

January 8, 2024

**SENATE BILL NO. 539**  
**(Second Reprint)**

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 539 (Second Reprint) with my recommendations for reconsideration.

Senate Bill No. 539 (Second Reprint) attempts to expand the types of transactions permitted under the Special Supplemental Nutrition Program for Women, Infants, and Children ("WIC") - a federal food assistance program regulated by the U.S. Department of Agriculture ("USDA") - by declaring that WIC participants can purchase WIC-eligible foods online and use program funds to pay the delivery fee charged for any home delivery of such foods. It requires the Commissioner of the Department of Health ("DOH") to apply for any USDA waivers or approvals necessary to implement the bill.

I commend the bill's sponsors for undertaking efforts to promote a modern, accessible, and equitable shopping experience for WIC participants so that they may enjoy the same services as the general public without any added difficulty or personal cost. Unfortunately, the current federal regulations do not allow the use of WIC funds to pay for home delivery services, which unfairly burdens low-income families that receive critical nutrition services under the program. The scope of permissible WIC transactions is dictated at the federal level by the USDA. State agencies, like DOH, are tasked with administering the WIC program in accordance with federal regulations and cannot simply disregard those regulations as suggested by Senate Bill No. 539 (Second Reprint). Therefore, I am recommending amendments to clarify that the use of WIC funds to pay for delivery fees may only be permitted

to the extent authorized by the federal WIC program or any rule changes or waivers it may issue in the future.

I herewith return Senate Bill No. 539 (Second Reprint) and recommend that it be amended as follows:

Page 2, Section 2, Lines 35-36: Delete "Notwithstanding any other provision of law to the contrary, an" and insert "An"

Page 2, Section 2, Line 37: Delete "shall" and insert "may, to the extent authorized by the WIC program or any waivers obtained by the Department of Health pursuant to subsection b. of this section,"

Page 3, Section 2, Line 9: After "for" insert "participation in"

Page 3, Section 2, Line 9: Delete "necessary"

Page 3, Section 2, Line 9: After "approvals" insert "made available by the WIC program"

[seal]

Respectfully,

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor