

**SENATE BILL NO. 878**

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 878 without my approval.

For decades, the New Jersey Gross Income Tax Act has allowed the New Jersey Division of Taxation to enter into and withdraw from an agreement with the taxation authority of another state to allow residents who commute across state lines to pay tax in the state where they live and not be taxed in the state where they work. In October 1977, utilizing this authority, the Director of the New Jersey Division of Taxation entered into such an agreement with the Pennsylvania Secretary of Revenue. The agreement includes explicit provisions governing termination thereof and provides that it may be terminated by either party at the beginning of a calendar year, as long as 120 days' notice is provided. Senate Bill No. 878 would change New Jersey law to only allow termination of any such agreement, including the current New Jersey-Pennsylvania agreement, upon the enactment of a law that would direct the Director of Taxation to withdraw from the specific pact.

It is important to note that there has been substantial criticism of the merits of the New Jersey-Pennsylvania reciprocal tax agreement over the years. There have been estimates that New Jersey could gain an estimated \$180 million in annual revenue from withdrawing from the agreement, as the largest beneficiaries of the pact are upper-income Pennsylvanians who commute to New Jersey for work but pay Pennsylvania's flat income tax of 3.07 percent. If they were subject to New Jersey's income tax, they could pay a top marginal rate of up to 10.75 percent. Furthermore, observers have noted that the current tax structure enshrined in the 1977 agreement creates a disparity in treatment between New Jerseyans

who commute to Pennsylvania, who only pay New Jersey's income tax, and New Jerseyans who commute to New York or Delaware, who have to file taxes in both states.

Unlike the previous administration, which provided formal notice to Pennsylvania to withdraw from the agreement before changing course, my administration has never attempted such a step. Nonetheless, for over 40 years, the Executive Branch has appropriately retained unilateral authority to enter into and terminate such agreements should the need arise. There is a sound rationale for this allocation of authority, as the Executive Branch has greater access to confidential tax collection data and can better assess whether a withdrawal from the agreement might be necessary in challenging fiscal times. By withdrawing this authority from the Executive Branch, Senate Bill No. 878 disrupts this long-standing arrangement and weakens the ability of the state to adapt to extraordinary circumstances. Furthermore, it raises potential legal problems by changing the terms of an existing contract, and would establish a peculiar scheme where legislative approval would not be needed to enter into an agreement, but would be needed to withdraw from such an agreement.

Accordingly, I herewith return Senate Bill No. 878 without my approval.

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Respectfully,

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor