

[Second Reprint]

## **ASSEMBLY, No. 4933**

# **STATE OF NEW JERSEY**

## **219th LEGISLATURE**

INTRODUCED NOVEMBER 5, 2020

**Sponsored by:**

**Assemblyman JOHN J. BURZICHELLI**

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

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Assemblyman RAJ MUKHERJI**

**District 33 (Hudson)**

**Co-Sponsored by:**

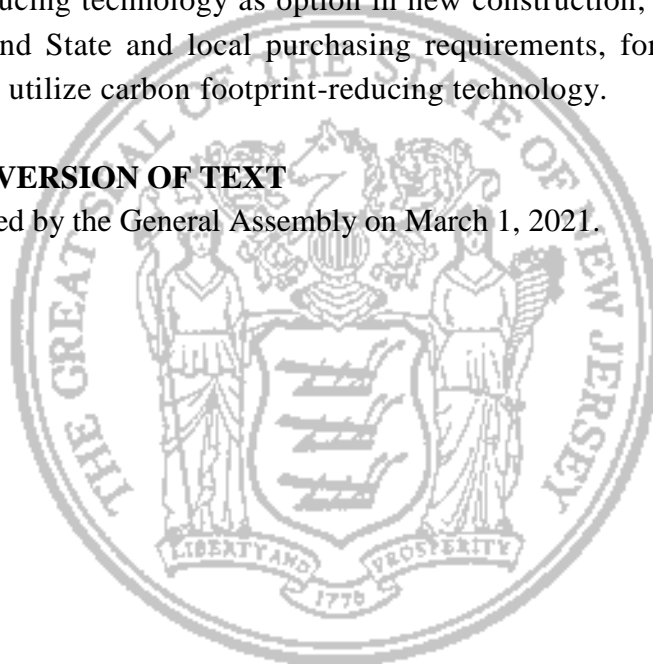
**Assemblyman McKeon, Assemblywoman Vainieri Huttie, Assemblyman Karabinchak and Assemblywoman Swain**

### **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 General Assembly on March 1, 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>**[Statutes]**  
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 as a  
34 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  
43 stormwater management, reduce stormwater runoff, and decrease  
44 the risk of flooding in the State.

**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>Assembly AAP committee amendments adopted January 7, 2021.

<sup>2</sup>Assembly floor amendments adopted March 1, 2021.

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

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

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

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

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

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

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

37        c. The commissioner, in consultation with the Department of  
38 Environmental Protection, shall:

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

43        (2) provide <sup>2</sup>**[developers]** builders<sup>2</sup> with information  
44 concerning applicable tax credits, rebates, or other incentives that  
45 may be available for the use of unit concrete products that utilize  
46 carbon footprint-reducing technology pursuant to

1 P.L. , c. (C. ) (pending before the Legislature as this bill) or  
2 any other law <sup>2</sup>; and

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

9 d. <sup>2</sup>**[The]** Notwithstanding the provisions of the  
10 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
11 seq.), to the contrary, the<sup>2</sup> commissioner, in consultation with the  
12 Department of Environmental Protection, may adopt,<sup>2</sup> **[pursuant to**  
13 **the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-**  
14 **1 et seq.)]** immediately upon filing the proper notice with the  
15 Office of Administrative Law<sup>2</sup> , rules and regulations<sup>2</sup> that the  
16 commissioner determines to be<sup>2</sup> necessary to implement this  
17 section.<sup>2</sup> These rules and regulations shall be in effect for a period  
18 not to exceed 365 days after the date of the filing. The rules and  
19 regulations shall thereafter be amended, adopted, or readopted in  
20 accordance with the requirements of the “Administrative Procedure  
21 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).<sup>2</sup>

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

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

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

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

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

38 “Commissioner” means the Commissioner of Community  
39 Affairs.

