SENATE BILL NO. 3238
(Second Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I herewith return Senate Bill No. 3238 (Second Reprint) with my recommendations for reconsideration.

The bill requires the Department of Banking and Insurance ("DOBI") to establish and operate the New Jersey Easy Enrollment Health Insurance Program ("Easy Enrollment Program") and to integrate the program with the State-based health insurance exchange. Under the Easy Enrollment Program, individuals filing a State income tax return will be able to indicate that they are seeking health care coverage. Using the information provided on a State income tax return, and other data from third-party data sources, DOBI, in coordination with the Department of Human Services, would be able to verify an individual's eligibility for the State Medicaid Program, NJ FamilyCare Program, and insurance affordability assistance on the State-based exchange and assist in enrolling the individual in insurance affordability assistance and minimum essential coverage.

In 2019, my legislative partners and I enacted legislation to establish a State-Based Health Exchange in New Jersey. On November 1, 2020 open enrollment began at Get Covered New Jersey, which provides a one-stop shop for health insurance for residents who do not have coverage from an employer or other program. Along with the establishment of the State-based health insurance exchange, the State invested heavily in outreach and awareness efforts to connect residents to available health coverage options. During its inaugural Open Enrollment Period, enrollment increased by nearly 10 percent compared to the previous year. Enrollment on the marketplace reached record levels this year, with more than 283,000 residents signing up for coverage as of September of 2021.

While we have advanced strong policies to protect access to health care for our residents with very encouraging results, more can be done to ensure that all residents have access to the coverage and care they deserve. The program established in this bill would leverage the information provided through tax filings to increase enrollment among the uninsured.

I commend the bill's sponsors for their efforts to build upon the critical steps we have already taken to improve access to coverage for New Jersey families. However, although I fully support the concept of integrating unemployment and tax data to streamline enrollment in health coverage, the program designed under the bill presents numerous operational challenges that risk creating consumer confusion and unattainable expectations. I am therefore recommending that additional changes be made to the bill to ensure an effective rollout of the Easy Enrollment Program.

My recommended revisions retain the key aspects of the legislation while ensuring that the numerous departments that are tasked with the implementation of the Easy Enrollment Program have the time, resources, and flexibility needed for a successful launch and execution of the program. The proposed changes include a longer implementation timeline, a clearer delineation of the work to be performed by each department, and the leveraging of existing systems and programs to increase efficiencies and ensure full compliance with federal law.

Access to quality and affordable health insurance is a basic human right and I will continue to fight to ensure that this right extends to all 9.3 million of our residents. By establishing the State-based exchange, ending surprise out-of-network billing, and codifying the protections of the Affordable Care Act, my Administration is fulfilling its promise to New Jerseyans to make health care in the State more accessible, more affordable, and more transparent. With the changes recommended, this legislation

has tremendous potential to deliver quality health care to all of our residents.

Therefore, I herewith return Senate Bill No. 3238 (Second Reprint) and recommend that it be amended as follows:

Page 2, Title, Line 2:	Delete "and" and insert ","
Page 2, Title, Line 2:	After "supplementing" insert "and amending"
Page 2, Title, Line 3:	Delete "(C.17B:27A-57 et seq.)" and insert ", and amending R.S.54:50-9"
Page 2, Section 1, Lines 11-12:	Delete in their entirety
Page 2, Section 1, Lines 21-24:	Delete in their entirety
Page 2, Section 1, Lines 27-40:	Delete in their entirety
Page 2, Section 1, Line 43:	Delete "under the age of 65 years"
Page 2, Section 1, Line 44:	Delete "8" and insert "6"
Page 3, Section 1, Lines 1-3:	Delete in their entirety
Page 3, Section 2, Line 14:	After "returns" insert "and approved eFile vendors"
Page 3, Section 2, Line 17:	After "determine" insert "or assess, as feasible,"
Page 3, Section 2, Line 28:	After "Insurance," insert "in coordination with"
Page 3, Section 2, Line 30:	After "Treasurer" insert ","
Page 3, Section 2, Line 44:	Delete "may" and insert "shall"
Page 3, Section 2, Line 46:	After "act" insert "and P.L.2018, c.31 (C.54A:11-1 et seq.)"
Page 4, Section 2, Line 1:	Delete "Commissioner" and insert "Commissioners"
Page 4, Section 2, Line 1:	Delete "may pursue any" and insert "and Banking and Insurance shall apply and secure any State plan amendments or"
Page 4, Section 3, Lines 5-26:	Delete in their entirety
Page 4, Section 4, Line 28:	Delete in its entirety
Page 4, Section 4, Line 29:	Delete "Program shall determine" and insert "3. a. The Department of Banking and Insurance may assess or determine, as appropriate,"
Page 4, Section 4, Line 32:	Delete "8" and insert "6"

