

February 12, 2008

HOUSE EXECUTIVE MESSAGE NO. 46

The Honorable Ben Lujan and  
Members of the House of Representatives  
State Capitol Building  
Santa Fe, New Mexico 87501

Honorable Speaker Lujan and Members of the House:

In January, I submitted to the Legislature a budget proposal that would continue to move New Mexico in the right direction by building on our success and continuing to find solutions for New Mexicans. My budget plan sought to invest in initiatives to: (1) provide real opportunities for every New Mexican who needs access to quality, affordable health care; (2) continue implementation of key public education initiatives begun under my administration; and (3) provide New Mexico the infrastructure necessary to keep it competitive in the areas of economic development, science and technology, energy, water and watersheds and health and human services.

Together, we have made tremendous progress to make New Mexico a great place to live and work. However, the Legislature continues to allocate scarce dollars in an approach that is a mile wide and an inch deep. I am disappointed that we have not made progress to insure more New Mexicans and adequately address healthcare needs of the State and that the Legislature has not taken sufficient steps toward reducing the 400,000 uninsured New Mexicans, especially children. This piecemeal approach undermines efficient and effective state government.

New Mexico has seen tremendous growth these past few years, giving us the opportunity to invest in our future. But as the national economy continues to slow, we must be vigilant in protecting the State's fiscal position and maintaining our high bond ratings. That is why I insist on keeping general fund reserves at 10%.

My actions on House Bill 2, the General Appropriation Act of 2008 (Act) balance out the objectives of moving New Mexico forward and maintaining a fiscally responsible bottom

line. At the same time, I have exercised my veto authority without eliminating any appropriation of major significance.

I have also vetoed parts of the Act that impermissibly attempt to nullify substantive law, a practice that is precluded by Article IV, Section 16 of the New Mexico Constitution. As our Supreme Court held in New Mexico, ex rel. Coll v. Carruthers, 107 N.M. 439, 445 (1988), the “General Appropriation Act may not be used as a vehicle by which to nullify general legislation.” Likewise, I have vetoed provisions in the Act that attempt to make general policy in a general appropriation act, by imposing reporting and other requirements that do not exist in substantive law, for instance. Such general policy is “better addressed by general legislation and is not suitable for inclusion in the general appropriation bill. N.M. Const. art IV, § 16.” Coll, 107 N.M. at 443.

I have also vetoed parts of the Act that impermissibly intrude into the Executive managerial function. I particularly object to provisions in the Act that unduly restrict appropriations to specified types of expenditures. These expenditure restrictions go beyond the Legislature’s proper Constitutional role, hamstringing the Executive’s ability to effectively administer programs and meet the State’s needs.

I have also vetoed contingencies that exceed the Legislature’s limited authority to attach reasonable conditions to appropriations.

Finally, I have vetoed inappropriate outcome measures that the Legislature sought to unilaterally impose upon agencies. I strongly object to these efforts to circumvent the performance-based budgeting process established in the Accountability in Government Act.

I this day SIGN and return:

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR HOUSE BILLS 2, 3, 4, 5, 6 AND 10, as amended, which was enacted during the Forty-Eighth Legislature, Second Session, 2008, except the following item or items, part or parts, which I hereby veto pursuant to the authority granted me in Article IV, Section 22 of the New Mexico Constitution:

On page 4, I have vetoed all of lines 10 through 25, and on page 5, I have vetoed all of lines 1 and 2.

On page 5, I have vetoed all of lines 3 through 6.

On page 5, I have vetoed all of lines 11 through 14. This vetoed part of Section 3 sought to impose rigid restrictions concerning automobile travel between cities served by the Rail Runner. It would have impermissibly intruded into the executive managerial function. The State's business may demand that car travel be utilized between (and within) cities served by the Rail Runner, and the Executive must be able to do so when necessary. That said, I share the

Legislature's desire to effectively manage travel expenditures, alleviate congestion on our highways, and reduce the carbon footprint of State operations.

