

SENATE, No. 2505

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED JANUARY 26, 2009

Sponsored by:

Senator DANA L. REDD

District 5 (Camden and Gloucester)

Senator JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

Co-Sponsored by:

Senators Sweeney, Rice, Madden and Ciesla

SYNOPSIS

Establishes “Smart Housing Incentives Act.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/24/2009)

1 AN ACT establishing the “Smart Housing Incentives Act” and
2 supplementing chapter 27D of Title 52 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. This act shall be known and may be cited as the “Smart
8 Housing Incentives Act.”

9
10 2. The Legislature finds and declares that:

11 a. The cost of housing in New Jersey has risen to where housing
12 is no longer affordable for a significant number of the State’s
13 residents, resulting in substantial hardship to large numbers of
14 families and individuals at many income levels, including those
15 with low, moderate and middle incomes, and contributing to the
16 growing outmigration of working households from New Jersey.

17 b. The shortage of opportunities for both homeownership and
18 rental housing affordable to workers, families and young
19 professionals threatens the State’s economy by discouraging
20 businesses from remaining in or moving to New Jersey.

21 c. Among the factors contributing to the high cost of housing in
22 New Jersey is the scarcity of land zoned for housing types that are
23 currently under-represented in housing production, including
24 modest single family houses on small lots, semi-detached and town
25 houses, and multifamily housing.

26 d. In order to mitigate the high cost of housing, there is a need to
27 encourage greater production of those cost and energy-efficient
28 housing types which reflect the consumer preferences of many
29 households, including young people and empty-nesters, and which
30 are under-represented in recent housing production in New Jersey.

31 e. Despite numerous legislative enactments and the efforts of the
32 Council on Affordable Housing and the State Planning
33 Commission, a continuing need remains to provide a greater variety
34 and choice of housing to people of all income levels, but in
35 particular for low and moderate income households, and to direct
36 such housing to appropriate locations based on comprehensive land
37 use planning, as set forth in the landmark decision by the New
38 Jersey Supreme Court in Southern Burlington County NAACP v.
39 Mount Laurel.

40 f. Unless properly located and designed consistent with sound
41 planning principles, housing construction will continue to sprawl,
42 undermining the vitality of New Jersey’s natural environment,
43 including its open space and farmland, wildlife habitat, clean water,
44 and clean air.

45 g. By undertaking sound planning and establishing sound
46 standards for location, density, energy efficiency, water
47 conservation, and pedestrian circulation in new housing
48 development and mixed-use development, it is possible to ensure

1 that new developments and redevelopment will be environmentally
2 sustainable, affordable to maintain, and support healthy lifestyles.

3 h. High-quality design and site planning, which can be fostered
4 through inclusion of carefully-drafted design standards into
5 municipal land use ordinances, are essential to ensure that a housing
6 and mixed-use development best serves both the needs of its
7 residents and the community as a whole, by ensuring that it is
8 visually attractive, adds value to surrounding neighborhoods, and
9 increases residents' quality of life by fostering social interaction,
10 safety, and reducing commuting times.

11 i. Compact housing and mixed-use development results in a
12 more energy-efficient development pattern and fosters less energy
13 use by the residents of such developments, both for heating and
14 cooling and for transportation, thus furthering attainment of the
15 State's targets for greenhouse gas emissions reduction.

16 j. An increase in the number of opportunities to develop at
17 higher densities in appropriate locations can reduce the pressure for
18 development in other, less suitable, locations and thereby further
19 the State's objectives of reducing sprawl and fostering smart
20 growth, especially where complemented by efforts to preserve and
21 protect natural resources.

22 k. Compact housing and mixed-use development and
23 redevelopment will foster use of public transportation and further
24 the efficient expansion of public transit systems, as well as
25 encourage pedestrianism and bicycle use.

26 l. The cost of housing is often increased by unpredictable and
27 lengthy permit review processes at the State level. For compact
28 housing and mixed-use development projects that address multiple
29 state objectives, an agreement between the State agencies that
30 regulate residential development projects, including the
31 Departments of Community Affairs, Transportation, and
32 Environmental Protection, can help ensure coordinated and more
33 timely permit review.

34 m. In light of these benefits of concentrated and compact
35 development, the Legislature finds that a program of incentives to
36 encourage municipal rezoning for higher density, mixed-income
37 residential development and redevelopment offers significant
38 potential to provide meaningful benefits to the economic,
39 environmental and social sustainability and quality of life for the
40 people of the State of New Jersey.

41

42 3. As used in P.L. , c. (C.) (pending before the
43 Legislature as this bill):

44 "Basic zoning" means a body of zoning provisions and
45 requirements that represent the sole use and standards for a
46 particular area permitted under the land use ordinance of a
47 municipality.

1 “Brownfield” means “brownfield” as defined under subsection d.
2 of section 5 of P.L.1997, c.278 (C.58:10B-23).