Page 4, Section 4, Line 33:	After "individual" insert "or another individual indicated on the tax return"
Page 4, Section 4, Line 34:	Delete "program shall" and insert "department may"
Page 4, Section 4, Line 38:	Delete "8" and insert "6"
Page 4, Section 4, Line 42:	Delete "program" and insert "department"
Page 4, Section 4, Line 42:	Delete "limit" and insert "obtain such information while limiting"
Page 4, Section 4, Line 42:	Delete "," and insert "."
Page 4, Section 4, Lines 43-45:	Delete in their entirety
Page 5, Section 4, Lines 1-27:	Delete in their entirety and insert "c. The Department of Banking and Insurance may make, or refer to the Department of Human Services to make, an assessment or determination, as appropriate, of eligibility for the State Medicaid program or the NJ FamilyCare Program. The Department of Banking and Insurance may utilize and share with the Department of Human Services any information provided to the Department of Banking and Insurance in making assessments or determinations pursuant to this subsection."
Page 5, Section 5, Lines 29-47:	Delete in their entirety
Page 6, Section 5, Lines 1-4:	Delete in their entirety
Page 6, Section 6, Lines 6-17:	Delete in their entirety
Page 6, Section 6, Line 18:	Delete "(2)" and insert "4. a. The Department of Banking and Insurance shall establish a special enrollment period for the New Jersey individual health insurance market to facilitate the objectives of the program."
Page 6, Section 6, Line 20:	Delete "before the start of the calendar year"
Page 6, Section 6, Line 22:	Delete "c. (1)" and insert "b."
Page 6, Section 6, Line 23:	Delete "b." and insert "a."
Page 6, Section 6, Line 28:	Delete "(2)" and insert "c."
Page 6, Section 6, Line 29:	Delete "paragraph (1)" and insert "subsection b."
Page 6, Section 6, Line 30:	Delete "subsection" and insert "section"
Page 6, Section 6, Line 33:	Delete "(3)"

Page 6, Section 6, Line 35:	Delete “paragraph (2) of”
Page 6, Section 6, Line 37:	Delete “4” and insert “3”
Page 6, Section 6, Line 37:	After “entity” insert “or any other reasonable manner”
Page 6, Section 7, Line 39:	Delete “7.” and insert “5.”
Page 7, Section 8, Line 1:	Delete “8.” and insert “6.”
Page 7, Section 8, Line 2:	Delete “uninsured” and insert “not covered under minimum essential coverage”
Page 7, Section 8, Line 4:	Delete “the uninsured” and insert “each such”
Page 7, Section 8, Line 5:	After “individual” insert “included in the tax return”
Page 7, Section 8, Line 7:	After “section” insert “for each individual included in the tax return”
Page 7, Section 8, Line 10:	Delete “program” and insert “department”
Page 7, Section 8, Line 11:	After “assistance” insert “for the individual filing the tax return or any individual included in the tax return”
Page 7, Section 8, Line 19:	Delete “shall give” and insert “or separate form shall facilitate the collection of contact information, including a phone number, electronic mail address, and mailing address, from”
Page 7, Section 8, Line 19:	After “tax return” delete “the” and insert “and provide an”
Page 7, Section 8, Line 20:	Delete “program” and insert “department”
Page 7, Section 8, Line 23:	Delete “health” and insert “minimum essential”
Page 7, Section 8, Line 27:	After “individual” insert “included in the tax return”
Page 7, Section 8, Line 27:	Delete “uninsured” and insert “not covered under minimum essential coverage”
Page 7, Section 8, Line 29:	After “subsection” insert “for each individual included in the tax return”
Page 7, Section 8, Line 30:	After “subsection a.” insert “and in subsection b.”
Page 7, Section 8, Line 33:	Delete “program” and insert “department”
Page 7, Section 8, Line 35:	Delete “the individual's eligibility for insurance