Consequently, I will work to ensure that the executive branch employees utilize the Rail Runner to discharge State business when appropriate, consistent with the paramount goal of effectively and efficiently delivering services to State citizens.

On page 5, I have vetoed all of lines 23 through 25, and on page 6, I have vetoed all of line 1. Rulemaking is clearly an Executive function that should not be directed by the Legislature. Although I am vetoing this language, the Legislature will continue to be informed of rulemaking through the New Mexico Register.

On page 34, line 3, I have vetoed from the beginning of the line through the “,”. This vetoed language would seemingly have allowed the Attorney General to use the terms of settlement agreements to appropriate State revenue, without Legislative or Gubernatorial input or oversight.

On page 44, I have vetoed all of lines 9 through 13.

On page 44, on line 16, I have vetoed from the beginning of the line through the word “committee”.

On page 44, line 21, beginning with the “,” I have vetoed the remainder of the line, all of line 22 and line 23 through the word “fund”.

On page 103, line 11, I have vetoed from the beginning of the line through the “,”. On line 12, I have vetoed beginning with the second occurrence of the word “and”, I have vetoed through the word “status”. The word "beginning" is contrary to law and fact. The Livestock Board has been vouchering through the Department of Finance and Administration for a couple of years. The prohibition on the Livestock Board being granted an exception from the vouchering requirement is an impermissible attempt to override substantive law in the General Appropriation Act. Section 6-5-9 NMSA 1978 specifically authorizes the Secretary of Finance and Administration to except agencies from the vouchering requirement.

On page 124, I have vetoed all of lines 16 through 19.

On page 125, I have vetoed all of lines 18 through 21.

On page 130, I have vetoed all of lines 11 and 12.

On page 131, line 23, I have vetoed the word “three” and on line 24, I have vetoed through the “,”.

On page 132, I have vetoed all of lines 14 through 16.

On page 139, I have vetoed all of line 16.

On page 146, line 11, beginning with the word “and”, I have vetoed through the word “program”.

On page 149, line 25, I have vetoed from the word “and” through the end of the line, and on page 150, line 1, I have vetoed through the word “disabled”. The administration has a process working with all stakeholders to equalize healthcare provider rates across all services and this initiative is outside that process.

On page 155, I have vetoed all of lines 15 through 17.

On page 161, line 20, beginning with the word “and”, I have vetoed through the end of the line and on line 21, I have vetoed through the word “increase”.

On page 173, I have vetoed all of lines 2 through 5.

On page 181, line 5, I have vetoed the amount “3,000.0”.

On page 181, I have vetoed all of lines 12 through 14. While I strongly support early childhood education, the kindergarten-three-plus program has not been subject to the same scrutiny and evaluation as the pre-kindergarten program has. With only a partial year of implementation outside a small pilot under our belt, let’s see the results before we add more money to an already substantial budget.

On page 181, I have vetoed all of lines 18 and 19.

On page 181, I have vetoed all of lines 20 through 24.

On page 182, I have vetoed all of lines 3 through 5.

On page 183, I have vetoed all of lines 15 through 17.

On page 183, I have vetoed all of lines 20 through 22.

On page 185, I have vetoed all of lines 1 through 4.

On page 185, I have vetoed all of lines 5 through 9.

On page 187, I have vetoed all of line 21.

On page 190, I have vetoed all of line 1.

On page 193, I have vetoed all of lines 12 and 13.

On page 200, I have vetoed all of lines 17 and 18.

On page 202, I have vetoed all of lines 7 and 8.

On page 203, I have vetoed all of lines 1 and 2.

On page 226, I have vetoed all of lines 24 and 25.

On page 227, I have vetoed all of lines 1 through 3.

On page 227, I have vetoed all of lines 15 through 17.

On page 227, I have vetoed all of lines 18 through 20.

On page 228, I have vetoed all of line 6 through 11.

On page 229, I have vetoed all of lines 6 through 8.

On page 231, line 4, I have vetoed beginning with the word “No” through the remainder of the line. I have also vetoed all of line 5.

On page 231, I have vetoed all of lines 15 through 17.

