

[Third Reprint]

**SENATE, No. 3091**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

INTRODUCED OCTOBER 29, 2020

**Sponsored by:**

**Senator DAWN MARIE ADDIEGO**

**District 8 (Atlantic, Burlington and Camden)**

**Senator CHRISTOPHER "KIP" BATEMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblyman JOHN J. BURZICHELLI**

**District 3 (Cumberland, Gloucester and Salem)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Assemblyman RAJ MUKHERJI**

**District 33 (Hudson)**

**Co-Sponsored by:**

**Senators Turner, Diegnan, Assemblyman McKeon, Assemblywoman Vainieri Huttle, Assemblyman Karabinchak and Assemblywoman Swain**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As amended by the Senate on February 19, 2021.

(Sponsorship Updated As Of: 6/3/2021)

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

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

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

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

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

**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:

<sup>1</sup>Senate SSG committee amendments adopted December 14, 2020.

<sup>2</sup>Senate SBA committee amendments adopted January 21, 2021.

<sup>3</sup>Senate floor amendments adopted February 19, 2021.

1 stormwater management, reduce stormwater runoff, and decrease  
2 the risk of flooding in the State.

3  
4 2. a. A <sup>2</sup>[developer] builder<sup>2</sup> shall, for any new construction  
5 that requires the use of unit concrete products, where technically  
6 feasible, offer <sup>2</sup>[to use] as an option<sup>2</sup> unit concrete products that  
7 utilize carbon footprint-reducing technology in the new  
8 construction, whenever a prospective <sup>2</sup>[purchaser] client<sup>2</sup> enters  
9 into negotiations with the <sup>2</sup>[developer] builder<sup>2</sup> to construct or  
10 purchase a new residential dwelling or commercial building in the  
11 State.

12 <sup>2</sup>The requirements of this section shall not apply whenever a  
13 prospective client enters into negotiations with a builder for new  
14 construction of an individual unit of condominiums as defined in  
15 the "Condominium Act," P.L.1969, c. 257 (C.46:8B-1 et seq.) or  
16 attached single-family townhouses or row houses for which title to  
17 the individual condominium, townhouse, or row house unit will be  
18 held in fee simple but the maintenance, repair, or replacement of  
19 improvements constructed with unit concrete products are the  
20 responsibility of a non-profit homeowners association.<sup>2</sup>

21 b. A <sup>2</sup>[developer] builder<sup>2</sup> shall disclose <sup>2</sup>[, in any advertising  
22 or offer to construct a new residential dwelling or commercial  
23 building] in writing pursuant to paragraph (3) of subsection c. of  
24 this section<sup>2</sup> , in a form and manner as determined by the  
25 commissioner:

26 (1) that the prospective <sup>2</sup>[purchaser] client<sup>2</sup> may choose to use  
27 unit concrete products that utilize carbon footprint-reducing  
28 technology in the new construction;

29 (2) the total cost <sup>2</sup>to be charged by the builder to the prospective  
30 client<sup>2</sup> of using unit concrete products that utilize carbon footprint-  
31 reducing technology in the new construction;

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

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

40 c. The commissioner, in consultation with the Department of  
41 Environmental Protection, shall:

42 (1) publish educational materials to demonstrate how  
43 <sup>2</sup>[developers] builders<sup>2</sup> may incorporate unit concrete products that  
44 utilize carbon footprint-reducing technology into new construction;  
45 <sup>2</sup>[and]<sup>2</sup>

46 (2) provide <sup>2</sup>[developers] builders<sup>2</sup> with information  
47 concerning applicable tax credits, rebates, or other incentives that

1 may be available for the use of unit concrete products that utilize  
2 carbon footprint-reducing technology pursuant to  
3 P.L. , c. (C. ) (pending before the Legislature as this bill) or  
4 any other law <sup>2</sup>; and

5 (3) provide builders with a separate form that the builder shall  
6 present, along with the materials required pursuant to subsection b.  
7 and c. of this section, to the prospective client prior to entering into  
8 a contract, which form shall allow a prospective client to accept or  
9 decline the option to use unit concrete products that utilize carbon  
10 footprint-reducing technology in the new construction<sup>2</sup> .

11 d. <sup>3</sup>**[The]** Notwithstanding the provisions of the “Administrative  
12 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary,  
13 the<sup>3</sup> commissioner, in consultation with the Department of  
14 Environmental Protection, may adopt, <sup>3</sup>**[pursuant to the**  
15 **“Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-**  
16 **1 et seq.)]** immediately upon filing the proper notice with the Office  
17 of Administrative Law<sup>3</sup> , rules and regulations <sup>3</sup>that the commissioner  
18 determines to be<sup>3</sup> necessary to implement this section. <sup>3</sup>These rules  
19 and regulations shall be in effect for a period not to exceed 365  
20 days after the date of the filing. The rules and regulations shall  
21 thereafter be amended, adopted, or readopted in accordance with the  
22 requirements of the “Administrative Procedure Act,” P.L.1968,  
23 c.410 (C.52:14B-1 et seq.).<sup>3</sup>

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

28 f. <sup>2</sup>If a prospective client accepts, pursuant to a written contract,  
29 the builder’s offer to use unit concrete products that utilize carbon  
30 footprint-reducing technology in the new construction, then the  
31 builder shall use unit concrete products that utilize carbon footprint-  
32 reducing technology subject to material availability or acts of force  
33 majeure, in which case the builder shall complete construction as  
34 soon as reasonably practical.

35 g. <sup>2</sup> As used in this section:

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

38 <sup>2</sup>“Builder” means a person who constructs, or offers to construct,  
39 a new residential dwelling or commercial building in the State.<sup>2</sup>

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

42 <sup>2</sup>**[“Developer” means a person who constructs, or offers to**  
43 **construct, a new residential dwelling or commercial building in the**  
44 **State.]**<sup>2</sup>

45 “Prospective <sup>2</sup>**[purchaser]** client<sup>2</sup> ” means a person who  
46 contemplates acquiring a legal or equitable interest in <sup>2</sup>or  
47 constructing<sup>2</sup> a new residential dwelling or commercial building.

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

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

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

29 b. As used in this section:

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

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

43 “Unit concrete product that utilizes carbon footprint-reducing  
44 technology” means a unit concrete product that is certified by the  
45 Department of Environmental Protection, or any independent third  
46 party authorized by the department, pursuant to section 10 of  
47 P.L. , c. (C. ) (pending before the Legislature as this bill), as  
48 generating at least 50 percent less carbon dioxide emissions in the

1 production and utilization of the unit concrete product than  
2 conventional unit concrete products made with ordinary Portland  
3 cement. <sup>2</sup>Such products shall also conform with the relevant  
4 requirements of the “State Uniform Construction Code Act,”  
5 P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by  
6 reference TMS 402/602 Building Code Requirements and  
7 Specification for Masonry Structures.<sup>2</sup>

8  
9 4. a. A taxpayer <sup>3</sup>who in a privilege period purchases unit  
10 concrete products that utilize carbon footprint-reducing technology,  
11 which may include permeable pavement, for use in the construction  
12 or improvement of any residential dwelling or commercial building,  
13 or in the replacement of an impervious surface with permeable  
14 pavement, in the State<sup>3</sup> shall be allowed a credit against the tax  
15 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in  
16 an amount equal to \$2.00 per square foot <sup>3</sup>**[for the purchase and**  
17 **installation]**<sup>3</sup> of unit concrete products that utilize carbon footprint-  
18 reducing technology, which may include permeable pavement, used  
19 in the construction or improvement of any residential dwelling or  
20 commercial building, or in the replacement of an impervious  
21 surface with permeable pavement <sup>3</sup>**[, in the State. Such purchases**  
22 **and installations must be completed during]** . The credit shall be  
23 allowed in<sup>3</sup> the privilege period <sup>3</sup>in which the purchase is made<sup>3</sup> .  
24 The value of tax credits allowed to a taxpayer pursuant to this  
25 section shall not exceed \$3,000 for a residential property, and  
26 \$30,000 for a commercial property in a single privilege period. In  
27 order to qualify for the tax credit pursuant to this section, a person  
28 shall <sup>3</sup>**[install]** purchase<sup>3</sup> at least 100 square feet of unit concrete  
29 products that utilize carbon footprint-reducing technology, which  
30 may include permeable pavement.

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

46 c. <sup>3</sup>**[The]** In order to be allowed a tax credit pursuant to  
47 subsection a. of this section, a taxpayer who has purchased 100 or

1 more square feet of unit concrete products certified pursuant to  
2 section 10 of P.L. , c. (C. ) (pending before the Legislature  
3 as this bill) shall attach receipts for the unit concrete products for  
4 which the tax credit is claimed and an affidavit that the unit  
5 concrete products are or will be used exclusively in the State to any  
6 return the taxpayer is required to file under P.L.1945, c.162  
7 (C.54:10A-1 et seq.). A credit shall be initially allowed for the  
8 privilege period in which the unit concrete products are purchased,  
9 and any unused portion thereof may be carried forward into  
10 subsequent privilege periods as provided in subsection b. of this  
11 section.

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

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

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

38 <sup>3</sup>[d.] g.<sup>3</sup> As used in this section:

39 <sup>3</sup>“Director” means the Director of the Division of Taxation in the  
40 Department of the Treasury.<sup>3</sup>

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

46 “Unit concrete product” means a concrete building product that  
47 is fabricated under controlled conditions separate and remote from  
48 the intended point of use and is produced in a wet cast or dry cast

1 method in a factory setting and then transported to the location of  
2 intended use for installation, including, but not limited to, all  
3 concrete pavers, whether permeable or non-permeable, and concrete  
4 block. <sup>1</sup>“Unit concrete product” shall not include ready mix  
5 concrete, sand, stone, gravel, or bituminous concrete or asphalt.<sup>1</sup>

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

19

20 5. a. A taxpayer <sup>3</sup>who in a privilege period purchases unit  
21 concrete products that utilize carbon footprint-reducing technology,  
22 which may include permeable pavement, for use in the construction  
23 or improvement of any residential dwelling or commercial building,  
24 or in the replacement of an impervious surface with permeable  
25 pavement, in the State<sup>3</sup> shall be allowed a credit against the tax  
26 otherwise due for the taxable year under the “New Jersey Gross  
27 Income Tax Act” N.J.S.54A:1-1 et seq., in an amount equal to  
28 \$2.00 per square foot <sup>3</sup>**[for the purchase and installation]**<sup>3</sup> of unit  
29 concrete products that utilize carbon footprint-reducing technology,  
30 which may include permeable pavement, used in the construction or  
31 improvement of any residential dwelling or commercial building, or  
32 in the replacement of an impervious surface with permeable  
33 pavement <sup>3</sup>**[, in the State, which purchase and installation is**  
34 **completed during]** . The credit shall be allowed in<sup>3</sup> the taxable  
35 year <sup>3</sup>in which the purchase is made<sup>3</sup> . The total amount of the tax  
36 credit granted pursuant to this section shall not exceed \$3,000 for a  
37 residential property, and \$30,000 for a commercial property in a  
38 single taxable year. In order to qualify for the tax credit pursuant to  
39 this section, a person shall <sup>3</sup>**[install]** purchase<sup>3</sup> at least 100 square  
40 feet of unit concrete products that utilize carbon footprint-reducing  
41 technology, which may include permeable pavement.

42 b. The order of priority of the application of the credit allowed  
43 pursuant to this section, and any other credits allowed against the  
44 tax imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year,  
45 shall be as prescribed by the director. The amount of the credit  
46 applied under this section against the New Jersey gross income tax  
47 imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year, when

1 taken together with any other payments, credits, deductions, and  
2 adjustments allowed by law, shall not reduce a taxpayer's tax  
3 liability to an amount less than zero. The amount of the tax credit  
4 otherwise allowable under this section which cannot be applied for  
5 the taxable year due to the limitations of this section or other  
6 provisions of N.J.S.54A:1-1 et seq. may be carried forward, if  
7 necessary, to the seven taxable years following the taxable year for  
8 which the tax credit was allowed.

