

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

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

1 **AN ACT** concerning the purchase and use of unit concrete products
2 that utilize carbon footprint-reducing technology and
3 supplementing Titles 27, 52, and 54 of the Revised ²**[Statues]**
4 Statutes² , Title 54A of the New Jersey Statutes, and P.L.1971,
5 c.198.
6
7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:
9
10 1. The Legislature finds and declares that the burning of fossil
11 fuels and other industrial processes release harmful greenhouse
12 gases into the atmosphere, which in turn contribute to climate
13 change; that, in the coming years, New Jersey is likely to
14 experience increased flooding, drought, and other severe weather
15 effects caused by climate change; and that, in order to help mitigate
16 the serious impacts of climate change, the State must drastically
17 reduce its consumption of fossil fuels and its greenhouse gas
18 emissions.
19 The Legislature further finds that concrete is the most widely
20 used construction material in the world due to its low cost, strength,

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

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
¹Senate SSG committee amendments adopted December 14, 2020.
²Senate SBA committee amendments adopted January 21, 2021.
³Senate floor amendments adopted February 19, 2021.

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

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

25

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

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

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

1 (1) that the prospective ²**[purchaser]** client² may choose to use
2 unit concrete products that utilize carbon footprint-reducing
3 technology in the new construction;

4 (2) the total cost ²to be charged by the builder to the prospective
5 client² of using unit concrete products that utilize carbon footprint-
6 reducing technology in the new construction;

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

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

15 c. The commissioner, in consultation with the Department of
16 Environmental Protection, shall:

17 (1) publish educational materials to demonstrate how
18 ²**[developers]** builders² may incorporate unit concrete products that
19 utilize carbon footprint-reducing technology into new construction;
20 ²**[and]**²

21 (2) provide ²**[developers]** builders² with information
22 concerning applicable tax credits, rebates, or other incentives that
23 may be available for the use of unit concrete products that utilize
24 carbon footprint-reducing technology pursuant to
25 P.L. , c. (C.) (pending before the Legislature as this bill) or
26 any other law ²; and

27 (3) provide builders with a separate form that the builder shall
28 present, along with the materials required pursuant to subsection b.
29 and c. of this section, to the prospective client prior to entering into
30 a contract, which form shall allow a prospective client to accept or
31 decline the option to use unit concrete products that utilize carbon
32 footprint-reducing technology in the new construction² .

33 d. ³**[The]** Notwithstanding the provisions of the “Administrative
34 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary,
35 the³ commissioner, in consultation with the Department of
36 Environmental Protection, may adopt, ³**[pursuant to the**
37 **“Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-**
38 **1 et seq.)]** immediately upon filing the proper notice with the Office
39 of Administrative Law³ , rules and regulations ³that the commissioner
40 determines to be³ necessary to implement this section. ³These rules
41 and regulations shall be in effect for a period not to exceed 365
42 days after the date of the filing. The rules and regulations shall
43 thereafter be amended, adopted, or readopted in accordance with the
44 requirements of the “Administrative Procedure Act,” P.L.1968,
45 c.410 (C.52:14B-1 et seq.).³

46 e. The commissioner shall enforce the provisions of this
47 section and may penalize and assess violators of this section in

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

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

10 g.² As used in this section:

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

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

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

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

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

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

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

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

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

4 b. As used in this section:

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

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

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

31
 32 4. a. A taxpayer ³who in a privilege period purchases unit
 33 concrete products that utilize carbon footprint-reducing technology,
 34 which may include permeable pavement, for use in the construction
 35 or improvement of any residential dwelling or commercial building,
 36 or in the replacement of an impervious surface with permeable
 37 pavement, in the State³ shall be allowed a credit against the tax
 38 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in
 39 an amount equal to \$2.00 per square foot ³for the purchase and
 40 installation³ of unit concrete products that utilize carbon footprint-
 41 reducing technology, which may include permeable pavement, used
 42 in the construction or improvement of any residential dwelling or
 43 commercial building, or in the replacement of an impervious
 44 surface with permeable pavement ³for the purchase and
 45 installations must be completed during³ . The credit shall be
 46 allowed in³ the privilege period ³in which the purchase is made³ .
 47 The value of tax credits allowed to a taxpayer pursuant to this

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

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

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

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

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

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

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

13 ³【d.】 g.³ As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 practicable, the purchase and use of unit concrete products that
 2 utilize carbon footprint-reducing technology.² The guidelines
 3 shall conform to any standards or procedures established ³by the
 4 State Treasurer and the Department of Environmental Protection³
 5 pursuant to section 10 of P.L. , c. (C.) (pending before the
 6 Legislature as this bill). Whenever any agency or department of
 7 State government purchases unit concrete products, or undertakes
 8 any construction or improvement project that requires the use of
 9 unit concrete products, the agency or department shall follow the
 10 guidelines therefor established by the director.

11 c. In preparing the specifications for any contract for the
 12 purchase of unit concrete products, or for any construction or
 13 improvement project that requires the use of unit concrete products,
 14 the Director of the Division of Purchase and Property, the Director
 15 of the Division of Property Management and Construction, or any
 16 State agency having authority to contract for the purchase of goods
 17 or services shall include in the invitation to bid, where relevant, a
 18 statement that any response to the invitation ²that proposes or calls
 19 for the use of² shall use² unit concrete products that utilize carbon
 20 footprint-reducing technology ²shall receive preference whenever
 21 possible² ³whenever technically feasible³ . ²The State agency shall
 22 include in its project specifications a specific line item for each unit
 23 concrete product to be used in the project.²

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

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

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

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

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

45 e. As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

40 e. As used in this section:

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

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

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

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

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

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

29

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

42 b. As used in this section:

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

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

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

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

32 b. As used in this section:

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

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

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

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

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

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

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

5

6

7

8

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