



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

June 17, 2016

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 Senate Bill No. 1013

Dear Secretary Tennant:

Due to an unexpected and unprecedented decline in severance tax revenue, this year's budget has been one of the most challenging budgets I have worked on in all my years of service to our State.

During the State of the State, I proposed a responsible, balanced budget that included judicious cuts and reasonable revenue enhancement recommendations. While the Legislature did not approve all of my recommendations and the process took longer than I would have liked, I appreciate the work all those involved in passing a final budget that takes some steps to address our long-term financial challenges. The proposed 65-cent cigarette tax, which passed with bipartisan support, creates nearly \$100 million of new revenue moving forward. This revenue helps to address issues with not only the Fiscal Year 2017 budget but projected deficits in future years; however it falls well short of eliminating projected deficits of hundreds of millions of dollars that elected officials will have to address in the future.

The revised budget I proposed for Fiscal Year 2017 includes nearly \$90 million in cuts, \$70 million of revenue from the Rainy Day Fund, and approximately \$19 million of other one time surplus special revenue balance expirations. We have built up a sufficient amount in our Rainy Day Fund that has allowed us to address unanticipated revenue shortfalls of the past two fiscal years, but as one of the creators of the State's reserve fund, I know it was established for occasional revenue shortfalls, and we must curb the reliance on the fund and continue to move toward a structurally sound budget.

OFFICE OF THE GOVERNOR

The Honorable Natalie E. Tennant
June 17, 2016
Page 2

Pursuant to the provisions of Section Fifty-one, Article VI of the Constitution of West Virginia, I hereby return Enrolled Senate Bill No. 1013, passed June 14, 2016, approved with the following objections:

My first objection to the Bill is contained in Item 128, page 86, line 4, which states:

“Directed Transfer..... 70000 500,000”

I am advised by the Department of Agriculture federal regulations limit redirection of funds that were initially provided by the federal government. The balance in this fund is highly restricted and not permitted to be redirected from the agricultural/economic development purposes for which this program is intended. If this money is moved out of that account, the State could be forced to reimburse the federal government. Therefore, I am restoring \$500,000 to that account and reducing the directed transfer from \$500,000 to \$0.

My second objection to the Bill is contained in Item 165, page 101, line 7, which states:

“Directed Transfer..... 70000 1,500,000”

West Virginia’s outstanding state park system has limited funds available for the repair and replacement of out-of-compliance water and wastewater treatment facilities, which are important both to protect the environment and allow enjoyment of these facilities. This appropriation would reduce funding available for these very important infrastructure projects and could adversely affect tourism growth. Therefore, I am restoring \$500,000 to the fund and reducing the directed transfer from \$1,500,000 to \$1,000,000.

My third objection to the Bill is contained in Item 183, page 108, line 7, which states:

“Directed Transfer..... 70000 2,000,000”

This fund consists of permit fees for horizontal well drilling activities related to the Marcellus and Utica Shale regions. The one-time permit fee paid by developers is designed to provide funding for regulatory duties throughout the life of the exploration and operation of the wells. I am advised by the Department of Environmental Protection that these fees and the regulatory functions they fund are an important part of maintaining the responsible development of our important natural resources. The Office of Oil and Gas in the Department of Environmental Protection relies primarily on this fund for its operations. Therefore, I am restoring \$500,000 to the fund and reducing the directed transfer from \$2,000,000 to \$1,500,000.

My fourth objection to the Bill is contained in Item 217, page 121, line 6, which states:

The Honorable Natalie E. Tennant
June 17, 2016
Page 3

“Directed Transfer..... 70000 500,000”

As a part of the Justice Reinvestment Act of 2013, this fund contains supervision fees be paid by each parolee as part of the conditions of their release on parole. Transferring funds from this account would have a significant negative impact on the safe operation of the Parole Services unit. This impact is counterproductive as we work to provide opportunities for offenders to get back on the right path, return to their families, and become contributing members of their communities and our State’s workforce. Therefore, I am restoring \$500,000 to the fund and reducing the directed transfer from \$500,000 to \$0.

My fifth objection to the Bill is contained in Item 305, page 166, lines 16 and 17, which states:

“Licensed Racetrack Thoroughbred Regular Purse Fund..... 10,111,678”

I hereby disapprove and strike the word "Thoroughbred" on page 166, line 17 because it is an unauthorized insertion and it alters or redirects Licensed Racetrack Regular Purse Fund distributions in a manner that contravenes the requirements of general law, among other reasons. The correct name of the fund at issue (and designated as such in the Executive Budget I presented to the Legislature) is the “Licensed Racetrack Regular Purse Fund,” not the “Licensed Racetrack Thoroughbred Regular Purse Fund.” Moreover, West Virginia law specifically controls the distribution of the Licensed Racetrack Regular Purse Fund monies; the Legislature may not use an unauthorized insertion in the Budget Bill to undermine general law. *See, e.g., Dadisman v. Moore*, 384 S.E.2d 816, 825 (W. Va. 1988) (“It is fundamental to our constitutional law and we affirm that the Legislature cannot amend general substantive statutes with budgetary language.”). I also disapprove and strike the "0" from page 166, line 16 in order to clarify the Legislature’s appropriation of \$10,111,678 to the Licensed Racetrack Regular Purse Fund.

My sixth objection to the Bill is contained in Item 386, page 194, line 1, which states:

“Directed Transfer..... 70000 \$ 1,000,000”

Currently no general revenue funds are dedicated for marketing in the West Virginia Development Office, and special revenue sources have declined significantly in recent years. As we work to expand and diversify our economy, efforts to spread the word about the good things happening in West Virginia are vital, and reducing the funding for that outreach would be counterproductive. Therefore, I am restoring \$500,000 to the fund and reducing the directed transfer from \$1,000,000 to \$500,000.

My seventh objection to the Bill is contained in Item 396, page 196, line 1, which states:

OFFICE OF THE GOVERNOR

The Honorable Natalie E. Tennant
June 17, 2016
Page 4

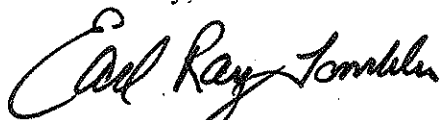
“Directed Transfer..... 70000 \$ 500,000”

The monies in this fund reflect the efforts of the Board of Pharmacy to save for necessary large, one time expenditures, including a Controlled Substances Monitoring Program database, as well as a new licensing database. The efforts of the Board of Pharmacy continue to be an important part of our efforts to combat substance abuse in West Virginia, and that effort is critical to ensuring we have a healthy, drug-free workforce available for employers. Therefore, I am restoring \$500,000 to the fund and reducing the directed transfer from \$500,000 to \$0.

As noted above, this year’s budget process was exceptionally difficult and required hard work on the part of the Governor’s Office, the Department of Revenue, Legislature and a number of other State agencies. While we eventually were able to reach a reasonable compromise and restore certainty for so many of our State employees, residents and businesses, it is important to note that serious financial challenges remain in the years ahead. I am exceptionally proud of the steps that we have taken during my years in the Legislature and as Governor of this great State, including the reduction of business and consumer taxes while also creating one of the strongest reserve funds in the nation. While I will not be a part of finalizing the Fiscal Year 2018 budget, I encourage those who come after me to maintain that commitment to fiscal responsibility so our State can realize the great potential that we all know is possible.

For the reasons stated herein, I have approved, subject to the above objections, Enrolled Senate Bill No. 1013.

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