	affordability assistance" and insert "eligibility for insurance affordability assistance for the individual filing the tax return and any other individual included in that tax return who does not have minimum essential coverage"
Page 7, Section 8, Lines 36-37:	Delete "the individual's"
Page 7, Section 8, Line 37:	After "assistance" insert "for the individual filing the tax return and any other individual included in that tax return who does not have minimum essential coverage"
Page 7, Section 8, Line 39:	Delete "program" and insert "department"
Page 7, Section 8, Line 40:	After "subsection" insert "for the individual filing the tax return and any other individual included in that tax return who does not have minimum essential coverage"
Page 7, Section 8, Line 42:	Delete "and with the advice of the workgroup"
Page 8, Section 8, Line 7:	Delete "program" and insert "department"
Page 8, Section 8, Line 7:	Delete "insurance-relevant" and insert "eligibility-relevant"
Page 8, Section 8, Line 8:	After "return" insert "for all individuals included in that tax return"
Page 8, Section 8, Line 10:	After "(C.54A:11-3)" insert "applicable to months of the year that the tax return is filed"
Page 8, Section 8, Lines 12-13:	Delete "health benefits" and insert "minimum essential"
Page 8, Section 9, Line 20:	Delete "9." and insert "7."
Page 8, Section 9, Line 21:	Delete "10" and insert "8"
Page 8, Section 9, Line 23:	Delete "program" and insert "Department of Banking and Insurance"
Page 8, Section 9, Line 24:	Delete "4 through 6" and insert "3 and 4"
Page 8, Section 9, Line 27:	Delete "A" and insert "The Department of Banking and Insurance shall establish a"
Page 8, Section 9, Lines 28-29:	Delete in their entirety and insert "individual health insurance market."

Page 8, Section 9, Line 32:	Delete "before the start of the calendar year"
Page 8, Section 9, Line 34:	Delete "(1)"
Page 8, Section 9, Lines 39-43:	Delete in their entirety
Page 8, Section 10, Line 45:	Delete "10." and insert "8."
Page 8, Section 10, Line 45:	Delete "On or before September 1, 2021, the" and insert "The"
Page 8, Section 10, Line 46:	Delete "begin implementing" and insert "implement"
Page 9, Section 10, Line 1:	After "may" insert ", as part of the claim filing application, indicate that the individual is interested in obtaining minimum essential coverage and"
Page 9, Section 10, Lines 1-2:	Delete ", as part of a weekly claim certification,"
Page 9, Section 10, Lines 4-5:	Delete "program, the State-based exchange established pursuant to P.L.2019, c.141 (C.17B:27A-57 et seq.), the"
Page 9, Section 10, Line 6:	Delete ","
Page 9, Section 10, Line 9:	After "assistance" insert "and to support minimum essential coverage outreach and enrollment efforts. If an individual indicates that the individual is interested in obtaining minimum essential coverage and consents to share information pursuant to this subsection, then the Department of Labor and Workforce Development shall notify the Department of Banking and Insurance, which may assess or determine, as appropriate, eligibility for insurance affordability assistance or make, or refer to the Department of Human Services to make, an assessment or determination, as appropriate, of eligibility for the State Medicaid program or the NJ FamilyCare Program"
Page 9, Section 10, Line 11:	Delete "the State-based exchange,"
Page 9, Section 10, Line 12:	Delete ","
Page 9, Section 10, Line 18:	Delete "weekly claim certification form," and insert "claim filing application"
Page 9, Section 10, Line 21:	Delete "the State-based exchange,"
Page 9, Section 10, Line 22:	Delete ","

Page 9, Line 33:

Insert new sections:

"9. Section 2 of P.L.2019, c.141 (C.17B:27A-58) is amended to read as follows:

2. a. Notwithstanding any other law to the contrary, the Department of Banking and Insurance shall have the authority to operate a State-based exchange and coordinate the operations of the exchange with the operations of the New Jersey Individual Health Coverage Program and the New Jersey Small Employer Health Benefits Program, including reorganization of the boards, as the commissioner deems appropriate. The department's authority to regulate the insurance market shall be separate and distinct from the department's duty to oversee exchange operations, to ensure the best interests of and protection for consumers of the State. The commissioner may require that all plans in the individual and small employer markets be made available for comparison on the State-based exchange, but nothing in this section shall allow the commissioner to require all plans in the individual and small employer markets to be purchased exclusively on the State-based exchange. The department shall coordinate the operations of the exchange with the operations of the State Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and the NJ FamilyCare Program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.) to determine eligibility for those programs as soon as practicable.

b. The Commissioner of Human Services, in consultation with the Commissioner of Banking and Insurance, shall submit a proposal for available federal financial participation funds to the Centers for Medicare & Medicaid Services of the U.S. Department of Health and Human Services pursuant to 42 C.F.R. 433.112 for the Medicaid eligibility platform and the exchange to be integrated. Notwithstanding the foregoing, the Department of Banking and Insurance may proceed to

implement the provisions of this act, including the operation of the State-based exchange.

