VIA HAND DELIVERY

The Honorable Mac Warner
Secretary of State
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

       Re: <u>Enrolled Senate Bill 522</u>

Dear Secretary Warner:

       Pursuant to the provisions of Section fifty-one, Article VI of the Constitution of West Virginia, I hereby disapprove and return Enrolled Senate Bill 522.

       The purpose of the bill, while well-intentioned, is problematic because it represents a legislative encroachment into executive functions. The bill would have the county supervisor, with consultation of the county commission and the legislators representing that county to compile a list of secondary roads projects in the county and prioritize those projects.

       Maintaining our state and secondary roads system, including assigning priority to particular projects, is without question an executive function. "The separation of powers provision of the State Constitution, which prohibits any one department of the State government from exercising the powers of the others, is not merely a suggestion; it is part of the fundamental law of the State, and as such, it must be strictly construed and closely followed." *State ex rel West Virginia Citizens Action Group v. West Virginia Economic Development Grant Committee,* 213 W.Va. 255 (2003). Much like the authority of presiding officers of both houses to appoint members to the Economic Development Grant Committee, which the court found to be a legislative assertion of post-enactment control over executive branch decisions, allowing sitting legislators to assume an executive role and assist in making decisions about which roads deserve attention and in what order certainly violates the separation of powers.

       For these reasons, I disapprove and return Enrolled Senate Bill 522.

Sincerely,
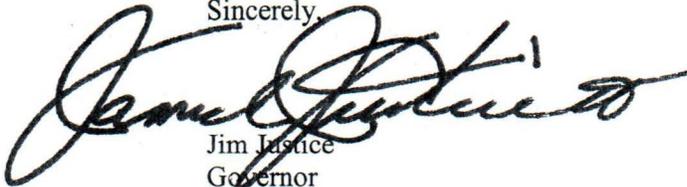
Jim Justice
Governor

cc: The Honorable Mitch Carmichael
     President of the Senate
   The Honorable Roger Hanshaw
     Speaker of the House of Delegates