

April 9, 2015

HOUSE EXECUTIVE MESSAGE NO. 17

The Honorable Don L. Tripp, Speaker of the House and
Members of the House of Representatives
State Capitol Building
Santa Fe, NM 87501

Honorable Speaker Tripp and Members of the House:

As Governor, one of my most important duties is to ensure that state government does not grow beyond its means, and it is equally important that our state budget prioritizes critical issues like job creation, education reform, and the safety and wellbeing of our children and families.

Over the past four years, we have worked in a bipartisan way to restore the State's firm fiscal footing after years of overspending. The budgets we have passed have established strong reserve levels and enacted moderate, responsible spending growth. Along the way, we have invested heavily in public education and early childhood initiatives, expanded job creation efforts, and provided a strong safety net for our most vulnerable.

This budget continues our commitment to fiscal responsibility and the prioritization of critical efforts, and I am proud to sign it today.

Despite lower-than-projected energy prices – which resulted in a decrease in anticipated new revenues in Fiscal Year 2016 – this budget makes substantial investments in economic development initiatives. These are critical dollars that will help us diversify our economy and decrease our reliance on federal spending, which has disproportionately hurt our state. This year's budget will help strengthen our private sector by significantly increasing the size of our closing fund to over \$37 million, expanding our successful job training program (JTIP), and bolstering investment in our MainStreet program.

With respect to education, we continue to invest more in our public schools than ever before, with more money going directly into the classroom. But as I have said, money alone is not the answer. We must invest in reforms that work. I am pleased that this budget funds nearly every education reform initiative that I proposed in my Executive budget. As a result, we will fund a second year of pilot programs that allow New Mexico's highest performing teachers to receive

HOUSE EXECUTIVE MESSAGE NO. 17

The Honorable Don L. Tripp

April 9, 2015

Page 2

additional pay, increase starting teacher pay by another \$2,000 per year, and provide every teacher with a pre-loaded debit card to help them purchase supplies for their classrooms. In addition, the budget also provides substantial funding for the “New Mexico Reads to Lead” early literacy initiative, expands Pre-K and K-3 Plus, establishes a proven mentorship program for teachers, and contains new funding to combat truancy problems in areas where the need is the greatest.

Additionally, critical investments are made in this budget to keep our children and communities safe. This includes putting more money into the Children, Youth and Families Department (CYFD) than ever before, expanding important initiatives like child advocacy centers and family support workers, and investing in technology that provides for better communication between law enforcement and child abuse caseworkers. It also increases funding for the Department of Public Safety to help improve officer recruitment and retention.

This budget is not without flaws, of course.

First, I am concerned about the degree to which appropriators used fund sweeps and balances to pay for some recurring liabilities – in areas like Medicaid, public education, and early childhood programs.

Second, the budget fails to provide any additional funding or reform to the Lottery Scholarship, which will unfortunately result in a sizeable reduction in the percentage of tuition that will be able to be covered by the scholarship in the coming year.

Third, many of the partial vetoes I have made to this bill are due to the concerning, continuing efforts by some legislators to insert earmarks into general appropriation acts. These earmarks take various forms, such as carving out funds from a larger program or purpose for a specific geographic area or favored cause. In addition, they often invoke “notwithstanding” language, meaning that funds collected legally for one purpose are being redirected to a different purpose. Regardless of the form, these earmarks can be constitutionally objectionable, and they receive less scrutiny and vetting than the programs and expenditures that are made throughout the rest of the budget.

Notably, I have also vetoed three-percent raises for certain health workers that were added into the budget without recommendation by either the Executive or Legislative Finance Committee. As I have advocated for years, I do believe in taking a targeted approach to raising salaries for state workers, focusing primarily on the State’s need for the positions and on the difficulty in recruiting eligible employees. However, these policies should be implemented in a planned and coordinated effort, not simply added to the budget at the last minute without debate and without prioritization. I am also troubled that the funding for these increases came from cuts into critical programs like the Trauma Fund at the Department of Health. Finally, even with

HOUSE EXECUTIVE MESSAGE NO. 17

The Honorable Don L. Tripp

April 9, 2015

Page 3

these funds, the appropriated amounts were insufficient to fully fund the proposed raises. This is not a responsible way to improve compensation within state government.