On page 234, line 13, I have vetoed the words “at Marian hall”.

On page 236, I have vetoed all of lines 15 through 17.

On page 237, I have vetoed all of lines 4 through 7.

On page 237, I have vetoed all of lines 20 through 25, and on page 238, I have vetoed all of line 1.

On page 238, I have vetoed all of lines 17 and 18.

On page 240, line 8, I have vetoed beginning with the second occurrence of the word “and” through the end of the line, and on line 9, I have vetoed the word “committee”.

On page 240, line 12, I have vetoed the words “and the legislative finance committee”.

On page 240, I have vetoed all of lines 17 through 19.

On page 242, I have vetoed all of lines 2 through 4.

On page 242, I have vetoed all of lines 23 through 25.

On page 243, I have vetoed all of lines 1 through 3.

On page 243, I have vetoed all of lines 16 and 17.

On page 243, I have vetoed all of lines 20 and 21.

On page 243, I have vetoed all of lines 22 and 23.

On page 243, I have vetoed all of lines 24 and 25.

On page 244, I have vetoed all of lines 1 through 3.

On page 244, I have vetoed all of lines 4 through 6.

On page 244, I have vetoed all of lines 11 through 13.

On page 244, I have vetoed all of lines 14 through 16.

On page 244, I have vetoed all of lines 19 and 20.

On page 244, I have vetoed all of lines 21 and 22.

On page 244, I have vetoed all of lines 23 and 24.

On page 244, I have vetoed all of line 25. On page 245, I have vetoed all of line 1.

On page 245, I have vetoed all of lines 2 and 3.

On page 245, I have vetoed all of lines 4 and 5.

On page 245, I have vetoed all of lines 6 and 7.

On page 245, I have vetoed all of lines 8 and 9.

On page 245, line 18, I have vetoed the words "and the legislative finance committee".

On page 249, line 6, I have vetoed the words "information technology commission". The reference to the "information technology commission project certification process" is outdated, as Laws 2007, Chapter 290 removed the commission from the project certification process. My veto does not relieve executive branch agencies from complying with the current project certification process of the Department of Information Technology.

On page 251, line 22, after the word “preparation”, I have vetoed the remainder of the line and on line 23, I have vetoed through the word “purposes”.

On page 252, beginning with the word “The” on line 22, I have vetoed the remainder of the line, all of line 23, and through the word “commission.” on line 24.

On page 253, line 7, beginning with the “,” I have vetoed the remainder of the line. On line 8, I have vetoed the word “committee”.

On page 259, beginning with the word “The” on line 5, I have vetoed the remainder of the line and all of line 6.

On page 259, beginning with the word “The” on line 14, I have vetoed the remainder of the line and all of lines 15 and 16.

On page 259, line 21, I have vetoed the word “all”. The appropriation is insufficient to bring all institutions of higher education using banner to version 8 of the enterprise resource planning system. Making the appropriation contingent upon the Higher Education Department doing so thus exceeds the Legislature’s authority to attach reasonable conditions to an appropriation.

On page 260, line 8, I have vetoed the word “the”, and on line 9 I have vetoed through the word “and”.

On page 269, beginning with the “,” on line 1, I have vetoed the remainder of the line and all of lines 2 through 7, and all of line 8 through the word “committee”.

On page 272, line 22, I have vetoed the words “to replace equipment”. On line 23 I have vetoed the second occurrence of the word “and”. On line 24, I have vetoed from the beginning of the line through the word “committee”.

On page 274, line 7, beginning with the word “and”, I have vetoed the remainder of the line, I have vetoed all of line 8, and on line 9, I have vetoed through the word “request”.

Respectfully yours,

Bill Richardson  
Governor

RECEIVED FROM THE OFFICE OF THE GOVERNOR:

Time: \_\_\_\_\_ a.m./p.m.

by:

Date: \_\_\_\_\_ 2008

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Chief Clerk of the House

Time: \_\_\_\_\_ a.m./p.m.

by:

Date: \_\_\_\_\_ 2008

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Secretary of State