3 “Commission” means the State Housing Commission established
4 pursuant to section 24 of P.L.2008, c.46 (C.52:27D-329.13).

5 “Commissioner” means the Commissioner of Community
6 Affairs.

7 “Commuter parking space” means a parking space located in
8 close proximity to a public transit facility designed primarily for
9 use by individuals using that transit facility for commuting
10 purposes.

11 “Council” means the Council on Affordable Housing established
12 pursuant to section 5 of P.L.1985, c.222 (C.52:27D-305).

13 “Department” means the Department of Community Affairs.

14 “Developer fee” means the fee required under subsection a. of
15 section 18 of P.L. , c. (C.) (pending before the Legislature as
16 this bill).

17 “Energy Star” means the joint program of the United States
18 Environmental Protection Agency and the United States Department
19 of Energy known by that name and providing for the certification of
20 energy-efficient products and practices.

21 “Greyfields” means sites containing industrial or commercial
22 facilities exhibiting signs of abandonment or underutilization in
23 areas of existing infrastructure, but without exhibiting evidence of
24 actual or potential environmental contamination. For purposes of
25 this act, underutilization means that at least 50 percent of the square
26 footage of the structures on any such site have not been occupied
27 for a period of at least one year prior to the designation of the site
28 as all or part of a smart housing zone.

29 “Green investment” means any municipal expenditure for the
30 purpose of protecting or enhancing the natural environment of the
31 municipality, including but not limited to protection of open space
32 through acquisition, remediation, restoration, or improvement;
33 improvements to parks and other public open spaces; and actions to
34 reduce greenhouse gas emissions through energy efficiency,
35 renewable energy, or other programs that result in a measurable
36 reduction in the emission of greenhouse gases or a measurable
37 reduction in energy demand.

38 “Low income housing” means “low income housing” as defined
39 under subsection c. of section 4 of P.L.1985, c.222 (C.52:27D-304)
40 and regulations adopted thereunder.

41 “Middle income housing” means housing affordable to
42 households earning between 80 percent and 120 percent of the area
43 median income, according to the Council on Affordable Housing’s
44 annual determination of median income for each housing region,
45 adjusted by household size.

46 “Moderate income housing” means “moderate income housing”
47 as defined under subsection c. of section 4 of P.L.1985, c.222
48 (C.52:27D-304) and regulations adopted thereunder.

1 “Net new zoned units” means the difference between the total
2 number of residential units permitted within a smart housing zone
3 and the number of residential units permitted within the same area
4 under prior zoning.

5 “Overlay zone” means a body of zoning provisions or
6 requirements which are permitted as of right for a particular area in
7 addition to other uses and standards that may also be permitted for
8 the same area under the land use ordinance of the municipality.

9 “Prior zoning” means the zoning of an area immediately prior to
10 the establishment of a smart housing zone or the zoning in effect for
11 that area on the effective date of P.L. c. (C.) (pending before
12 the Legislature as this bill), whichever allows for the development
13 of a greater number of dwelling units.

14 “Public transit facility” means an active station, terminal,
15 transfer location, or multi-modal transit hub of rail, bus, ferry
16 transit, or combination thereof, containing fixed platforms, off-
17 street loading areas, or on-street transfer areas, as well as other
18 improvements, including, but not limited to, permanent passenger
19 facilities such as waiting and sitting areas, ticket machines, and
20 transit information displays for the use of riders on the public transit
21 system. On-street single bus stops are not included in this
22 definition.

23 “Residential density” means “residential density” as defined
24 under section 3.3 of P.L.1975, c.291 (C.40:55D-6).

25 “Sewer service area” means an area in which sewer service may
26 be provided in accordance with the water quality management
27 planning rules, N.J.A.C.7:15-1.1 et seq., adopted by the Department
28 of Environmental Protection pursuant to the "Water Pollution
29 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), the "Water
30 Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), and any
31 other applicable laws.

32 “Smart housing zone” means an area established by municipal
33 ordinance and approved by the department as a smart housing zone
34 pursuant to section 10 of P.L. , c. (C.) (pending before the
35 Legislature as this bill).

36 “Transit-oriented development area” means an area of high-
37 density concentrated mixed-use development, including residential
38 development, within a one-half mile radius of a public transit
39 facility, planned and designed to take advantage of the proximity of
40 the public transit facility, or any area planned for such development
41 by the municipality, and shall include any transit village designated
42 by the Transit Village Task Force.

43 “Urban center” means a municipality containing an area that has
44 been designated as an urban center in the State Development and
45 Redevelopment Plan adopted by the State Planning Commission
46 pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.).

