and submit a report to the
12 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
13 19.1), the Legislature, containing a cost-benefit analysis of the tax
14 credits established pursuant to P.L. , c. (C.) (pending
15 before the Legislature as this bill), in order to quantify the
16 budgetary impact of the program relative to its carbon reduction
17 impact. The report shall recommend whether the program should
18 be continued, modified, or repealed, and include any
19 recommendations for legislative or regulatory action to improve the
20 program.

21 c. As used in this section:

22 "Carbon capture, utilization, and storage technology" means
23 technologies or methods to remove carbon dioxide generated by the
24 concrete manufacturing process from the flue gas or the
25 atmosphere, and to recycle the carbon dioxide either through
26 utilization of the captured carbon dioxide in the concrete
27 manufacturing process, or through safe and permanent storage of
28 the captured carbon dioxide.

29 "Concrete" means structural and non-structural masonry, and
30 pre-cast and ready-mix concrete building products.

31 "Department" means the Department of Environmental
32 Protection.

33 "Director" means Director of the Division of Taxation in the
34 Department of the Treasury.

35 "Embodied carbon emissions" means carbon emissions generated
36 as a result of a material's production, including mining, refining,
37 manufacturing, and shipping.

38 "Global warming potential" means a numeric value that measures
39 the total contribution to global warming from the emission of
40 greenhouse gases, or the elimination of greenhouse gas sinks, that
41 results from the production or utilization of concrete.

42 "Low embodied carbon concrete" means concrete that has been
43 certified to embody lower carbon emissions, as measured by a
44 global warming potential metric, than the baseline embodied carbon
45 emissions of conventional concrete made with Portland cement.
46 Low embodied carbon emissions may be achieved through any
47 combination of: (1) higher energy efficiency at the level of the
48 concrete or cement plant; (2) low carbon fuel substitution at the

1 level of the concrete or cement plant; (3) local production of, and
2 use of locally sourced material in, the concrete, resulting in reduced
3 concrete delivery miles and reduced emissions from transportation;
4 (4) the reduction of clinker content in the cement component of
5 concrete, or the substitution of clinker content with lower carbon-
6 intensive alternative materials such as ground, granulated blast
7 furnace slag, fly ash, or recycled ground-glass pozzolan; (5) the
8 capture and storage of point source carbon dioxide emissions during
9 the cement or concrete production process; or (6) the utilization and
10 storage of carbon in concrete materials.

11 "Portland cement" means hydraulic cement produced by
12 pulverizing clinkers in combination with one or more of the forms
13 of calcium sulfate.

14

15 2. a. For privilege periods beginning on or after January 1 next
16 following the effective date of P.L. , c. (C.) (pending
17 before the Legislature as this bill), a taxpayer that is a producer of
18 low embodied carbon concrete or concrete that utilizes carbon
19 capture, utilization, and storage technology and that meets the
20 requirements of this section shall be allowed a credit against the tax
21 due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an
22 amount as provided in subsection c. of this section.

23 b. In order to qualify for a tax credit pursuant to subsection a.
24 of this section, a concrete producer shall:

25 (1) deliver, pursuant to a contract with a State procuring agency
26 or with a private contracting firm that has contracted with the State,
27 low embodied carbon concrete or concrete that incorporates carbon
28 capture, utilization, and storage technology, which concrete is used
29 by a construction or improvement project that requires the purchase
30 of 50 cubic yards or more of concrete; and

31 (2) submit to the department for review and approval a certified
32 environmental product declaration that provides a global warming
33 potential value for the delivered concrete.

34 c. (1) For the delivery of low embodied carbon concrete, a
35 taxpayer may be eligible for a tax credit calculated using the
36 formula provided by the department pursuant to section 3 of
37 P.L. , c. (C.) (pending before the Legislature as this bill),
38 not to exceed five percent of the costs of the low embodied concrete
39 delivered.

40 (2) For the delivery of concrete that incorporates carbon capture,
41 utilization, and storage technology, a taxpayer may be eligible for a
42 tax credit calculated using the formula provided by the department
43 pursuant to section 3 of P.L. , c. (C.) (pending before the
44 Legislature as this bill), not to exceed three percent of the costs of
45 the concrete delivered that incorporates carbon capture, utilization,
46 and storage technology.

47 (3) A taxpayer delivering concrete that is both low embodied
48 carbon concrete and concrete that incorporates carbon capture,

1 utilization, and storage technology may qualify for both tax credits
2 authorized pursuant to paragraphs (1) and (2) of this subsection, not
3 to exceed eight percent of the costs of the concrete delivered that is
4 low embodied carbon concrete that incorporates carbon capture,
5 utilization, and storage technology.

6 d. In order to receive the tax credit allowed pursuant to this
7 section, a taxpayer shall submit to the using agency a certification,
8 in a form provided by the department, that includes: (a) a statement
9 of the amount and cost of the low embodied carbon concrete or
10 concrete that incorporates carbon capture, utilization and storage
11 technology that was delivered in accordance with paragraph (1) of
12 subsection b. of this section, with appropriate supporting
13 documentation; (b) the environmental product declaration approved
14 by the department pursuant to paragraph (2) of subsection b. of this
15 section; (c) the amount of the tax credit calculated pursuant to
16 subsection c. of this section; (d) a copy of the contract pursuant to
17 which concrete was delivered; and (e) any other information as
18 determined relevant by the department or requested by the using
19 agency.

20 e. Upon approval of the certification, the using agency shall
21 notify the director as to the eligibility of the taxpayer for a tax
22 credit in the amount approved by the department and using agency.
23 The director, prior to issuing a tax credit certificate pursuant to this
24 section, may require the submission by the taxpayer of any
25 information the director deems necessary.

26 f. When filing a tax return that includes a claim for a credit
27 pursuant to this section, the taxpayer who received the credit shall
28 include a copy of the tax credit certificate issued by the director.

29 g. The order of priority of the application of the credit allowed
30 pursuant to this section and any other credits allowed against the tax
31 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for
32 a privilege period shall be as prescribed by the director. The
33 amount of the credit applied pursuant to this section against the tax
34 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),
35 shall not reduce a taxpayer's tax liability for a privilege period to an
36 amount less than the statutory minimum provided in subsection (e)
37 of section 5 of P.L.1945, c.162 (C.54:10A-5). Any credit shall be
38 valid in the privilege period in which the tax credit certificate is
39 approved and any unused portion thereof may be carried forward
40 into the next seven privilege periods or until depleted, whichever is
41 earlier, after which the tax credit shall expire.

42 h. The total value of tax credits approved pursuant to
43 P.L. , c. (C.) (pending before the Legislature as this bill)
44 shall not in the aggregate exceed \$10 million in any year. The
45 director shall issue tax credit certificates pursuant to this section on
46 a first-come, first-serve basis, except that the director shall not issue
47 tax credit certificates to a single taxpayer pursuant to this section
48 and section 4 of P.L. , c. (C.) (pending before the

1 Legislature as this bill) in excess of \$1 million in any privilege
2 period. The director may issue a tax credit certificate to a taxpayer
3 that has previously been allowed a tax credit under this section.

4 i. A using agency shall, in its sole discretion, determine
5 whether to purchase or use low embodied concrete or concrete that
6 uses carbon capture, utilization, and storage technology in a
7 construction or improvement project. In preparing the
8 specifications for any contract for the purchase of 50 cubic yards or
9 more of concrete, or for any construction or improvement project
10 that requires the use of 50 cubic yards or more of concrete, the
11 procuring agency shall include in the invitation to bid, where
12 relevant, a statement that any response to the invitation that
13 proposes or calls for the use low embodied carbon concrete or
14 concrete that utilizes carbon capture, utilization, and storage
15 technology shall be eligible for a tax credit pursuant to subsection a.
16 of this section. ¹~~【If the】~~ For invitations to bid issued in the first
17 five years after the effective date of P.L. , c. (C.)
18 (pending before the Legislature as this bill), if a using¹ agency
19 makes a determination to purchase or use low embodied carbon
20 concrete or concrete that uses carbon capture, utilization, and
21 storage technology in the construction project, the ¹procuring¹
22 agency shall include in the invitation to bid a predetermined bid
23 allowance price for the concrete, which shall be used by all bidders
24 in the public bidding process.

25 j. Nothing in this section shall be construed to exempt any
26 entity from complying with any applicable law, rule, standard, or
27 specification, including, but not limited to, those regarding the use
28 of concrete in construction projects.

29 k. As used in this section:

30 "Carbon capture, utilization, and storage technology" means the
31 same as the term is defined in section 1 of P.L. , c. (C.)
32 (pending before the Legislature as this bill).

33 "Department" means the Department of Environmental
34 Protection.

35 "Director" means Director of the Division of Taxation in the
36 Department of the Treasury.

37 "Environmental product declaration" means a product-specific
38 Type III environmental product declaration that conforms to ISO
39 Standard 14025, assesses the numeric global warming potential of
40 the product, and allows for environmental impact comparisons
41 between concrete mixes fulfilling the same functions.

42 "Global warming potential" means the same as the term is
43 defined in section 1 of P.L. , c. (C.) (pending before the
44 Legislature as this bill).

45 "Low embodied carbon concrete" means the same as the term is
46 defined in section 1 of P.L. , c. (C.) (pending before the
47 Legislature as this bill).

1 "Procuring agency" means any State department, authority, or
2 commission having authority to contract for goods or services.

3 "Using agency" means any State department, authority, or
4 commission that makes a purchase, pursuant to a State contract, of
5 50 cubic yards or more of concrete or that enters into a contract for
6 a construction or improvement project that requires the use of 50
7 cubic yards or more of concrete.

8

9 3. a. (1) For privilege periods beginning on or after January 1
10 next following the effective date of P.L. , c. (C.) (pending
11 before the Legislature as this bill), a taxpayer that is a producer of
12 concrete, or a producer of a major component of concrete including
13 cement or aggregate, shall be allowed a credit against the tax
14 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) to
15 compensate the taxpayer for costs incurred as a result of conducting
16 an environmental product declaration analysis to determine the
17 global warming potential of the concrete or concrete component
18 produced at a production facility that the taxpayer owns or operates.

19 (2) The amount of the credit authorized pursuant to this section
20 shall not exceed the lesser of: (a) the full cost incurred for an
21 environmental product declaration analysis of a single concrete,
22 cement, aggregate, or related production facility, or (b) \$3,000. A
23 taxpayer may claim the credit authorized pursuant to this section for
24 the cost of completing environmental product declaration analyses
25 at up to eight production facilities owned or operated by the same
26 taxpayer in a single privilege period.

27 b. In order to receive the tax credit allowed pursuant to this
28 section, the taxpayer shall submit to the department for approval a
29 certification, in the form required by the department, that includes:
30 (1) the costs incurred to complete the environmental product
31 declaration; (2) the amount of the tax credit calculated pursuant to
32 subsection (2) of subsection a. of this section; (3) a copy of the
33 environmental product declaration; and (4) any other information
34 determined to be relevant by the department.

35 c. Upon approval of the certification, the department shall
36 notify the director as to the eligibility of the taxpayer for a tax
37 credit in the amount approved by the department. The director,
38 prior to issuing a tax credit certificate pursuant to this section, may
39 require the submission by the taxpayer of any information the
40 director deems necessary.

41 d. When filing a return that includes a claim for a credit
42 pursuant to this section, the taxpayer who received the credit shall
43 include a copy of the tax credit certificate.

44 e. The order of priority of the application of the tax credit
45 allowed pursuant to this section, and any other credits allowed
46 against the tax imposed pursuant to section 5 of P.L.1945, c.162
47 (C.54:10A-5) for a privilege period, shall be as prescribed by the
48 director. The amount of the credit applied pursuant to this section

1 against the tax imposed pursuant to section 5 of P.L.1945, c.162
2 (C.54:10A-5) shall not reduce a taxpayer's tax liability to an amount
3 less than the statutory minimum provided in subsection (e) of
4 section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax
5 credit otherwise allowable under this section which cannot be
6 applied for the privilege period due to the limitations of this
7 subsection or under other provisions of P.L.1945, c.162 (C.54:10A-
8 1 et seq.) may be carried forward for seven privilege periods
9 following the privilege period for which the tax credit certificate
10 was issued, after which the tax credit shall expire.

11 f. The total value of tax credits approved by the department, in
12 consultation with the director, pursuant to P.L. , c. (C.)
13 (pending before the Legislature as this bill) shall not in the
14 aggregate exceed \$10 million in any year. The director shall issue
15 tax credits pursuant to this section on a first-come, first-serve basis.
16 The director may issue a tax credit certificate to a taxpayer that has
17 previously been allowed a tax credit under this section. The
18 director, prior to issuing a tax credit certificate pursuant to this
19 section, may require the submission by the taxpayer of any
20 information the director deems necessary.

21 g. As used in this section:

22 "Concrete" means structural and non-structural masonry, and
23 pre-cast and ready-mix concrete building products.

