

February 9, 2000

**HOUSE EXECUTIVE MESSAGE NO. 73**

The Honorable Raymond G. Sanchez and

Members of the House of Representatives

Executive-Legislative Building

Santa Fe, New Mexico 87503

Honorable Speaker and Members of the House:

I have this day VETOED and am returning HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR HOUSE BILLS 2, 3, 4, 5, 6, 7 and 9, as amended, enacted by the Forty-Fourth Legislature, Second Session, 2000.

This legislation is intended to provide operational funds for public and higher education as well as state government for fiscal year 2001. This bill has been vetoed because it establishes an inordinately high recurring spending level while simultaneously under-funding important programs. Unfortunately, this general appropriation act follows a familiar pattern in that it lavishes spending on special interests, shortchanges ongoing programs and disregards taxpayers.

The general fund operating reserve has served as our rainy day fund for decades. Over the years, the wisdom of maintaining a healthy balance in that account has been demonstrated many times. At the very least, we should maintain a balance equal to five percent of recurring spending, and preferably more, as a hedge against revenue shortfalls and other emergencies that periodically and inevitably occur.

I cannot approve any spending plan that does not comply with this minimal level of prudence. Our analysis of this bill reveals that it effectively reduces the operating reserve from \$185 million in fiscal year 1999 to \$149 million in fiscal year 2001. The minimum reserve requirement for fiscal year 2001 is \$172 million.

I believe we do a disservice to our citizens and ourselves when we cleverly disguise spending so that "on paper" we appear fiscally responsible but in reality we are courting disaster. Examples of such cleverness in this bill include:

- The aggressive use of non-recurring agency cash balances for recurring purposes.
- Presenting appropriations as "contingencies" when there is little doubt that those appropriations will be spent.
- The wholesale expansion of Medicaid coverage, without regard for the financial implications.
- Use of tobacco settlement funds in lieu of the state general fund for state programs.
- The assumption of Indian gaming revenue without enactment of the requisite joint resolution properly resolving this issue.

It is remarkable that these devices were employed when our latest general fund revenue estimates already provided for a healthy increase in spending. The fiscal year 2001 estimate of \$3.46 billion will accommodate spending increases and tax cuts totaling \$165 million.

The tobacco settlement money should be directed to smoking cessation and prevention or to a special permanent fund. This bill appears to relegate the tobacco money to a slush fund for special interests.

Obviously, the spending contained in this bill forecloses any opportunity for tax relief. In view of the overall healthy condition of our finances it seems eminently fair to give something back to the taxpayers. It is the taxpayers, after all, who drive our economy and provide the resources distributed in this bill. Unfortunately, special interest lobbyists, not taxpayers, exert the most influence in this arena.

We have been agonizingly clear in stating the funding requirements for executive agencies. My administration has made budgetary information available to the legislature in extensive detail. We have fully participated in the budgetary deliberations of the House of Representatives and we have thoroughly documented our requirements pursuant to the mysterious workings of the Senate.

Therefore, it should come as no surprise to anyone involved in these proceedings that this bill is significantly flawed in its funding of certain executive agencies. These would include the Departments of Health, Public Safety, Corrections and Children, Youth and Families, among others. Moreover, certain important supplemental appropriations have also been omitted.

The under-funding of agencies under my direction appears to be rooted in partisan politics and legislative gamesmanship. We should all bear in mind that our citizens suffer the consequences when these strategies go awry as they usually do. Cabinet officers and other key members of my administration are available at any time to work with the legislature to rectify these deficiencies.

This is the first general appropriation act that incorporates performance budgeting concepts in its appropriations for ongoing programs. Although this is a laudable improvement, I would remind the framers of this act that performance budgeting is predicated on a bilateral agreement between executive agencies and the legislature. Executive departments can hardly be held to terms and conditions that they have not agreed to. In this regard, I cannot accept the inclusion of substantive law in this act. However, I will direct the secretary of the Department of Finance and Administration to enter into a letter agreement with the appropriate interim committee to

facilitate the continued implementation of this program. I note that this first effort is seriously lacking in the kinds of performance incentives that would foster commitment.

I have expeditiously acted on this bill so that the time remaining in this legislative session can be effectively used to produce an acceptable general appropriation act. I urge the legislature and especially the majority party to avail themselves of the considerable resources of the executive branch to resolve any uncertainties prior to passage, thus ensuring the enactment of the general appropriation act of 2000 and the successful conclusion of this legislative session.

Sincerely,

Gary E. Johnson

Governor