1 4. The governing body of a municipality may apply to the
2 Department of Community Affairs for the establishment of a smart
3 housing zone in accordance with procedures set forth in section 10
4 of P.L. , c. (C.) (pending before the Legislature as this bill)
5 and regulations adopted pursuant thereto. The governing body of a
6 municipality interested in investigating whether to establish a smart
7 housing zone may apply to the department for a smart housing zone
8 planning and visioning grant pursuant to section 12 of
9 P.L. , c. (C.) (pending before the Legislature as this bill) and
10 regulations adopted pursuant thereto. A preliminary application for
11 the establishment of a smart housing zone shall include:

12 a. Proofs sufficient to document that the proposed smart housing
13 zone satisfies the requirements for locating a zone under section 5
14 of P.L. , c. (C.) (pending before the Legislature as this bill),
15 including maps showing existing land uses in the proposed zone and
16 the surrounding area.

17 b. A copy of the draft proposed ordinance establishing the smart
18 housing zone, complying with section 6 of P.L. , c. (C.)
19 (pending before the Legislature as this bill).

20 c. Documentation and maps showing all relevant development
21 conditions and constraints, including dedicated open space,
22 floodplains, steep slopes, stream corridors, wetlands, and threatened
23 and endangered species habitat, affecting the proposed smart
24 housing zone, including a site analysis demonstrating that the
25 number of net new zoned units for which incentives are sought can
26 realistically be accommodated in the proposed zone.

27 d. Documentation showing the availability of infrastructure
28 necessary for the development planned for the proposed smart
29 housing zone, including adequate roads, sewerage facilities, water
30 supply and drainage infrastructure, and water and wastewater
31 treatment capacity, or a commitment to provide infrastructure
32 necessary to allow development of the area to proceed in a timely
33 fashion.

34 e. Evidence that the number and type of dwelling units proposed
35 for the smart housing zone can be produced in a timely fashion and
36 is realistic in light of market demand in the housing region and
37 market conditions within the municipality.

38 f. A description of the anticipated build-out of the zone.
39

40 5. a. A smart housing zone shall be located in a geographic
41 area in which an appropriate scale of growth, in the form of
42 construction of significant additional housing and mixed-use
43 development, is considered important and desirable, as determined
44 pursuant to:

45 (1) the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et
46 al.);

47 (2) the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1
48 et seq.);

1 (3) the "Highlands Water Protection and Planning Act,"
2 P.L.2004, c.120 (C.13:20-1 et al.); or

3 (4) the "Hackensack Meadowlands Reclamation and
4 Development Act," P.L.1968, c.404 (C.13:17-1 et seq.),

5 or regulations adopted pursuant to the acts referenced in this
6 subsection, either in effect on the effective date of
7 P.L. , c. (C.) (pending before the Legislature as this bill) or
8 on the date the application is received.

9 b. A smart housing zone shall be located in either an approved
10 sewer service area, or in a location with existing on-site connections
11 to a wastewater treatment system.

12 c. A smart housing zone shall satisfy at least one of the
13 following additional criteria:

14 (1) A majority of a smart housing zone shall be located within a
15 one-half mile radius of an existing public transit facility, or a
16 planned public transit facility for which construction funds have
17 been formally committed by the New Jersey Department of
18 Transportation or New Jersey Transit in the first four years of either
19 agency's adopted capital program; provided, however, that the
20 commissioner may approve an application for a smart housing zone
21 that is located within a three-quarter mile radius of a public transit
22 facility if the commissioner determines that the pedestrian
23 connections and other connections between the smart housing zone
24 and the public transit facility are particularly strong and likely to be
25 highly utilized; or

26 (2) A majority of a smart housing zone shall be located within an
27 area of concentrated development, including village, town, and
28 urban centers as shown on the State Plan Policy Map prepared by
29 the State Planning Commission pursuant to P.L.1985, c.398
30 (C.52:18A-196 et seq.), and other existing largely-developed areas
31 characterized by mixed use and medium-to-high density of
32 development; or

33 (3) A smart housing zone shall be located within an area
34 identified by the municipal master plan or master plan re-
35 examination report, as appropriate, for increased density, either
36 through residential or mixed-use development; or

37 (4) A smart housing zone shall contain one or more brownfield
38 or greyfields sites.

39

40 6. a. A municipality may establish a smart housing zone by
41 adopting a land-use ordinance, subject to the approval of the
42 Department of Community Affairs pursuant to section 10 of
43 P.L. , c. (C.) (pending before the Legislature as this bill),
44 containing the following:

45 (1) Provisions satisfying the minimum standards for residential
46 density set forth in section 7 of P.L. , c. (C.) (pending before
47 the Legislature as this bill).

1 (2) Provisions requiring that the combined total number of low
2 income housing units, moderate income housing units and middle
3 income housing units to be constructed in the smart housing zone
4 shall comprise at least 30% of the total number of housing units to
5 be constructed in the zone. The initial occupants of middle income
6 units shall be restricted to income-eligible tenants and owners.