24 "Department" means the Department of Environmental
25 Protection.

26 "Director" means Director of the Division of Taxation in the
27 Department of the Treasury.

28 "Environmental product declaration" means a product-specific
29 Type III environmental product declaration that conforms to ISO
30 Standard 14025, assesses the numeric global warming potential of
31 the product, and allows for environmental impact comparisons
32 between concrete mixes fulfilling the same functions.

33 "Global warming potential" means the same as the term is
34 defined in section 1 of P.L. , c. (C.) (pending before the
35 Legislature as this bill).

36
37 4. a. For taxable years beginning on or after January 1 next
38 following the effective date of P.L. , c. (C.) (pending
39 before the Legislature as this bill), a taxpayer that is a producer of
40 low embodied carbon concrete or concrete that utilizes carbon
41 capture, utilization, and storage technology and that meets the
42 requirements of this section shall be allowed a credit against the tax
43 otherwise due for the taxable year under the "New Jersey Gross
44 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount as provided
45 in subsection c. of this section.

46 b. In order to qualify for a tax credit pursuant to subsection a.
47 of this section, a concrete producer shall:

1 (1) deliver, pursuant to a contract with a State procuring agency
2 or with a private contracting firm that has contracted with the State,
3 low embodied carbon concrete or concrete that incorporates carbon
4 capture, utilization, and storage technology, which concrete is used
5 by a construction or improvement project that requires the purchase
6 of 50 cubic yards or more of concrete; and

7 (2) submit to the department for review and approval a certified
8 environmental product declaration that provides a global warming
9 potential value for the delivered concrete.

10 c. (1) For the delivery of low embodied carbon concrete, a
11 taxpayer may be eligible for a tax credit calculated using the
12 formula provided by the department pursuant to section 3 of
13 P.L. , c. (C.) (pending before the Legislature as this bill),
14 not to exceed five percent of the costs of the low embodied concrete
15 delivered.

16 (2) For the delivery of concrete that incorporates carbon capture,
17 utilization, and storage technology, a taxpayer may be eligible for a
18 tax credit calculated using the formula provided by the department
19 pursuant to section 3 of P.L. , c. (C.) (pending before the
20 Legislature as this bill), not to exceed three percent of the costs of
21 the concrete delivered that incorporates carbon capture, utilization,
22 and storage technology.

23 (3) A taxpayer delivering concrete that is both low embodied
24 carbon concrete and concrete that incorporates carbon capture,
25 utilization, and storage technology may qualify for both tax credits
26 authorized pursuant to paragraphs (1) and (2) of this subsection, not
27 to exceed eight percent of the costs of the concrete delivered that is
28 low embodied carbon concrete that incorporates carbon capture,
29 utilization, and storage technology.

30 d. In order to receive the tax credit allowed pursuant to this
31 section, a taxpayer shall submit to the using agency a certification,
32 in a form provided by the department, that includes: (a) a statement
33 of the amount and cost of the low embodied carbon concrete or
34 concrete that incorporates carbon capture, utilization and storage
35 technology that was delivered in accordance with paragraph (1) of
36 subsection b. of this section, with appropriate supporting
37 documentation; (b) the environmental product declaration approved
38 by the department pursuant to paragraph (2) of subsection b. of this
39 section; (c) the amount of the tax credit calculated pursuant to
40 subsection c. of this section; (d) a copy of the contract pursuant to
41 which concrete was delivered; and (e) any other information as
42 determined relevant by the department or requested by the using
43 agency.

44 e. Upon approval of the certification, the using agency shall
45 notify the director as to the eligibility of the taxpayer for a tax
46 credit in the amount approved by the department and using agency.
47 The director, prior to issuing a tax credit certificate pursuant to this

1 section, may require the submission by the taxpayer of any
2 information the director deems necessary.

3 f. When filing a tax return that includes a claim for a credit
4 pursuant to this section, the taxpayer who received the credit shall
5 include a copy of the tax credit certificate issued by the director.

6 g. The order of priority of the application of the credit allowed
7 pursuant to this section and any other credits allowed against the tax
8 imposed pursuant the "New Jersey Gross Income Tax Act,"
9 N.J.S.54A:1-1 et seq., for a taxable year shall be as prescribed by
10 the director. The amount of the credit applied under this section
11 against the New Jersey gross income tax imposed pursuant to
12 N.J.S.54A:1-1 et seq. for a taxable year, when taken together with
13 any other payments, credits, deductions, and adjustments allowed
14 by law, shall not reduce a taxpayer's tax liability to an amount less
15 than zero. Any credit shall be valid in the taxable year in which the
16 tax credit certificate is approved and any unused portion thereof
17 may be carried forward into the next seven taxable years or until
18 depleted, whichever is earlier, after which the tax credit shall
19 expire.

20 h. The total value of tax credits approved pursuant to
21 P.L. , c. (C.) (pending before the Legislature as this bill)
22 shall not in the aggregate exceed \$10 million in any year. The
23 director shall issue tax credit certificates pursuant to this section on
24 a first-come, first-serve basis, except that the director shall not issue
25 tax credit certificates to a single taxpayer pursuant to this section
26 and section 2 of P.L. , c. (C.) (pending before the
27 Legislature as this bill) in excess of \$1 million in any taxable year.
28 The director may issue a tax credit certificate to a taxpayer that has
29 previously been allowed a tax credit under this section.

30 i. A using agency shall, in its sole discretion, determine
31 whether to purchase or use low embodied concrete or concrete that
32 uses carbon capture, utilization, and storage technology in a
33 construction or improvement project. In preparing the
34 specifications for any contract for the purchase of 50 cubic yards or
35 more of concrete, or for any construction or improvement project
36 that requires the use of 50 cubic yards or more of concrete, the
37 procuring agency shall include in the invitation to bid, where
38 relevant, a statement that any response to the invitation that
39 proposes or calls for the use low embodied carbon concrete or
40 concrete that utilizes carbon capture, utilization, and storage
41 technology shall be eligible for a tax credit pursuant to subsection a.
42 of this section. ¹【If the】 For invitations to bid issued in the first
43 five years after the effective date of P.L. , c. (C.)
44 (pending before the Legislature as this bill), if a using¹ agency
45 makes a determination to purchase or use low embodied carbon
46 concrete or concrete that uses carbon capture, utilization, and
47 storage technology in the construction project, the ¹procuring¹
48 agency shall include in the invitation to bid a predetermined bid

1 allowance price for the concrete, which shall be used by all bidders
2 in the public bidding process.

3 j. Nothing in this section shall be construed to exempt any
4 entity from complying with any applicable law, rule, standard, or
5 specification, including, but not limited to, those regarding the use
6 of concrete in construction projects.

7 k. As used in this section:

8 "Carbon capture, utilization, and storage technology" means the
9 same as the term is defined in section 1 of P.L. , c. (C.)
10 (pending before the Legislature as this bill).

11 "Department" means the Department of Environmental
12 Protection.

13 "Director" means Director of the Division of Taxation in the
14 Department of the Treasury.

15 "Environmental product declaration" means a product-specific
16 Type III environmental product declaration that conforms to ISO
17 Standard 14025, assesses the numeric global warming potential of
18 the product, and allows for environmental impact comparisons
19 between concrete mixes fulfilling the same functions.

20 "Global warming potential" means the same as the term is
21 defined in section 1 of P.L. , c. (C.) (pending before the
22 Legislature as this bill).

23 "Low embodied carbon concrete" means the same as the term is
24 defined in section 1 of P.L. , c. (C.) (pending before the
25 Legislature as this bill).

26 "Procuring agency" means any State department, authority, or
27 commission having authority to contract for goods or services.

28 "Using agency" means any State department, authority, or
29 commission that makes a purchase, pursuant to a State contract, of
30 50 cubic yards or more of concrete or that enters into a contract for
31 a construction or improvement project that requires the use of 50
32 cubic yards or more of concrete.

33
34 5. a. (1) For taxable years beginning on or after January 1 next
35 following the effective date of P.L. , c. (C.) (pending
36 before the Legislature as this bill), a taxpayer that is a producer of
37 concrete, or a producer of a major component of concrete including
38 cement or aggregate, shall be allowed a credit against the tax
39 otherwise due for the taxable year under the "New Jersey Gross
40 Income Tax Act," N.J.S.54A:1-1 et seq., to compensate the taxpayer
41 for costs incurred as a result of conducting an environmental
42 product declaration analysis to determine the global warming
43 potential of concrete or concrete component produced at a
44 production facility that the taxpayer owns or operates.

45 (2) The amount of the credit authorized pursuant to this section
46 shall not exceed the lesser of: (a) the full cost incurred for an
47 environmental product declaration analysis of a single concrete,
48 cement, aggregate, or related production facility, or (b) \$3,000. A

1 taxpayer may claim the credit authorized pursuant to this section for
2 the cost of completing environmental product declaration analyses
3 at up to eight production facilities owned or operated by the same
4 taxpayer in a single taxable year.

5 b. In order to receive the tax credit allowed pursuant to this
6 section, the taxpayer shall submit to the department for approval a
7 certification, in the form required by the department, that includes:
8 (1) the costs incurred to complete the environmental product
9 declaration; (2) the amount of the tax credit calculated pursuant to
10 subsection (2) of subsection a. of this section; (3) a copy of the
11 environmental product declaration; and (4) any other information
12 determined to be relevant by the department.

13 c. Upon approval of the certification, the department shall
14 notify the director as to the eligibility of the taxpayer for a tax
15 credit in the amount approved by the department. The director,
16 prior to issuing a tax credit certificate pursuant to this section, may
17 require the submission by the taxpayer of any information the
18 director deems necessary.

19 d. When filing a return that includes a claim for a credit
20 pursuant to this section, the taxpayer who received the credit shall
21 include a copy of the tax credit certificate.

22 e. The order of priority of the application of the tax credit
23 allowed pursuant to this section, and any other credits allowed
24 against the tax imposed pursuant to the "New Jersey Gross Income
25 Tax Act," N.J.S.54A:1-1 et seq., for a taxable year, shall be as
26 prescribed by the director. The amount of the credit applied under
27 this section against the New Jersey gross income tax imposed
28 pursuant to N.J.S.54A:1-1 et seq. for a taxable year, when taken
29 together with any other payments, credits, deductions, and
30 adjustments allowed by law, shall not reduce a taxpayer's tax
31 liability to an amount less than zero. The amount of the tax credit
32 otherwise allowable under this section which cannot be applied for
33 the taxable year due to the limitations of this subsection or under
34 other provisions of N.J.S.54A:1-1 et seq. may be carried forward
35 for seven taxable years following the taxable year for which the tax
36 credit certificate was issued, after which the tax credit shall expire.

37 f. The total value of tax credits approved by the department, in
38 consultation with the director, pursuant to P.L. , c. (C.)
39 (pending before the Legislature as this bill) shall not in the
40 aggregate exceed \$10 million in any year. The director shall issue
41 tax credits pursuant to this section on a first-come, first-serve basis.
42 The director may issue a tax credit certificate to a taxpayer that has
43 previously been allowed a tax credit under this section. The
44 director, prior to issuing a tax credit certificate pursuant to this
45 section, may require the submission by the taxpayer of any
46 information the director deems necessary.

47 g. As used in this section:

1 "Concrete" means structural and non-structural masonry, and
2 pre-cast and ready-mix concrete building products.

3 "Department" means the Department of Environmental
4 Protection.

5 "Director" means Director of the Division of Taxation in the
6 Department of the Treasury.

7 "Environmental product declaration" means a product-specific
8 Type III environmental product declaration that conforms to ISO
9 Standard 14025, assesses the numeric global warming potential of
10 the product, and allows for environmental impact comparisons
11 between concrete mixes fulfilling the same functions.

12 "Global warming potential" means the same as the term is
13 defined in section 1 of P.L. , c. (C.) (pending before the
14 Legislature as this bill).

15
16 6. The Director of the Division of Taxation in the Department
17 of the Treasury and the Department of Environmental Protection, in
18 consultation with each other, may adopt, pursuant to the
19 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
20 1 et seq.), such rules and regulations as may be necessary to
21 implement the provisions of P.L. , c. (C.) (pending before
22 the Legislature as this bill).

23
24 7. This act shall take effect six months after the date of
25 enactment, and shall apply to privilege periods beginning on or
26 after the January 1 next following the effective date of the bill.

27
28
29
30
31 Provides CBT and gross income tax credits for certain deliveries
32 of low carbon concrete and for costs of conducting environmental
33 product declaration analyses of low carbon concrete.

