

April 15, 2013

SENATE BILL NO. 2535

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 2535 with my recommendations for reconsideration.

Since taking office in 2010, I have stressed the urgent need for tax relief. I have pressed that message both in conversations with citizens across our State, and in personal pleas to members of the Legislature in our State House. It is a message that follows from the simple principle on which our country was first founded: that the prosperity of the people belongs to the people, and not to the government. When, through careful stewardship, decisive leadership, and responsible budgeting, the government is able to return a portion of the revenue taken from its citizens, it is the moral obligation of all leaders to do so without delay.

In line with that duty, in 2012 I announced a plan to provide a responsible and measured tax reduction for all New Jerseyans. The legislative majority declined that offer. In June of last year, I presented the Legislature with a compromise that maintained broad-based tax relief, increased the Earned Income Tax Credit, added credits for homestead property taxes, and phased-in these programs over several years.

Further obstruction by the Legislature, and a new argument for delay, immediately followed. Now, claimed some members of the Legislature, a tax cut could not be considered until greater certainty regarding future State revenue was presented. Acknowledging either expressly, or implicitly, that a tax cut is needed, these new voices of inaction suggest that unless government can be assured that revenue will not decline in the

future, returning the people's money in the present is simply out of the question. Tellingly, it is an argument that has never once been considered in the context of the tens of billions of dollars in spending requests, budget increases, program enlargements, or governmental expansions proposed by that same Legislature in Trenton.

But leadership that produces action demands reasonable compromise. Accordingly, I again call upon the Legislature to join in a new tax relief plan that accomplishes our collective goals of stimulating the economy and easing the financial burden on our hard-working citizens. Specifically, I return this bill with my recommendations to retain the proposed EITC increase while also providing a refundable gross income tax credit for homeowners with \$400,000 or less of taxable income as I proposed last year. Also in accordance with that plan, the income tax credit would be phased in over four taxable years. In addition, I recommend increasing the value of the current gross income tax credit for homestead property taxes, which is sometimes referred to as the "renter's credit," from \$50 to \$100 for the taxable year beginning in 2013; to \$150 for the taxable year beginning in 2014; and to \$200 for taxable years beginning in 2015 and thereafter.

Finally, to directly address the concerns of some in the Legislature who seemingly care little about increasing government spending but find every excuse to oppose tax cuts, I also recommend the adoption of a measure that authorizes the Legislature each year to prevent the implementation of these tax cuts if State revenues are insufficient.

With the final barrier to enactment addressed, the Legislature must now choose between two paths: swift and

decisive action on tax relief, based on principled compromise, and sound public policy that will set the State on the course for economic prosperity; or new excuses conclusively proving that, under no circumstances, will the Senate and General Assembly ever agree to return to the people even a single dollar of their income. I am confident that a majority of our Legislature will choose the path forward, the path of economic growth, and the path of fundamental fairness to our citizens. The time for tax relief has come, and I respectfully ask the Legislature to swiftly concur.

Accordingly, I herewith return Senate Bill No. 2535 and recommend that it be amended as follows:

<u>Page 2, Title, Line 1:</u>	Delete "restoring" and insert "concerning property tax relief, increasing"
<u>Page 2, Title, Line 2:</u>	After "program," insert "and elective credit amounts under P.L. 1996, c.60 subject to legislative disapproval,"
<u>Page 2, Title, Line 2:</u>	After "P.L.2000, c.80" insert "and P.L. 1996, c.60 and supplementing Title 54A of the New Jersey Statutes"
<u>Page 2, Section 1, Line 38:</u>	After "January 1, 2013;" delete " <u>and</u> "
<u>Page 2, Section 1, Line 39:</u>	After "January 1, 2013" delete "." and insert "but before January 1, 2014; and (i) 25% for taxable years beginning on or after January 1, 2014, unless this enhanced credit amount is disapproved by the Legislature in the manner prescribed by section of P.L. , c. (pending before the Legislature as section 4 of this bill), in which case the percentage of the federal credit for that taxable year shall be 20%."
<u>Page 3, Section 1, Line 18:</u>	After "shall" insert "have discretion to"
<u>Page 3, Line 28:</u>	Insert new sections 2 through 4 "2. Section 6 of P.L.1996, c.60 (C.54A:3A-20) is amended