7 (3) Provisions requiring that all low income housing units and
8 moderate income housing units required pursuant to the regulations
9 of the Council on Affordable Housing as a result of development in
10 the smart housing zone shall be constructed within the zone.

11 (4) Provisions requiring the development of ground floor retail,
12 service or similar commercial facilities along the frontage of any
13 street of strong commercial character in a downtown area or transit-
14 oriented development area, unless infeasible due to site or other
15 considerations,

16 (5) Provisions requiring all streets and pedestrian pathways
17 through a smart housing zone to be fully accessible to the general
18 public, and all developments in a smart housing zone to be
19 connected to the surrounding street network in order to promote
20 pedestrian circulation within the zone and to and from locations
21 outside the zone.

22 (6) Provisions requiring all residential units in a smart housing
23 zone to satisfy energy efficiency standards under the New Jersey
24 Home Performance with Energy Star program or the code
25 promulgated pursuant to the "State Uniform Construction Code
26 Act," P.L.1975, c.217 (C.52:27D-119 et seq.), whichever promotes
27 greater energy efficiency.

28 (7) Provisions requiring all residential units in a smart housing
29 zone to satisfy the standards and practices for efficient water use
30 and conservation in accordance with regulations promulgated
31 pursuant to section 16 of P.L. , c. (C.) (pending before the
32 Legislature as this bill).

33 (8) Provisions ensuring that no more than 25% of the number of
34 dwelling units to be constructed in a smart housing zone are
35 restricted for occupancy on the basis of the age of an occupant.

36 b. The land use ordinance establishing a smart housing zone
37 may take the form of basic zoning or an overlay zone, but must
38 permit the zone as an as-of-right use and may not impose any
39 regulatory or other requirement on development within the zone
40 that is not imposed on other permitted uses in that area.

41

42 7. a. A land use ordinance establishing a smart housing zone
43 shall provide minimum residential density requirements within the
44 zone that are equal to or greater than:

45 (1) 25% above the minimum residential density requirements set
46 forth in the prior zoning of the area,

(2) 25% above the minimum presumptive density applicable to the area according to rules and regulations adopted by the Council on Affordable Housing, and

(3) the following minimum density requirements:

(a) smart housing zones in central business districts or transit-oriented development areas of urban centers shall have a minimum residential density of 50 dwelling units per acre.

(b) smart housing zones outside of central business districts or transit-oriented development areas, but within urban centers, shall have a minimum residential density of no less than the average residential density in the surrounding area, or the standards set forth in subparagraph (d) of this paragraph, whichever is greater.

(c) smart housing zones in central business districts or transit-oriented development areas that are not within urban centers shall have a minimum residential density of 25 dwelling units per acre.

(d) smart housing zones outside of central business districts or transit-oriented development areas and not within urban centers shall have a minimum residential density of no less than:

(i) 8 dwelling units per acre for single-family detached units,

(ii) 10 dwelling units per acre for duplex, twin or townhouse units, and

(iii) 20 dwelling units per acre for multifamily units.

b. For the purposes of this section, “central business district” means the traditional retail and office core of a municipality characterized by a predominance of non-residential land uses and development densities typically higher than in the rest of the municipality.

c. A land use ordinance establishing a smart housing zone may set forth a lower minimum density requirement than required pursuant to subsection a. of this section if that minimum density is set forth in the department approval of the application to establish the zone pursuant to section 10 of P.L. , c. (C.) (pending before the Legislature as this bill).

8. A land use ordinance establishing a smart housing zone may contain the following:

a. Provisions allowing for mixed-use development as long as minimum residential density requirements are satisfied.

b. Provisions setting forth site plan and design standards, including, but not limited to, provisions governing building scale and proportion; site coverage; street and sidewalk alignment, width, and grade; building locations; doorways and garage entrances; treatment of natural, historical or environmental features; designation, location and design of open spaces; signage; design of buffers with adjacent properties. Design standards may not be so restrictive that they unduly restrict development, reduce the number of units that can realistically be accommodated in the area relative to the facial provisions of the land use regulations, or potentially

1 impair the ability of the developer to provide the required low
2 income housing, moderate income housing and middle income
3 housing in an economically feasible manner.

4 c. Provisions allowing for reductions to the number of parking
5 spaces otherwise required and provisions allowing for shared
6 parking; however, any provision allowing for the reduction of
7 preexisting surface commuter parking spaces in a transit-oriented
8 development area shall require the creation of a similar number of
9 new commuter parking spaces in a parking structure, and shall not
10 result in a net loss in the number of commuter parking spaces
11 without the prior written approval of New Jersey Transit.

12

13 9. All projects undertaken in a smart housing zone shall be
14 subject to the requirements of section 4 of P.L.1970, c.268
15 (C.13:1B-15.131), concerning historic places, as if the project is
16 being undertaken by the State, a county, municipality, or an agency
17 or instrumentality of any thereof.