SENATE, No. 287

STATE OF NEW JERSEY 220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Senator TROY SINGLETON

District 7 (Burlington)

Co-Sponsored by:

Senators Codey, Diegnan, Cunningham, Gopal and Stack

SYNOPSIS

Provides CBT tax credit for certain deliveries of low carbon concrete and for costs of conducting environmental product declaration analyses of low carbon concrete.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning the purchase and use of low embodied carbon
2 concrete and supplementing Titles 13 and 54 of the Revised
3 Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. For privilege periods beginning on or after January 1 next
9 following the effective date of P.L. , c. (C.) (pending before
10 the Legislature as this bill), a taxpayer that is a producer of concrete
11 and that meets the requirements of this section shall be allowed a
12 credit against the tax due pursuant to section 5 of P.L.1945, c.162
13 (C.54:10A-5), in an amount as provided in subsection c. of this
14 section.

15 b. In order to qualify for a tax credit pursuant to subsection a. of
16 this section, a concrete producer shall:

17 (1) deliver, pursuant to a contract with a State agency or with a
18 private contracting firm that has been contracted by the State, low
19 embodied carbon concrete or concrete that incorporates carbon
20 capture, utilization, and storage technology, which concrete is used by
21 a construction or improvement project that requires the purchase of 50
22 cubic yards or more of concrete; and

23 (2) submit to the department a global warming potential value for
24 the delivered concrete in the form of a certified environmental product
25 declaration. For contracts that include multiple concrete mixes, the
26 global warming potential of all the mixes shall be proportionally
27 weighted into a single global warming potential score that will serve as
28 the basis for the amount of the tax credit.

29 c. (1) For the delivery of low embodied carbon concrete, a
30 taxpayer may claim a tax credit in an amount calculated using the
31 formula promulgated by the department pursuant to section 3 of
32 P.L. , c. (C.) (pending before the Legislature as this bill),
33 which shall not exceed five percent of the costs of the concrete
34 delivered.

35 (2) For the delivery of concrete that incorporates carbon capture,
36 utilization, and storage technology, a taxpayer may claim a tax credit
37 in an amount calculated using the formula promulgated by the
38 department pursuant to section 3 of P.L. , c. (C.) (pending
39 before the Legislature as this bill), which shall not exceed three
40 percent of the costs of the concrete delivered.

41 (3) Concrete that is low embodied carbon concrete and concrete
42 that incorporates carbon capture, utilization, and storage technology
43 may qualify for both tax credits authorized pursuant to paragraphs (1)
44 and (2) of this subsection, in which case the amount of the tax credits
45 shall not exceed eight percent of the costs of the concrete delivered.

46 d. (1) In order to receive the tax credit allowed pursuant to this
47 section, a taxpayer shall apply to the department for a certification that
48 provides: (a) that each claimed concrete delivery meets the

1 requirements of this section; (b) approval of the certified
2 environmental product declaration submitted pursuant to paragraph (2)
3 of subsection b. of this section; and (c) the amount of the tax credit
4 calculated pursuant to subsection c. of this section. The application
5 shall include a copy of the contract pursuant to which concrete was
6 delivered, and any other information as determined relevant by the
7 department. Upon certification, the department shall submit a copy
8 thereof to the taxpayer and the director. The department may approve
9 an application and issue a certification to a taxpayer that has
10 previously been allowed a tax credit under this section. When filing a
11 tax return that includes a claim for a credit pursuant to this section, the
12 taxpayer shall include a copy of the certification issued by the
13 department.

14 (2) The department shall not approve an application or issue a
15 certification to a taxpayer for a tax credit in excess of \$1 million.

16 e. The order of priority of the application of the credit allowed
17 pursuant to this section and any other credits allowed against the tax
18 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a
19 privilege period shall be as prescribed by the director. The amount of
20 the credit applied pursuant to this section against the tax imposed
21 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), shall not reduce
22 a taxpayer's tax liability for a privilege period to an amount less than
23 the statutory minimum provided in subsection (e) of section 5 of
24 P.L.1945, c.162 (C.54:10A-5). Any credit shall be valid in the
25 privilege period in which the certification is approved and any unused
26 portion thereof may be carried forward into the next seven privilege
27 periods or until depleted, whichever is earlier.

28 f. The amount of tax credits that may be issued pursuant to this
29 section shall not in the aggregate exceed \$10 million in any year. The
30 department shall issue certifications for the tax credit pursuant to this
31 section on a first-come, first-serve basis.

32 g. (1) In preparing the specifications for any contract for the
33 purchase of 50 cubic yards or more of concrete, or for any construction
34 or improvement project that requires the use 50 cubic yards or more of
35 concrete, the Director of the Division of Purchase and Property, the
36 Director of the Division of Property Management and Construction,
37 and any State agency having authority to contract for the purchase of
38 goods or services shall include in the invitation to bid, where relevant,
39 a statement that any response to the invitation that proposes or calls for
40 the use low embodied carbon concrete or concrete that utilizes carbon
41 capture, utilization, and storage technology shall be eligible for a tax
42 credit pursuant to subsection a. of this section. If the agency makes a
43 determination to purchase or use low embodied carbon concrete or
44 concrete that uses carbon capture, utilization, and storage technology
45 in the construction project, the agency shall include in the invitation to
46 bid a predetermined bid allowance price for the concrete, which shall
47 be used by all bidders in the public bidding process.

1 (2) Whenever any agency or department of State government
2 purchases 50 cubic yards or more of concrete, or undertakes any
3 construction or improvement project that requires the use 50 cubic
4 yards or more of concrete, the agency or department shall follow the
5 rules, regulations, and guidelines established by department pursuant
6 to section 3 of P.L. , c. (C.) (pending before the Legislature
7 as this bill).

8 h. Nothing in this section shall be construed to impose any
9 liability upon, or to give rise to a cause of action against, a concrete
10 producer.

11 i. Nothing in this section shall be construed to exempt any entity
12 from complying with any applicable law, rule, standard, or
13 specification, including, but not limited to, those regarding the use of
14 concrete in construction projects.

15 j. The director, in consultation with the Department of
16 Environmental Protection, may adopt, pursuant to the “Administrative
17 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
18 regulations necessary to carry out the provisions of this section.

19 k. As used in this section:

20 “Carbon capture, utilization, and storage technology” means
21 technologies or methods to remove carbon dioxide generated by the
22 concrete manufacturing process from the flue gas or the atmosphere,
23 and to recycle the carbon dioxide either through utilization of the
24 captured carbon dioxide in the concrete manufacturing process, or
25 through safe and permanent storage of the captured carbon dioxide.

26 “Concrete” means structural and non-structural masonry, and pre-
27 cast and ready-mix concrete building products.

28 “Department” means the Department of Environmental Protection.

29 “Director” means Director of the Division of Taxation in the
30 Department of the Treasury.

31 “Embodied carbon emissions” means carbon emissions generated
32 as a result of a material's production, including mining, refining,
33 manufacturing, and shipping.

34 “Environmental product declaration” means a product-specific
35 Type III environmental product declaration that conforms to ISO
36 Standard 14025, assesses the numeric global warming potential of the
37 product, and allows for environmental impact comparisons between
38 concrete mixes fulfilling the same functions.

39 “Global warming potential” means a numeric value that measures
40 the total contribution to global warming from the emission of
41 greenhouse gases, or the elimination of greenhouse gas sinks, that
42 results from the production or utilization of concrete.

43 “Low embodied carbon concrete” means concrete that has been
44 certified to embody lower carbon emissions, as measured by a global
45 warming potential metric, than the baseline embodied carbon
46 emissions of conventional concrete made with Portland cement. Low
47 embodied carbon emissions may be achieved through any combination
48 of: (1) higher energy efficiency at the level of the concrete or cement

1 plant; (2) low carbon fuel substitution at the level of the concrete or
2 cement plant; (3) local production of, and use of locally sourced
3 material in, the concrete, resulting in reduced concrete delivery miles
4 and reduced emissions from transportation; (4) the reduction of clinker
5 content in the cement component of concrete, or the substitution of
6 clinker content with lower carbon-intensive alternative materials such
7 as ground, granulated blast furnace slag, fly ash, or recycled ground-
8 glass pozzolan; (5) the capture and storage of point source carbon
9 dioxide emissions during the cement or concrete production process;
10 or (6) the utilization and storage of carbon in concrete materials.

11 “Portland cement” means hydraulic cement produced by
12 pulverizing clinkers in combination with one or more of the forms of
13 calcium sulfate.

14

15 2. a. (1) For privilege periods beginning on or after January 1
16 next following the effective date of P.L. , c. (C.) (pending
17 before the Legislature as this bill), a taxpayer that is a producer of
18 concrete, or a producer of a major component of concrete including
19 cement or aggregate, shall be allowed a credit against the tax imposed
20 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), to be calculated
21 as provided in paragraph (2) of this subsection, to compensate the
22 taxpayer for costs incurred as a result of conducting an environmental
23 product declaration analysis to determine the product-based embodied
24 carbon emissions of concrete produced at a production facility that the
25 taxpayer owns or operates.

26 (2) The amount of the credit authorized pursuant to this section
27 shall not exceed the lesser of: (a) the full cost incurred for an
28 environmental product declaration analysis of a single concrete,
29 cement, aggregate, or related production facility, or (b) \$3,000. A
30 taxpayer may claim the credit authorized pursuant to this section for
31 the cost of completing environmental product declaration analyses at
32 up to eight production facilities owned or operated by the same
33 taxpayer in a single privilege period.

34 b. The order of priority of the application of the tax credit allowed
35 pursuant to this section, and any other credits allowed against the tax
36 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a
37 privilege period, shall be as prescribed by the director. The amount of
38 the credit applied pursuant to this section against the tax imposed
39 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall not reduce
40 a taxpayer's tax liability to an amount less than the statutory minimum
41 provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-
42 5). The amount of the tax credit otherwise allowable under this section
43 which cannot be applied for the privilege period due to the limitations
44 of this subsection or under other provisions of P.L.1945, c.162
45 (C.54:10A-1 et seq.) may be carried forward, if necessary, to the seven
46 privilege periods following the privilege period for which the tax
47 credit was allowed.

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

8 d. As used in this section:

9 "Concrete" means the same as the term is defined in section 1 of
10 P.L. , c. (C.) (pending before the Legislature as this bill) .

11 "Embodied carbon emissions" means the same as the term is
12 defined in section 1 of P.L. , c. (C.) (pending before the
13 Legislature as this bill).

14 "Environmental product declaration" means the same as the term is
15 defined in section 1 of P.L. , c. (C.) (pending before the
16 Legislature as this bill) .

17 "Global warming potential" means the same as the term is defined
18 in section 1 of P.L. , c. (C.) (pending before the Legislature
19 as this bill).

20

21 3. a. The Commissioner of Environmental Protection, in
22 consultation with the director, shall adopt, pursuant to the
23 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.),
24 rules and regulations necessary to implement the provisions of
25 P.L. , c. (C.) (pending before the Legislature as this bill).
26 The rules and regulations shall include, but need not be limited to:

27 (1) global warming potential baselines for concrete mixes supplied
28 pursuant to contracts with State agencies;

29 (2) thresholds for low embodied carbon concrete and concrete that
30 incorporates carbon capture, utilization, and storage technology to
31 qualify for a tax credit pursuant to P.L. , c. (C.) (pending
32 before the Legislature as this bill), which the commissioner may
33 review and modify pursuant to advancements in low carbon concrete
34 technology or future State laws, regulations, and orders pertaining to
35 the reduction of greenhouse gas emissions;

36 (3) formulae for the tax credits issued pursuant to
37 P.L. , c. (C.) (pending before the Legislature as this bill) for
38 (1) low embodied carbon concrete and (2) concrete that incorporates
39 carbon capture, utilization, and storage technology. The formulae
40 shall provide that the amount of each tax credit is proportional to the
41 reduction in greenhouse gas emissions below the baseline that is
42 achieved by the concrete;

43 (4) a uniform process for concrete producers to certify that
44 concrete is low embodied carbon concrete, or that it utilizes carbon
45 capture, utilization, and storage technology, and for determining the
46 global warming potential value of concrete;

1 (5) guidelines for training State contracting personnel to
2 implement the requirements of P.L. , c. (C.) (pending before
3 the Legislature as this bill); and

4 (6) a mechanism for monitoring contractor compliance with the
5 requirements of P.L. , c. (C.) (pending before the Legislature
6 as this bill).

7 b. No later than two years after the effective date of
8 P.L. , c. (C.) (pending before the Legislature as this bill), the
9 Commissioner of Environmental Protection, in consultation with the
10 State Treasurer, shall prepare and submit a report to the Governor and,
11 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the
12 Legislature, containing a cost-benefit analysis of the tax credits
13 established pursuant to P.L. , c. (C.) (pending before the
14 Legislature as this bill), in order to quantify the budgetary impact of
15 the program relative to its carbon reduction impact. The report shall
16 recommend whether the program should be continued, modified, or
17 repealed, and include any recommendations for legislative or
18 regulatory action to improve the program.

19 c. As used in this section:

20 “Carbon capture, utilization, and storage technology” means the
21 same as the term is defined in section 1 of P.L. , c. (C.)
22 (pending before the Legislature as this bill).