to read as follows: 6. a. (1) Notwithstanding any provision of this act to the contrary, commencing with the taxpayer's taxable year beginning on or after January 1, 1996: (a) a taxpayer; or (b) a resident of this State who is 65 years of age or older at the close of the taxable year or who is allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1 but who, pursuant to N.J.S.54A:2-4, is not subject to tax; and, who paid property taxes or rent constituting property taxes on a homestead during the calendar year may elect to take a credit instead of the deduction provided pursuant to [section] sections 3, 4, or 5 of P.L.1996, c.60 (C.54A:3A-17 et seq.) in the amount of \$50, subject to the provisions of [paragraph] paragraphs (2) and (3) of this subsection. (2) Notwithstanding the provisions of paragraph (1) of this subsection, the amount of tax liability reduction or credit allowed for the taxpayer's taxable year beginning during 1996 shall be \$25 and the amount of tax liability reduction or credit allowed for the taxpayer's taxable year beginning during 1997 shall be \$37.50. (3) Notwithstanding the provisions of paragraph (1) of this subsection, for taxable years beginning on or after January 1, 2013, but before January 1, 2014 the amount of the credit allowed pursuant to this section shall be \$100. For taxable years beginning on or after January 1, 2014, but before January 1, 2015 the amount of the credit allowed pursuant to this section shall be \$150, unless this increased credit amount is disapproved by the Legislature in the manner prescribed by section of P.L. , c. (pending before the Legislature as section 4 of this bill), in which case the amount of the credit allowed pursuant to this section shall be \$100.

For taxable years beginning on or after January 1, 2015, the amount of the credit allowed pursuant to this section shall be \$200, unless this increased credit amount is disapproved by the Legislature in the manner prescribed by section of P.L. , c. (pending before the Legislature as section 4 of this bill), in which case the amount of the credit allowed for that taxable year pursuant to this section shall be \$100.

b. A husband and wife who elect to file separate income tax returns pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall each be entitled to one-half of the credit allowed pursuant to subsection a. of this section.

c. The credit shall be paid to the taxpayer as a refund of overpayment pursuant to N.J.S.54A:9-7, provided however, that subsection (f) of that section shall not apply. The credit for a claimant qualified under subsection a. of this section who, pursuant to N.J.S.54A:2-4, is not subject to tax, shall be applied for annually on an application as shall be made available by the director, to be filed with the director on or before the date for filing annual gross income tax returns. The director shall determine the form and manner by which a qualified applicant shall apply for a refund of an overpayment pursuant to this section, and the time of the refund of the overpayment. For the purposes of this section, refunds of overpayments may be combined with payments of rebates pursuant to P.L.1990, c.61 (C.54:4-8.57 et seq.).

d. Notwithstanding the provisions of subsection a. of this section, for taxable years beginning on or after January 1, 2013 no taxpayer or resident that is allowed a New Jersey direct property tax relief credit pursuant to

section of P.L. , c. (C.)
(pending before the
Legislature as section 3 of
this bill) for the taxable
year shall be allowed a
credit pursuant to this
section for the taxable year.
 (cf: P.L.1996, c.60, s.6)

3. (New section) a. There is established the New Jersey Direct Property Tax Relief Program. For taxable years beginning on or after January 1, 2013, a qualified homeowner shall be allowed a New Jersey direct property tax relief credit against the tax liability otherwise due for the taxable year pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., after all other credits and payments. If the New Jersey direct property tax relief credit exceeds the amount of tax liability otherwise due, that amount of excess shall be refunded as an overpayment pursuant to N.J.S.54A:9-7, provided, however, that subsection (f) of N.J.S.54A:9-7, concerning interest shall not apply.

b. For taxable years beginning on or after January 1, 2013, but before January 1, 2014, a qualified homeowner with \$400,000 or less of taxable income for the taxable year shall be allowed a New Jersey direct property tax relief credit in the amount of \$100.

c. Except as otherwise provided in this subsection, for taxable years beginning on or after January 1, 2014, a qualified homeowner with \$400,000 or less of taxable income for the taxable year shall be allowed a New Jersey direct property tax relief credit in an amount equal to a percentage of the amount of property tax due and paid by the qualified homeowner for the qualified homeowner's home in the taxable year. Provided, however, that the amount of property tax due and paid that is considered for purposes of calculating the amount of the New Jersey direct property tax relief credit for the taxable year

shall not exceed \$10,000 per qualified homeowner and the individual, if any, with whom the qualified homeowner is eligible to file a joint return and determine tax pursuant to subsection a. of N.J.S.54A:2-1, notwithstanding subsections b. and d. of N.J.S.54A:8-3.1.

