

March 27, 2019

VIA HAND DELIVERY

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

Re: Enrolled House Bill 2828

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled House Bill 2828, which is intended to promote, through tax incentives, investment and business growth in the state's low-income communities.

While Enrolled House Bill 2828 certainly has laudable purposes, it contains numerous technical flaws. For example, the title of the Bill is materially defective because it (1) does not state that the Bill creates an insurance premiums tax credit for qualified community development entities making qualified equity investments; (2) does not refer to the 60-million-dollar limit on certification for qualified equity investments; and (3) does not say that under certain circumstances the credit can be recaptured by the Insurance Commissioner. Within new article 31-15D in the Bill there are several references to 26 U.S.C. § 45D, as amended. This is an unconstitutional delegation of the Legislature's authority to the United States Congress. *See* Syl. Pt. 1, *State v. Grinstead*, 157 W. Va. 1001, 206 S.E.2d 912 (1974). Additionally, while the Bill allows credit for qualified community development entities making qualified investments, only insurance companies pay the insurance premiums tax to the Insurance Commissioner, which makes the credit impossible to administer as written.

For these reasons I must disapprove and return Enrolled House Bill 2828, but welcome a similar bill in a subsequent legislative session, correcting the technical errors noted above.

Sincerely,

Jim Justice
Governor

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