April 10, 2009

HOUSE EXECUTIVE MESSAGE NO. 27

The Honorable Ben Luján and Members of the House of Representatives State Capitol Bldg. Santa Fe, New Mexico 87501

Honorable Speaker Luján and Members of the House:

Pursuant to the Constitution of the State of New Mexico, Article IV, Section 22, I hereby VETO and return HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR HOUSE BILL 616, as amended, which was enacted during the Forty-Ninth Legislature, First Session, 2009.

House bill 616, the "Return to Work" bill also known as the "double dipping" bill, was intended to address perceived abuses of the state employment system by those minority percentage of public servants who, after having served their full term required for retirement from a public agency, return to a state, local, or municipal agency to continue working. Under the current system these workers are eligible to draw on their earned retirement while also collecting the salary from their second career in public service. Hence the term, "double dipping."

While in general this system is both fair and efficient -- and provides for an experienced talent pool from which public agencies can hire skilled management and technical employees -- in a few high profile, high salary cases there has been a perception in some quarters that this system has been abused. Frankly, I share that concern.

However, HB616 paints all return-to-workers with the same brush and the fact is that the majority of these people are extremely dedicated, skilled and caring employees who are devoted to public service, and whose salaries in both their first and second public service careers are far from egregious. The reality is that many if not most of these employees have returned to work for fundamental financial necessities: paying for medicines and other health care, paying for their children's education, paying the mortgage. Which raises the flip side of this issue: The difficulty in attracting and retaining skilled employees with the salaries offered in the public sector as compared to comparable positions in the private sector.

I would also like to clear up the misperception that public employees who return to work after retirement cause a drain on the Public Employee Retirement Association, or PERA, which administers the public employees' retirement funds. This is simply not true. In fact, because

these returning employees do not receive a secondary pension yet they and their employers continue to pay into the fund, return-to-workers actually help subsidize the fund for other workers.

Moreover, as noted above, House Bill 616 could have a negative effect on the public sector's ability to function in an efficient and effective manner. House Bill 616 would make it difficult for the state and other public agencies to hire and retain employees in certain highly specialized positions such as accountants, engineers and environmental technicians, which command significantly higher salaries working in the private sector than for government. Yet it is the returning public employees who have significant expertise and experience in these fields, who willingly fill these positions.

Finally, as was conveyed to me by various state employees, concerned citizens, and Attorney General King, House Bill 616 as drafted also raises significant legal questions.

Therefore, for all of the above reasons, I veto this bill.

However, I recognize that there are legitimate concerns with New Mexico's return to work law that need further examination, including potential abuse of the system and morale of employees who feel they may be denied opportunities for upward mobility. To that end I will be forming a task force headed by the State Personnel Director to consider potential legislation for the Special Session to restrict and limit the proliferation of return to work in a fair and equitable manner that prevents egregious abuse of the system while recognizing that the majority of these employees return to work out of necessity, and while preserving the public sector's ability to attract and retain the best and the brightest.

Bill Richardson Governor

Respectfully yours,

RECEIVED FROM THE OFFICE OF THE GOVERNOR:

Time: Date:	a.m./p.m. 2009	by:	
			Chief Clerk of the House
Time: Date:	a.m./p.m. 2009	by:	
			Secretary of State