To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 958 (First Reprint) with my recommendations for reconsideration.

This legislation would permit pharmacies to sell hypodermic syringes and needles without a prescription in quantities of 10 or fewer to individuals over 18 years of age. Under the bill, the hypodermic syringes and needles must be kept behind a sales counter and inaccessible to customers. Pharmacies would also be required to make information concerning safe disposal of syringes, including local disposal locations or a telephone number to call for information; and substance abuse treatment options available to each customer purchasing syringes or needles. Finally, this legislation would eliminate existing criminal penalties for possession of a syringe or needle purchased at a pharmacy without a prescription.

I commend the sponsors for putting forward legislation that seeks to reduce injection-related diseases. Stopping the spread of injection-related diseases in New Jersey is a primary public health concern that requires a comprehensive approach. While this legislation would remove unnecessary impediments for insulin-dependent diabetics and other individuals who use injectable medications, additional public safety measures are necessary to limit the distribution of needles or syringes used for non-medical purposes, and to discourage minors from buying needles or syringes. For example, federal law requires the purchasers of certain cold medicine, containing pseudoephedrine, ephedrine, and phenylpropanolamine, to present identification in order to control possible illicit purchases. A similar
requirement is appropriate in this context, and consistent with the bill’s intent to prohibit syringe or needle sales to minors under the age of 18.

Therefore, I recommend revising this legislation to provide for the following: 1) requiring purchasers to present a photo identification to demonstrate proof of age; 2) requiring the Department of Health & Senior Services to make available to pharmacies information about syringe disposal and substance abuse treatment; and 3) a technical change to clarify that the disorderly persons offense is not intended to displace other provisions if more serious conduct is involved that violates other criminal statutes.

Accordingly, I herewith return Senate Bill No. 958 (First Reprint) and recommend that it be amended as follows:

Page 2, Title, Line 2: After “needles,” insert “and”

Page 2, Title, Lines 3-4: After “Statutes” delete “, and repealing N.J.S.2C:36-6”

Page 2, Section 1, Line 12: After “of age” insert “who presents valid photo identification to demonstrate proof of age or who otherwise satisfies the seller that he is over 18 years of age,”

Page 2, Section 1, Line 17: After “b.” delete “Notwithstanding any State law, rule or regulation to the” and insert “A licensed pharmacy that provides hypodermic syringes or needles for sale also shall be required to: (1) maintain its supply of such instruments under or behind the pharmacy sales counter such that they are accessible only to a person standing behind a pharmacy sales counter; and (2) make available to each person who purchases any such instrument, at the time of purchase, information to be developed by the Department of Health and Senior Services to the purchaser, about: (a) the safe disposal of the instrument, including local disposal locations or a
telephone number to call for that information; and (b) substance abuse treatment, including a telephone number to call for assistance in obtaining treatment.”

Delete in their entirety

After “c.” delete “A” and insert “In addition to any other provision of law that may apply, a”

Insert “d. The Department of Health and Senior Services in consultation with the Department of Human Services and the New Jersey State Board of Pharmacy may, pursuant to the “Administrative Procedure Act,” P.L. 1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations to effectuate the purposes of subsection b. of this section. The Department of Health and Senior Services shall make the information that is to be developed pursuant to subsection b. of this section available to pharmacies and purchasers of hypodermic syringes or needles through its internet website.”

After “2.” delete “A pharmacy that sells hypodermic syringes or needles, or” and insert “It is an affirmative defense to any criminal action arising under chapter 36 of Title 2C of the New Jersey Statutes for possession of a hypodermic syringe or needle that the item was obtained pursuant to the authority of Section 1 of P.L., c. (C.) (now pending before the Legislature as this bill). The affirmative defense established herein shall be proved by the defendant by a preponderance of the evidence. It shall not be necessary for the State to negate any such fact in any criminal complaint, information, indictment or other pleading or in any trial, hearing or other proceeding. Nothing in this Act shall be construed to limit or constrain in any way a prosecution for the possession, manufacture or distribution of a controlled
dangerous substance or for any other conduct proscribed by Chapter 35 or Chapter 36 of Title 2C of the New Jersey Statutes.”

Page 2, Section 2, Lines 27-43: Delete in their entirety

Page 3, Section 3, Lines 1-11: Delete in their entirety

Page 3, Section 4, Line 15: Delete “4.” and insert “3.”

Page 3, Section 4, Line 16: After “except that the” insert “Department of Health and Senior Services, in consultation with the Department of Human Services and the”

Page 3, Section 4, Line 16: After “Pharmacy” insert “,”

Respectfully,

/s/ Chris Christie

Governor

Attest:

/s/ Kevin M. O’Dowd

Deputy Chief Counsel to the Governor