18

19 10. a. There is established in the Department of Community
20 Affairs the "Smart Housing Incentives Program" under which the
21 department shall review and may approve applications submitted by
22 municipalities for the establishment of smart housing zones.
23 Approval of a smart housing zone shall entitle a municipality that
24 establishes a zone to the right to receive incentive payment grants in
25 accordance with the provisions of section 11 of P.L. , c. (C.)
26 (pending before the Legislature as this bill) and regulations adopted
27 by the department. Approval of a smart housing zone shall
28 establish the requirement for a developer to pay a developer's fee
29 for each net new zoned unit of middle income and market-rate
30 housing that the developer constructs in the smart housing zone in
31 accordance with the provisions of section 18 of P.L. , c. (C.)
32 (pending before the Legislature as this bill) and regulations adopted
33 by the department.

34 b. The department shall promulgate procedures governing the
35 review and approval of applications submitted by municipalities for
36 establishment of smart housing zones, including criteria for
37 determining whether an application is complete. The procedures
38 shall provide for the submission of a preliminary application, in
39 accordance with the requirements of section 4 of P.L. c. (C.)
40 (pending before the Legislature as this bill) and other criteria
41 determined appropriate by the department.

42 c. Within 90 days of receipt of a complete preliminary
43 application, the department shall either approve the preliminary
44 application, conditionally approve the preliminary application, or
45 reject the preliminary application. If the department rejects the
46 preliminary application or conditionally approves the preliminary
47 application, it shall provide the municipality with a complete
48 written explanation of the reasons for rejection or the conditions for

1 approval. A municipality may resubmit a rejected preliminary
2 application by addressing any deficiencies in a prior application.

3 d. The procedures shall allow a municipality that has received
4 preliminary approval to submit a final application to the
5 department, together with proof of adoption of the proposed
6 ordinance and any other required action or amendment to the
7 proposed ordinance that the department may have required as a
8 condition of final approval. The department shall issue an approval
9 or rejection of a final application within 60 days of submission of a
10 complete final application. If the department rejects the final
11 application, it shall provide the municipality with a complete
12 written explanation of the reasons for rejection.

13 e. The department may approve an application setting forth a
14 lower minimum residential density requirement than required under
15 subsection a. of section 7 of P.L. , c. (C.) (pending before the
16 Legislature as this bill), if the department finds that the municipality
17 demonstrated that the required density is not realistically achievable
18 due to environmental considerations or other constraints rendering a
19 significant part of the proposed smart housing zone inappropriate
20 for development.

21 f. The department may establish criteria and adopt procedures to
22 rank pending applications according to priority criteria in the event
23 the costs associated with all pending applications exceeds, or is
24 likely to exceed, the amount of available funds.

25 g. The department shall impose as a condition of approval of
26 every final application that the municipality submit to the
27 department an annual report. An annual report shall include
28 information on any applications for development, approvals, or
29 construction of developments within the smart housing zone, and
30 documentation of the manner in which the municipality has
31 expended any incentive payments received for green investments.

32 h. The department shall promulgate rules, regulations and
33 procedures pursuant to the "Administrative Procedure Act,"
34 P.L.1968, c.410 (C.52:14B-1 et seq.), within 90 days of enactment
35 of P.L. , c. (C.) (pending before the Legislature as this bill),
36 as may be necessary for the efficient and effective implementation
37 of this act.

38

39 11. a. The department shall develop procedures and timeframes
40 ensuring the proper disbursement of incentive payment grants to
41 each municipality that establishes a smart housing zone in
42 accordance with the following amounts:

43 (1) An initial incentive payment of \$1,000 per net new zoned
44 unit.

45 (2) A subsequent incentive payment of \$4,000 per net new
46 zoned unit for which a certificate of occupancy is issued.

47 b. A municipality shall not be eligible to receive incentive
48 payment grants for more than 500 net new zoned units within the

1 first five years following the effective date of P.L. , c. (C.)
2 (pending before the Legislature as this bill).

3 c. (1) A municipality that has received an initial incentive
4 payment pursuant to subsection a. of this section shall not repeal or
5 modify the ordinance establishing the smart housing zone without
6 the prior written approval of the department.

7 (2) A municipality that repeals or modifies an ordinance
8 establishing a smart housing zone without receiving prior written
9 approval of the department shall be required to return an amount
10 equivalent to all incentive payments received, unless the department
11 determines that the modifications do not reduce the number of net
12 new zoned units or impose any additional burdens on development
13 in the zone.

14 d. A municipality may appropriate and expend incentive
15 payment grant revenues for services and capital expenditures
16 reasonably related to additional residents, including but not limited
17 to parks, public libraries, or other facilities; or operating
18 expenditures, such as incremental police, fire, or public works
19 services; provided, however, that at least half of the incentive
20 payments received by a municipality shall be used for green
21 investments.

