

March 15, 2007

HOUSE EXECUTIVE MESSAGE NO. 6

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 forward and expand opportunities for New Mexicans. My budget plan sought to invest in bold initiatives to expand water supplies, restore river ecosystems, increase water conservation and protect agricultural water uses. My budget recommendation was built on a strategic approach to improve our children's education, health and safety, while building on the 2006 "Year of the Child" initiatives. Finally, I once again advocated for working New Mexico families by returning dollars to taxpayers pockets. I believe the Legislature has made significant progress to address these important issues.

Our combined oil and natural gas revenues represent a significant source for the state's general fund, providing an opportunity to invest in New Mexico. However, prices continue to fluctuate. 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 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 also have vetoed parts of General Appropriation Act that impermissibly attempt to nullify substantive law, a practice that is precluded by Article IV, Section 6 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."

Finally, I have vetoed parts of the General Appropriation Act that impose unreasonable contingencies whereby an appropriation is forfeited in its entirety if an arbitrary deadline is not met. These all-or-nothing contingencies impermissibly intrude into the executive managerial function. As a result, agencies are forced to make meeting the contingency the agency's top priority, regardless of its true relative importance. Finally, I strongly

object to provisions in this Act that attempt to make general policy by imposing reporting and other requirements that do not exist in substantive law.

I this day SIGN and return:

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR HOUSE BILLS 2, 3, 4, 5, 6 AND 9, as amended, which was enacted during the Forty-Eighth Legislature, First Session, 2007, and 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 Constitution of New Mexico:

On page 4, line 6, after the word “gifts,” I have vetoed the remainder of the line and on page 4, line 7, I have vetoed the words “general fund”.

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 21 through 25 and on page 6, I have vetoed all of lines 1 through 4.

On page 10, I have vetoed all of lines 7 through 9.

On page 10, I have vetoed all of line 25 and on page 11, I have vetoed all of lines 1 and 2.

On page 11, I have vetoed all of lines 18 through 20.

On page 27, I have vetoed all of lines 11 through 13.

On page 45, line 4 I have vetoed from the beginning of the line through the word “committee”.

On page 45, line 9, after “1978”, I have vetoed the remainder of the line, all of line 10 and on line 11 through the word “fund”.

These vetoed parts of Section 4 of the General Appropriation Act impermissibly attempted to nullify substantive law as described above. Section 6-1-5 NMSA 1978 specifically states that “any amount received ...in repayment of any emergency loan shall be deposited...to the credit of the state board of finance emergency fund if the payment is received in the same fiscal year in which the loan was made...”.

On page 59, I have vetoed all of lines 19 through 23.

This language makes the entire general fund appropriation to the Human Resource Management program of the State Personnel Board from October 1,

2007 through June 30, 2008, contingent upon submission by October 1, 2007, of an annual compensation report. This all or nothing contingency is unreasonable in that it makes no allowance for circumstances beyond the Board's control. This is particularly objectionable here because this specific contingency could result in up to 65 authorized FTEs losing their jobs, since the Legislature has made the appropriation that would fund their salaries and benefits contingent upon the timely submission of the report. This condition also impermissibly intrudes into the executive managerial function, by making the meeting of the contingency the agency's number one priority.

On page 65, I have vetoed all of line 3.

On page 97, I have vetoed all of lines 10 through 12.

On page 120, I have vetoed all of lines 20 through 22.

On page 121, I have vetoed all of lines 23 through 25.

On page 123, I have vetoed all of lines 1 through 3.

On page 125, line 8, I have vetoed the word "nonentitlement", on line 9 after the word "level", I have vetoed the remainder of the line and on line 10, I have vetoed from the beginning of the line through the word "program".

On page 125, I have vetoed all of lines 11 through 13.

On page 125, line 16, after the period, I have vetoed the remainder of the line and all of lines 17 and 18.

On page 125, line 23, I have vetoed the word "nonentitlement", on line 24, after the word "level", I have vetoed the remainder of the line and on line 25, I have vetoed from the beginning of the line through the word "program".

On page 128, I have vetoed all of line 25 and on page 129, I have vetoed all of lines 1 and 2.

On page 129, I have vetoed all of lines 5 and 6.

On page 129, I have vetoed all of lines 7 through 9.

On page 144, line 5, after the comma, I have vetoed the remainder of the line and on line 6, I have vetoed through the comma.

On page 158, I have vetoed all of lines 10 through 12.

On page 160, line 24, after the period, I have vetoed the remainder of the line, all of line 25 and on page 161, I have vetoed all of line 1.

On page 162, I have vetoed all of lines 18 through 21.

On page 165, I have vetoed all of lines 14 through 17.

On page 165, I have vetoed all of lines 18 through 21.

On page 176, I have vetoed all of lines 16 through 18.

This language makes the other state funds appropriation for expenditures related to commuter rail contingent upon the submittal to DFA and the LFC of a FY08 operating budget for commuter rail by July 1, 2007. This all or nothing contingency is unreasonable; intrudes into the executive managerial function; and seeks to make general policy in an appropriations act by imposing reporting requirements that do not exist in substantive law.

On page 176, I have vetoed all of lines 19 through 21.

