

April 7, 2009

HOUSE EXECUTIVE MESSAGE NO. 19

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:

We began this session under ominous economic clouds. Faced with that dark forecast, the State's citizens desired to see their elected officials work quickly and together to balance the budget, protect core services, avoid counterproductive tax increases, and otherwise set the stage for future economic growth. I am pleased to report that we delivered. The so-called solvency bills enacted in the early days of the session balanced the current year's budget while meeting these other objectives. House Bill 2, as amended, the General Appropriation Act of 2009, does the same for fiscal year 2010.

Under the President's leadership, the federal government has demonstrated its commitment to jumpstarting the American economy. And recent indicators suggest that the economy may be stabilizing. Nonetheless, the short and mid-term forecast contains downside risks that must be addressed. For example, while balanced, the fiscal year 2010 budget relies heavily on temporary federal fiscal stimulus dollars. If revenue trends do not reverse, the State will be facing additional budget austerity measures when those federal dollars disappear. Continued fiscal restraint must be a priority moving forward. Further, we must continue to strategically invest the oil and gas revenues which fund capital outlay appropriations into economic development projects that will help end the current recession and be future drivers of economic growth.

I trust that the cooperation and sense of urgency that were hallmarks of this session will also be on prominent display in future ones, as we continue to confront the challenges facing the State.

While sincere, these conciliatory words do not mean that I agree with everything contained in House Bill 2.

It contains some discretionary appropriations that cannot be justified in the current economic climate.

Parts of it would, if enacted, nullify substantive law and create general legislation, practices precluded by Article IV, Section 16 of the New Mexico Constitution. Of particular concern is the Legislature's continuing efforts to enact reporting requirements and institute other means of Legislative oversight beyond what exists in substantive law. These requirements sometimes demand that information be reported in ways that are at odds with an agency's established business and accounting practices. Requiring agencies to comply with such requirements would impose an administrative burden that distracts from their core functions at a time when they are being expected to do more with less. Merits aside, the fact is that reporting and oversight constitutes substantive law that has no place in the general appropriation act.

In the future, I encourage the Legislature to work with the Executive through the performance-based budgeting process to develop performance measures that result in agencies regularly reporting the information the Legislature legitimately needs.

On a related note, House Bill 2 contains performance measures that the Legislature sought to unilaterally impose upon agencies, outside of the performance-based budgeting process. I strongly object to these efforts to nullify the Accountability in Government Act.

House Bill 2 also contains numerous provisions that impermissibly intrude into the Executive managerial function, such as by mandating salary reductions, for instance. I particularly object to those provisions that require appropriations for established programs to be expended for specific purposes or in particular ways. The Legislature may not use earmarks and directives to reserve onto itself close powers of supervision and micromanagement. Such efforts go beyond the Legislature's proper constitutional role and hamstringing the Executive's ability to effectively administer programs and meet the State's needs.

It also contains contingencies that exceed the Legislature's limited authority to attach reasonable conditions to appropriations. Particularly offensive are all-or-nothing contingencies that make appropriations entirely contingent upon an agency meeting a particular deadline or complying with a particular demand. These contingencies are sometimes only marginally related to the overall substance of the appropriation. Other times, the contingency amounts to general policy that ought to be enacted outside the general appropriation act.

Finally, the Legislature has also attempted to assert control over federal money that our Supreme Court has clearly ruled is beyond the Legislature's appropriation power.

My veto actions remedy these deficiencies, without destroying any appropriation of significance.

I have this day SIGNED:

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR HOUSE BILLS 2, 3, 4, 5, AND 6, as amended, with certificate of correction, which was enacted during the Forty-Ninth Legislature, First Session, 2009, 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, 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, line 3, beginning with the word “For”, I have vetoed the remainder of the line, all of lines 4 and 5, and on line 6, I have vetoed from the beginning of the line through the “.”.

On page 40, I have vetoed all of lines 18 through 25, and on page 41, I have vetoed all of line 1.

On page 43, I have vetoed all of lines 22 and 23.

On page 43, I have vetoed all of lines 24 and 25.

On page 44, I have vetoed all of lines 1 through 3.

On page 44, line 6, I have vetoed from the beginning of the line through the word “committee”.

On page 44, line 13, I have vetoed from the beginning of the line through the word “committee”.

On page 59, I have vetoed all of lines 9 through 11.

On page 111, I have vetoed all of lines 3 and 4.

On page 111, line 6, I have vetoed the amount “55.0”.

On page 111, I have vetoed all of line 7.

On page 121, line 5, beginning with the word “of”, I have vetoed the remainder of the line, and on line 6, I have vetoed from the beginning of the line through the word “deaf”.

On page 126, I have vetoed all of lines 9 through 12.