22
23 12. a. The Department of Community Affairs may award smart
24 housing zone planning and visioning grants to municipalities, but
25 shall not expend more than a total amount of \$1 million annually
26 for that purpose. Funds for planning and visioning grants shall be
27 transferred to a “planning and visioning grant fund,” to be
28 established by the department, by the following departments and
29 agencies in the following amounts, unless the departments and
30 agencies agree to a different apportionment.

31 (1) the Department of Community Affairs Smart Futures grant
32 program in the amount of \$350,000;

33 (2) the Department of Transportation and New Jersey Transit
34 programs with funds for planning in transit-oriented development
35 areas including the Transit Village program in the amount of
36 \$325,000; and

37 (3) the Department of Environmental Protection’s share of the
38 Global Warming Solutions Fund that is allocated to promote local
39 government efforts to reduce greenhouse gas emissions in the
40 amount of \$325,000.

41 b. The Department of Community Affairs shall establish
42 application and eligibility requirements for smart housing zone
43 planning and visioning grants, however, no grant shall be awarded
44 to a municipality unless it can demonstrate that the area of a
45 prospective smart housing zone for which a planning and visioning
46 grant is sought meets the criteria governing the location of smart
47 housing zones set forth in section 5 of P.L. , c. (C.)
48 (pending before the Legislature as this bill).

1 c. Planning and visioning activities conducted with funds
2 provided by the department under this section shall incorporate
3 opportunities for meaningful participation by residents of the
4 municipality and of the immediate neighborhood or area in which
5 the proposed smart housing zone is to be located, including but not
6 limited to public meetings, design workshops and other
7 participatory planning activities.

8 d. As a condition of receiving a planning and visioning grant, a
9 municipality shall submit to the department, within such time frame
10 as the department establishes, a report setting forth the findings and
11 conclusions of the municipality's planning and visioning activity,
12 including the elements necessary for submitting a preliminary
13 application for a smart housing zone, or the reasons that the
14 municipality has determined to not establish a smart housing zone.

15

16 13. a. A municipality that establishes a smart housing zone and
17 an applicant of a development within a smart housing zone, as
18 appropriate, shall be entitled to priority assistance under the
19 following programs:

20 (1) Housing and planning assistance programs of the Department
21 of Community Affairs, including, but not limited to, the New Jersey
22 Affordable Housing Trust Fund,

23 (2) All programs of local assistance of the Department of
24 Transportation, including municipal aid, discretionary aid,
25 Transportation Enhancement program, Centers of Place program,
26 and the Transit Village program,

27 (3) Financing programs of the New Jersey Environmental
28 Infrastructure Trust, created pursuant to section 4 of P.L.1985,
29 c.334 (C.58:11B-4),

30 (4) Federal Low Income Housing Tax Credit allocations by the
31 New Jersey Housing and Mortgage Finance Agency,

32 (5) The Green Acres program of the Department of
33 Environmental Protection,

34 (6) The Farmland Preservation program of the Department of
35 Agriculture, and

36 (7) The Wastewater Management Plans under the Water Quality
37 Management Planning rules of the Department of Environmental
38 Protection.

39 b. The departments and agencies responsible for administering
40 the programs identified in subsection a. of this section shall afford
41 applicants and municipalities priorities consistent with subsection a.
42 of this section and with other statutes and regulations. They shall
43 promulgate rules and regulations, pursuant to the "Administrative
44 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to
45 accomplish this purpose.

46 c. The Department of Community Affairs shall establish on its
47 official website a central repository of information designed to
48 provide information on the priorities offered pursuant to the

1 requirements of this section, including links to all rules and
2 regulations adopted pursuant to subsection b. of this section, and
3 shall distribute to each municipality, at the time it receives approval
4 of a final application to establish a smart housing zone, information
5 concerning the priorities offered pursuant to the requirements of
6 this section.

7 d. The Board of Public Utilities shall amend the rules governing
8 the Smart Growth Infrastructure Investment Program, N.J.A.C.14:3-
9 8.12, to provide that a smart housing zone shall be deemed eligible
10 for benefits under that program.

11
12 14. The commissioner shall develop an administrative process
13 affording a due process to render determinations as to whether
14 actions of a municipality are inconsistent with the intent and
15 purpose of P.L. , c. (C.) (pending before the Legislature as
16 this bill) or inconsistent with the municipal ordinance establishing a
17 smart housing zone. If the commissioner finds and determines that
18 the actions of a municipality are inconsistent with the intent and
19 purpose of P.L. , c. (C.) (pending before the Legislature as
20 this bill), the commissioner shall notify the municipality of the
21 commissioner's findings, specify actions the municipality may take
22 to address those findings, and afford the municipality an appropriate
23 period of time to take action. If a municipality does not take such
24 action, or institute an appeal to a court of law, within the time
25 afforded, the municipality shall forfeit the right to receive incentive
26 payments under section 11 of P.L. , c. (C.) (pending before
27 the Legislature as this bill), be required to return all incentive
28 payments received prior thereto and lose any priority for any
29 pending application for any grant or other approval sought pursuant
30 to section 13 of P.L. , c. (C.) (pending before the Legislature
31 as this bill).

