

March 7, 2018

SENATE EXECUTIVE MESSAGE NO. 92

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:

Pursuant to the Constitution of the State of New Mexico, Article IV, Section 22, I hereby VETO and return SENATE BILL 17, enacted by the Fifty-Third Legislature, Second Session, 2018.

This bill would require that a designated nonprofit organization (nonprofit) that is the prime contractor operating a facility in New Mexico that is designated as a national laboratory to pay gross receipts tax (GRT). As written, this bill is problematic for several reasons.

This bill is designed to require one specific nonprofit to pay gross receipts tax when others are not required to do so—the nonprofit that will take over the contract to operate Los Alamos National Laboratory (LANL) when the current contract ends later this year. This is poorly-crafted tax policy. A proposed amendment would have remedied this issue—requiring all nonprofits with revenues over a certain threshold to pay GRT. This would have been a step in the right direction to ensure fair and equitable tax policy in New Mexico. Instead, the sponsor chose to withdraw the amendment, leaving the original bill language intact.

Nonprofit organizations currently do not pay GRT; therefore, a nonprofit taking over the LANL contract will result in a loss of GRT revenue. While this is of concern, the revenue loss will be less than what it is claimed to be; if the prime contractor is a nonprofit, then the subcontractors become taxable. Therefore, the total revenue loss becomes less than the current GRT paid by a for-profit entity.

Additionally, this bill is yet another piecemeal attempt at tax reform. I have repeatedly said that I will not sign tax increase bills outside of comprehensive tax reform. This concept should have been included in a larger tax reform package; yet again, the Legislature refused to pass comprehensive tax reform and continues to send bills like these to my desk.

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Finally, the federal government is currently looking at LANL as a potential site for mission expansion. Requiring a nonprofit to pay a tax that it currently is not required to pay could cost the state many jobs and puts New Mexico at a competitive disadvantage throughout this process. I will not sign a bill that has the potential to do such harm to New Mexico and its citizens.

For these reasons, I veto Senate Bill 17.

Respectfully yours,

Susana Martinez
Governor

RECEIVED FROM THE OFFICE OF THE GOVERNOR

Time: _____ a.m. p.m.

Date: _____, 2018

By _____
Secretary of State

Time: _____ a.m. p.m.

Date: _____, 2018

By _____
Chief Clerk of the Senate