



STATE OF WEST VIRGINIA  
OFFICE OF THE GOVERNOR  
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EARL RAY TOMBLIN  
GOVERNOR

March 20, 2015

**VIA HAND DELIVERY**

The Honorable Natalie E. Tennant  
Secretary of State  
State of West Virginia  
Building 1, Suite 157-K  
State Capitol  
Charleston, West Virginia 25305

RE: Enrolled Committee Substitute for House Bill No. 2769

Dear Secretary Tennant:

Pursuant to the provisions of Section fifty-one, Article VI of the Constitution of West Virginia, I hereby return Enrolled Committee Substitute for House Bill No. 2769, passed March 14, 2015, approved with the following objections:

My first objection to the Bill is contained in the title of the bill, on pages 1-3, which states:

**“AN ACT expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2015 in the amount of \$1,500,000 from the Department of Military Affairs and Public Safety, Division of Corrections - Correctional Units, fund 0450, fiscal year 2012, organization 0608, appropriation 59200, and in the amount of \$400,103.30 from the Department of Transportation, Division of Public Transit, fund 0510, fiscal year 2013, organization 0805, appropriation 25800, and in the amount of \$3,861,297 from the Department of Administration, Risk and Insurance Management Board - Premium Tax Savings Fund, fund 2367, fiscal year 2015, organization 0218, and in the amount of \$1,329.28 from the Department of Health and Human Resources, Division of Health, Uniform Health Professional Data Collection Systems Fund, fund 5109, fiscal year 2015, organization 0506, and in the amount of \$478.81 from the Department of Health and Human Resources, Division of Health, Commonly Based Fetal and Infant Mortality Review Fund, fund 5131, fiscal year 2015, organization 0506, and in the amount of \$18,609.27 from the Department of Health and Human Resources, Division of Health, Claude Worthington Benedum Foundation Fund, fund**

5132, fiscal year 2015, organization 0506, and in the amount of \$2,500 from the Department of Health and Human Resources, Division of Health, Behavioral Health Clearing Fund, fund 5151, fiscal year 2015, organization 0506, and in the amount of \$13,193.90 from the Department of Health and Human Resources, Division of Health, Special Education Title I Fund, fund 5161, fiscal year 2015, organization 0506, and in the amount of \$45 from the Department of Health and Human Resources, Division of Health, Rural Health Networking Project Fund, fund 5184, fiscal year 2015, organization 0506, and in the amount of \$1,400,000 from the Department of Health and Human Resources, Division of Health, Vital Statistics Improvement Fund, fund 5225, fiscal year 2015, organization 0506, and in the amount of \$6,000,000 from the Department of Health and Human Resources, West Virginia Health Care Authority - Health Care Cost Review Fund, fund 5375, fiscal year 2015, organization 0507, and in the amount of \$4,000,000 from the Department of Health and Human Resources, West Virginia Health Care Authority - West Virginia Health Information Network Account, fund 5380, fiscal year 2015, organization 0507, and in the amount of \$2,000,000 from the Department of Health and Human Resources, West Virginia Health Care Authority - West Virginia Health Care Authority Revolving Loan Fund, fund 5382, fiscal year 2015, organization 0507, and in the amount of \$4,976.37 from the Department of Health and Human Resources, Division of Human Services, Special County General Relief Fund, fund 5054, fiscal year 2015, organization 0511, and in the amount of \$18,118.01 from the Department of Health and Human Resources, Division of Human Services, Individual and Family Grant Program, fund 5055, fiscal year 2015, organization 0511, and in the amount of \$251,657.05 from the Department of Health and Human Resources, Division of Human Services, TRIP Fund, fund 5070, fiscal year 2015, organization 0511, and in the amount of \$4,000,000 from the Department of Health and Human Resources, Division of Human Services, Medicaid Fraud Control Fund, fund 5141, fiscal year 2015, organization 0511, and in the amount of \$223,310.69 from the Department of Health and Human Resources, Division of Human Services - Marriage Education Fund, fund 5490, fiscal year 2015, organization 0511, and in the amount of \$16,700,000 from the Department of Revenue, Insurance Commissioner, fund 7152, fiscal year 2015, organization 0704, and all subject to the condition that bonds authorized in section sixteen-b, article fifteen, chapter thirty-one of the Code of West Virginia for improvements to Cacapon State Park and Beach Fork State Park have been sold.”

The requirement that the expirations contained in this bill are contingent on the sale of lottery revenue bonds is problematic for several reasons. First, while directing the issuance of the bonds, the Legislature did not include an appropriation from the Cacapon and Beech Fork State Parks Lottery Revenue Debt Service Fund for the servicing of the debt evidenced by the issuance of said bonds in either a supplemental appropriations bill or the Budget Bill. Second, there are questions regarding the constitutionality of the directive language included in the appropriations bill, attempting to direct the issuance of said bonds. And finally, the issuance of the bonds directed in the language presents the possibility that the bonds issued will not attain the historical high and favorable bond rating which prior lottery revenue bonds have enjoyed, and further presents the

possibility that previously issued and already outstanding lottery bonds could be downgraded from their current ratings.

Therefore, on page 3, I am deleting the language, “; and all subject to the condition that bonds authorized in section sixteen-b, article fifteen, chapter thirty-one of the Code of West Virginia for improvements to Cacapon State Park and Beach Fork State Park have been sold”.