On page 129, line 15, beginning with the word “The”, I have vetoed the remainder of the line, and all of lines 16 through 18.

On page 130, I have vetoed all of lines 11 and 12.

On page 130, I have vetoed all of lines 13 and 14.

On page 130, I have vetoed all of lines 15 and 16.

On page 131, line 4, I have vetoed the word “expansion”.

On page 131, line 7, I have vetoed the word “expansion”.

On page 131, line 10, after the “.”, I have vetoed the remainder of the line, and all of lines 11 through 13.

On page 131, I have vetoed all of lines 18 and 19.

On page 131, I have vetoed all of lines 20 and 21.

On page 132, I have vetoed all of lines 3 and 4.

On page 132, I have vetoed all of lines 5 and 6.

On page 134, I have vetoed all of lines 10 through 12.

On page 144, line 23, after the word “providers”, I have vetoed through the word “deaf”.

On page 151, I have vetoed all of lines 11 through 13.

On page 152, line 14, after the word “services”, I have vetoed through the end of the line, and on line 15, I have vetoed through the word “list”.

On page 154, I have vetoed all of lines 7 through 9.

On page 154, I have vetoed all of lines 10 through 14.

On page 157, I have vetoed all of lines 2 through 4.

On page 184, line 7, beginning with the word “to”, I have vetoed the remainder of the line, and on line 8, I have vetoed through the amount “(25,000)”. On line 8, beginning with the word “middle”, I have vetoed the remainder of the line and on line 9, I have vetoed the first occurrence of the word “school”. On line 9, I have

vetoed the phrase “to purchase site licenses”, and beginning with the word “middle”, I have vetoed the remainder of the line. On line 10, I have vetoed the first occurrence of the word “school”, and beginning with the word “in”, I have vetoed the remainder of the line and all of lines 11 and 12, and on line 13, I have vetoed through the word “progress”.

On page 186, line 14, I have vetoed the words “and review by the legislative finance committee”.

On page 223, I have vetoed all of lines 15 through 24.

On page 224, line 1, I have vetoed the word “all”.

On page 224, line 6, I have vetoed the word “all”.

On page 227, line 12, beginning with the word “The”, I have vetoed the remainder of the line, and all of lines 13 and 14.

On page 229, I have vetoed all of lines 4 through 7.

On page 229, I have vetoed all of lines 8 through 10.

On page 229, I have vetoed all of lines 21 through 23.

On page 234, I have vetoed all of lines 15 and 16.

On page 237, line 5, I have vetoed the word “and” and on line 6, I have vetoed through the word “committee”.

On page 238, I have vetoed all of lines 1 and 2.

On page 238, line 10, I have vetoed the words “and the legislative finance committee”.

On page 241, line 12, I have vetoed the words “information technology commission”.

On page 242, line 10, beginning with the word “None”, I have vetoed through the remainder of the line and all of lines 11 through 12.

On page 242, line 19, beginning with the word “None”, I have vetoed through the remainder of the line and all of lines 20 through 21.

On page 243, line 11, I have vetoed the words “general fund”.

On page 245, line 19, beginning with the word “may”, I have vetoed the remainder of the line and all of line 20, and on line 21, I have vetoed through the word “and”.

On page 247, line 15, I have vetoed the words “specified in paragraph (4) of this subsection” and on line 18, I have vetoed the words “specified in paragraph (4) of this subsection”. On page 248, line 12 beginning with the “;”, I have vetoed the remainder of the line and all of lines 13 through 19, and on line 20 I have vetoed through the word “department”.

On page 249, line 14, I have vetoed the words “specified in paragraph (4) of this subsection” and on line 17, I have vetoed the words “specified in paragraph (4) of this subsection”. On page 250, line 10, beginning with the “;”, I have vetoed the remainder of the line and all of lines 11 through 20, and on line 21, I have vetoed through the word “department”.

On pages 260 and 261, I have vetoed all of Section 11.

In closing, I wish to highlight that the state equalization guarantee (SEG) distribution includes \$2,613,000 that was intended to increase the salaries of educational assistants to a minimum of \$13,000 per year. These assistants are critical to classroom success, and we must continue to attract educated and capable individuals to these positions. The substantive law, House Bill 137, that required educational assistants to receive these salary increases failed to pass. I fully anticipate, however, that school districts will nonetheless use the money provided for this purpose in the SEG distribution to provide these critically needed salary increases. I have instructed the Secretary of Public Education to monitor educational assistants’ salaries and report directly to me any school district that fails to do so.

Respectfully yours,

Bill Richardson
Governor

RECEIVED FROM THE OFFICE OF THE GOVERNOR:

Time: _____ a.m./p.m. by:
Date: _____ 2009

Chief Clerk of the House

Time: _____ a.m./p.m. by:
Date: _____ 2009

Secretary of State