

March 11, 2014

SENATE EXECUTIVE MESSAGE NO. 112

The Honorable Mary Kay Papen, President Pro Tempore and  
Members of the New Mexico State Senate  
State Capitol Building  
Santa Fe, New Mexico 87501

Honorable President Pro Tempore Papen and Members of the Senate:

As Governor, one of my most important duties is to ensure that state government does not grow beyond its means. Over the past three years, we have worked in a bipartisan way to restore the State's firm fiscal footing after years of over-spending, and 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 programs, expanded job creation efforts, and provided for a strong safety net to help the most vulnerable.

Despite weeks of budgetary gridlock due to an extreme faction in the House majority, the budget that eventually passed the Legislature does, in many ways, reflect a compromise around important issues. That is why I am signing it today.

As we all know, the national recession and federal budget cuts have hit New Mexico hard. This budget helps us continue to diversify our economy, so we are less reliant on federal spending. We are now better able to create an environment that makes it easier for businesses to create new jobs.

For example, this budget funds seven new health care workforce initiatives that I believe are necessary in order to provide the primary care services New Mexicans need to meet the new demands imposed by health care reform. It also invests heavily in LEDA, the Local Economic Development Act, allocating \$10 million toward the recruitment of new and expanding businesses, and it begins the process of making the Job Training Incentive Program (JTIP) permanent.

On education, we are now investing more in our public schools than ever before. But money alone is not the answer. We must invest in reforms that work. I am pleased that this budget also funds nearly every education reform initiative that I proposed in my Executive budget (albeit at much lower levels in some cases). As a result, we will be able to expand the use of parent

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portals, provide more interventions for struggling students and schools, recruit more math and science teachers in areas that need them, raise the minimum salary for Tier 1 New Mexico teachers, pilot various initiatives to reward teachers for strong performance in the classroom, further expand the number of early college high schools, and continue our successful efforts to improve student access and success in Advanced Placement courses.

However, as I noted earlier, it is my responsibility to ensure that government spending does not grow at an unsustainable rate. As I noted during the session, I believe the budget passed by the legislature overspends, as it increases recurring spending by \$278 million (or 4.7%), nearly exhausting every penny of available new money on new recurring costs. In addition, it approved over \$60 million in one-time spending, significantly drawing down our State savings account.

Additionally, the Legislature chose to ignore several real financial contingences and liabilities facing state government, which serve to further reduce our reserve levels. For example, the Legislature budgeted no funding to meet the over \$20 million obligation the State must meet in back payments to certain employees as part of the 2009 union lawsuit. The Legislature also failed to account for a nearly \$60 million contingency relating to Medicaid cash reconciliation issues prior to 2010. And, despite passing contingent appropriations relating to our maintenance of effort obligations in last year's budget, totaling \$36 million, the Legislature has now chosen not to factor those potential costs into our overall fiscal outlook.

Based on the best estimates from the Department of Finance and Administration, when all these factors are included, the budget passed by the Legislature spends down the state's savings account from over 11% of recurring appropriations at the end of Fiscal Year 2013 to less than 7% at the end of Fiscal Year 14.

When one factors in the ongoing questions about the impact of federal budget cuts on revenues and employment, the volatility of oil and gas prices, and the still-sluggish national economy, it becomes quite apparent that now is not the time to raid the State's savings account.

Given these realities, I have trimmed spending in this budget through the use of my partial veto authority.

By vetoing roughly \$27 million in expenditures, we will ensure a more stable fiscal footing for state government and have the resources necessary to handle any fiscal emergencies or crises that may come our way. Projected reserve levels will rise to just under 7.5% at the end of FY15 – short of what I feel is prudent, but more reasonable than what was passed by the Legislature.

Many of my partial vetoes 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. Regardless of the form, these earmarks can be constitutionally objectionable, and they tend to receive less scrutiny and vetting than the programs and expenditures that are made throughout the rest of the budget.

Though I have chosen to authorize the three percent pay raise for classified state employees and higher education workers, I have vetoed the compensation increases for all political appointees in the executive branch of state government, for elected district attorneys, and for elected judges throughout the state. Together, this amounts to \$2.4 million in savings.

In an overspent budget, where cuts are necessary to achieve a fiscally responsible budget, those costs should be borne by political appointees and elected officials rather than by state workers and teachers. Furthermore, though I would have supported a more modest 3% increase in pay for judges that would have put them on par with other pay raises in the budget, I cannot support the dramatic 8% raise requested in the budget. This would have amounted to nearly three times the raise that teachers received, in a year in which taxpayers are being asked to contribute additional funds to shore up the judicial and magistrate retirement systems, in addition to five new judgeships throughout New Mexico.