c. The Commissioner of Banking and Insurance shall have the authority to require that plans offered on the exchange conform with standardized plan designs that provide for standardized cost-sharing for covered health services.

d. The Commissioner of Banking and Insurance shall establish an advisory committee to provide advice to the commissioner concerning the operation of the exchange and the implementation of the New Jersey Easy Enrollment Health Insurance Program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill). The advisory committee shall include at least nine members, as follows:

(1) The Commissioner of Banking and Insurance, or a designee, who shall serve ex-officio;

(2) The Commissioner of Human Services, or a designee, who shall serve ex-officio;

(3) the Commissioner of Health, or a designee, who shall serve ex-officio; and

(4) six public members, who shall be residents of the State, appointed by the Commissioner of Banking and Insurance. Each public member shall have demonstrated experience in one or more of the following areas: health insurance consumer advocacy; individual health insurance coverage; small employer health insurance coverage; health benefits plan marketing; the provision of health care services; or academic or professional research relating to health insurance.

(cf: P.L.2019, c.141, s.2)

10. R.S.54:50-9 is amended to read as follows:

54:50-9. Nothing herein contained shall be construed to prevent:

a. The delivery to a taxpayer or the taxpayer's duly authorized representative of a copy of any report or any other paper filed by the taxpayer pursuant to the provisions of this subtitle or of any such State tax law;

b. The publication of statistics so classified as to prevent the identification of a particular report and the items thereof;

c. The director, in the director's discretion and subject to reasonable conditions imposed by the director, from disclosing the name and address of any licensee under any State tax law, unless expressly prohibited by such State tax law;

d. The inspection by the Attorney General or other legal representative of this State of the reports or files relating to the claim of any taxpayer who shall bring an action to review or set aside any tax imposed under any State tax law or against whom an action or proceeding has been instituted in accordance with the provisions thereof;

e. The examination of said records and files by the Comptroller, State Auditor or State Commissioner of Finance, or by their respective duly authorized agents;

f. The furnishing, at the discretion of the director, of any information contained in tax reports or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to the tax laws, to the taxing officials of any other state, the District of Columbia, the United States and the territories thereof, providing said jurisdictions grant like privileges to this State and providing such information is to be used for tax purposes only;

g. The furnishing, at the discretion of the director, of any material information disclosed by the records or files to any law enforcing authority of this State who shall be charged with the

investigation or prosecution of any violation of the criminal provisions of this subtitle or of any State tax law;

h. The furnishing by the director to the State agency responsible for administering the Child Support Enforcement program pursuant to Title IV-D of the federal Social Security Act, Pub.L.93-647 (42 U.S.C. s.651 et seq.), with the names, home addresses, social security numbers and sources of income and assets of all absent parents who are certified by that agency as being required to pay child support, upon request by the State agency and pursuant to procedures and in a form prescribed by the director;

i. The furnishing by the director to the Board of Public Utilities any information contained in tax information statements, reports or returns or any audit thereof or a report of any investigation made with respect thereto, as may be necessary for the administration of P.L.1991, c.184 (C.54:30A-18.6 et al.) and P.L.1997, c.162 (C.54:10A-5.25 et al.);

j. The furnishing by the director to the Director of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety any information contained in tax information statements, reports or returns or any audit thereof or a report of any investigation made with respect thereto, as may be relevant, in the discretion of the director, in any proceeding conducted for the issuance, suspension or revocation of any license authorized pursuant to Title 33 of the Revised Statutes;

k. The inspection by the Attorney General or other legal representative of this State of the reports or files of any tobacco product manufacturer, as defined in section 2 of P.L.1999, c.148 (C.52:4D-2), for any period in which that tobacco product manufacturer was not or is not in compliance with subsection a. of section 3 of P.L.1999, c.148 (C.52:4D-3), or of any

licensed distributor as defined in section 102 of P.L.1948, c.65 (C.54:40A-2), for the purpose of facilitating the administration of the provisions of P.L.1999, c.148 (C.52:4D-1 et seq.);

l. The furnishing, at the discretion of the director, of information as to whether a contractor or subcontractor holds a valid business registration as defined in section 1 of P.L.2001, c.134 (C.52:32-44);