23 “Global warming potential” means the same as the term is defined
24 in section 1 of P.L. , c. (C.) (pending before the Legislature
25 as this bill).

26 “Low embodied carbon concrete” means the same as the term is
27 defined in section 1 of P.L. , c. (C.) (pending before the
28 Legislature as this bill).

29
30 4. This act shall take effect immediately.

31
32
33 STATEMENT

34
35 This bill would provide a corporation business tax (CBT) credit to
36 concrete producers that deliver certain forms of concrete associated
37 with reduced greenhouse gas emissions, pursuant to a contract (or
38 subcontract) with a State Agency, which is used by a construction or
39 improvement project that requires the purchase of 50 cubic yards or
40 more of concrete . The bill would also provide a CBT credit to
41 taxpayers that produce concrete or a major component of concrete for
42 the costs of conducting environmental production declaration analyses.

43 Specifically, the bill would authorize a CBT credit for the delivery
44 of low embodied carbon concrete of up to five percent of the cost of
45 the concrete, and a CBT credit for the delivery of concrete that
46 incorporates carbon capture, utilization, and storage technology of up
47 to three percent of the cost of the concrete. Concrete that meets both
48 criteria could receive a tax credit of up to eight percent of the cost of

1 the concrete. The actual amount of the CBT credit would be
2 determined using a formula to be developed by the Department of
3 Environmental Protection (DEP) pursuant to section 3 of the bill,
4 which would make the tax credit proportional to the greenhouse gas
5 emissions reduction achieved by the specific type of concrete used.

6 In order to qualify for the CBT credit, the concrete producer would
7 be required to submit a certified environmental product declaration to
8 the DEP that provides a global warming potential score for the
9 concrete used. The bill would also establish certain additional
10 requirements to receive the credit, as enumerated in subsection d. of
11 section 1 of the bill. A concrete producer could not receive a CBT
12 credit greater than \$1 million annually. In addition, the Statewide
13 amount of the tax credit would be capped at \$10 million annually.

14 In preparing the specifications for any contract for the purchase of
15 50 cubic yards or more of concrete, or for any construction or
16 improvement project that requires the use of concrete, a State agency
17 would be required to include in the invitation to bid, where relevant, a
18 statement that any response to the invitation that proposes or calls for
19 the use low embodied carbon concrete or that utilizes carbon capture,
20 utilization, and storage technology is eligible for the CBT credit
21 established by the bill. If the agency makes a determination to
22 purchase or use low embodied carbon concrete or concrete that uses
23 carbon capture, utilization, and storage technology in the construction
24 project, the agency would be required to include in the invitation to bid
25 a predetermined bid allowance price for the concrete, which would be
26 used by all bidders. The bill would also require any agency or
27 department of State government that purchases 50 cubic yards or more
28 of concrete, or undertakes any construction or improvement project
29 that requires the use 50 cubic yards or more of concrete, to follow the
30 rules, regulations, and guidelines established by DEP pursuant to
31 section 3 of the bill.

32 The bill would also provide a CBT credit to compensate a taxpayer
33 that produces concrete or a major component of concrete for costs
34 incurred as a result of conducting an environmental product
35 declaration analysis to determine the product-based embodied carbon
36 emissions of concrete produced at one or more production facilities
37 that the taxpayer owns or operates. The amount of the tax credit
38 would not exceed the lesser of: (1) the full cost incurred for an
39 environmental product declaration analysis of a single concrete,
40 cement, aggregate, or related production facility, or (2) \$3,000.
41 However, a taxpayer may claim the credit authorized under the bill for
42 the cost of completing environmental product declaration analyses at
43 up to eight production facilities owned or operated by the same
44 taxpayer in a single privilege period.

45 The bill would require the DEP, in consultation with the State
46 Treasurer, to adopt rules and regulations to implement the bill. The
47 bill would establish certain minimum contents for the rules and
48 regulations, as enumerated in subsection a. of section 3 of the bill,

1 including guidelines to assist concrete producers and State agencies to
2 comply with the bill.

3 As used in the bill, “low embodied carbon concrete” means
4 concrete that has been certified to embody lower carbon emissions, as
5 measured by a global warming potential metric, than the baseline
6 embodied carbon emissions of conventional concrete made with
7 Portland cement. Low embodied carbon emissions may be achieved
8 through a variety of methods described in the bill. “Carbon capture,
9 utilization, and storage technology” means technologies or methods to
10 remove carbon dioxide generated from the concrete manufacturing
11 process from the flue gas or from the atmosphere, and the recycling of
12 the carbon dioxide either through utilization of the captured carbon
13 dioxide in the concrete manufacturing process, or safe and permanent
14 storage of the captured carbon dioxide. An “environmental product
15 declaration” is a product-specific Type III environmental product
16 declaration that conforms to ISO Standard 14025 and enables the
17 numeric global warming potential and environmental impact
18 comparisons between concrete mixes fulfilling the same functions.

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 287

STATE OF NEW JERSEY

DATED: NOVEMBER 21, 2022

The Assembly Environment and Solid Waste Committee reports favorably Senate Bill No. 287 SCS (1R).

This bill would provide corporation business tax (CBT) credits and gross income tax (GIT) credits to concrete producers that deliver concrete associated with reduced greenhouse gas emissions for use in certain State funded projects. The bill would also provide CBT and GIT credits to taxpayers that produce concrete or a major component of concrete for the costs of conducting environmental production declaration analyses of their products.

Specifically, the bill would authorize CBT and GIT credits to concrete producers who deliver low-carbon concrete pursuant to a contract with a State procuring agency, or with a private contracting firm that has contracted with the State, if the concrete is used by a construction or improvement project that requires the purchase of 50 cubic yards or more of concrete. The amount of the tax credits would be determined using formulae developed by the Department of Environmental Protection (DEP), which would make the tax credit proportional to the greenhouse gas emissions reduction achieved by the specific type of low-carbon concrete used. However, the amount of the credits would be capped at five percent of the cost of the concrete, for "low embodied carbon concrete," and three percent of the costs of the concrete, for concrete that incorporates "carbon capture, utilization, and storage technology." As used in the bill, "low embodied carbon concrete" means concrete that has been certified to embody lower carbon emissions, as measured by a global warming potential metric, than the baseline embodied carbon emissions of conventional concrete made with Portland cement. Low embodied carbon emissions may be achieved through a variety of methods described in subsection c. of section 1 of the bill. "Carbon capture, utilization, and storage technology" means technologies or methods to remove carbon dioxide generated by the concrete manufacturing process from the flue gas or the atmosphere, and to recycle the carbon dioxide either through utilization of the captured carbon dioxide in the concrete manufacturing process, or through safe and permanent

storage of the captured carbon dioxide. Concrete that meets both criteria could receive a tax credit of up to eight percent of the cost of the low-carbon concrete.

In order to qualify for the tax credits, concrete producers would be required to submit a certification to the State agency that is using the concrete that includes (a) a statement of the amount and cost of the concrete that was delivered, with appropriate supporting documentation; (b) an environmental product declaration for the concrete that has been approved by the DEP; (c) the amount of the tax credit; (d) a copy of the contract pursuant to which concrete was delivered; and (e) any other information determined relevant by the DEP or requested by the State agency that is using the concrete. A concrete producer could not receive a total CBT and GIT credit greater than \$1 million annually.

The bill would also authorize CBT and GIT credits to taxpayers that produce concrete or a major component of concrete for the costs of conducting an environmental product declaration analysis to determine the global warming potential of concrete or concrete component produced at a production facility that the taxpayer owns or operates. The amount of the tax credit would not exceed the lesser of: (1) the full cost incurred for an environmental product declaration analysis of a single concrete, cement, aggregate, or related production facility, or (2) \$3,000. A taxpayer could claim the credit for the cost of completing environmental product declaration analyses at up to eight production facilities owned or operated by the same taxpayer in a single privilege period. As defined by the bill, an "environmental product declaration" is a product-specific Type III environmental product declaration that conforms to ISO Standard 14025 and enables the numeric global warming potential and environmental impact comparisons between concrete mixes fulfilling the same functions.

The bill would also direct State agencies, when preparing the specifications for any contract for the purchase of 50 cubic yards or more of concrete, or for any construction or improvement project that requires the use of 50 cubic yards or more of concrete, to include in the invitation to bid, a statement that any response to the invitation that proposes or calls for the use low embodied carbon concrete or that utilizes carbon capture, utilization, and storage technology is eligible for the CBT and GIT credits established by the bill. In addition, for invitations to bid that are issued in the first five years after the bill's effective date, if a State agency makes a determination to purchase or use low embodied carbon concrete or concrete that uses carbon capture, utilization, and storage technology in the construction project, the procuring agency would be required to include in the invitation to bid a predetermined bid allowance price for the concrete, which would be used by all bidders.

The bill would also direct the DEP to provide certain information to aid in the bill's implementation, as enumerated in subsection a. of

section 1 of the bill, including global warming potential baselines for concrete mixes supplied pursuant to contracts with State agencies. Finally, the bill would authorize the DEP and the Department of the Treasury to adopt rules and regulations to implement the bill. The bill would take effect six months after the enactment of the bill.

As reported by the committee, this bill is identical to Assembly Bill No. 2234 ACS as also reported by the committee.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR SENATE, No. 287

STATE OF NEW JERSEY

DATED: DECEMBER 12, 2022

The Assembly Appropriations Committee reports favorably Senate Bill No. 287 SCS (1R).

This bill would provide corporation business tax (CBT) credits and gross income tax (GIT) credits to concrete producers that deliver concrete associated with reduced greenhouse gas emissions for use in certain State funded projects. The bill would also provide CBT and GIT credits to taxpayers that produce concrete or a major component of concrete for the costs of conducting environmental production declaration analyses of their products.

Specifically, the bill would authorize CBT and GIT credits to concrete producers who deliver low-carbon concrete pursuant to a contract with a State procuring agency, or with a private contracting firm that has contracted with the State, if the concrete is used by a construction or improvement project that requires the purchase of 50 cubic yards or more of concrete. The amount of the tax credits would be determined using formulae developed by the Department of Environmental Protection (DEP), which would make the tax credit proportional to the greenhouse gas emissions reduction achieved by the specific type of low-carbon concrete used. However, the amount of the credits would be capped at five percent of the cost of the concrete, for "low embodied carbon concrete," and three percent of the costs of the concrete, for concrete that incorporates "carbon capture, utilization, and storage technology." As used in the bill, "low embodied carbon concrete" means concrete that has been certified to embody lower carbon emissions, as measured by a global warming potential metric, than the baseline embodied carbon emissions of conventional concrete made with Portland cement. Low embodied carbon emissions may be achieved through a variety of methods described in subsection c. of section 1 of the bill. "Carbon capture, utilization, and storage technology" means technologies or methods to remove carbon dioxide generated by the concrete manufacturing process from the flue gas or the atmosphere, and to recycle the carbon dioxide either through utilization of the captured carbon dioxide in the concrete manufacturing process, or through safe and permanent storage of the captured carbon dioxide. Concrete that meets both

criteria could receive a tax credit of up to eight percent of the cost of the low-carbon concrete.

In order to qualify for the tax credits, concrete producers would be required to submit a certification to the State agency that is using the concrete that includes (a) a statement of the amount and cost of the concrete that was delivered, with appropriate supporting documentation; (b) an environmental product declaration for the concrete that has been approved by the DEP; (c) the amount of the tax credit; (d) a copy of the contract pursuant to which concrete was delivered; and (e) any other information determined relevant by the DEP or requested by the State agency that is using the concrete. A concrete producer could not receive a total CBT and GIT credit greater than \$1 million annually.

The bill would also authorize CBT and GIT credits to taxpayers that produce concrete or a major component of concrete for the costs of conducting an environmental product declaration analysis to determine the global warming potential of concrete or concrete component produced at a production facility that the taxpayer owns or operates. The amount of the tax credit would not exceed the lesser of: (1) the full cost incurred for an environmental product declaration analysis of a single concrete, cement, aggregate, or related production facility, or (2) \$3,000. A taxpayer could claim the credit for the cost of completing environmental product declaration analyses at up to eight production facilities owned or operated by the same taxpayer in a single privilege period. As defined by the bill, an "environmental product declaration" is a product-specific Type III environmental product declaration that conforms to ISO Standard 14025 and enables the numeric global warming potential and environmental impact comparisons between concrete mixes fulfilling the same functions.

The bill would also direct State agencies, when preparing the specifications for any contract for the purchase of 50 cubic yards or more of concrete, or for any construction or improvement project that requires the use of 50 cubic yards or more of concrete, to include in the invitation to bid, a statement that any response to the invitation that proposes or calls for the use low embodied carbon concrete or that utilizes carbon capture, utilization, and storage technology is eligible for the CBT and GIT credits established by the bill. In addition, for invitations to bid that are issued in the first five years after the bill's effective date, if a State agency makes a determination to purchase or use low embodied carbon concrete or concrete that uses carbon capture, utilization, and storage technology in the construction project, the procuring agency would be required to include in the invitation to bid a predetermined bid allowance price for the concrete, which would be used by all bidders.

The bill would also direct the DEP to provide certain information to aid in the bill's implementation, as enumerated in subsection a. of section 1 of the bill, including global warming potential baselines for

concrete mixes supplied pursuant to contracts with State agencies. Finally, the bill would authorize the DEP and the Department of the Treasury to adopt rules and regulations to implement the bill. The bill would take effect six months after the enactment of the bill.

As reported by the committee, Senate Bill No. 287 (SCS) (1R) is identical to Assembly Bill No. 2234 (ACS) as also reported by the committee on this date.

FISCAL IMPACT:

The Office of Legislative Services (OLS) notes that providing CBT and GIT credits to concrete producers and certain other taxpayers would result in an annual State revenue loss over a multi-year period from the newly established incentive program.

The OLS cannot quantify the precise direct revenue loss the bill will impose on the State, but notes that incentive awards established by the bill will be largely capped by limiting the tax credit to \$1 million annual per concrete producer that delivers low carbon concrete and \$3,000 to a taxpayer that conducts an environmental product declaration analysis. The OLS is unable to determine how many concrete producers or taxpayers would apply for and qualify for the CBT and GIT credits. However, the Statewide annual amount of all the tax credits established by the bill would be limited to \$10 million.

The OLS also determines that this bill would increase the administrative workload of the DEP and the Department of the Treasury, but these tasks could likely be subsumed by current staff using existing resources.

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR SENATE, No. 287

STATE OF NEW JERSEY

DATED: JUNE 13, 2022

The Senate Environment and Energy Committee favorably reports a committee substitute for Senate Bill No. 287.

This committee substitute would provide corporation business tax (CBT) credits and gross income tax (GIT) credits to concrete producers that deliver concrete associated with reduced greenhouse gas emissions for use in certain State funded projects . The bill would also provide CBT and GIT credits to taxpayers that produce concrete or a major component of concrete for the costs of conducting environmental production declaration analyses of their products.

Specifically, the bill would authorize CBT and GIT credits to concrete producers who deliver low-carbon concrete pursuant to a contract with a State procuring agency, or with a private contracting firm that has contracted with the State, if the concrete is used by a construction or improvement project that requires the purchase of 50 cubic yards or more of concrete. The amount of the tax credits would be determined using formulae developed by the Department of Environmental Protection (DEP), which would make the tax credit proportional to the greenhouse gas emissions reduction achieved by the specific type of low-carbon concrete used. However, the amount of the credits would be capped at five percent of the cost of the concrete, for "low embodied carbon concrete," and three percent of the costs of the concrete, for concrete that incorporates "carbon capture, utilization, and storage technology." As used in the bill, "low embodied carbon concrete" means concrete that has been certified to embody lower carbon emissions, as measured by a global warming potential metric, than the baseline embodied carbon emissions of conventional concrete made with Portland cement. Low embodied carbon emissions may be achieved through a variety of methods described in subsection c. of section 1 of the bill. "Carbon capture, utilization, and storage technology" means technologies or methods to remove carbon dioxide generated by the concrete manufacturing process from the flue gas or the atmosphere, and to recycle the carbon dioxide either through utilization of the captured carbon dioxide in the concrete manufacturing process, or through safe and permanent storage of the captured carbon dioxide. Concrete that meets both criteria could receive a tax credit of up to eight percent of the cost of the low-carbon concrete.

In order to qualify for the tax credits, concrete producers would be required to submit a certification to the State agency that is using the concrete that includes (a) a statement of the amount and cost of the concrete that was delivered, with appropriate supporting documentation; (b) an environmental product declaration for the concrete that has been approved by the DEP; (c) the amount of the tax credit; (d) a copy of the contract pursuant to which concrete was delivered; and (e) any other information determined relevant by the DEP or requested by the State agency that is using the concrete. A concrete producer could not receive a total CBT and GIT credit greater than \$1 million annually.

The bill would also authorize CBT and GIT credits to taxpayers that produce concrete or a major component of concrete for the costs of conducting an environmental product declaration analysis to determine the global warming potential of concrete or concrete component produced at a production facility that the taxpayer owns or operates. The amount of the tax credit would not exceed the lesser of: (1) the full cost incurred for an environmental product declaration analysis of a single concrete, cement, aggregate, or related production facility, or (2) \$3,000. A taxpayer could claim the credit for the cost of completing environmental product declaration analyses at up to eight production facilities owned or operated by the same taxpayer in a single privilege period. As defined by the bill, an "environmental product declaration" is a product-specific Type III environmental product declaration that conforms to ISO Standard 14025 and enables the numeric global warming potential and environmental impact comparisons between concrete mixes fulfilling the same functions.

The bill would also direct State agencies, when preparing the specifications for any contract for the purchase of 50 cubic yards or more of concrete, or for any construction or improvement project that requires the use of 50 cubic yards or more of concrete, to include in the invitation to bid, a statement that any response to the invitation that proposes or calls for the use low embodied carbon concrete or that utilizes carbon capture, utilization, and storage technology is eligible for the CBT and GIT credits established by the bill. In addition, if a State agency makes a determination to purchase or use low embodied carbon concrete or concrete that uses carbon capture, utilization, and storage technology in the construction project, the agency would be required to include in the invitation to bid a predetermined bid allowance price for the concrete, which would be used by all bidders.

The bill would also direct the DEP to provide certain information to aid in the bill's implementation, as enumerated in subsection a. of section 1 of the bill, including global warming potential baselines for concrete mixes supplied pursuant to contracts with State agencies. Finally, the bill would authorize the DEP and the Department of the Treasury to adopt rules and regulations to implement the bill. The bill would take effect six months after the enactment of the bill.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 287**

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 27, 2022

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 287 SCS, with committee amendments.

This bill would provide corporation business tax (CBT) credits and gross income tax (GIT) credits to concrete producers that deliver concrete associated with reduced greenhouse gas emissions for use in certain State funded projects . The bill would also provide CBT and GIT credits to taxpayers that produce concrete or a major component of concrete for the costs of conducting environmental production declaration analyses of their products.

Specifically, the bill would authorize CBT and GIT credits to concrete producers who deliver low-carbon concrete pursuant to a contract with a State procuring agency, or with a private contracting firm that has contracted with the State, if the concrete is used by a construction or improvement project that requires the purchase of 50 cubic yards or more of concrete. The amount of the tax credits would be determined using formulae developed by the Department of Environmental Protection (DEP), which would make the tax credit proportional to the greenhouse gas emissions reduction achieved by the specific type of low-carbon concrete used. However, the amount of the credits would be capped at five percent of the cost of the concrete, for "low embodied carbon concrete," and three percent of the costs of the concrete, for concrete that incorporates "carbon capture, utilization, and storage technology." As used in the bill, "low embodied carbon concrete" means concrete that has been certified to embody lower carbon emissions, as measured by a global warming potential metric, than the baseline embodied carbon emissions of conventional concrete made with Portland cement. Low embodied carbon emissions may be achieved through a variety of methods described in subsection c. of section 1 of the bill. "Carbon capture, utilization, and storage technology" means technologies or methods to remove carbon dioxide generated by the concrete manufacturing process from the flue gas or the atmosphere, and to recycle the carbon dioxide either through utilization of the captured carbon dioxide in the concrete manufacturing process, or through safe and permanent

storage of the captured carbon dioxide. Concrete that meets both criteria could receive a tax credit of up to eight percent of the cost of the low-carbon concrete.

In order to qualify for the tax credits, concrete producers would be required to submit a certification to the State agency that is using the concrete that includes (a) a statement of the amount and cost of the concrete that was delivered, with appropriate supporting documentation; (b) an environmental product declaration for the concrete that has been approved by the DEP; (c) the amount of the tax credit; (d) a copy of the contract pursuant to which concrete was delivered; and (e) any other information determined relevant by the DEP or requested by the State agency that is using the concrete. A concrete producer could not receive a total CBT and GIT credit greater than \$1 million annually.

The bill would also authorize CBT and GIT credits to taxpayers that produce concrete or a major component of concrete for the costs of conducting an environmental product declaration analysis to determine the global warming potential of concrete or concrete component produced at a production facility that the taxpayer owns or operates. The amount of the tax credit would not exceed the lesser of: (1) the full cost incurred for an environmental product declaration analysis of a single concrete, cement, aggregate, or related production facility, or (2) \$3,000. A taxpayer could claim the credit for the cost of completing environmental product declaration analyses at up to eight production facilities owned or operated by the same taxpayer in a single privilege period. As defined by the bill, an "environmental product declaration" is a product-specific Type III environmental product declaration that conforms to ISO Standard 14025 and enables the numeric global warming potential and environmental impact comparisons between concrete mixes fulfilling the same functions.

The bill would also direct State agencies, when preparing the specifications for any contract for the purchase of 50 cubic yards or more of concrete, or for any construction or improvement project that requires the use of 50 cubic yards or more of concrete, to include in the invitation to bid, a statement that any response to the invitation that proposes or calls for the use low embodied carbon concrete or that utilizes carbon capture, utilization, and storage technology is eligible for the CBT and GIT credits established by the bill. In addition, for invitations to bid that are issued in the first five years after the bill's effective date, if a State agency makes a determination to purchase or use low embodied carbon concrete or concrete that uses carbon capture, utilization, and storage technology in the construction project, the procuring agency would be required to include in the invitation to bid a predetermined bid allowance price for the concrete, which would be used by all bidders.

The bill would also direct the DEP to provide certain information to aid in the bill's implementation, as enumerated in subsection a. of

section 1 of the bill, including global warming potential baselines for concrete mixes supplied pursuant to contracts with State agencies. Finally, the bill would authorize the DEP and the Department of the Treasury to adopt rules and regulations to implement the bill. The bill would take effect six months after the enactment of the bill.

COMMITTEE AMENDMENTS:

The committee amendments to the bill provide that the requirement for State procuring agencies to provide a predetermined bid allowance price for low-carbon concrete would only apply to invitations to bid issued in the first five years after the bill's effective date, rather than to invitations to bid indefinitely.

FISCAL IMPACT:

The Office of Legislative Services (OLS) notes that providing corporation business tax (CBT) credits and gross income tax (GIT) credits to concrete producers and certain other taxpayers would result in an annual State revenue decrease. The bill would produce a direct State revenue loss over a multi-year period, from the newly established incentive program.

The OLS cannot quantify the precise direct revenue loss the bill will impose on the State, but notes that incentive awards established by the bill will be largely capped by limiting the tax credit to \$1 million annually per concrete producer that delivers low carbon concrete and \$3,000 to a taxpayer that conducts an environmental product declaration analysis. The OLS is unable to determine how many concrete producers or taxpayers would apply and qualify for the CBT and GIT credits. However, the Statewide annual amount of all the tax credits established by the bill would be limited to \$10 million.

The OLS also determines that this bill would increase the administrative workload of the Department of Environmental Protection and the Department of the Treasury, but these tasks could likely be subsumed by current staff using existing resources.

LEGISLATIVE FISCAL ESTIMATE
[First Reprint]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 287
STATE OF NEW JERSEY
220th LEGISLATURE

DATED: JULY 5, 2022

SUMMARY

- Synopsis:** Provides CBT and gross income tax credits for certain deliveries of low carbon concrete and for costs of conducting environmental product declaration analyses of low carbon concrete.
- Type of Impact:** Annual State revenue decrease; Potential State expenditure increase.
- Agencies Affected:** Department of Environmental Protection, Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Revenue Decrease	Up to \$10 million
Potential State Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) notes that providing corporation business tax (CBT) credits and gross income tax (GIT) credits to concrete producers and certain other taxpayers would result in an annual State revenue loss over a multi-year period from the newly established incentive program.
- The OLS cannot quantify the precise direct revenue loss the bill will impose on the State, but notes that incentive awards established by the bill will be largely capped by limiting the tax credit to \$1 million annually per concrete producer that delivers low carbon concrete and \$3,000 to a taxpayer that conducts an environmental product declaration analysis. The OLS is unable to determine how many concrete producers or taxpayers would apply and qualify for the CBT and GIT credits. However, the Statewide annual amount of all the tax credits established by the bill would be limited to \$10 million.
- The OLS also determines that this bill would increase the administrative workload of the Department of Environmental Protection (DEP) and the Department of the Treasury, but these tasks could likely be subsumed by current staff using existing resources.

BILL DESCRIPTION

This bill would provide CBT and GIT credits to concrete producers that deliver concrete associated with reduced greenhouse gas emissions for use in certain State funded projects. The bill would also provide CBT and GIT credits to taxpayers that produce concrete or a major component of concrete for the costs of conducting environmental production declaration analyses of their products.