I have also vetoed a \$15 million appropriation to fund changes to the public education funding formula, enacted this year in House Bill 19, that do not take effect until NEXT YEAR (Fiscal Year 16). I support these changes in the funding formula and signed that bill. However, since the formula change does not occur until next year, the \$15 million in this budget would simply go to the bureaucracy and not go toward its intended objective. I support additional funding for at-risk students and, as long as I am Governor, I will approve additional funds in future budgets once the funding formula changes are enacted.

I have also vetoed a \$4 million appropriation to the Higher Education Endowment Fund. As I noted in last year's message on the budget, and as I have reiterated several times since, the current endowment statutes dole out this funding in an arbitrary way that lacks accountability, transparency, and focus. I proposed legislation reforming the endowment fund so that colleges and universities could compete for the money, proposing endowments to recruit the top professors and researchers in the country in the fields of science, mathematics, energy, health, and other critical fields. The Legislature failed to pass these key reforms, and as such, I cannot authorize new money to flow into a flawed and broken program.

Finally, I have vetoed language that enacts overly restrictive reporting requirements on the executive branch, and in one case, vetoed a \$5 million transfer of lottery funds back into the tobacco settlement fund – preserving this money to help with solvency efforts for the Lottery Scholarship program in the near term.

Given these various changes to the budget, the new rate of recurring spending growth is 4.3%, and overall level of new recurring spending is \$252 million.

I am grateful to all those legislators who supported our efforts to find common ground and enact a budget that we could all support, a budget that funds public education at the highest level in state history. It is a testament to our willingness to put aside partisan differences that we have

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been able to find agreement on the state budget and we have not had to call a special session at any point in the past four years.

I have this day SIGNED SENATE FINANCE COMMITTEE SUBSTITUTE FOR SENATE BILL 313 (the “General Appropriation Act of 2014”), as amended, with certificate of correction, enacted by the Fifty-First Legislature, Second Session, 2014, except the follow 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 10, line 10, I have vetoed beginning with the word “in” through the word “Mexico”.

On page 10, line 11, I have vetoed beginning with the word “in” through the word “district”.

On page 35, I have vetoed all of lines 12 through 14.

On page 35, line 18, I have vetoed beginning with the word “in” through the word “Juan”, and on line 19, I have vetoed the word “county”.

On page 35, I have vetoed all of lines 20 and 21.

On page 35, I have vetoed all of lines 22 and 23.

On page 35, I have vetoed all of lines 24 and 25.

On page 36, I have vetoed all of lines 1 through 3.

On page 36, I have vetoed all of lines 4 and 5.

On page 36, I have vetoed all of lines 6 and 7.

On page 36, line 11, I have vetoed the word “Valencia”.

On page 36, I have vetoed all of lines 16 and 17.

On page 37, line 6, I have vetoed the word “nonprofit”; on line 7, I have vetoed beginning with the word “affiliated” through the word “organization” and the word “solely”; on line 8, I have vetoed the words “or primarily” and beginning with the word “for” through the end of the line; on line 9, I have vetoed from the beginning of the line through the word “clearance”; and on line 10, I have vetoed beginning with the word “for” through the word “program”.

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On page 37, line 12, I have vetoed the word “nonprofit”; on line 13, I have vetoed beginning with the word “affiliated” through the remainder of the line; on line 14, I have vetoed beginning with the word “designed” through the remainder of the line; and on line 15, I have vetoed from the beginning of the line through the word “age”.

On page 37, line 18, I have vetoed beginning with the word “in” through the word “Cruces”.

On page 55, line 15, I have vetoed beginning with the word “thirty” through the “,”; on line 16, I have vetoed beginning with the word “the” through the word “market”; and on line 17, I have vetoed beginning with the word “the” through the word “market”.

On page 75, line 20, I have vetoed the number “50.0”.

On page 75, I have vetoed all of line 25.

On page 76, I have vetoed all of lines 1 and 2.

On page 78, line 5, I have vetoed the number “75.0”.

On page 78, I have vetoed all of lines 6 through 8.

On page 78, I have vetoed all of lines 9 and 10.

On page 85, I have vetoed all of lines 2 through 4.

On page 96, line 6, I have vetoed beginning with the word “The” through the end of the line; I have vetoed all of line 7; and on line 8, I have vetoed from the beginning of the line through the “.”.

On page 97, I have vetoed all of line 12, and on line 13, I have vetoed from the beginning of the line through the “,”.