I have also vetoed language that enacts overly restrictive reporting requirements on the executive branch, and in other cases, I have vetoed earmarks that utilize non-recurring, one-time funding to cover recurring costs and expenses. This sets us up for a shortfall in future budgets.

Taking into account the various changes to the budget, the new rate of recurring spending growth between FY15 and FY16 is 1.3 percent, and the overall level of new recurring spending is \$84.2 million.

I am grateful to all those legislators who supported our efforts to find common ground and enact a budget under more difficult financial circumstances that still prioritizes our efforts to grow our economy and reform education.

I have this day SIGNED HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR HOUSE BILLS 2 and 4, as amended (the “General Appropriation Act of 2015”) enacted by the Fifty-Second Legislature, First Session, 2015, except the following part or parts, item or items, which I have vetoed pursuant to Article IV, Section 22 of the Constitution of the State of New Mexico:

On page 3, I have vetoed all of line 25.

On page 4, I have vetoed all of lines 1 through 4. The consensus revenue forecasting process is well-established, making the mandate that the Department of Finance and Administration regularly consult with Legislative Finance Committee staff concerning revenue collections unnecessary. Further, the Executive and Legislative branches must work together to address a revenue shortfall; the vetoed part would have put the burden on the Executive to unilaterally develop a plan to discharge this joint responsibility.

On page 11, I have vetoed all of lines 15 and 16.

On page 12, I have vetoed all of lines 4 and 5.

On page 35, line 12, I have vetoed the words “in southwest”; and on line 13, I have vetoed the words “New Mexico”.

On page 35, I have vetoed all of lines 18 and 19.

HOUSE EXECUTIVE MESSAGE NO. 17

The Honorable Don L. Tripp

April 9, 2015

Page 4

On page 36, line 14, I have vetoed beginning with the first instance of the word “in” through the word “counties”.

On page 42, line 9, I have vetoed the words “at the”; and on line 10, I have vetoed from the beginning of the line through the word “hospital”.

On page 54, I have vetoed all of lines 20 and 21.

On page 69, I have vetoed all of lines 19 through 23.

On page 71, I have vetoed all of lines 19 through 21.

On page 74, line 21, I have vetoed beginning with the second instance of the word “and” through the remainder of the line; I have vetoed all of line 22; and on line 23, I have vetoed from the beginning of the line through the word “refugium”.

On page 83, line 16, I have vetoed beginning with the word “and” through the remainder of the line; and on line 17, I have vetoed from the beginning of the line through the word “operations”.

On page 89, I have vetoed all of line 25.

On page 90, I have vetoed all of lines 1 and 2.

On page 95, I have vetoed all of lines 22 and 23.

On page 108, I have vetoed all of lines 23 through 25.

On page 109, I have vetoed all of lines 1 through 3.

On page 109, I have vetoed all of line 25.

On page 110, I have vetoed all of lines 1 through 5.

On page 110, line 19, I have vetoed beginning with the word “at” through the word “Albuquerque”.

On page 111, I have vetoed all of lines 10 and 11.

On page 112, I have vetoed all of lines 3 through 8.

On page 113, I have vetoed all of lines 15 through 20.

HOUSE EXECUTIVE MESSAGE NO. 17

The Honorable Don L. Tripp

April 9, 2015

Page 5

On page 114, I have vetoed all of lines 13 through 18.

On page 114, line 20, I have vetoed the words “Las Vegas”.

On page 115, I have vetoed all of lines 23 through 25.

On page 116, I have vetoed all of lines 1 through 3.

On page 122, line 23, I have vetoed the words “in Lea”; and on line 24 I have vetoed the word “county”.

On page 123, line 21, I have vetoed beginning with the word “in” through the word “Mexico”.

On page 131, line 2, I have vetoed beginning with the word “of” through the word “trafficking”.