m. The furnishing by the director to a State agency as defined in section 1 of P.L.1995, c.158 (C.54:50-24) the names of licensees subject to suspension for non-payment of State tax indebtedness pursuant to P.L.2004, c.58 (C.54:50-26.1 et al.);

n. The release to the United States Department of the Treasury, Bureau of Financial Management Service, or its successor of relevant taxpayer information for purposes of implementing a reciprocal collection and offset of indebtedness agreement entered into between the State of New Jersey and the federal government pursuant to section 1 of P.L.2006, c.32 (C.54:49-12.7);

o. The examination of said records and files by the Commissioner of Health and Senior Services, the Commissioner of Human Services, the Medicaid Inspector General, or their respective duly authorized agents, pursuant to section 5 of P.L.2007, c.217 (C.26:2H-18.60e), section 3 of P.L.1968, c.413 (C.30:4D-3), or section 5 of P.L.2005, c.156 (C.30:4J-12);

p. The furnishing at the discretion of the director of employer provided wage and tax withholding information contained in tax reports or returns filed pursuant to N.J.S.54A:7-2, 54A:7-4 and 54A:7-7, to the designated municipal officer of a municipality authorized to impose an employer payroll tax pursuant to the provisions of Article 5 (Employer Payroll

Tax) of the "Local Tax Authorization Act," P.L.1970, c.326 (C.40:48C-14 et seq.), for the limited purpose of verifying the payroll information reported by employers subject to the employer payroll tax;

q. The furnishing by the director to the Commissioner of Labor and Workforce Development of any information, including, but not limited to, tax information statements, reports, audit files, returns, or reports of any investigation for the purpose of labor market research or assisting in investigations pursuant to any State wage, benefit or tax law as enumerated in section 1 of P.L.2009, c.194 (C.34:1A-1.11); or pursuant to P.L.1940, c.153 (C.34:2-21.1 et seq.).

r. The furnishing by the director to the New Jersey Economic Development Authority any information contained in tax information statements, reports or returns, or any audit thereof or a report of any investigation made with respect thereto, as may be relevant to assist the authority in the implementation of programs through which grants, loans, tax credits, or other forms of financial assistance are provided. The director shall provide to the New Jersey Economic Development Authority, upon request, such information.

s. The furnishing by the director to the Commissioner of Banking and Insurance of any information, including, but not limited to, tax information statements, reports, audit files, returns, or reports of any investigation for the purpose of assisting in investigations pursuant to any insurance fraud investigation as enumerated in P.L.1983, c.320 (C.17:33A-1 et seq.).

t. The furnishing by the director to the Commissioner of Banking and Insurance or the Commissioner of Human Services of any information contained in tax reports or returns for

	the purpose of determining a taxpayer's eligibility for insurance affordability assistance, the State Medicaid program, or the NJ FamilyCare Program and to otherwise support minimum essential coverage outreach and enrollment efforts. (cf: P.L.2021, c.167, s.6)"
Page 9, Section 11, Line 34:	After "11." insert "This act shall take effect immediately."
Page 9, Section 11, Line 34:	After "a." insert "(1)"
Page 9, Section 11, Line 34:	After "in" insert "paragraph (2) of this"
Page 9, Section 11, Line 34:	Delete "b. of this section," and insert ", sections 2 through 6 of"
Page 9, Section 11, Line 35:	Delete "shall take effect immediately and"
Page 9, Section 11, Line 36:	Delete "2020" and insert "2021"
Page 9, Section 11, Line 37:	Delete "b." and insert "(2)"
Page 9, Section 11, Lines 38-39:	Delete "and the Department of Labor and Workforce Development"
Page 9, Section 11, Line 39:	After "of" insert "sections 2 through 6 of"
Page 9, Section 11, Line 41:	Delete "2020" and insert "2021"
Page 9, Section 11, Line 42:	After "of" insert "sections 2 through 6 of"
Page 9, Section 11, Line 42:	Delete "taxable years beginning after December 31, 2021" and insert "begin as soon as feasible thereafter. b. (1) Except as provided in paragraph (2) of this subsection, sections 7 and 8 of this act shall apply to claims filed after the first day of the fifth month next following the date of enactment. (2) If the Department of Labor and Workforce Development determines, after consultation with the Department of Banking and Insurance, that the implementation of sections 7 and 8 of this act is not administratively feasible beginning after the first day of the fifth month next following the date of

enactment, the Department of Labor and Workforce Development may delay implementation of sections 7 and 8 of this act to begin as soon as feasible thereafter”

Respectfully,

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor