

December 6, 2012

**SENATE BILL NO. 2135
(First Reprint)**

To the Senate:

Pursuant to the Patient Protection and Affordable Care Act, a "health insurance exchange" must be established in each state either by the government of that state or by the federal government. To carry out this provision, the "Affordable Care Act" allows states the choice between three Health Insurance Exchange options: a "State-based Exchange"; a "Partnership Exchange"; or a "Federally Facilitated Exchange." Any state that does not select a State-based Exchange or Partnership Exchange, or does not inform the federal government of a selection, will be placed into a Federally Facilitated Exchange.

Senate Bill No. 2135, passed by the Legislature on October 18 of this year, seeks to establish a State-based Exchange in New Jersey. While I appreciate the Legislature's attempt to craft a bill to implement this portion of the "Affordable Care Act," I cannot agree that this codification of a State-based Exchange is the most responsible selection for New Jersey. The federal government has directed states to decide whether to establish a State-based Exchange for calendar year 2014 by December 14, 2012, just over a week from now, but New Jersey and all other states still await substantial federal guidance on the functioning of all three types of Exchanges. To be sure, the decision of whether to move forward with a State-based Exchange can only be fully understood when competitively compared to the overall value of the other options.

For example, while we know that both a Federally Facilitated Exchange and a Partnership Exchange would be financed through "user fees" paid by insurers, only late last week did the federal government finally offer a preliminary glimpse as to what those costs might include. And this latest proposal - which is neither final nor comprehensive - raises more questions than it answers. For example, further clarification is still needed on whether the federal government intends to share user-fee revenue with the states in a Partnership Exchange.

Moreover, New Jersey still requires guidance on the operation of a Federally Facilitated Exchange. The federal government has yet to present a structured blueprint for the design and operation of a Federally Facilitated Exchange and the technical details for its linkage to each state. This uncertainty regarding the potential operation of Partnership Exchanges and Federally Facilitated Exchanges necessarily clouds the analysis of whether a State-based Exchange would be the best option of the three for New Jersey.

Lastly, financing the building and implementation of a State-based Exchange would be an extraordinarily costly endeavor. As drafted, Senate Bill No. 2135 would create an expensive new bureaucracy. While the federal government has enabled states to apply for grant funding to cover some of the initial costs of such an endeavor, the total price for such a program has never been quantified, and is likely to be onerous. Without knowing the full scope of which Exchange option would be most beneficial and cost efficient for New Jerseyans, it would be irresponsible to force such a bill on our citizens.

In addition to those and other known questions, the last several weeks have triggered an apparent restart of proposed federal regulations relating to the "Affordable Care Act," and new guidance continues to trickle out of Washington at an erratic pace. While additional federal direction is welcome, there is no clear indication now of what new rules and guidance will be released, or when that crucial information will be provided. States deserve a predictable plan for future federal rulemaking on the "Affordable Care Act." Without clear answers to basic questions, it would be imprudent for New Jersey to implement a State-based Exchange at this time.

My decision today should not be interpreted as foreclosing future consideration on this matter. In fact, the federal government has provided states with the flexibility to amend their Exchange selection in subsequent years. Moving forward, I welcome further guidance from the federal government so that New Jersey can make a fully informed

decision as to the best course of action for our residents and businesses.

In short, I will not ask New Jerseyans to commit today to a State-based Exchange when the federal government cannot tell us what it will cost, how that cost compares to our other options, and how much control they will give the states over this state-financed option. We will comply with the "Affordable Care Act," but only in the most efficient and cost effective way for New Jersey taxpayers. Until the federal government gives us all the necessary information, any other action than this would be fiscally irresponsible.

Accordingly, pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 2135 (First Reprint) without my approval.

Respectfully,

/s/ Chris Christie

Governor

[seal]

Attest:

/s/ Charles B. McKenna

Chief Counsel to the Governor