On page 139, line 24, I have vetoed the word “Albuquerque”.

On page 142, line 2, I have vetoed beginning with the word “the” through the remainder of the line; and on line 3, I have vetoed from the beginning of the line through the word “have”.

On page 142, line 9, I have vetoed the word “turnaround”.

On page 146, I have vetoed all of lines 1 through 4.

On page 146, line 20, I have vetoed the words “social worker”.

On page 150, I have vetoed all of line 17.

On page 150, line 25, I have vetoed the number “100.0”.

On page 151, line 12, I have vetoed the number “150.0”.

On page 151, I have vetoed all of lines 23 through 25.

On page 152, I have vetoed all of line 1.

On page 152, I have vetoed all of lines 2 through 4.

HOUSE EXECUTIVE MESSAGE NO. 17

The Honorable Don L. Tripp

April 9, 2015

Page 6

On page 152, I have vetoed all of line 15.

On page 153, line 11, I have vetoed the number "150.0".

On page 153, I have vetoed all of lines 23 through 25.

On page 154, I have vetoed all of line 1.

On page 154, line 5, I have vetoed from the beginning of the line through the word "counties".

On page 157, line 13, I have vetoed the words "north-central and south-central".

On page 158, I have vetoed all of lines 22 and 23.

On page 160, I have vetoed all of lines 4 and 5.

On page 163, I have vetoed all of line 6.

On page 163, I have vetoed all of lines 14 and 15.

On page 175, line 7, I have vetoed beginning with the word "The" through the remainder of the line; and I have vetoed all of line 8.

On page 177, line 25, I have vetoed the words "the primary purpose of".

On page 178, line 1, I have vetoed from the beginning of the line through the word "have".

On page 178, I have vetoed lines 16 through 19.

On page 179, I have vetoed all of lines 1 and 2.

On page 180, I have vetoed all of lines 10 through 14.

On page 180, line 20 I have vetoed beginning with the "," through the remainder of the line; on line 21, I have vetoed from the beginning of the line through the word "system" and I have vetoed the second instance of the word "The" and the word "appropriation"; I have vetoed all of line 22; on line 23, I vetoed from the beginning of the line through the "."; on line 24 I have vetoed beginning with the second instance of the word "and" through the remainder of the line; and on line 25, I have vetoed from the beginning of the line through the second instance of the "," and I have vetoed the word "including".

HOUSE EXECUTIVE MESSAGE NO. 17

The Honorable Don L. Tripp

April 9, 2015

Page 7

On page 181, line 1, I have vetoed from the beginning of the line through the word “fund”; and on line 2, I have vetoed beginning with the word “and” through the word “committee”.

On page 181, I have vetoed all of lines 6 through 10.

On page 181, I have vetoed all of lines 24 and 25. I am disappointed by the rapid rate of overspending at the Public Defender Department, and yet, despite my concerns, I supported the original “deficiency” appropriation of \$53.8 thousand to cover the agency’s shortfalls in fiscal year 2014. This was included in the House budget. However, the Senate not only increased this amount, they also converted it to a “special” appropriation, which would allow the agency to spend the funds in the current fiscal year, OR if they desired, in Fiscal Year 2016. This not only leaves many to wonder what the actual size is of the projected shortfall in the current year, but this budget already gives the Public Defender Department a substantial \$3.7 million increase for FY16 – an increase of 8.3 percent over the current year, and a full \$2.6 million over what I proposed in the Executive recommendation. This “special” appropriation would, thus, only further increase the department’s FY16 budget – far beyond the increase being seen by virtually all other state agencies.

On page 182, line 6, I have vetoed the word “quarterly”.

On page 186, line 6, I have vetoed the words “and the legislative”; and on line 7, I have vetoed the words “finance committee”.

On page 188, line 15, I have vetoed beginning with the “,” through the word “staff”.

On page 188, I have vetoed all of lines 24 and 25.

On page 189, line 7, I have vetoed beginning with the second instance of the word “and” through the word “committee”.

On page 189, I have vetoed all of lines 20 through 23.

