



Patrick Morrissey
Office of the Governor

April 30, 2025

VIA HAND DELIVERY

The Honorable Kris Warner
Secretary of State of West Virginia
State Capitol Complex
Building 1, Suite 157-K
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for Senate Bill 722

Dear Secretary Warner:

Pursuant to Section Fourteen, Article VII of the Constitution of the State of West Virginia, I hereby disapprove and return the Enrolled Committee Substitute for Senate Bill 722 with the following objections:

First, the State cannot afford Senate Bill 722 at this time. It would create the West Virginia Short Line Railroad Modernization Act—giving short-line rail companies two new tax credits to be used to offset personal income tax, business franchise, and corporate net income tax liabilities. The first is for an amount equal to fifty percent of qualified short line railroad maintenance expenditures and is capped at \$5,000 per track mile. The second is for an amount equal to fifty percent of new rail infrastructure expenditures and is written to “not exceed \$2 million for an individual project and \$5 million annually for eligible taxpayers.” 87th Leg. Sess. S.B. 722, p. 3 (Apr. 11, 2025).

Those credits are calculated at a rate that is nearly double the available credit for tourism development projects, W. Va. Code § 5B-2E-7(a) (providing a twenty-five to thirty-five percent credit against the state sales and use tax for tourism development costs), and significantly higher than the comparable federal railroad maintenance credit, which is set at forty percent of expenditures not to exceed \$3,500 per track mile, 26 U.S.C. § 45G(a), (b)(1). I see no good reason for the State to provide a greater credit in this area than the federal government—particularly as the State is working to be more fiscally responsible.

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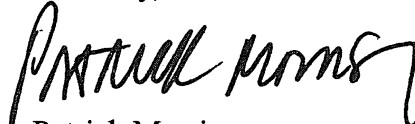
Second, even if those concerns were allayed, aggregate credits are extremely difficult to administer, and they tend to create issues of fairness. Unlike other aggregate credits in the tax code which are “distributed proportionately to the taxpayers,” e.g., W. Va. Code § 11-14C-9(d)(10), this new infrastructure credit is supposed to be “processed in the order received” and “granted on a first-come, first-served basis.” 87th Leg. Sess. S.B. 722, p. 3 (Apr. 11, 2025). So, taxpayers would be required to race each other to be first in line to submit their credit applications. And one or two taxpayers could potentially sweep up the entire \$5 million credit while the others—who may have applied even minutes later—would be left with nothing. That uncertainty inherently disincentivizes long-term business planning and could embroil the Tax Commissioner in litigation.

Finally, this is not the right way to do tax reform. West Virginia’s tax code unquestionably needs significant work. But new credits and exemptions that single out a particular group for favorable treatment while providing no relief for the average hard-working West Virginian are non-starters for me. Reducing taxes is a top priority for my administration, and I look forward to working with the Legislature in the near future to develop a framework for this effort. But such reforms need to be comprehensive, and they need to move West Virginia away from a tax code that picks favorites. Senate Bill 722’s would be counter to that approach.

West Virginia’s leaders must make sound fiscal decisions if the State is going to reach its full potential. That includes long-term and structurally sound budgeting, right-sizing government operations, reducing red-tape and government bureaucracy, and rejecting laws that create costs with no strategy for funding. Committing to those principles and implementing them in practice is not easy. But West Virginia’s citizens deserve no less.

As a result of these issues, I hereby disapprove and return the Enrolled Committee Substitute for Senate Bill 722.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick Morrissey", written in a cursive style.

Patrick Morrissey
Governor

cc: The Honorable Randy Smith,
President of the Senate

The Honorable Roger Hanshaw
Speaker of the House of Delegates