9 c. (1) A business entity that is classified as a partnership for  
10 federal income tax purposes shall not be allowed a credit under this  
11 section directly, but the amount of credit of a taxpayer in respect of  
12 a distributive share of partnership income under the "New Jersey  
13 Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be determined  
14 by allocating to the taxpayer that proportion of the credit acquired  
15 by the partnership that is equal to the taxpayer's share, whether or  
16 not distributed, of the total distributive income or gain of the  
17 partnership for its taxable year ending within or with the taxpayer's  
18 taxable year.

19 (2) A New Jersey S Corporation shall not be allowed a credit  
20 under this section directly, but the amount of the tax credit of a  
21 taxpayer in respect of a pro rata share of S Corporation income,  
22 shall be determined by allocating to the taxpayer that proportion of  
23 the tax credit acquired by the New Jersey S Corporation that is  
24 equal to the taxpayer's share, whether or not distributed, of the total  
25 pro rata share of S Corporation income of the New Jersey S  
26 Corporation for its privilege period ending within or with the  
27 taxpayer's taxable year.

28 d. <sup>3</sup>[The] In order to be allowed a tax credit pursuant to  
29 subsection a. of this section, a taxpayer who has purchased 100 or  
30 more square feet of unit concrete products certified pursuant to section  
31 10 of P.L. , c. (C. ) (pending before the Legislature as this bill)  
32 shall attach receipts for the unit concrete products for which a tax  
33 credit is claimed and an affidavit that the unit concrete products are or  
34 will be used exclusively in New Jersey to any return the taxpayer is  
35 required to file under the "New Jersey Gross Income Tax Act,"  
36 N.J.S.54A:1-1 et seq. A credit shall be initially allowed for the taxable  
37 year in which the unit concrete products are purchased, and any  
38 unused portion thereof may be carried forward into subsequent taxable  
39 years as provided in subsection b. of this section.

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

44 f. The value of tax credits allowed by the director pursuant to this  
45 section and pursuant to section 4 of P.L. , c. (C. ) (pending  
46 before the Legislature as this bill) shall not exceed a cumulative total  
47 of \$20,000,000 in each fiscal year to apply against the tax imposed  
48 pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et

1 seq. and the tax imposed pursuant to section 5 of P.L.1945, c.162  
2 (C.54:10A-5).

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

18 <sup>3</sup>[e.] h.<sup>3</sup> As used in this section:

19 <sup>3</sup>“Director” means the Director of the Division of Taxation in the  
20 Department of the Treasury.<sup>3</sup>

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

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

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

1       6. a. Notwithstanding the provisions of any other law, rule, or  
2 regulation to the contrary, the Director of the Division of Purchase  
3 and Property in the Department of the Treasury, the Director of the  
4 Division of Property Management and Construction in the  
5 Department of the Treasury, and any State agency having authority  
6 to contract for the purchase of goods or services, shall, whenever  
7 <sup>2</sup>~~possible, give preference to~~ <sup>3</sup>technically<sup>3</sup> feasible, use or require  
8 the use of<sup>2</sup> unit concrete products that utilize carbon footprint-  
9 reducing technology, which may include permeable pavement,  
10 when entering into a contract for the purchase of unit concrete  
11 products, or for any construction or improvement project that  
12 requires the use of unit concrete products, including the  
13 replacement of impervious surfaces with permeable pavement. <sup>2</sup>~~In~~  
14 ~~the event that more than one bidder offers to use unit concrete~~  
15 ~~products that utilize carbon footprint-reducing technology, the state~~  
16 ~~department or agency shall award the contract to the lowest~~  
17 ~~responsible bidder among them.~~ <sup>2</sup>