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

43 “Prospective <sup>2</sup>**[purchaser]** client<sup>2</sup>” means a person who  
44 contemplates acquiring a legal or equitable interest in <sup>2</sup>or  
45 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

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

9  
10 4. a. A taxpayer <sup>2</sup>who in a privilege period purchases unit  
11 concrete products that utilize carbon footprint-reducing technology,  
12 which may include permeable pavement, for use in the construction  
13 or improvement of any residential dwelling or commercial building,  
14 or in the replacement of an impervious surface with permeable  
15 pavement, in the State<sup>2</sup> shall be allowed a credit against the tax  
16 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in  
17 an amount equal to \$2.00 per square foot <sup>2</sup>for the purchase and  
18 installation<sup>2</sup> of unit concrete products that utilize carbon footprint-  
19 reducing technology, which may include permeable pavement, used  
20 in the construction or improvement of any residential dwelling or  
21 commercial building, or in the replacement of an impervious  
22 surface with permeable pavement <sup>2</sup>for the purchase and  
23 installation must be completed during <sup>2</sup>the privilege period . The credit shall be  
24 allowed in<sup>2</sup> the privilege period <sup>2</sup>in which the purchase is made<sup>2</sup> .  
25 The value of tax credits allowed to a taxpayer pursuant to this  
26 section shall not exceed \$3,000 for a residential property, and  
27 \$30,000 for a commercial property in a single privilege period. In  
28 order to qualify for the tax credit pursuant to this section, a person  
29 shall <sup>2</sup>install <sup>2</sup>purchase at least 100 square feet of unit concrete  
30 products that utilize carbon footprint-reducing technology, which  
31 may include permeable pavement.

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

1 c. <sup>2</sup>**[The]** In order to be allowed a tax credit pursuant to  
2 subsection a. of this section, a taxpayer who has purchased 100 or  
3 more square feet of unit concrete products certified pursuant to  
4 section 10 of P.L. , c. (C. ) (pending before the Legislature  
5 as this bill) shall attach receipts for the unit concrete products for  
6 which the tax credit is claimed and an affidavit that the unit  
7 concrete products are or will be used exclusively in the State to any  
8 return the taxpayer is required to file under P.L.1945, c.162  
9 (C.54:10A-1 et seq.). A credit shall be initially allowed for the  
10 privilege period in which the unit concrete products are purchased,  
11 and any unused portion thereof may be carried forward into  
12 subsequent privilege periods as provided in subsection b. of this  
13 section.

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

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

25 f. Notwithstanding the provisions of the “Administrative  
26 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to the  
27 contrary, the<sup>2</sup> director, in consultation with the Department of  
28 Environmental Protection, shall adopt, <sup>2</sup>[pursuant to the  
29 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-  
30 1 et seq.)] immediately upon filing the proper notice with the  
31 Office of Administrative Law<sup>2</sup> , rules and regulations as are  
32 necessary to implement the provisions of this section. <sup>2</sup>These rules  
33 and regulations shall be in effect for a period not to exceed 365  
34 days after the date of the filing. The rules and regulations shall  
35 thereafter be amended, adopted, or readopted in accordance with the  
36 requirements of the “Administrative Procedure Act,” P.L.1968,  
37 c.410 (C.52:14B-1 et seq.).<sup>2</sup> The director may require the  
38 submission of any information the director deems necessary to  
39 award a tax credit pursuant to this section.

40 <sup>2</sup>**[d.] g.<sup>2</sup>** As used in this section:

41 <sup>2</sup>**“Director”** means the Director of the Division of Taxation in the  
42 Department of the Treasury.<sup>2</sup>

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

1 “Unit concrete product” means a concrete building product that  
2 is fabricated under controlled conditions separate and remote from  
3 the intended point of use and is produced in a wet cast or dry cast  
4 method in a factory setting and then transported to the location of  
5 intended use for installation, including, but not limited to, all  
6 concrete pavers, whether permeable or non-permeable, and concrete  
7 block. <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 5. a. A taxpayer <sup>2</sup>who in a privilege period purchases unit  
24 concrete products that utilize carbon footprint-reducing technology,  
25 which may include permeable pavement, for use in the construction  
26 or improvement of any residential dwelling or commercial building,  
27 or in the replacement of an impervious surface with permeable  
28 pavement, in the State<sup>2</sup> shall be allowed a credit against the tax  
29 otherwise due for the taxable year under the “New Jersey Gross  
30 Income Tax Act” N.J.S.54A:1-1 et seq., in an amount equal to  
31 \$2.00 per square foot <sup>2</sup>[for the purchase and installation]<sup>2</sup> of unit  
32 concrete products that utilize carbon footprint-reducing technology,  
33 which may include permeable pavement, used in the construction or  
34 improvement of any residential dwelling or commercial building, or  
35 in the replacement of an impervious surface with permeable  
36 pavement <sup>2</sup>[, in the State, which purchase and installation is  
37 completed during] . The credit shall be allowed in<sup>2</sup> the taxable  
38 year<sup>2</sup>in which the purchase is made<sup>2</sup> . The total amount of the tax  
39 credit granted pursuant to this section shall not exceed \$3,000 for a  
40 residential property, and \$30,000 for a commercial property in a  
41 single taxable year. In order to qualify for the tax credit pursuant to  
42 this section, a person shall <sup>2</sup>[install] purchase<sup>2</sup> at least 100 square  
43 feet of unit concrete products that utilize carbon footprint-reducing  
44 technology, which may include permeable pavement.