On page 191, line 3, I have vetoed beginning with the word “For” through the end of the line; I have vetoed all of lines 4 and 5; and I have vetoed line 6 from the beginning of the line through the “.”.

On page 193, line 16, I have vetoed beginning with the word “by” through the remainder of the line; and on line 17, I have vetoed the first instance of the word “records”; on line 18 I have vetoed beginning with the “,” through the end of the line; and on line 19, I have vetoed from the beginning of the line through the “;”.

HOUSE EXECUTIVE MESSAGE NO. 17

The Honorable Don L. Tripp

April 9, 2015

Page 8

On page 194, line 15, I have vetoed beginning with the “,” through the remainder of the line; on line 16, I have vetoed from the beginning of the line through the word “committee”; on line 17, I have vetoed beginning with the “,” through the remainder of the line; and on line 18, I have vetoed from the beginning of the line through the word “committee”.

On page 195, line 5, I have vetoed the third instance of the word “The”; and I have vetoed all of lines 6 through 10.

On page 195, line 15, I have vetoed beginning with the word “Release” through the remainder of the line; and I have vetoed all of lines 16 through 19.

On page 198, I have vetoed all of lines 2 through 5.

On page 205, line 22, I have vetoed beginning with the word “the” through the remainder of the line; I have vetoed all of line 23; and on line 24, I have vetoed from the beginning of the line through the second instance of the word “and”.

On page 212, I have vetoed all of lines 9 through 13. I am deeply, deeply troubled by the millions of dollars in taxpayer funding that have been expended on a larger-than-life building that has never been used, and in the estimation of many, may have such structural and other problems so as to prevent it from ever being used. And, currently, there is already over \$2 million available from previous state capital outlay appropriations for this project that have not yet been spent. The Department of Finance and Administration also says that current information from the County indicates that the proposed appropriation – even when combined with the previous unspent capital appropriation - would not be sufficient to complete the first floor of the building. I am also concerned about using General Fund revenue for this capital outlay project. The County also recognizes that it must perform additional engineering assessments, site surveys and drainage plans prior to finalizing a master plan for the build out of this building.

On page 212, line 25, I have vetoed beginning with the word “through” through the remainder of the line.

On page 213, line 1, I have vetoed the words “investment zones”; and on line 2, I have vetoed the words, “in McKinley county”.

In addition to specific objections noted above or my general comments at the top of this message, other general reasons for my vetoes are as follows:

Certain vetoed parts and items of the General Appropriation Act of 2015 would have nullified substantive law and/or created general legislation, practices generally precluded by Article IV,

HOUSE EXECUTIVE MESSAGE NO. 17

The Honorable Don L. Tripp

April 9, 2015

Page 9

Section 16 of the Constitution of the State of New Mexico. Of particular concern were the Legislature's continuing efforts to enact reporting requirements and control over executive functions beyond that which is provided in substantive law.

Certain vetoed parts and items would have impermissibly intruded into the managerial function, in violation of Article III, Section 1 of the Constitution of the State of New Mexico. Examples of impermissible intrusions include parts that would have dictated the contents of executive proposals or contracts, imposed detailed expenditure restrictions, interfered with an agency's ability to effectively manage appropriations in response to statewide or regional needs, or restricted programmatic and vendor choices. All such parts go beyond the Legislature's proper and limited role of defining the basic purpose of an appropriation.

I also vetoed some conditions that exceeded the Legislature's limited authority to attach reasonable conditions to appropriations. Some of these conditions also amounted to general policy that should be enacted outside the General Appropriation Act of 2015.

Finally, I vetoed some excessive appropriations, some that represented unjustified expansions, some that were not for core services or programs, some that were for needs that could be met with existing resources, and some that could not be justified in light of the continuing need for fiscal restraint.

Respectfully yours,

Susana Martinez
Governor

RECEIVED FROM THE OFFICE OF THE GOVERNOR

Time: _____ a.m. p.m.

Date: _____, 2015

By _____
Secretary of State

Time: _____ a.m. p.m.

Date: _____, 2015

By _____
Chief Clerk of the House