18       b. The Division of Purchase and Property and the Division of  
19 Property Management and Construction, in consultation with the  
20 Department of Environmental Protection, shall develop and publish  
21 guidelines for implementing the <sup>2</sup>~~preference~~ requirement  
22 established<sup>2</sup> pursuant to subsection a. of this section. <sup>2</sup>~~The~~  
23 ~~guidelines shall encourage and promote, to the maximum extent~~  
24 ~~practicable, the purchase and use of unit concrete products that~~  
25 ~~utilize carbon footprint-reducing technology.~~ <sup>2</sup> The guidelines  
26 shall conform to any standards or procedures established <sup>3</sup>~~by the~~  
27 ~~State Treasurer and the Department of Environmental Protection~~ <sup>3</sup>  
28 ~~pursuant to section 10 of P.L. , c. (C. ) (pending before the~~  
29 ~~Legislature as this bill). Whenever any agency or department of~~  
30 ~~State government purchases unit concrete products, or undertakes~~  
31 ~~any construction or improvement project that requires the use of~~  
32 ~~unit concrete products, the agency or department shall follow the~~  
33 ~~guidelines therefor established by the director.~~

34       c. In preparing the specifications for any contract for the  
35 purchase of unit concrete products, or for any construction or  
36 improvement project that requires the use of unit concrete products,  
37 the Director of the Division of Purchase and Property, the Director  
38 of the Division of Property Management and Construction, or any  
39 State agency having authority to contract for the purchase of goods  
40 or services shall include in the invitation to bid, where relevant, a  
41 statement that any response to the invitation <sup>2</sup>~~that proposes or calls~~  
42 ~~for the use of~~ shall use<sup>2</sup> unit concrete products that utilize carbon  
43 footprint-reducing technology <sup>2</sup>~~shall receive preference whenever~~  
44 ~~possible~~ <sup>2</sup> <sup>3</sup>whenever technically feasible<sup>3</sup> . <sup>2</sup>~~The State agency shall~~  
45 include in its project specifications a specific line item for each unit  
46 concrete product to be used in the project. <sup>2</sup>

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

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

4 (2) bid packages advertised and made available to the public, or  
5 to any competitive and sealed bids received by the State, prior to  
6 the effective date of P.L. , c. (C. ) (pending before the  
7 Legislature as this bill); <sup>3</sup>[or]<sup>3</sup>

8 (3) any amendment, modification, or renewal of a contract,  
9 which contract was entered into prior to the effective date of  
10 P.L. , c. (C. ) (pending before the Legislature as this bill)  
11 where the application would delay timely completion of a project or  
12 involve an increase in the total moneys to be paid by the State under  
13 that contract <sup>3</sup>; or

14 (4) a contract when the Director of the Division of Purchase and  
15 Property, the Director of the Division of Property Management and  
16 Construction, or the head of any State agency having authority to  
17 contract for the purchase of goods or services determines, in their  
18 sole discretion, that the purchase and use of unit concrete products  
19 that utilize carbon footprint-reducing technology would increase the  
20 cost of the contract by an unreasonable amount<sup>3</sup> .

21 e. As used in this section:

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

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

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

1       7. a. Notwithstanding the provisions of any other law, rule, or  
2 regulation to the contrary, a local contracting unit shall, whenever  
3 <sup>2</sup>~~possible, give preference to a bid that uses~~ <sup>3</sup>technically<sup>3</sup> feasible,  
4 use or require the use of<sup>2</sup> unit concrete products that utilize carbon  
5 footprint-reducing technology, which may include permeable  
6 pavers, when entering into a contract for the purchase of unit  
7 concrete products, or for any construction or improvement project  
8 that requires the use of unit concrete products, including the  
9 replacement of impervious surfaces with permeable pavement. <sup>2</sup>~~In~~  
10 the event that more than one bidder offers to use unit concrete  
11 products that utilize carbon footprint-reducing technology, the local  
12 contracting unit shall award the contract to the lowest responsible  
13 bidder among them.]<sup>2</sup>