32
33 15. a. The State Housing Commission shall include in the
34 Annual Strategic Housing Plan required by section 27 of P.L.2008,
35 c.46 (C.52:27D-329.16), an inventory of planned and projected
36 activities within smart housing zones and its findings and
37 recommendations after reviewing the report submitted by the
38 department pursuant to subsection c. of this section.

39 b. The Department of Community Affairs shall review the
40 "Smart Housing Incentives Program" on an annual basis with
41 interested parties, including developers, municipal officials,
42 planners, environmentalists, and housing advocates.

43 c. The department shall prepare and submit to the commission
44 and the Legislature an annual report on the "Smart Housing
45 Incentives Program," which shall include but not be limited to
46 information about applications received, incentives awarded,
47 payments and transfers to "The Smart Housing Fund," and the
48 number, type and other features of residential dwelling units

1 provided for, approved, and constructed under the program. The
2 report shall include information and recommendations for changes
3 to the program proposed at the annual review required under
4 subsection b. of this section. The report shall be available on the
5 department's web site.

6 d. The commission, in consultation with the department, shall
7 prepared and submit to the Legislature a detailed report evaluating
8 the "Smart Housing Incentives Program," within three years of the
9 effective date of P.L. , c. (C.) (pending before the Legislature
10 as this bill). The report shall include the commission's
11 recommendations for changes to the program that it deems
12 appropriate to improve the effectiveness of the program.

13
14 16. The Department of Community Affairs, in consultation with
15 the Department of Environmental Protection and the Board of
16 Public Utilities, shall promulgate regulations establishing standards
17 and practices for efficient residential water use and conservation.

18
19 17. a. Within 90 days of enactment of P.L. , c. (C.)
20 (pending before the Legislature as this bill), the Site Improvement
21 Advisory Board shall prepare and submit to the commissioner
22 recommendations for amendments to the Statewide site
23 improvement standards for residential development specific to
24 smart housing zones in order to further the purposes of this act, and
25 shall provide for the flexibility needed for the compact, pedestrian-
26 friendly nature of smart housing zones without compromising
27 environmental outcomes.

28 b. The commissioner shall review the recommendations
29 submitted by the board and, within 120 days of enactment of
30 P.L. , c. (C.) (pending before the Legislature as this bill),
31 shall establish, by regulation adopted pursuant to the
32 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
33 seq.), amendments to the Statewide site improvement standards
34 specific to smart housing zones that are substantially consistent
35 with the board's recommendations unless, in the commissioner's
36 judgment, a standard would result in a danger to the public health or
37 safety.

38 c. Until such time as the Statewide site improvement standards
39 are amended, as described in subsection b. of this section, the
40 commissioner, the Site Improvement Advisory Board and the
41 technical subcommittee thereof, and municipal agencies shall give
42 favorable consideration to appropriate exceptions for development
43 in smart housing zones as may be required to meet the purposes of
44 this act.

45
46 18. There is established in the Department of Community
47 Affairs a separate dedicated fund, to be used to make incentive
48 payment grants to municipalities that have established smart

1 housing zones, as provided for in section 11 of P.L. , c. (C.)
2 (pending before the Legislature as this bill), and which shall be
3 known as the "Smart Housing Fund." The fund shall be a non-
4 lapsing, revolving fund, and all monies deposited or received for
5 purposes of the fund shall be accounted for separately, by source
6 and amount, and remain in the fund until appropriated for such
7 purposes.

8 a. Developers of middle income and market-rate housing units
9 in a smart housing zone shall pay a developer fee to the "Smart
10 Housing Fund" in the amount of \$4,000 for every net new zoned
11 middle income or market rate unit as a condition precedent to the
12 issuance of a certificate of occupancy for any such unit.