On page 103, line 19, I have vetoed beginning with the word “at” through the word “center”; on line 22, I have vetoed the word “regional” and the words “at the”; and on line 23, I have vetoed from the beginning of the line through the word “Clara”.

On page 106, I have vetoed all of lines 1 through 4.

On page 108, I have vetoed all of lines 16 and 17.

On page 110, I have vetoed all of lines 6 through 8.

On page 111, line 11, I have vetoed the words “in-patient” and beginning with the word “in” through the word “Mexico”.

On page 111, line 14, I have vetoed the word “residential” and beginning with the word “in” through the word “Mexico”; on line 15, I have vetoed beginning with the word “in” through the word “county”; and on line 16, I have vetoed beginning with the word “in” through the word “Mexico”.

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On page 111, I have vetoed all of lines 22 through 24.

On page 116, I have vetoed all of lines 19 through 22.

On page 124, line 8, I have vetoed beginning with the word “one” through the remainder of the line, and on line 9, I have vetoed from the beginning of the line through the “,”.

On page 124, I have vetoed all of lines 14 and 15.

On page 128, I have vetoed all of lines 12 through 16.

On page 136, line 8, I have vetoed beginning with the word “in” through the “,”, and on line 9, I have vetoed beginning with the word “in” through the word “county”.

On page 136, line 12, I have vetoed beginning with the word “and” through the remainder of the line; I have vetoed all of line 13; and on line 14, I have vetoed from the beginning of the line through the word “feasible”.

On page 138, line 3, I have vetoed the words “in northern New Mexico”, and on line 4, I have vetoed beginning with the word “in” through the word “county”.

On page 139, line 13, I have vetoed the words “San Miguel county”.

On page 142, line 4, I have vetoed beginning with the word “in” through the word “categories” and the words “an additional”, and on line 5, I have vetoed the word “expand”.

On page 143, line 6, I have vetoed the number “150.0”.

On page 143, line 20, I have vetoed beginning with the word “in” through the word “categories” and the words “an additional”; on line 21, I have vetoed the word “expand”; on line 22, I have vetoed the word “for” and the words “and to expand”; and on line 23, I have vetoed from the beginning of the line through the word “court”.

On page 148, I have vetoed all of line 21.

On page 149, I have vetoed all of lines 19 through 23.

On page 152, line 8, I have vetoed beginning with the word “contingent” through the remainder of the line, and I have vetoed line 9 from the beginning of the line through the second instance of the word “committee”. I have vetoed the Legislature’s improper attempt to condition a critical piece of the operating budget of the Public Education Department (PED) on PED giving legislative committees access to its operating budget management system and student, teacher accountability reporting system. PED will continue to provide the Legislature with any nonconfidential information from those systems that the Legislature needs to discharge its responsibilities, in a manner that allows PED to ensure that it is complying with federal requirements concerning the confidentiality and safeguarding of student information.

On page 154, I have vetoed all of lines 10 and 11.

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On page 154, line 12, I have vetoed the words “in Dona Ana”, and on line 13, I have vetoed the word “county”.

On page 155, line 7, I have vetoed beginning with the word “at” through the word “district”.

On page 156, line 24, I have vetoed beginning with the word “in” through the word “schools”.

On page 156, I have vetoed all of line 25.

On page 157, I have vetoed all of lines 1 through 3.

On page 157, line 5, I have vetoed beginning with the word “for” through the word “county” and the words “that focuses”; I have vetoed all of line 6; and on line 7, I have vetoed from the beginning of the line through the word “five”.

On page 157, line 13, I have vetoed beginning with the “,” through the second instance of the word “committee”.

On page 158, line 1, I have vetoed beginning with the word “at” through the remainder of the line, and I have vetoed line 2 from the beginning of the line through the second instance of the word “district”.

On page 160, I have vetoed all of lines 6 through 11.

On page 164, I have vetoed all of lines 23 and 24.

On page 164, I have vetoed all of line 25.

On page 165, I have vetoed all of lines 1 and 2.

On page 166, I have vetoed all of lines 3 and 4.

On page 166, I have vetoed all of line 9.

On page 166, I have vetoed all of lines 24 and 25.

On page 172, line 7, I have vetoed the words “statewide” and the words “of America”, and on line 8, I have vetoed the words “La Semilla”.

On page 173, I have vetoed all of lines 5 and 6.

On page 174, I have vetoed all of lines 18 and 19.

On page 175, line 19, I have vetoed the number “50.0”.

On page 178, I have vetoed all of lines 7 and 8.

On page 180, I have vetoed all of line 7.

On page 181, I have vetoed all of line 3.

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On page 181, I have vetoed all of lines 7 and 8.