14       b. The director, in consultation with the Department of  
15 Environmental Protection, shall develop and publish guidelines for  
16 implementing the <sup>2</sup>~~preference~~ requirement established<sup>2</sup> pursuant  
17 to subsection a. of this section. <sup>2</sup>~~These guidelines shall encourage~~  
18 and promote, to the maximum extent practicable, the purchase and  
19 use of unit concrete products that utilize carbon footprint-reducing  
20 technology.]<sup>2</sup> The guidelines shall conform to any standards or  
21 procedures established <sup>3</sup>~~by the State Treasurer and the Department~~  
22 of Environmental Protection]<sup>3</sup> pursuant to section 10 of  
23 P.L. , c. (C. ) (pending before the Legislature as this bill).  
24 Whenever a local contracting unit purchases unit concrete products,  
25 or undertakes any construction or improvement project that requires  
26 the use of unit concrete products, the local contracting unit shall  
27 follow the guidelines therefor established by the director.

28       c. In preparing the specifications for a contract for the purchase  
29 of unit concrete products, or for any construction or improvement  
30 project that requires the use of unit concrete products, a local  
31 contracting unit shall include in the invitation to bid, including in  
32 the specifications for all contracts for county or municipal work or  
33 for work for which it will pay any part of the cost, or work which  
34 by contract or ordinance it will ultimately own and maintain, where  
35 relevant, a statement that any response to the invitation <sup>2</sup>~~that~~  
36 proposes or calls for the use of] shall use<sup>2</sup> unit concrete products  
37 that utilize carbon footprint-reducing technology <sup>2</sup>~~shall receive~~  
38 preference whenever possible]<sup>2</sup> <sup>3</sup>whenever technically feasible<sup>3</sup> .  
39 The local contracting unit shall include in its project specifications  
40 a specific line item for each unit concrete product to be used in the  
41 project.<sup>2</sup>

42       d. <sup>2</sup>~~No priority shall be granted pursuant to subsection a. of~~  
43 this section with respect to] The provisions of this section shall not  
44 apply to<sup>2</sup>:

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

1 (2) bid packages advertised and made available to the public, or  
2 to any competitive and sealed bids received by the local contracting  
3 unit, prior to the effective date of P.L. , c. (C. )(pending  
4 before the Legislature as this bill); <sup>3</sup>**[or]**<sup>3</sup>

5 (3) any amendment, modification, or renewal of a contract,  
6 which contract was entered into prior to the effective date of  
7 P.L. , c. (C. ) (pending before the Legislature as this bill)  
8 where the application would delay timely completion of a project or  
9 involve an increase in the total moneys to be paid by the local  
10 contracting unit under that contract <sup>3</sup>; or

11 (4) a contract when the head of a local contracting unit determines,  
12 in their sole discretion, that the purchase and use of unit concrete  
13 products that utilize carbon footprint-reducing technology would  
14 increase the cost of the contract<sup>3</sup> .

15 e. As used in this section:

16 “Director” means the Director of the Division of Local  
17 Government Services in the Department of Community Affairs.

18 “Local contracting unit” means any public agency subject to the  
19 provisions of the "Local Public Contracts Law," P.L.1971, c.198  
20 (C.40A:11-1 et seq.), the "Public School Contracts Law,"  
21 N.J.S.18A:18A-1 et seq., the "State College Contracts Law,"  
22 P.L.1986, c.43 (C.18A:64-52 et seq.), or the "County College  
23 Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.).

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

29 “Unit concrete product” means a concrete building product that  
30 is fabricated under controlled conditions separate and remote from  
31 the intended point of use and is produced in a wet cast or dry cast  
32 method in a factory setting and then transported to the location of  
33 intended use for installation, including, but not limited to, all  
34 concrete pavers, whether permeable or non-permeable, and concrete  
35 block. <sup>1</sup>“Unit concrete product” shall not include ready mix  
36 concrete, sand, stone, gravel, or bituminous concrete or asphalt.<sup>1</sup>

37 “Unit concrete product that utilizes carbon footprint-reducing  
38 technology” means a unit concrete product that is certified by the  
39 Department of Environmental Protection, or any independent third  
40 party authorized by the department, pursuant to section 10 of  
41 P.L. , c. (C. ) (pending before the Legislature as this bill), as  
42 generating at least 50 percent less carbon dioxide emissions in the  
43 production and utilization of the unit concrete product than  
44 conventional unit concrete products made with ordinary Portland  
45 cement. <sup>2</sup>Such products shall also conform with the relevant  
46 requirements of the “State Uniform Construction Code Act,”  
47 P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by