For taxable years beginning on or after January 1, 2014, but before January 1, 2015, the percentage of the amount of property tax due and paid for purposes of calculating the amount of the New Jersey direct property tax relief credit shall be four percent, unless this increased credit amount is disapproved by the Legislature in the manner prescribed by section of P.L. , c. (pending before the Legislature as section 4 of this bill), in which case the amount of the credit allowed pursuant to this section shall be \$100.

For taxable years beginning on or after January 1, 2015, but before January 1, 2016, the percentage of the amount of property tax due and paid for purposes of calculating the amount of the New Jersey direct property tax relief credit shall be eight percent, unless this increased credit amount is disapproved by the Legislature in the manner prescribed by section of P.L. , c. (pending before the Legislature as section 4 of this bill), in which case the amount of the credit allowed pursuant to this section shall be \$100.

For taxable years beginning on or after January 1, 2016, the percentage of the amount of property tax due and paid for purposes of calculating the amount of the New Jersey direct property tax relief credit shall be ten percent, unless this increased credit amount is disapproved by the Legislature in the manner prescribed by section of P.L. , c. (pending before the Legislature as section 4 of this bill), in which case the amount of the credit

allowed for that taxable year pursuant to this section shall be \$100.

d. (1) For purposes of determining a qualified homeowner's eligibility for a New Jersey direct property tax relief credit pursuant to this section and relative to the limits on taxable income for the taxable year:

taxable income shall be calculated without the net profits from a business that would otherwise be included in that calculation pursuant to subsection b. of N.J.S. 54A:5-1;

a qualified homeowner's taxable income for the taxable year shall be deemed to include the taxable income for the taxable year of an individual with whom the qualified homeowner is eligible to file a joint return and determine tax pursuant to subsection a. of N.J.S.54A:2-1, notwithstanding subsections b. and d. of N.J.S.54A:8-3.1; and

if the individual with whom the qualified homeowner is eligible to file a joint return and determine tax pursuant to subsection a. of N.J.S.54A:2-1, notwithstanding subsections b. and d. of N.J.S.54A:8-3.1, is not a resident, the qualified homeowner's taxable income for the taxable year shall be calculated as if the individual with whom the qualified homeowner is eligible to file a joint return and determine tax pursuant to subsection a. of N.J.S.54A:2-1, notwithstanding subsections b. and d. of N.J.S.54A:8-3.1, were a resident for the taxable year.

(2) A New Jersey direct property tax relief credit allowed pursuant to subsection c. of this section shall be allowed in relation to the amount of the property taxes actually paid by or allocable to a qualified homeowner who has more than

one home, but the aggregate amount of the property taxes claimed shall not exceed the total of the proportionate amounts of property taxes assessed and levied against or allocable to each home for the portion of the taxable year for which the qualified homeowner occupied the home as the qualified homeowner's principal residence.

(3) If title to a home is held by more than one individual as joint tenants or tenants in common, each qualified homeowner shall be allowed a New Jersey direct property tax relief credit only in relation to the qualified homeowner's proportionate share of the property taxes assessed and levied against the home. The proportionate share shall be equal to that of all other individuals who hold the title, but if the conveyance under which the title is held provides for unequal interests therein, a qualified homeowner's share of the property taxes shall be in proportion to the qualified homeowner's interest in the title.

(4) If title to a home is held by a husband and wife who own the home as tenants by the entirety, or if that husband and wife are both residential shareholders of a cooperative or mutual housing corporation and occupy the same home therein, and who elect to file separate income tax returns pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., that husband and wife shall each be entitled to one-half of the New Jersey direct property tax relief credit for which they may be jointly eligible pursuant to this section.

(5) If a qualified homeowner's home consists of more than one unit, the qualified homeowner's New Jersey direct property tax relief credit allowed pursuant to subsection c. of this section shall be allowed only in relation to the

proportionate share of the property taxes assessed and levied against the residential unit occupied by the qualified homeowner, as determined by the local tax assessor.

e. The Director of the Division of Taxation in the Department of the Treasury shall adopt rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as the director determines is necessary to implement P.L. , c. (pending before the Legislature as this bill).

The director shall implement a simplified application process for the New Jersey direct property tax relief credit for qualified homeowners that are not required to file a gross income tax return pursuant to N.J.S.54A:8-3.1.

f. As used in this section:

"Condominium" means the form of real property ownership provided for under the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.).