On page 190, line 10, I have vetoed from the “,” through the remainder of the line; I have vetoed all of line 11; and I have vetoed line 12 from the beginning of the line through the “(\$52,000)”.

On page 190, line 14, I have vetoed from the “,” through the remainder of the line; I have vetoed all of lines 15 and 16; and on line 17, I have vetoed from the beginning of the line through the “(\$52,000)”.

On page 190, I have vetoed all of lines 18 through 20.

On page 195, line 1, I have vetoed beginning with the word “with” through the remainder of the line, and on line 2, I have vetoed from the beginning of the line through the word “Mexico”.

On page 195, I have vetoed all of lines 3 and 4.

On page 195, I have vetoed all of lines 5 through 7.

On page 195, I have vetoed all of lines 15 through 18. If excess funds exist within the metropolitan court bond guarantee fund, they should be used to combat DWI, as provided in substantive law.

On page 195, I have vetoed all of lines 19 through 21.

On page 195, I have vetoed all of lines 22 through 25.

On page 196, I have vetoed all of line 1.

On page 196, I have vetoed all of lines 21 through 23.

On page 197, I have vetoed all of lines 9 through 13.

On page 197, I have vetoed all of lines 14 through 16.

On page 201, I have vetoed all of lines 24 and 25.

On page 202, I have vetoed all of lines 1 and 2.

On page 202, line 3, I have vetoed the first instance of the number “100.0”.

On page 202, line 9, I have vetoed the words “in northwest”, and on line 10, I have vetoed the words “New Mexico”.

On page 203, I have vetoed all of lines 8 through 12.

On page 205, line 9, I have vetoed beginning with the word “and” through the word “committee”.



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On page 206, line 1, I have vetoed beginning with the word “Prior” through the remainder of the line; I have vetoed all of line 2; and on line 3, I have vetoed beginning with the word “planned” through the “.”

On page 208, I have vetoed all of lines 6 through 11.

On page 208, I have vetoed all of lines 12 through 14.

On page 208, I have vetoed all of lines 15 and 16.

On page 209, I have vetoed all of lines 2 through 4.

On page 209, line 12, I have vetoed beginning with the second instance of the word “and” through the word “committee”.

On page 211, I have vetoed all of line 25.

On page 212, I have vetoed all of lines 1 through 7.

On page 212, line 20, I have vetoed beginning with the word “from” through the word “commission”. My veto leaves in place the basic requirement that the Department of Finance and Administration receive certification and supporting documentation that indicates compliance with the project certification process prior to allocating funds for information technology projects. I have vetoed the requirement that the certification and supporting documentation come from the Information Technology Commission, since the State Chief Information Officer is responsible for the information technology project certification process. *E.g.*, NMSA 1978, Sections 9-27-6(C)(12), 9-27-6(I)(2), and Section 9-27-6(I)(5). In accordance with this substantive law and the last seven General Appropriation Acts, the State Chief Information Officer will provide the Department of Finance and Administration with the required certification and supporting documentation.

On page 215, line 19, I have vetoed beginning with the word “and” through the word “committee”.

On page 217, I have vetoed all of lines 8 through 12.

On page 217, I have vetoed all of lines 13 through 17.

On page 217, line 24, I vetoed beginning with the first “;” through the remainder of the line, and on line 25, I have vetoed the word “employees”.

On page 218, line 5, I have vetoed “; and”; I have vetoed all of lines 6 and 7; and on line 8, I have vetoed from the beginning of the line through the word “judges”.

On page 235, I have vetoed all of lines 1 through 4.

In addition to specific objections noted above, the general reasons for my vetoes are as follows:

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Certain vetoed parts and items of the General Appropriation Act of 2014 would have nullified substantive law and/or created general legislation, practices generally precluded by Article IV, 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 institute other means of close supervision and control beyond that which is provided in substantive law. Also objectionable were efforts to impose substantive obligations on agencies beyond those contained in existing law and enact performance measures in violation of the Accountability in Government Act.

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 agencies' ability to effectively manage appropriations in response to statewide or regional needs or otherwise, and 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 ought to be enacted outside the General Appropriation Act of 2014.

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

Finally, I vetoed the Legislature's attempts to assert control over federal funds, which our Supreme Court has clearly ruled are beyond the Legislature's appropriation power.

Respectfully yours,

Susana Martinez  
Governor

RECEIVED FROM THE OFFICE OF THE GOVERNOR

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

Date: \_\_\_\_\_, 2014

By \_\_\_\_\_  
Secretary of State

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

Date: \_\_\_\_\_, 2014

By \_\_\_\_\_  
Chief Clerk of the Senate