Specifically, the bill would authorize CBT and GIT credits to concrete producers who deliver low-carbon concrete pursuant to a contract with a State procuring agency, or with a private contracting firm that has contracted with the State, if the concrete is used by a construction or improvement project that requires the purchase of 50 cubic yards or more of concrete. The amount of the tax credits would be determined using formulae developed by the DEP, which would make the tax credit proportional to the greenhouse gas emissions reduction achieved by the specific type of low-carbon concrete used. However, the amount of the credits would be capped at five percent of the cost of the concrete, for low embodied carbon concrete, and three percent of the costs of the concrete, for concrete that incorporates carbon capture, utilization, and storage technology. Concrete that meets both criteria could receive a tax credit of up to eight percent of the cost of the low-carbon concrete.

In order to qualify for the tax credits, concrete producers would be required to submit a certification to the State agency that is using the concrete that includes (a) a statement of the amount and cost of the concrete that was delivered, with appropriate supporting documentation; (b) an environmental product declaration for the concrete that has been approved by the DEP; (c) the amount of the tax credit; (d) a copy of the contract pursuant to which concrete was delivered; and (e) any other information determined relevant by the DEP or requested by the State agency that is using the concrete. A concrete producer could not receive a total CBT and GIT credit greater than \$1 million annually for the delivery of low-carbon concrete.

The bill would also authorize CBT and GIT credits to taxpayers that produce concrete or a major component of concrete for the costs of conducting an environmental product declaration analysis to determine the global warming potential of concrete or concrete component produced at a production facility that the taxpayer owns or operates. The amount of the tax credit would not exceed the lesser of: (1) the full cost incurred for an environmental product declaration analysis of a single concrete, cement, aggregate, or related production facility, or (2) \$3,000. A taxpayer could claim the credit for the cost of completing environmental product declaration analyses at up to eight production facilities owned or operated by the same taxpayer in a single privilege period, for a total of \$24,000 annually.

The bill would also direct the DEP to provide certain information to aid in the bill's implementation, including global warming potential baselines for concrete mixes supplied pursuant to contracts with State agencies. Finally, the bill would authorize the DEP and the Department of the Treasury to adopt rules and regulations to implement the bill. The bill would take effect six months after the enactment of the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that providing CBT and GIT credits to concrete producers and certain other taxpayers would result in an annual State revenue decrease. The bill would produce a direct State revenue loss over a multi-year period from the newly established incentive programs.

The OLS cannot quantify the precise direct revenue loss the bill will impose on the State, but notes that incentive awards established by the bill will be largely capped by limiting the tax credit to \$1 million annually per concrete producer that delivers low carbon concrete and \$3,000 to a taxpayer that conducts an environmental product declaration analysis. The OLS is unable to determine how many concrete producers or taxpayers would apply and qualify for the CBT and GIT credits. However, the Statewide amount of all tax credits authorized by the bill would be limited by the bill to \$10 million annually.

The OLS notes that the DEP and Department of Treasury would incur a marginal annual State expenditure increase, since it requires the DEP and the Department of the Treasury to take certain actions to implement the tax credits authorized by the bill, including adopting rules and regulations and reviewing applications for the tax credits. It is likely that these tasks could be subsumed by current staff using existing resources.

Section: Environment, Agriculture, Energy, and Natural Resources

*Analyst: Neha Patel
Senior Fiscal 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. 2234

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED FEBRUARY 7, 2022

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Assemblywoman BRITNEE N. TIMBERLAKE

District 34 (Essex and Passaic)

Assemblyman CLINTON CALABRESE

District 36 (Bergen and Passaic)

Co-Sponsored by:

**Assemblyman Conaway, Assemblywomen Jaffer, McKnight,
Assemblymen Danielsen, Mukherji and Assemblywoman Jasey**

SYNOPSIS

Provides CBT tax credit for certain deliveries of low carbon concrete and for costs of conducting environmental product declaration analyses of low carbon concrete.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/29/2022)

1 AN ACT concerning the purchase and use of low embodied carbon
2 concrete and supplementing Titles 13 and 54 of the Revised
3 Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. For privilege periods beginning on or after January 1 next
9 following the effective date of P.L. , c. (C.) (pending before
10 the Legislature as this bill), a taxpayer that is a producer of concrete
11 and that meets the requirements of this section shall be allowed a
12 credit against the tax due pursuant to section 5 of P.L.1945, c.162
13 (C.54:10A-5), in an amount as provided in subsection c. of this
14 section.

15 b. In order to qualify for a tax credit pursuant to subsection a. of
16 this section, a concrete producer shall:

17 (1) deliver, pursuant to a contract with a State agency or with a
18 private contracting firm that has been contracted by the State, low
19 embodied carbon concrete or concrete that incorporates carbon
20 capture, utilization, and storage technology, which concrete is used by
21 a construction or improvement project that requires the purchase of 50
22 cubic yards or more of concrete; and

23 (2) submit to the department a global warming potential value for
24 the delivered concrete in the form of a certified environmental product
25 declaration. For contracts that include multiple concrete mixes, the
26 global warming potential of all the mixes shall be proportionally
27 weighted into a single global warming potential score that will serve as
28 the basis for the amount of the tax credit.

29 c. (1) For the delivery of low embodied carbon concrete, a
30 taxpayer may claim a tax credit in an amount calculated using the
31 formula promulgated by the department pursuant to section 3 of
32 P.L. , c. (C.) (pending before the Legislature as this bill),
33 which shall not exceed five percent of the costs of the concrete
34 delivered.

35 (2) For the delivery of concrete that incorporates carbon capture,
36 utilization, and storage technology, a taxpayer may claim a tax credit
37 in an amount calculated using the formula promulgated by the
38 department pursuant to section 3 of P.L. , c. (C.) (pending
39 before the Legislature as this bill), which shall not exceed three
40 percent of the costs of the concrete delivered.

41 (3) Concrete that is low embodied carbon concrete and concrete
42 that incorporates carbon capture, utilization, and storage technology
43 may qualify for both tax credits authorized pursuant to paragraphs (1)
44 and (2) of this subsection, in which case the amount of the tax credits
45 shall not exceed eight percent of the costs of the concrete delivered.

46 d. (1) In order to receive the tax credit allowed pursuant to this
47 section, a taxpayer shall apply to the department for a certification that
48 provides: (a) that each claimed concrete delivery meets the

1 requirements of this section; (b) approval of the certified
2 environmental product declaration submitted pursuant to paragraph (2)
3 of subsection b. of this section; and (c) the amount of the tax credit
4 calculated pursuant to subsection c. of this section. The application
5 shall include a copy of the contract pursuant to which concrete was
6 delivered, and any other information as determined relevant by the
7 department. Upon certification, the department shall submit a copy
8 thereof to the taxpayer and the director. The department may approve
9 an application and issue a certification to a taxpayer that has
10 previously been allowed a tax credit under this section. When filing a
11 tax return that includes a claim for a credit pursuant to this section, the
12 taxpayer shall include a copy of the certification issued by the
13 department.

14 (2) The department shall not approve an application or issue a
15 certification to a taxpayer for a tax credit in excess of \$1 million.

16 e. The order of priority of the application of the credit allowed
17 pursuant to this section and any other credits allowed against the tax
18 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a
19 privilege period shall be as prescribed by the director. The amount of
20 the credit applied pursuant to this section against the tax imposed
21 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), shall not reduce
22 a taxpayer's tax liability for a privilege period to an amount less than
23 the statutory minimum provided in subsection (e) of section 5 of
24 P.L.1945, c.162 (C.54:10A-5). Any credit shall be valid in the
25 privilege period in which the certification is approved and any unused
26 portion thereof may be carried forward into the next seven privilege
27 periods or until depleted, whichever is earlier.

28 f. The amount of tax credits that may be issued pursuant to this
29 section shall not in the aggregate exceed \$10 million in any year. The
30 department shall issue certifications for the tax credit pursuant to this
31 section on a first-come, first-serve basis.

32 g. (1) In preparing the specifications for any contract for the
33 purchase of 50 cubic yards or more of concrete, or for any construction
34 or improvement project that requires the use 50 cubic yards or more of
35 concrete, the Director of the Division of Purchase and Property, the
36 Director of the Division of Property Management and Construction,
37 and any State agency having authority to contract for the purchase of
38 goods or services shall include in the invitation to bid, where relevant,
39 a statement that any response to the invitation that proposes or calls for
40 the use low embodied carbon concrete or concrete that utilizes carbon
41 capture, utilization, and storage technology shall be eligible for a tax
42 credit pursuant to subsection a. of this section. If the agency makes a
43 determination to purchase or use low embodied carbon concrete or
44 concrete that uses carbon capture, utilization, and storage technology
45 in the construction project, the agency shall include in the invitation to
46 bid a predetermined bid allowance price for the concrete, which shall
47 be used by all bidders in the public bidding process.

1 (2) Whenever any agency or department of State government
2 purchases 50 cubic yards or more of concrete, or undertakes any
3 construction or improvement project that requires the use 50 cubic
4 yards or more of concrete, the agency or department shall follow the
5 rules, regulations, and guidelines established by department pursuant
6 to section 3 of P.L. , c. (C.) (pending before the Legislature
7 as this bill).

8 h. Nothing in this section shall be construed to impose any
9 liability upon, or to give rise to a cause of action against, a concrete
10 producer.

11 i. Nothing in this section shall be construed to exempt any entity
12 from complying with any applicable law, rule, standard, or
13 specification, including, but not limited to, those regarding the use of
14 concrete in construction projects.

15 j. The director, in consultation with the Department of
16 Environmental Protection, may adopt, pursuant to the “Administrative
17 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
18 regulations necessary to carry out the provisions of this section.

19 k. As used in this section:

20 “Carbon capture, utilization, and storage technology” means
21 technologies or methods to remove carbon dioxide generated by the
22 concrete manufacturing process from the flue gas or the atmosphere,
23 and to recycle the carbon dioxide either through utilization of the
24 captured carbon dioxide in the concrete manufacturing process, or
25 through safe and permanent storage of the captured carbon dioxide.

26 “Concrete” means structural and non-structural masonry, and pre-
27 cast and ready-mix concrete building products.

28 “Department” means the Department of Environmental Protection.

29 “Director” means Director of the Division of Taxation in the
30 Department of the Treasury.

31 “Embodied carbon emissions” means carbon emissions generated
32 as a result of a material's production, including mining, refining,
33 manufacturing, and shipping.

34 “Environmental product declaration” means a product-specific
35 Type III environmental product declaration that conforms to ISO
36 Standard 14025, assesses the numeric global warming potential of the
37 product, and allows for environmental impact comparisons between
38 concrete mixes fulfilling the same functions.

39 “Global warming potential” means a numeric value that measures
40 the total contribution to global warming from the emission of
41 greenhouse gases, or the elimination of greenhouse gas sinks, that
42 results from the production or utilization of concrete.

43 “Low embodied carbon concrete” means concrete that has been
44 certified to embody lower carbon emissions, as measured by a global
45 warming potential metric, than the baseline embodied carbon
46 emissions of conventional concrete made with Portland cement. Low
47 embodied carbon emissions may be achieved through any combination
48 of: (1) higher energy efficiency at the level of the concrete or cement

1 plant; (2) low carbon fuel substitution at the level of the concrete or
2 cement plant; (3) local production of, and use of locally sourced
3 material in, the concrete, resulting in reduced concrete delivery miles
4 and reduced emissions from transportation; (4) the reduction of clinker
5 content in the cement component of concrete, or the substitution of
6 clinker content with lower carbon-intensive alternative materials such
7 as ground, granulated blast furnace slag, fly ash, or recycled ground-
8 glass pozzolan; (5) the capture and storage of point source carbon
9 dioxide emissions during the cement or concrete production process;
10 or (6) the utilization and storage of carbon in concrete materials.

11 “Portland cement” means hydraulic cement produced by
12 pulverizing clinkers in combination with one or more of the forms of
13 calcium sulfate.

14

15 2. a. (1) For privilege periods beginning on or after January 1
16 next following the effective date of P.L. , c. (C.) (pending
17 before the Legislature as this bill), a taxpayer that is a producer of
18 concrete, or a producer of a major component of concrete including
19 cement or aggregate, shall be allowed a credit against the tax imposed
20 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), to be calculated
21 as provided in paragraph (2) of this subsection, to compensate the
22 taxpayer for costs incurred as a result of conducting an environmental
23 product declaration analysis to determine the product-based embodied
24 carbon emissions of concrete produced at a production facility that the
25 taxpayer owns or operates.

26 (2) The amount of the credit authorized pursuant to this section
27 shall not exceed the lesser of: (a) the full cost incurred for an
28 environmental product declaration analysis of a single concrete,
29 cement, aggregate, or related production facility, or (b) \$3,000. A
30 taxpayer may claim the credit authorized pursuant to this section for
31 the cost of completing environmental product declaration analyses at
32 up to eight production facilities owned or operated by the same
33 taxpayer in a single privilege period.

34 b. The order of priority of the application of the tax credit allowed
35 pursuant to this section, and any other credits allowed against the tax
36 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a
37 privilege period, shall be as prescribed by the director. The amount of
38 the credit applied pursuant to this section against the tax imposed
39 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall not reduce
40 a taxpayer's tax liability to an amount less than the statutory minimum
41 provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-
42 5). The amount of the tax credit otherwise allowable under this section
43 which cannot be applied for the privilege period due to the limitations
44 of this subsection or under other provisions of P.L.1945, c.162
45 (C.54:10A-1 et seq.) may be carried forward, if necessary, to the seven
46 privilege periods following the privilege period for which the tax
47 credit was allowed.

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

8 d. As used in this section:

9 "Concrete" means the same as the term is defined in section 1 of
10 P.L. , c. (C.) (pending before the Legislature as this bill).

11 "Embodied carbon emissions" means the same as the term is
12 defined in section 1 of P.L. , c. (C.) (pending before the
13 Legislature as this bill).

14 "Environmental product declaration" means the same as the term is
15 defined in section 1 of P.L. , c. (C.) (pending before the
16 Legislature as this bill).

17 "Global warming potential" means the same as the term is defined
18 in section 1 of P.L. , c. (C.) (pending before the Legislature
19 as this bill).

20

21 3. a. The Commissioner of Environmental Protection, in
22 consultation with the director, shall adopt, pursuant to the
23 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.),
24 rules and regulations necessary to implement the provisions of
25 P.L. , c. (C.) (pending before the Legislature as this bill).
26 The rules and regulations shall include, but need not be limited to:

27 (1) global warming potential baselines for concrete mixes supplied
28 pursuant to contracts with State agencies;

29 (2) thresholds for low embodied carbon concrete and concrete that
30 incorporates carbon capture, utilization, and storage technology to
31 qualify for a tax credit pursuant to P.L. , c. (C.) (pending
32 before the Legislature as this bill), which the commissioner may
33 review and modify pursuant to advancements in low carbon concrete
34 technology or future State laws, regulations, and orders pertaining to
35 the reduction of greenhouse gas emissions;

36 (3) formulae for the tax credits issued pursuant to
37 P.L. , c. (C.) (pending before the Legislature as this bill) for
38 (1) low embodied carbon concrete and (2) concrete that incorporates
39 carbon capture, utilization, and storage technology. The formulae
40 shall provide that the amount of each tax credit is proportional to the
41 reduction in greenhouse gas emissions below the baseline that is
42 achieved by the concrete;

43 (4) a uniform process for concrete producers to certify that
44 concrete is low embodied carbon concrete, or that it utilizes carbon
45 capture, utilization, and storage technology, and for determining the
46 global warming potential value of concrete;

1 (5) guidelines for training State contracting personnel to
2 implement the requirements of P.L. , c. (C.) (pending before
3 the Legislature as this bill); and

4 (6) a mechanism for monitoring contractor compliance with the
5 requirements of P.L. , c. (C.) (pending before the Legislature
6 as this bill).

7 b. No later than two years after the effective date of
8 P.L. , c. (C.) (pending before the Legislature as this bill), the
9 Commissioner of Environmental Protection, in consultation with the
10 State Treasurer, shall prepare and submit a report to the Governor and,
11 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the
12 Legislature, containing a cost-benefit analysis of the tax credits
13 established pursuant to P.L. , c. (C.) (pending before the
14 Legislature as this bill), in order to quantify the budgetary impact of
15 the program relative to its carbon reduction impact. The report shall
16 recommend whether the program should be continued, modified, or
17 repealed, and include any recommendations for legislative or
18 regulatory action to improve the program.

19 c. As used in this section:

20 “Carbon capture, utilization, and storage technology” means the
21 same as the term is defined in section 1 of P.L. , c. (C.)
22 (pending before the Legislature as this bill).

23 “Global warming potential” means the same as the term is defined
24 in section 1 of P.L. , c. (C.) (pending before the Legislature
25 as this bill).

26 “Low embodied carbon concrete” means the same as the term is
27 defined in section 1 of P.L. , c. (C.) (pending before the
28 Legislature as this bill).

29
30 4. This act shall take effect immediately.
31
32

33 STATEMENT

34
35 This bill would provide a corporation business tax (CBT) credit to
36 concrete producers that deliver certain forms of concrete associated
37 with reduced greenhouse gas emissions, pursuant to a contract (or
38 subcontract) with a State Agency, which is used by a construction or
39 improvement project that requires the purchase of 50 cubic yards or
40 more of concrete . The bill would also provide a CBT credit to
41 taxpayers that produce concrete or a major component of concrete for
42 the costs of conducting environmental production declaration analyses.

43 Specifically, the bill would authorize a CBT credit for the delivery
44 of low embodied carbon concrete of up to five percent of the cost of
45 the concrete, and a CBT credit for the delivery of concrete that
46 incorporates carbon capture, utilization, and storage technology of up
47 to three percent of the cost of the concrete. Concrete that meets both
48 criteria could receive a tax credit of up to eight percent of the cost of

1 the concrete. The actual amount of the CBT credit would be
2 determined using a formula to be developed by the Department of
3 Environmental Protection (DEP) pursuant to section 3 of the bill,
4 which would make the tax credit proportional to the greenhouse gas
5 emissions reduction achieved by the specific type of concrete used.

6 In order to qualify for the CBT credit, the concrete producer would
7 be required to submit a certified environmental product declaration to
8 the DEP that provides a global warming potential score for the
9 concrete used. The bill would also establish certain additional
10 requirements to receive the credit, as enumerated in subsection d. of
11 section 1 of the bill. A concrete producer could not receive a CBT
12 credit greater than \$1 million annually. In addition, the Statewide
13 amount of the tax credit would be capped at \$10 million annually.

14 In preparing the specifications for any contract for the purchase of
15 50 cubic yards or more of concrete, or for any construction or
16 improvement project that requires the use of concrete, a State agency
17 would be required to include in the invitation to bid, where relevant, a
18 statement that any response to the invitation that proposes or calls for
19 the use low embodied carbon concrete or that utilizes carbon capture,
20 utilization, and storage technology is eligible for the CBT credit
21 established by the bill. If the agency makes a determination to
22 purchase or use low embodied carbon concrete or concrete that uses
23 carbon capture, utilization, and storage technology in the construction
24 project, the agency would be required to include in the invitation to bid
25 a predetermined bid allowance price for the concrete, which would be
26 used by all bidders. The bill would also require any agency or
27 department of State government that purchases 50 cubic yards or more
28 of concrete, or undertakes any construction or improvement project
29 that requires the use 50 cubic yards or more of concrete, to follow the
30 rules, regulations, and guidelines established by DEP pursuant to
31 section 3 of the bill.

32 The bill would also provide a CBT credit to compensate a taxpayer
33 that produces concrete or a major component of concrete for costs
34 incurred as a result of conducting an environmental product
35 declaration analysis to determine the product-based embodied carbon
36 emissions of concrete produced at one or more production facilities
37 that the taxpayer owns or operates. The amount of the tax credit
38 would not exceed the lesser of: (1) the full cost incurred for an
39 environmental product declaration analysis of a single concrete,
40 cement, aggregate, or related production facility, or (2) \$3,000.
41 However, a taxpayer may claim the credit authorized under the bill for
42 the cost of completing environmental product declaration analyses at
43 up to eight production facilities owned or operated by the same
44 taxpayer in a single privilege period.

45 The bill would require the DEP, in consultation with the State
46 Treasurer, to adopt rules and regulations to implement the bill. The
47 bill would establish certain minimum contents for the rules and
48 regulations, as enumerated in subsection a. of section 3 of the bill,

1 including guidelines to assist concrete producers and State agencies to
2 comply with the bill.

3 As used in the bill, “low embodied carbon concrete” means
4 concrete that has been certified to embody lower carbon emissions, as
5 measured by a global warming potential metric, than the baseline
6 embodied carbon emissions of conventional concrete made with
7 Portland cement. Low embodied carbon emissions may be achieved
8 through a variety of methods described in the bill. “Carbon capture,
9 utilization, and storage technology” means technologies or methods to
10 remove carbon dioxide generated from the concrete manufacturing
11 process from the flue gas or from the atmosphere, and the recycling of
12 the carbon dioxide either through utilization of the captured carbon
13 dioxide in the concrete manufacturing process, or safe and permanent
14 storage of the captured carbon dioxide. An “environmental product
15 declaration” is a product-specific Type III environmental product
16 declaration that conforms to ISO Standard 14025 and enables the
17 numeric global warming potential and environmental impact
18 comparisons between concrete mixes fulfilling the same functions.

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2234

STATE OF NEW JERSEY

DATED: NOVEMBER 21, 2022

The Assembly Environment and Solid Waste Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 2234.

This bill would provide corporation business tax (CBT) credits and gross income tax (GIT) credits to concrete producers that deliver concrete associated with reduced greenhouse gas emissions for use in certain State funded projects. The bill would also provide CBT and GIT credits to taxpayers that produce concrete or a major component of concrete for the costs of conducting environmental production declaration analyses of their products.

Specifically, the bill would authorize CBT and GIT credits to concrete producers who deliver low-carbon concrete pursuant to a contract with a State procuring agency, or with a private contracting firm that has contracted with the State, if the concrete is used by a construction or improvement project that requires the purchase of 50 cubic yards or more of concrete. The amount of the tax credits would be determined using formulae developed by the Department of Environmental Protection (DEP), which would make the tax credit proportional to the greenhouse gas emissions reduction achieved by the specific type of low-carbon concrete used. However, the amount of the credits would be capped at five percent of the cost of the concrete, for "low embodied carbon concrete," and three percent of the costs of the concrete, for concrete that incorporates "carbon capture, utilization, and storage technology." As used in the bill, "low embodied carbon concrete" means concrete that has been certified to embody lower carbon emissions, as measured by a global warming potential metric, than the baseline embodied carbon emissions of conventional concrete made with Portland cement. Low embodied carbon emissions may be achieved through a variety of methods described in subsection c. of section 1 of the bill. "Carbon capture, utilization, and storage technology" means technologies or methods to remove carbon dioxide generated by the concrete manufacturing process from the flue gas or the atmosphere, and to recycle the carbon dioxide either through utilization of the captured carbon dioxide in the concrete manufacturing process, or through safe and permanent

storage of the captured carbon dioxide. Concrete that meets both criteria could receive a tax credit of up to eight percent of the cost of the low-carbon concrete.

In order to qualify for the tax credits, concrete producers would be required to submit a certification to the State agency that is using the concrete that includes (a) a statement of the amount and cost of the concrete that was delivered, with appropriate supporting documentation; (b) an environmental product declaration for the concrete that has been approved by the DEP; (c) the amount of the tax credit; (d) a copy of the contract pursuant to which concrete was delivered; and (e) any other information determined relevant by the DEP or requested by the State agency that is using the concrete. A concrete producer could not receive a total CBT and GIT credit greater than \$1 million annually.

The bill would also authorize CBT and GIT credits to taxpayers that produce concrete or a major component of concrete for the costs of conducting an environmental product declaration analysis to determine the global warming potential of concrete or concrete component produced at a production facility that the taxpayer owns or operates. The amount of the tax credit would not exceed the lesser of: (1) the full cost incurred for an environmental product declaration analysis of a single concrete, cement, aggregate, or related production facility, or (2) \$3,000. A taxpayer could claim the credit for the cost of completing environmental product declaration analyses at up to eight production facilities owned or operated by the same taxpayer in a single privilege period. As defined by the bill, an "environmental product declaration" is a product-specific Type III environmental product declaration that conforms to ISO Standard 14025 and enables the numeric global warming potential and environmental impact comparisons between concrete mixes fulfilling the same functions.

The bill would also direct State agencies, when preparing the specifications for any contract for the purchase of 50 cubic yards or more of concrete, or for any construction or improvement project that requires the use of 50 cubic yards or more of concrete, to include in the invitation to bid, a statement that any response to the invitation that proposes or calls for the use low embodied carbon concrete or that utilizes carbon capture, utilization, and storage technology is eligible for the CBT and GIT credits established by the bill. In addition, for invitations to bid that are issued in the first five years after the bill's effective date, if a State agency makes a determination to purchase or use low embodied carbon concrete or concrete that uses carbon capture, utilization, and storage technology in the construction project, the procuring agency would be required to include in the invitation to bid a predetermined bid allowance price for the concrete, which would be used by all bidders.

The bill would also direct the DEP to provide certain information to aid in the bill's implementation, as enumerated in subsection a. of

section 1 of the bill, including global warming potential baselines for concrete mixes supplied pursuant to contracts with State agencies. Finally, the bill would authorize the DEP and the Department of the Treasury to adopt rules and regulations to implement the bill. The bill would take effect six months after the enactment of the bill.