"Continuing care retirement community" means a residential facility primarily for retired persons where lodging and nursing, medical or other health related services at the same or another location are provided as continuing care to an individual pursuant to an agreement effective for the life of the individual or for a period greater than one year, including mutually terminable contracts, and in consideration of the payment of an entrance fee with or without other periodic charges.

"Cooperative" means a housing corporation or association which entitles the holder of a share or membership interest thereof to possess and occupy for dwelling purposes a house, apartment, or other unit of housing owned or leased by the

corporation or association, or to lease or purchase a unit of housing constructed or to be constructed by the corporation or association.

"Dwelling house" means any residential property assessed as real property which consists of not more than four units, of which not more than one may be used for commercial purposes, but shall not include a unit in a condominium, cooperative, horizontal property regime, or mutual housing corporation.

"Home" means a qualified homeowner's principal residence in New Jersey that qualifies as one of the following types of homesteads:

(1) a dwelling house and the land on which that dwelling house is located;

(2) a dwelling house situated on land owned by a person other than the qualified homeowner which constitutes the place of the qualified homeowner's dwelling house;

(3) a condominium unit or a unit in a horizontal property regime which constitutes the place of the qualified homeowner's condominium unit or unit in a horizontal property regime;

(4) a homestead where ownership is represented by the qualified homeowner's interest as a tenant for life or a tenant under a lease for 99 years or more and the qualified homeowner is entitled to and actually takes possession of the homestead under an executory contract for the sale thereof or under an agreement with a lending institution which holds title as security for a loan, or a resident of a continuing care retirement community pursuant to a contract for continuing care for the life of that person which requires the resident to bear, separately from any other charges, the proportionate share of

property taxes attributable to the unit that the resident occupies; and

(5) a unit in a cooperative or mutual housing corporation which constitutes the place of domicile of a residential shareholder or lessee therein, or of a lessee or shareholder who is not a residential shareholder therein.

"Horizontal property regime" means the form of real property ownership provided for under the "Horizontal Property Act," P.L.1963, c.168 (C.46:8A-1 et seq.).

"Mutual housing corporation" means a corporation not-for-profit, incorporated under the laws of this State on a mutual or cooperative basis within the scope of section 607 of the Lanham Public War Housing Act ("National Defense Housing Act"), Pub.L. 76-849 (42 U.S.C. s.1587), as amended, which acquired a National Defense Housing Project pursuant to that act.

"Principal residence" means a home actually and continually occupied by a qualified homeowner as the qualified homeowner's permanent residence, as distinguished from a "vacation home," property owned and rented or offered for rent by the qualified homeowner, and other secondary real property holdings.

"Property tax" means payments to a municipality for which an assessment by a municipality has been made on an ad valorem basis on land and improvements, and shall not include payments made in lieu of taxes.

"Qualified homeowner" means a resident of the State that owns a home in New Jersey which is the resident's principal residence.

"Residential shareholder" means a tenant or holder of a membership interest in a cooperative or mutual housing corporation and who may

deduct real property taxes for purposes of federal income tax pursuant to section 216 of the federal Internal Revenue Code (26 U.S.C. s.216).

4. (New Section) For purposes of determining the applicable credit amounts for taxable years beginning on or after January 1, 2014 for the New Jersey Direct Property Tax Relief Program as provided in section of P.L. , c. (pending before the Legislature as section 3 of this bill), for the elective credit commonly referred to as the renter's credit as provided in section 6 of P.L. 1996, c. 60 as amended by section of P.L. , c. (pending before the Legislature as section 2 of this bill), and for the New Jersey earned income credit program as provided in section 2 of P.L.2000, c.80 as amended by section of P.L. , c. (pending before the Legislature as section 1 of this bill), if in any year the Legislature believes that the fiscal condition of the State is such that tax credits in enhanced amounts for these programs should not be made available to eligible taxpayers during that taxable year and adopts a concurrent resolution on or before June 1 of that taxable year stating that the Legislature is not in agreement with providing enhanced benefits for that year, then the credit amounts for all three of these programs shall be the lower of the amounts or percentages specified in section of P.L. , c. (pending before the Legislature as section 3 of this bill), in section 6 of P.L. 1996, c. 60 as amended by section of P.L. , c. (pending before the Legislature as section 2 of this bill), and in section 2 of P.L.2000, c.80 as amended by section of P.L. , c. (pending before the Legislature as section 1 of this bill)."

Respectfully,
/s/ Chris Christie
Governor

[seal]

Attest:

/s/ Charles B. McKenna
Chief Counsel to the Governor