My second objection to the Bill is contained on pages 5-7, which states:

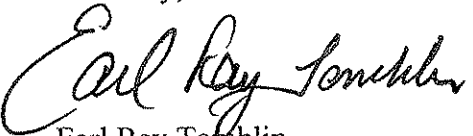
**“That the balance of the funds available for expenditure in the fiscal year ending June 30, 2015, in the Department of Military Affairs and Public Safety, Division of Corrections - Correctional Units, fund 0450, fiscal year 2012, organization 0608, appropriation 59200 be decreased by expiring the amount of \$1,500,000, and in the Department of Transportation, Division of Public Transit, fund 0510, fiscal year 2013, organization 0805, appropriation 25800, be decreased by expiring the amount of \$400,103.30, and in the Department of Administration, Risk and Insurance Management Board - Premium Tax Savings Fund, fund 2367, fiscal year 2015, organization 0218, be decreased by expiring the amount of \$3,861,297, and in the Department of Health and Human Resources, Division of Health, Uniform Health Professional Data Collection Systems Fund, fund 5109, fiscal year 2015, organization 0506, be decreased by expiring the amount of \$1,329.28, and in the Department of Health and Human Resources, Division of Health, Commonly Based Fetal and Infant Mortality Review Fund, fund 5131, fiscal year, 2015, organization 0506, be decreased by expiring the amount of \$478.81, and in the Department of Health and Human Resources, Division of Health, Claude Worthington Benedum Foundation Fund, fund 5132, fiscal year 2015, organization 0506, be decreased by expiring the amount of \$18,609.27, Department of Health and Human Resources, Division of Health, Behavioral Health Clearing Fund, fund 5151, fiscal year 2015, organization 0506, be decreased by expiring the amount of \$2,500, and in the Department of Health and Human Resources, Division of Health, Special Education Title I Fund, fund 5161, fiscal year 2015, organization 0506, be decreased by expiring the amount of \$13,193.90, and in the Department of Health and Human Resources, Division of Health, Rural Health Networking Project Fund, fund 5184, fiscal year 2015, organization 0506, be decreased by expiring the amount of \$45, and in the Department of Health and Human Resources, Division of Health, Vital Statistics Improvement Fund, fund 5225, fiscal year 2015, organization 0506, be decreased by expiring the amount of \$1,400,000, and in the Department of Health and Human Resources, West Virginia Health Care Authority - Health Care Cost Review Fund, fund 5375, fiscal year 2015, organization 0507, be decreased by expiring the amount of \$6,000,000, and in the Department of Health and Human Resources, West Virginia Health Care Authority - West Virginia Health Information Network Account, fund 5380, fiscal year 2015, organization 0507, be decreased by expiring the amount of \$4,000,000, and in the Department of Health and Human Resources, West Virginia Health Care Authority - West Virginia Health Care Authority Revolving Loan Fund, fund 5382, fiscal year 2015, organization 0507, be decreased by expiring the amount of**

**\$2,000,000, and in the Department of Health and Human Resources, Division of Human Services, Special County General Relief Fund, fund 5054, fiscal year 2015, organization 0511, be decreased by expiring the amount of \$4,976.37, and in the Department of Health and Human Resources, Division of Human Services, Individual and Family Grant Program, fund 5055, fiscal year 2015, organization 0511, be decreased by expiring the amount of \$18,118.01, and in the Department of Health and Human Resources, Division of Human Services, TRIP Fund, fund 5070, fiscal year 2015, organization 0511, be decreased by expiring the amount of \$251,657.05, and in the Department of Health and Human Resources, Division of Human Services, Medicaid Fraud Control Fund, fund 5141, fiscal year 2015, organization 0511, be decreased by expiring the amount of \$4,000,000, and in the Department of Health and Human Resources, Division of Human Services - Marriage Education Fund, fund 5490, fiscal year 2015, organization 0511, be decreased by expiring the amount of \$223,310.69, and in the Department of Revenue, Insurance Commissioner, fund 7152, fiscal year 2015, organization 0704, be decreased by expiring the amount of \$16,700,000, all to the unappropriated surplus balance of the State Fund, General Revenue, to be available for appropriation during the fiscal year ending June 30, 2015: *Provided*, That the expiration of funds provided herein shall not occur until such time as the bonds authorized by the provisions of section sixteen-b, article fifteen, chapter thirty-one of the Code of West Virginia for improvements to Cacapon State Park and Beech Fork State Park have been sold.”**

Having deleted the language relating to the sale of lottery revenue bonds in objection two above, on page 7, I am deleting the language, “: *Provided*, That the expiration of funds provided herein shall not occur until such time as the bonds authorized by the provisions of section sixteen-b, article fifteen, chapter thirty-one of the Code of West Virginia for improvements to Cacapon State Park and Beech Fork State Park have been sold”.

For the reasons stated herein, I have approved, subject to the above objections, Enrolled Committee Substitute for House Bill No. 2769.

Sincerely,



Earl Ray Tomblin  
Governor

cc: The Hon. William P. Cole, III  
President of the Senate

The Hon. Tim Armstead  
Speaker, West Virginia House of Delegates