45 b. The order of priority of the application of the credit allowed  
46 pursuant to this section, and any other credits allowed against the  
47 tax imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year,



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

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

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

31 d. <sup>2</sup>【The】 In order to be allowed a tax credit pursuant to  
32 subsection a. of this section, a taxpayer who has purchased 100 or  
33 more square feet of unit concrete products certified pursuant to  
34 section 10 of P.L. , c. (C. ) (pending before the Legislature  
35 as this bill) shall attach receipts for the unit concrete products for  
36 which a tax credit is claimed and an affidavit that the unit concrete  
37 products are or will be used exclusively in New Jersey to any return  
38 the taxpayer is required to file under the "New Jersey Gross Income  
39 Tax Act," N.J.S.54A:1-1 et seq. A credit shall be initially allowed  
40 for the taxable year in which the unit concrete products are  
41 purchased, and any unused portion thereof may be carried forward  
42 into subsequent taxable years as provided in subsection b. of this  
43 section.

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

1       f. The value of tax credits allowed by the director pursuant to  
2 this section and pursuant to section 4 of P.L. , c. (C. )  
3 (pending before the Legislature as this bill) shall not exceed a  
4 cumulative total of \$20,000,000 in each fiscal year to apply against  
5 the tax imposed pursuant to the “New Jersey Gross Income Tax  
6 Act,” N.J.S.54A:1-1 et seq. and the tax imposed pursuant to section  
7 5 of P.L.1945, c.162 (C.54:10A-5).

8       g. Notwithstanding the provisions of the “Administrative  
9 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to the  
10 contrary, the<sup>2</sup> director, in consultation with the Department of  
11 Environmental Protection, shall adopt, <sup>2</sup>[pursuant to the  
12 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-  
13 1 et seq.)] immediately upon filing the proper notice with the  
14 Office of Administrative Law<sup>2</sup> , rules and regulations as are  
15 necessary to implement the provisions of this section. <sup>2</sup>These rules  
16 and regulations shall be in effect for a period not to exceed 365  
17 days after the date of the filing. The rules and regulations shall  
18 thereafter be amended, adopted, or readopted in accordance with the  
19 requirements of the “Administrative Procedure Act,” P.L.1968,  
20 c.410 (C.52:14B-1 et seq.).<sup>2</sup> The director may require the  
21 submission of any information the director deems necessary to  
22 award a tax credit pursuant to this section.

23       <sup>2</sup>[e.] h.<sup>2</sup> As used in this section:

24       <sup>2</sup>“Director” means the Director of the Division of Taxation in the  
25 Department of the Treasury.<sup>2</sup>

26       “Permeable pavement” means a concrete product that allows  
27 rainwater to penetrate the pavement and percolate into the  
28 supporting soils and includes, but is not limited to, pervious  
29 concrete, permeable interlocking concrete pavers, and concrete grid  
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32 is fabricated under controlled conditions separate and remote from  
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34 method in a factory setting and then transported to the location of  
35 intended use for installation, including, but not limited to, all  
36 concrete pavers, whether permeable or non-permeable, and concrete  
37 block. <sup>1</sup>“Unit concrete product” shall not include ready mix  
38 concrete, sand, stone, gravel, or bituminous concrete or asphalt.<sup>1</sup>