1 reference TMS 402/602 Building Code Requirements and  
2 Specification for Masonry Structures.<sup>2</sup>

3  
4 8. a. The Department of Transportation shall establish and  
5 implement a program to <sup>2</sup>~~["prioritize"]~~ use<sup>2</sup>, to the greatest extent  
6 practicable as determined by the Commissioner of Transportation,  
7 <sup>2</sup>~~["the use of"]~~ unit concrete products that utilize carbon footprint-  
8 reducing technology, which may include permeable pavement, in  
9 the design, construction, reconstruction, or repair of any public  
10 highway, parking lot, sidewalk, walkway, patio, or other public  
11 infrastructure project that requires the use of unit concrete products,  
12 or in the replacement of an impervious surface with permeable  
13 pavement, and that is funded in whole or in part from the "Special  
14 Transportation fund" established pursuant to section 21 of  
15 P.L.1984, c.73 (C.27:1B-21).

16 b. As used in this section:

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

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

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

43  
44 9. a. Any person or entity that purchases unit concrete  
45 products, or that undertakes any construction or improvement that  
46 requires the use of unit concrete products, including the  
47 replacement of impervious surface with permeable pavement, the  
48 cost or contract price of which is financed, in whole or in part, by

1 State funds, shall, as a condition of receiving State funds, use unit  
2 concrete products that utilize carbon footprint-reducing technology,  
3 provided that such utilization does not conflict with federal funding  
4 conditions.

5 b. As used in this section:

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

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

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

32

33 10. a. The Commissioner of Environmental Protection shall  
34 establish any standards and procedures necessary to implement the  
35 provisions of P.L. , c. (C. )(pending before the Legislature  
36 as this bill), including, but not limited to, production and use  
37 standards, and a process for certifying whether the production and  
38 use of a unit concrete product generates at least 50 percent less  
39 carbon dioxide emissions than conventional unit concrete products  
40 made with ordinary Portland cement. <sup>3</sup>The commissioner shall  
41 publish on the department’s Internet website a list of unit concrete  
42 products certified by the department pursuant to this subsection.<sup>3</sup>

43 The Department of Environmental Protection shall consider a  
44 consensus evaluation and reporting standard developed by an  
45 independent private organization such as the International  
46 Organization for Standardization or the American National  
47 Standards Institute that creates a uniform system for self-evaluation  
48 and self-reporting by unit concrete product manufacturers, and shall

1 give preference to a standard supported by the unit concrete product  
2 industry or industry associations.

3 b. <sup>3</sup>**[The]** Notwithstanding the provisions of the  
4 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
5 seq.), to the contrary, the<sup>3</sup> State Treasurer, the Commissioner of  
6 Environmental Protection, <sup>3</sup>**[and]**<sup>3</sup> the Commissioner of  
7 Transportation <sup>3</sup>, the Commissioner of Community Affairs, and the  
8 Secretary of Higher Education<sup>3</sup> may adopt, <sup>3</sup>**[pursuant to the**  
9 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
10 seq.)] immediately upon filing the proper notice with the Office of  
11 Administrative Law<sup>3</sup> , any rules and regulations necessary to  
12 implement the provisions of P.L. , c. (C. ) (pending before  
13 the Legislature as this bill). <sup>3</sup>These rules and regulations shall be in  
14 effect for a period not to exceed 365 days after the date of the filing.  
15 The rules and regulations shall thereafter be amended, adopted, or  
16 readopted in accordance with the requirements of the  
17 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
18 seq.).<sup>3</sup>

19

20 11. This act shall take effect immediately <sup>3</sup>and sections 4 and 5  
21 shall apply to purchases of unit concrete products that utilize carbon  
22 footprint-reducing technology made on or after the first day of the  
23 second month next following the date of enactment<sup>3</sup>.