As reported by the committee, this committee substitute for Assembly Bill No. 2234 is identical to Senate Bill No. 287 (SCS) (1R) as also reported by the committee.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2234

STATE OF NEW JERSEY

DATED: DECEMBER 12, 2022

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 2234.

This bill would provide corporation business tax (CBT) credits and gross income tax (GIT) credits to concrete producers that deliver concrete associated with reduced greenhouse gas emissions for use in certain State funded projects. The bill would also provide CBT and GIT credits to taxpayers that produce concrete or a major component of concrete for the costs of conducting environmental production declaration analyses of their products.

Specifically, the bill would authorize CBT and GIT credits to concrete producers who deliver low-carbon concrete pursuant to a contract with a State procuring agency, or with a private contracting firm that has contracted with the State, if the concrete is used by a construction or improvement project that requires the purchase of 50 cubic yards or more of concrete. The amount of the tax credits would be determined using formulae developed by the Department of Environmental Protection (DEP), which would make the tax credit proportional to the greenhouse gas emissions reduction achieved by the specific type of low-carbon concrete used. However, the amount of the credits would be capped at five percent of the cost of the concrete, for "low embodied carbon concrete," and three percent of the costs of the concrete, for concrete that incorporates "carbon capture, utilization, and storage technology." As used in the bill, "low embodied carbon concrete" means concrete that has been certified to embody lower carbon emissions, as measured by a global warming potential metric, than the baseline embodied carbon emissions of conventional concrete made with Portland cement. Low embodied carbon emissions may be achieved through a variety of methods described in subsection c. of section 1 of the bill. "Carbon capture, utilization, and storage technology" means technologies or methods to remove carbon dioxide generated by the concrete manufacturing process from the flue gas or the atmosphere, and to recycle the carbon dioxide either through utilization of the captured carbon dioxide in the concrete manufacturing process, or through safe and permanent storage of the captured carbon dioxide. Concrete that meets both

criteria could receive a tax credit of up to eight percent of the cost of the low-carbon concrete.

In order to qualify for the tax credits, concrete producers would be required to submit a certification to the State agency that is using the concrete that includes (a) a statement of the amount and cost of the concrete that was delivered, with appropriate supporting documentation; (b) an environmental product declaration for the concrete that has been approved by the DEP; (c) the amount of the tax credit; (d) a copy of the contract pursuant to which concrete was delivered; and (e) any other information determined relevant by the DEP or requested by the State agency that is using the concrete. A concrete producer could not receive a total CBT and GIT credit greater than \$1 million annually.

The bill would also authorize CBT and GIT credits to taxpayers that produce concrete or a major component of concrete for the costs of conducting an environmental product declaration analysis to determine the global warming potential of concrete or concrete component produced at a production facility that the taxpayer owns or operates. The amount of the tax credit would not exceed the lesser of: (1) the full cost incurred for an environmental product declaration analysis of a single concrete, cement, aggregate, or related production facility, or (2) \$3,000. A taxpayer could claim the credit for the cost of completing environmental product declaration analyses at up to eight production facilities owned or operated by the same taxpayer in a single privilege period. As defined by the bill, an "environmental product declaration" is a product-specific Type III environmental product declaration that conforms to ISO Standard 14025 and enables the numeric global warming potential and environmental impact comparisons between concrete mixes fulfilling the same functions.

The bill would also direct State agencies, when preparing the specifications for any contract for the purchase of 50 cubic yards or more of concrete, or for any construction or improvement project that requires the use of 50 cubic yards or more of concrete, to include in the invitation to bid, a statement that any response to the invitation that proposes or calls for the use low embodied carbon concrete or that utilizes carbon capture, utilization, and storage technology is eligible for the CBT and GIT credits established by the bill. In addition, for invitations to bid that are issued in the first five years after the bill's effective date, if a State agency makes a determination to purchase or use low embodied carbon concrete or concrete that uses carbon capture, utilization, and storage technology in the construction project, the procuring agency would be required to include in the invitation to bid a predetermined bid allowance price for the concrete, which would be used by all bidders.

The bill would also direct the DEP to provide certain information to aid in the bill's implementation, as enumerated in subsection a. of section 1 of the bill, including global warming potential baselines for

concrete mixes supplied pursuant to contracts with State agencies. Finally, the bill would authorize the DEP and the Department of the Treasury to adopt rules and regulations to implement the bill. The bill would take effect six months after the enactment of the bill.

As reported by the committee, Assembly Bill No. 2234 (ACS) is identical to Senate Bill No. 287 (SCS) (1R) as also reported by the committee on this date.

FISCAL IMPACT:

The Office of Legislative Services (OLS) notes that providing CBT and GIT credits to concrete producers and certain other taxpayers would result in an annual State revenue loss over a multi-year period from the newly established incentive program.

The OLS cannot quantify the precise direct revenue loss the bill will impose on the State, but notes that incentive awards established by the bill will be largely capped by limiting the tax credit to \$1 million annual per concrete producer that delivers low carbon concrete and \$3,000 to a taxpayer that conducts an environmental product declaration analysis. The OLS is unable to determine how many concrete producers or taxpayers would apply for and qualify for the CBT and GIT credits. However, the Statewide annual amount of all the tax credits established by the bill would be limited to \$10 million.

The OLS also determines that this bill would increase the administrative workload of the DEP and the Department of the Treasury, but these tasks could likely be subsumed by current staff using existing resources.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2234
STATE OF NEW JERSEY
220th LEGISLATURE

DATED: DECEMBER 14, 2022

SUMMARY

- Synopsis:** Provides CBT and gross income tax credits for certain deliveries of low carbon concrete and for costs of conducting environmental product declaration analyses of low carbon concrete.
- Type of Impact:** Annual State revenue loss for the General Fund and Property Tax Relief Fund. Potential State expenditure increase.
- Agencies Affected:** Department of Environmental Protection, Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Revenue Decrease	Up to \$10 million
Potential State Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) notes that providing corporation business tax and gross income tax credits to concrete producers and certain other taxpayers would result in an annual State revenue loss over a multi-year period from the newly established incentive program.
- The OLS cannot quantify the precise direct revenue loss the bill will impose on the State, but notes that incentive awards established by the bill will be largely capped by limiting the tax credit to \$1 million annually per concrete producer that delivers low carbon concrete and \$3,000 to a taxpayer that conducts an environmental product declaration analysis. The OLS is unable to determine how many concrete producers or taxpayers would apply and qualify for the corporation business tax and gross income tax credits. However, the Statewide annual amount of all the tax credits established by the bill would be limited to \$10 million.
- The OLS also determines that this bill would increase the administrative workload of the Department of Environmental Protection and the Department of the Treasury, but these tasks could likely be subsumed by current staff using existing resources.

BILL DESCRIPTION

This bill would provide corporation business tax and gross income tax credits to concrete producers that deliver concrete associated with reduced greenhouse gas emissions for use in certain State funded projects. The bill would also provide these credits to taxpayers that produce concrete or a major component of concrete for the costs of conducting environmental production declaration analyses of their products.

Specifically, the bill would authorize corporation business tax and gross income tax credits to concrete producers who deliver low-carbon concrete pursuant to a contract with a State procuring agency, or with a private contracting firm that has contracted with the State, if the concrete is used by a construction or improvement project that requires the purchase of 50 cubic yards or more of concrete. The amount of the tax credits would be determined using formulae developed by the Department of Environmental Protection, which would make the tax credit proportional to the greenhouse gas emissions reduction achieved by the specific type of low-carbon concrete used. However, the amount of the credits would be capped at five percent of the cost of the concrete, for low embodied carbon concrete, and three percent of the costs of the concrete, for concrete that incorporates carbon capture, utilization, and storage technology. Concrete that meets both criteria could receive a tax credit of up to eight percent of the cost of the low-carbon concrete.

In order to qualify for the tax credits, concrete producers would be required to submit a certification to the State agency that is using the concrete that includes (a) a statement of the amount and cost of the concrete that was delivered, with appropriate supporting documentation; (b) an environmental product declaration for the concrete that has been approved by the Department of Environmental Protection; (c) the amount of the tax credit; (d) a copy of the contract pursuant to which concrete was delivered; and (e) any other information determined relevant by the department or requested by the State agency that is using the concrete. A concrete producer could not receive a total corporation business tax and gross income tax credit greater than \$1 million annually for the delivery of low-carbon concrete.

The bill would also authorize corporation business tax and gross income tax credits to taxpayers that produce concrete or a major component of concrete for the costs of conducting an environmental product declaration analysis to determine the global warming potential of concrete or concrete component produced at a production facility that the taxpayer owns or operates. The amount of the tax credit would not exceed the lesser of: (1) the full cost incurred for an environmental product declaration analysis of a single concrete, cement, aggregate, or related production facility, or (2) \$3,000. A taxpayer could claim the credit for the cost of completing environmental product declaration analyses at up to eight production facilities owned or operated by the same taxpayer in a single privilege period, for a total of \$24,000 annually.

The bill would also direct the Department of Environmental Protection to provide certain information to aid in the bill's implementation, including global warming potential baselines for concrete mixes supplied pursuant to contracts with State agencies. Finally, the bill would authorize the department and the Department of the Treasury to adopt rules and regulations to implement the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that providing corporation business tax and gross income tax credits to concrete producers and certain other taxpayers would result in an annual State revenue decrease. The bill would produce a direct State revenue loss over a multi-year period from the newly established incentive programs.

The OLS cannot quantify the precise direct revenue loss the bill will impose on the State, but notes that incentive awards established by the bill will be largely capped by limiting the tax credit to \$1 million annually per concrete producer that delivers low carbon concrete and \$3,000 to a taxpayer that conducts an environmental product declaration analysis. The OLS is unable to determine how many concrete producers or taxpayers would apply and qualify for the corporation business tax and gross income tax credits. However, the Statewide amount of all tax credits authorized by the bill would be limited by the bill to \$10 million annually.

The OLS also determines that this bill would increase the administrative workload of the Department of Environmental Protection and the Department of the Treasury, but these tasks could likely be subsumed by current staff using existing resources.

Section: Environment, Agriculture, Energy, and Natural Resources
Analyst: Neha Patel
Senior Fiscal 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 Signs Legislation to Incentivize Decarbonization of Concrete Industry

01/30/2023

TRENTON – Governor Phil Murphy today signed bill S287, which provides corporation business tax (CBT) and gross income tax credits for costs of preparing environmental product declarations that assess the global warming potential of various concrete mixes and enable comparison of their environmental impacts. The bill further provides tax credits for the delivery of concrete for use in state construction and improvement projects that has lower carbon emissions associated with its production, including mining, refining, manufacturing, shipping, or that utilizes carbon capture, utilization, or storage technology to remove or recycle carbon dioxide generated through the manufacturing process. The announcement signals the Murphy Administration's continued pursuit of a clean energy future through nation-leading innovation and cross-sector collaboration.

"As our efforts to decarbonize our economy become more urgent, we must also ensure that they become increasingly more economically attractive," said **Governor Murphy**. "It's bills like these that prove that the steps we take to combat climate change can – and will – stimulate economic activity and growth in the industries that remain key to our climate solution. Together with the [Clean Buildings Working Group](#) I unveiled in October, this legislation will further support the construction of greener, cleaner buildings and roadways in New Jersey."

"The signing of this bill represents a significant step forward in our efforts to combat climate change and promote sustainable economic growth," said **Senator Linda Greenstein**. "This is the first of its kind in the country and will not only help to reduce emissions from the building sector, but also incentivize New Jersey businesses to invest in low-carbon technologies, a win-win for our environment and economy."

"By incentivizing the manufacturing and use of low carbon concrete, we are building on our efforts to reduce New Jersey's carbon emissions," said **Assemblyman John McKeon**. "The concrete industry is a leading industrial source of carbon emissions, and a significant portion of concrete produced in the United States is used for public projects. With this new legislation, we are taking steps to create a healthier and environmentally safer New Jersey for future generations to enjoy."

"In order to meet our decarbonization goals, we will need new solutions and be able to address all areas of our economy," said **Ray Cantor, Deputy Chief Government Affairs Office, New Jersey Business & Industry Association**. "We must also incentivize the business community to further use innovative products and processes. This bill does exactly that, by providing tax incentives to developers to use low carbon concrete. We thank the sponsors and Governor Murphy for advancing this legislation."

"This is an example of a win-win. It's good for the environment and good for business by positioning New Jersey at the forefront of a growing low-carbon concrete industry. We sincerely thank Senator Greenstein for her vision, leadership, and commitment to passing this bill, as well as to Assemblyman John McKeon for his tireless efforts to advance environmental protection," said **Ed Potosnak, Executive Director, New Jersey League of Conservation Voters**. "Because concrete accounts for 7% of global carbon emissions, this law is an important step in mitigating climate change while also supporting New Jersey businesses."