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

1 requirements of the “State Uniform Construction Code Act,”  
2 P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by  
3 reference TMS 402/602 Building Code Requirements and  
4 Specification for Masonry Structures.<sup>2</sup>

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

23 b. The Division of Purchase and Property and the Division of  
24 Property Management and Construction, in consultation with the  
25 Department of Environmental Protection, shall develop and publish  
26 guidelines for implementing the <sup>1</sup>[preference] requirement  
27 established<sup>1</sup> pursuant to subsection a. of this section. <sup>1</sup>[The  
28 guidelines shall encourage and promote, to the maximum extent  
29 practicable, the purchase and use of unit concrete products that  
30 utilize carbon footprint-reducing technology.]<sup>1</sup> The guidelines  
31 shall conform to any standards or procedures established <sup>2</sup>[by the  
32 State Treasurer and the Department of Environmental Protection]<sup>2</sup>  
33 pursuant to section 10 of P.L. , c. (C. ) (pending before the  
34 Legislature as this bill). Whenever any agency or department of  
35 State government purchases unit concrete products, or undertakes  
36 any construction or improvement project that requires the use of  
37 unit concrete products, the agency or department shall follow the  
38 guidelines therefor established by the director.

39 c. In preparing the specifications for any contract for the  
40 purchase of unit concrete products, or for any construction or  
41 improvement project that requires the use of unit concrete products,  
42 the Director of the Division of Purchase and Property, the Director  
43 of the Division of Property Management and Construction, or any  
44 State agency having authority to contract for the purchase of goods  
45 or services shall include in the invitation to bid, where relevant, a  
46 statement that any response to the invitation <sup>1</sup>[that proposes or calls  
47 for the use of] shall use<sup>1</sup> unit concrete products that utilize carbon

1 footprint-reducing technology <sup>1</sup>【shall receive preference whenever  
2 possible】<sup>1</sup> <sup>2</sup>whenever technically feasible<sup>2</sup> . <sup>1</sup>The State agency  
3 shall include in its project specifications a specific line item for  
4 each unit concrete product to be used in the project.<sup>1</sup>

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

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

9 (2) bid packages advertised and made available to the public, or  
10 to any competitive and sealed bids received by the State, prior to  
11 the effective date of P.L. , c. (C. ) (pending before the  
12 Legislature as this bill); <sup>2</sup>【or】<sup>2</sup>

13 (3) any amendment, modification, or renewal of a contract,  
14 which contract was entered into prior to the effective date of  
15 P.L. , c. (C. ) (pending before the Legislature as this bill)  
16 where the application would delay timely completion of a project or  
17 involve an increase in the total moneys to be paid by the State under  
18 that contract <sup>2</sup>; or

19 (4) a contract when the Director of the Division of Purchase and  
20 Property, the Director of the Division of Property Management and  
21 Construction, or the head of any State agency having authority to  
22 contract for the purchase of goods or services determines, in their  
23 sole discretion, that the purchase and use of unit concrete products  
24 that utilize carbon footprint-reducing technology would increase the  
25 cost of the contract by an unreasonable amount<sup>2</sup> .

26 e. As used in this section:

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

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

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

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

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

20 b. The director, in consultation with the Department of  
21 Environmental Protection, shall develop and publish guidelines for  
22 implementing the <sup>1</sup>[preference] requirement established<sup>1</sup> pursuant  
23 to subsection a. of this section. <sup>1</sup>[These guidelines shall encourage  
24 and promote, to the maximum extent practicable, the purchase and  
25 use of unit concrete products that utilize carbon footprint-reducing  
26 technology.]<sup>1</sup> The guidelines shall conform to any standards or  
27 procedures established <sup>2</sup>[by the State Treasurer and the Department  
28 of Environmental Protection]<sup>2</sup> pursuant to section 10 of  
29 P.L. , c. (C. ) (pending before the Legislature as this bill).  
30 Whenever a local contracting unit purchases unit concrete products,  
31 or undertakes any construction or improvement project that requires  
32 the use of unit concrete products, the local contracting unit shall  
33 follow the guidelines therefor established by the director.