13 b. In addition to other grants and loans awarded pursuant to
14 section 20 of P.L.1985, c.222 (C.52:27D-320), and without regard
15 to any limitations on grants or loans under that section, the
16 Commissioner of Community Affairs shall transfer amounts from
17 the "New Jersey Affordable Housing Trust Fund" to the "Smart
18 Housing Fund" that the commissioner determines to be necessary to
19 allow for the timely disbursement of incentive payment grants to
20 municipalities that have established smart housing zones. This
21 determination shall ensure that amounts are transferred sufficient to
22 cover the difference between the amounts deposited into the "Smart
23 Housing Fund" by developers pursuant to subsection a. of this
24 section and the amount to be required to be paid to a municipality
25 as an incentive payment grant. Such amounts transferred shall be
26 deemed to represent assistance to municipalities necessary to
27 accommodate costs associated with the production of new low
28 income housing units and moderate income housing units.
29 Consistent with provisions for the "New Jersey Affordable Housing
30 Trust Fund" in subsection c. of section 20 of P.L.1985, c.222 as
31 amended by section 17 of P.L.2008, c.46 (C.52:27D-320), the
32 council shall authorize the commissioner to provide this assistance
33 to municipalities with approved smart housing zones for the
34 duration of the "Smart Housing Incentives Program."

35 c. Within 12 months after enactment of P.L. , c. (C.)
36 (pending before the Legislature as this bill), and every year
37 thereafter, the commissioner shall transfer \$3 million from the
38 "New Jersey Affordable Housing Trust Fund" to the "Smart
39 Housing Fund" to cover the obligation to make grants for low
40 income housing units and moderate income housing units in smart
41 housing zones. The commissioner may transfer additional monies
42 into the "Smart Housing Fund" if needed to meet these purposes.

43 d. In the event that a temporary shortfall is anticipated for the
44 "Smart Housing Fund" due to the timing of incentive payments
45 relative to anticipated incoming funds, the commissioner may
46 transfer money into the fund on a temporary basis from any source
47 at his discretion.

1 e. Starting three years after the effective date of
2 P.L. , c. (C.) (pending before the Legislature as this bill), if
3 the balance in the "Smart Housing Fund" exceeds the amount
4 needed to cover the State's obligation to make zoning and
5 construction incentive payments to municipalities that have
6 established smart housing zones by more than \$3 million, the
7 commissioner may defer the annual \$3 million transfer until the
8 following year.

9 f. Any interest earned on monies in the "Smart Housing Fund"
10 shall accrue to the fund.

11 g. The department and the State Treasurer shall submit the
12 "Smart Housing Fund" for an audit annually by the State Auditor or
13 State Comptroller, at the discretion of the State Treasurer. In
14 addition, the department shall prepare an annual report for each
15 fiscal year, and submit it by November 30th of each year to the
16 Governor and the Legislature, and post the information to its web
17 site, of all activity of the fund.

18
19 19. This bill shall take effect immediately.
20
21

22 STATEMENT

23
24 This bill, the "Smart Housing Incentives Act," would establish a
25 new voluntary program designed to encourage municipalities to
26 make zoning changes that will increase the supply of
27 homeownership and rental housing in areas that are considered
28 appropriate for growth under other State laws. The bill would
29 encourage the development of housing for working people by
30 rewarding municipalities that target higher-density, mixed-income
31 housing near jobs and public transportation hubs. The bill would
32 facilitate economic growth by providing workforce housing.

33 Criteria set forth in the bill encourage development within "smart
34 housing zones" to be pedestrian-friendly; be sensitive to
35 environmental considerations, including water-efficiency and
36 energy-efficiency; include opportunities for mixed-use
37 developments; and include a mix of opportunities for low,
38 moderate, middle and upper-income households. Inspired by a
39 successful program operating in Massachusetts, the program would
40 offer municipalities planning and visioning grants, financial
41 payments for new housing units zoned and constructed, and priority
42 for other funding programs that help local officials address the
43 impacts of growth.

44 Any municipality interested in establishing a smart housing zone
45 would submit an application to the Department of Community
46 Affairs, together with a draft proposed ordinance. The department
47 would be required to establish an approval process consistent with
48 requirements contained in the bill.

1 Municipalities interested in studying the possibility of
2 establishing a smart housing zone could apply for planning and
3 visioning grants. Municipalities that establish a smart housing zone
4 would be entitled to receive incentive payments, \$1,000 for each
5 new residential unit zoned and an additional \$4,000 for each new
6 residential unit constructed. Incentive payments would be limited
7 to 500 units for each municipality for a five-year period. The bill
8 provides that up to half of the amount of incentive payments
9 received could be spent for purposes related to the accommodation
10 of additional residents and requires that at least half of the amount
11 of incentive payments received must be used for “green
12 investments,” expenditures to protect or enhance the environment.

13 The bill would require developers of middle income and market-
14 rate housing units in smart housing zones to pay a developer fee in
15 the amount of \$4,000 for every net new zoned middle income or
16 market rate unit before a certificate of occupancy could be issued
17 for any such unit. The bill would provide developers of projects
18 within smart housing zones with priority assistance under several
19 State programs.

20 The bill would establish a new fund, the "Smart Housing Fund,"
21 out of which incentive payments to municipalities would be
22 disbursed. Monies would be deposited into the fund from two
23 sources: the payment of smart housing zone developer fees, and
24 transfers from the "New Jersey Affordable Housing Trust Fund."