

ASSEMBLY BILL NO. 20

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 20 without my approval. This bill makes supplemental appropriations of \$618.74 million for increased State support during Fiscal Year 2011 for the Pharmaceutical Assistance to the Aged and Disabled Program (PAAD), the Senior Gold Discount Program and the Homestead Property Tax/Rebate Credit program.

The bill changes the copayment in the PAAD program to \$5.00 for generic drugs and \$7.00 for brand name drugs. The proposed budget for Fiscal Year 2011 set the copayments at \$5.00 for generic drugs and \$15 for brand name drugs. The bill also eliminates the annual deductible on recipients proposed in the 2011 Fiscal Year budget. In addition, the bill reinstates the Homestead Rebate for seniors and residents with disabilities.

The State of New Jersey continues to confront unprecedented financial difficulties. Unfortunately, due to the economic crisis, the PAAD and Senior Gold programs saw modifications in the fiscal year 2011 proposed budget as my Administration had to make tough decisions to confront an \$11 billion budget gap. As a result, the fiscal year 2011 budget proposal called on PAAD and Senior Gold beneficiaries to cover the annual deductible of \$310 required by Medicare Part D. Additionally, the proposed budget anticipated that the co-payment under PAAD for brand named drugs would increase from \$7 to \$15. While this increase did not impact the lowest income PAAD eligibles, it did call on some New Jersey seniors to share in many tough choices.

Fortunately, my Administration has been able to restore pre-fiscal year 2011 budget levels for prescription drug assistance for New Jersey seniors. Due to increases in rebate

collections from drug manufacturers, higher utilization of generic drugs, expanded eligibility for enrollment in Medicare Part D's Low Income Subsidy program and manufacturer discounts in the Medicare part D "donut hole," funding will be available in the fiscal year 2011 budget to keep deductibles and copayments for Senior Gold and the PAAD program at preexisting levels, as well as lower PAAD copayments for generic medicines to \$5.

While many New Jerseyans have had to share in the sacrifice of this year's extraordinary economic and fiscal conditions, it is important that we still provide health care for those most vulnerable in our society. The State of New Jersey does not need to increase taxes to provide health care for its senior citizens and disabled residents. However, the difficult economic times we are facing make it imprudent to restore the Homestead Property Tax/Rebate Credit program.

I am also advised that Assembly Bill No. 20 is unconstitutional. Article VIII, Section 2, Paragraph 2 of the New Jersey State Constitution requires that all monies for the support of State government and for all other state purposes, as far as can be ascertained or reasonably foreseen, shall be provided for in a single General Appropriations Law covering one and the same fiscal year. Assembly Bill No. 20 attempts to supplement the State annual appropriations act for Fiscal Year 2010-2011, an Act which has not even been introduced.

Adopting a supplementary appropriations act before the annual appropriations act is at best premature. It is more likely to be found constitutionally suspect or infirm. The mandate of N.J. Const. art. VIII, §2, ¶ is clear. The Legislature is required to enact "one general appropriations law covering one and the same fiscal year." That law must

appropriate "[a]ll monies for the support of the State government and for all other State purposes as far as can be ascertained or reasonably foreseen." This bill does not meet these strict constitutional standards.

Further, under the Constitution I must certify that the revenues on hand and anticipated are sufficient to support both this bill as well as the annual appropriations act. Without seeing that annual act and its revenue estimate, I cannot make the required certification. The Constitution enjoins me from approving a bill in such circumstances.

The annual appropriations act is based upon projected spending and revenue estimates known at the time of enactment of the annual appropriation act. However, the Constitution certainly permits and the Legislature frequently enacts supplemental appropriations acts so as to address spending needs which arise subsequent to the enactment of the annual appropriations act. Here, the Legislature has enacted a supplemental spending bill for vital senior programs such as PAAD and Senior Gold which precedes the annual appropriations act rather than including them in the annual appropriations act. These vital senior programs need to be funded in a manner consistent with the Constitution. Therefore, they should be included in the annual appropriations act for FY 2011.

Accordingly, I herewith return Assembly Bill No. 20 without my approval.

Respectfully,

Chris Christie
Governor

Attest:

Jeffrey S. Chiesa
Chief Counsel to the Governor