34 c. In preparing the specifications for a contract for the purchase  
35 of unit concrete products, or for any construction or improvement  
36 project that requires the use of unit concrete products, a local  
37 contracting unit shall include in the invitation to bid, including in  
38 the specifications for all contracts for county or municipal work or  
39 for work for which it will pay any part of the cost, or work which  
40 by contract or ordinance it will ultimately own and maintain, where  
41 relevant, a statement that any response to the invitation <sup>1</sup>[that  
42 proposes or calls for the use of] shall use<sup>1</sup> unit concrete products  
43 that utilize carbon footprint-reducing technology <sup>1</sup>[shall receive  
44 preference whenever possible]<sup>1</sup> <sup>2</sup>whenever technically feasible<sup>2</sup> .  
45 <sup>1</sup>The local contracting unit shall include in its project specifications

1 a specific line item for each unit concrete product to be used in the  
2 project.<sup>1</sup>

3 d. <sup>1</sup>~~["No priority shall be granted pursuant to subsection a. of~~  
4 ~~this section with respect to"]~~ The provisions of this section shall not  
5 apply to<sup>1</sup>:

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

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

13 (3) any amendment, modification, or renewal of a contract,  
14 which contract was entered into prior to the effective date of  
15 P.L. , c. (C. ) (pending before the Legislature as this bill)  
16 where the application would delay timely completion of a project or  
17 involve an increase in the total moneys to be paid by the local  
18 contracting unit under that contract <sup>2</sup>; or

19 (4) a contract when the head of a local contracting unit  
20 determines, in their sole discretion, that the purchase and use of unit  
21 concrete products that utilize carbon footprint-reducing technology  
22 would increase the cost of the contract<sup>2</sup> .

23 e. As used in this section:

24 "Director" means the Director of the Division of Local  
25 Government Services in the Department of Community Affairs.

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

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

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

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

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

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

24 b. As used in this section:

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

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

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

1 P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by  
2 reference TMS 402/602 Building Code Requirements and  
3 Specification for Masonry Structures.<sup>2</sup>

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

14 b. As used in this section:

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

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

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

41  
42 10. a. The Commissioner of Environmental Protection shall  
43 establish any standards and procedures necessary to implement the  
44 provisions of P.L. , c. (C. ) (pending before the Legislature  
45 as this bill), including, but not limited to, production and use  
46 standards, and a process for certifying whether the production and  
47 use of a unit concrete product generates at least 50 percent less



1 carbon dioxide emissions than conventional unit concrete products  
2 made with ordinary Portland cement. <sup>2</sup>The commissioner shall  
3 publish on the department's Internet website a list of unit concrete  
4 products certified by the department pursuant to this subsection.<sup>2</sup>  
5 The Department of Environmental Protection shall consider a  
6 consensus evaluation and reporting standard developed by an  
7 independent private organization such as the International  
8 Organization for Standardization or the American National  
9 Standards Institute that creates a uniform system for self-evaluation  
10 and self-reporting by unit concrete product manufacturers, and shall  
11 give preference to a standard supported by the unit concrete product  
12 industry or industry associations.

13 b. <sup>2</sup>**[The]** Notwithstanding the provisions of the  
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
15 seq.), to the contrary, the<sup>2</sup> State Treasurer, the Commissioner of  
16 Environmental Protection, <sup>2</sup>**[and]**<sup>2</sup> the Commissioner of  
17 Transportation <sup>2</sup>, the Commissioner of Community Affairs, and the  
18 Secretary of Higher Education<sup>2</sup> may adopt, <sup>2</sup>**[pursuant to the**  
19 **"Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et**  
20 **seq.)]** immediately upon filing the proper notice with the Office of  
21 Administrative Law<sup>2</sup>, any rules and regulations necessary to  
22 implement the provisions of P.L. , c. (C. ) (pending before  
23 the Legislature as this bill). <sup>2</sup>These rules and regulations shall be in  
24 effect for a period not to exceed 365 days after the date of the filing.  
25 The rules and regulations shall thereafter be amended, adopted, or  
26 readopted in accordance with the requirements of the  
27 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
28 seq.).<sup>2</sup>  
29

30 11. This act shall take effect immediately <sup>2</sup>and sections 4 and 5  
31 shall apply to purchases of unit concrete products that utilize carbon  
32 footprint-reducing technology made on or after the first day of the  
33 second month next following the date of enactment<sup>2</sup>.