This language requires the Department of Transportation to submit quarterly reports showing initial project estimates and actual and projected costs for projects, to include commuter rail, using bond proceeds issued pursuant to Sections 67-3-59.3 and 67-3-59.4 NMSA 1978. This language impermissibly attempts to make general policy in an appropriations act, in the form of reporting requirements.

On page 176, I have vetoed all of lines 22 through 24.

On page 176, I have vetoed all of line 25 and on page 177, I have vetoed all of lines 1 through 3.

On page 182, I have vetoed all of lines 2 through 6.

On page 182, line 10, I have vetoed the word "new".

On page 182, I have vetoed all of lines 24 and 25 and on page 183, I have vetoed all of lines 1 through 3.

On page 185, I have vetoed all of lines 11 through 16.

On page 203, I have vetoed all of lines 16 and 17.

On page 205, I have vetoed all of lines 14 and 15.

On page 229, I have vetoed all of line 2 and 3.

On page 229, I have vetoed all of line 16 and 17.

On page 230, I have vetoed all of lines 16 through 18.

On page 231, I have vetoed all of lines 3 through 5.

On page 231, I have vetoed all of lines 12 through 14.

On page 231, I have vetoed all of lines 19 through 21.

On page 232, I have vetoed all of lines 18 and 19.

On page 232, line 21, I have vetoed the words “state park”.

On page 234, I have vetoed all of lines 1 through 3.

On page 234, I have vetoed all of lines 9 and 10.

On page 235, I have vetoed all of lines 5 and 6.

On page 237, I have vetoed all of lines 10 and 11.

On page 238, I have vetoed all of lines 16 and 17.

On page 239, I have vetoed all of lines 15 and 16.

On page 239, I have vetoed all of lines 17 through 21.

On page 241, line 19, after the word “schools”, I have vetoed the remainder of the line, on line 20, I have vetoed from the beginning of the line through the word “is”, and on line 20 after the word “formula”, I have vetoed the remainder of the line, all of line 21 and on line 22, I have vetoed the word “index”.

On page 242, I have vetoed all of lines 7 and 8.

On page 242, I have vetoed all of lines 17 and 18.

On page 242, I have vetoed all of lines 21 and 22.

On page 243, I have vetoed all of lines 3 and 4.

On page 244, line 1, I have vetoed from the beginning of the line through the word “commission”.

On page 245, line 5, after the word “administration”, I have vetoed through the word “committee”.

On page 246, line 2, after the second use of the word “services”, I have vetoed the remainder of the line and on line 3, I have vetoed through the word “committee”.

On page 246, I have vetoed all of lines 9 and 10.

On page 248, line 12, after “2008”, I have vetoed the remainder of the line and on line 13, I have vetoed through the word “system”.

On page 250, line 7, after the word “to”, I have vetoed the remainder of the line and on line 8, I have vetoed through the word “and”.

On page 250, line 16, I have vetoed the comma and on line 17, I have vetoed from the beginning of the line through the second use of the word “committee”.

On page 251, line 22, after the word “to”, I have vetoed through the word “and”.

On page 252, I have vetoed all of lines 12 through 14.

On page 258, line 7, after the word “to”, I have vetoed the remainder of the line and on line 8, I have vetoed the word “and”.

On page 258, line 17 after the word “to”, I have vetoed the remainder of the line and on line 18, I have vetoed from the beginning of the line through the word “and”.

On page 261, line 7, after the word “attorneys”, I have vetoed the remainder of the line and on line 8, I have vetoed the word “committee”.

On page 266, line 20, after the word “other”, I have vetoed the remainder of the line and all of lines 21 through 25 and on page 267, line 1, I have vetoed through the second use of the word “committee”.

The vetoed parts of Section 10(C) of the General Appropriation Act impermissibly attempted to nullify substantive law as described above.

Under Section 6-3-25(A) NMSA 1978, a budget adjustment request approved by the State Budget Division Director is held in abeyance for ten calendar days after it is delivered to the Director of the Legislative Finance Committee (LFC), during which time the LFC Director or designee may object to the request. No objection means the request can be implemented immediately, per Section 6-3-25(C) NMSA 1978. In the event of an objection, the request goes into effect after a public hearing before the LFC or thirty-five days after the LFC Director received the request, whichever is earlier. Section 6-3-25(B)-(C) NMSA 1978.

Under the vetoed parts of Section 10(C), in contrast, the LFC Director or designee does not have to object to a request in order to delay its implementation. Instead, all category transfer requests made prior to October 1, 2007, would have been automatically held in abeyance for thirty-five calendar days after the LFC Director received the request, during which time the LFC could hold a hearing or not, in its discretion.

As explained above, this attempt to nullify conflicting provisions of Section 6-3-25 NMSA 1978 is Constitutionally improper.

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On page 271, line 21, after the word “emergencies”, I have vetoed the remainder of the line and on line 22, I have vetoed through the word “request”.

Respectfully yours,



Bill Richardson

Governor

RECEIVED FROM THE OFFICE OF THE GOVERNOR:

Time: _____ a.m./p.m.

Date: _____ 2007

by:

Chief Clerk of the House

Time: _____ a.m./p.m.

Date: _____ 2007

by:

Secretary of State