

SENATE BILL NO. 2788
(First Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 2788 (First Reprint) without my approval.

This bill would require the State Treasurer to establish two programs to provide supplemental payments to long-term care facility staff providing direct care services to patients during the Coronavirus disease 2019 ("COVID-19") pandemic. The first program would make one-time, lump-sum payments to employees providing direct care services who satisfy certain wage and hour criteria established in the bill during the period commencing March 9, 2020 and continuing through the bill's date of enactment. The second program would provide grants to long-term care facilities that make supplemental payments to staff satisfying criteria similar to the wage and hour criteria established under the direct payment program. Both programs would be subject to the availability of federal funds provided or made accessible to the State in response to the COVID-19 pandemic.

The Treasurer would be charged with determining the amount of the payment to be made to eligible staff, in the case of the direct payment program, and to eligible facilities, in the case of the grant program, based on the total amount of available funding and the anticipated number of applicants. Moreover, the Treasurer could waive or revise any of the eligibility criteria outlined in the bill, establish additional criteria, or expand eligibility for either program, as the Treasurer deems appropriate. Long term care facilities that fail to distribute 100 percent of their grant funding to eligible employees would be subject to recoupment of their grant awards and facilities

that reduce the amount of wages ordinarily paid to staff would be subject to civil penalties.

I commend the bill's sponsors for recognizing the significant burden that our long-term care workforce has shouldered over the past eight months. These workers have been serving on the frontlines of the pandemic, often risking their own health and the health of their families in order to protect our most vulnerable residents. I certainly share the sponsors' commitment to ensuring that the workforce receives the support it needs during this unprecedented public health crisis.

To that end, and in cooperation with my partners in the Legislature, my Administration has recently instituted measures to ensure that direct care providers at long-term care facilities are appropriately compensated for the critical care they provide. In September, I signed Assembly Bill No. 4482, which requires direct-care workers employed by long-term health-care facilities to receive wages that are at least \$3 higher than the State's minimum wage. Importantly, the new law is not linked to the current pandemic; it enhances this workforce's hourly compensation for the duration of the public health emergency and beyond.

Additionally, the Fiscal Year 2021 budget contains a \$78 million appropriation to increase frontline certified nurse aide ("CNA") wages in nursing facilities. This new funding will support an increase in Medicaid hourly wages for CNAs by an estimated twenty percent during the nine-month budget period. The budget implements the Medicaid funding plan for nursing facilities that I announced in August and which was later codified into law when I signed Assembly Bill No. 4547 in conjunction with the Fiscal Year 2021 budget.

Our collective efforts to recognize this crucial workforce

have gone beyond enhancing their compensation. Last month, I signed Senate Bill No. 2712, which establishes minimum staff-to-resident ratios for nursing home facilities. These statutorily mandated ratios are designed to relieve a workforce that is too often overworked and overburdened, while also ensuring that the quality of care provided to some of our most vulnerable residents does not suffer as a result of staffing strains. The legislation also created the Special Task Force on Direct Care Workforce Retention and Recruitment, which will consider additional measures to create a more robust and supported long-term care workforce in the State.

While I have been proud to work with my partners in the Legislature on these important long-term care reforms, I am unable to support the present bill. The payment and grant programs would divert limited federal COVID-19 funding without regard for other immediate needs and could also limit the flexibility to shape COVID-19 programs that comply with federal standards for use of such funding. For example, the September 2, 2020 guidance released by the United States Department of the Treasury regarding permissible uses for Coronavirus Relief Fund expenditures specified that "workforce bonuses" would be an ineligible expenditure. As these restrictions are frequently updated, my Administration must retain sufficient discretion to administer initiatives that are compliant with federal standards. Further, the bill would require the Department of the Treasury to establish programs that it has neither the tools nor the expertise to administer, having no previous interaction with the long-term care community and the workforce implicated in the bill. This is particularly problematic as the bill grants the Treasurer broad discretion to revise both programs.

Although I cannot endorse the approach contemplated in this bill, I remain committed to supporting our long-term care facilities and their workers, who have been critical to combatting this pandemic. I look forward to continuing to work with my legislative colleagues on measures to protect this critical workforce and the patients they serve.

Accordingly, I herewith return Senate Bill No. 2788 (First Reprint) without my approval.

Respectfully,

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor