

April 12, 2000

SENATE EXECUTIVE MESSAGE NO. 2

The Honorable Manny M. Aragon and

Members of the Senate

Executive-Legislative Building

Santa Fe, New Mexico 87503

Honorable President and Members of the Senate:

I have this day SIGNED SENATE BILL 15, as amended, enacted by the Forty-Fourth Legislature, Second Special Session, 2000 but have VETOED the following item or items, part or parts:

On page 1, I have vetoed all of lines 13 through 16; and on page 4, I have vetoed all of lines 9 through 12. This language is vetoed because it appears to direct each judicial and executive agency to maintain a specific number of employees. Employment decisions are clearly within the realm of the individuals charged with the management of state agencies and an artifice of budget making, not a function of legislative appropriations. It is my objective to manage state employment via the position control functions of the Department of Finance and Administration.

On page 3, I have vetoed all of lines 18 through 25. This provision mandates the preparation of revenue estimates that, at times, may be inappropriate and unnecessary.

On page 4, I have vetoed all of lines 13 through 15. I have vetoed this provision in order to allow for the establishment of a "procurement card" pilot project.

On page 4, I have vetoed all of lines 24 and 25. The effect of this veto is to eliminate the Legislature's attempt to restrict state government officials from engaging in discussions regarding the legalization of certain controlled substances.

Such legislation is patently unconstitutional. Not only is it an illicit attempt to enact substantive law within an appropriation bill, but it also constitutes an impermissible infringement on freedom of speech as guaranteed by both the New Mexico and United States Constitutions.

The First Amendment to the United States Constitution provides that government shall make no law abridging the right to free speech. Similarly, Article II, Section 17 of our Constitution protects this right. The Legislature's attempt to quash free and open dialogue on the legalization of certain controlled substances as a possible solution to this state's pervasive drug problem is the type of censorship readily and often condemned by the United States and the New Mexico Supreme Courts. I must act to protect the marketplace of ideas so that we may all freely trade our opinions

regarding the solutions to the drug and crime ills that plague New Mexico's citizens.

In addition to Constitutional problems, this language is struck because the magnitude of our state and national drug abuse problem and the abysmal failure of today's drug strategies requires us to continue to explore alternative solutions. The wholesale failure of today's "Drug War" calls for New Mexico policymakers, both the legislature and the governor, to fully explore and debate new drug strategies including legalization.

Today's drug war strategies, based largely upon prohibition, incarceration and abstinence, are not only a failure but an expensive failure. To date, the federal government has spent over \$160 billion to combat drugs while state and local governments have spent an additional \$320 billion. Our war on drugs has many costs but few benefits.

In fact, we are losing the drug war. Drug prices have reached historic lows. High school students can get drugs more easily than ever. Drug use by junior high school kids has tripled. More than 400,000 Americans are in jail or prison on drug related charges, and several million addicts fail to get the treatment they need.

Despite the ideological posturing by many elected officials favoring drug war policies, the public strongly favors a more pragmatic approach based on treatment, prevention and education. Citizens want policies that save lives, keep drugs out of the hands of kids and treat those suffering from drug abuse or addiction. They want common sense, cost-effective approaches producing real results; not another decade of failed rhetoric.

Throughout the remainder of my term in office, I will participate in the ongoing public debate about drug policy and will advocate for a comprehensive set of harm-reduction strategies that would eventually result in a new legal-regulatory drug policy framework. This "legalization model," while not a panacea, is preferable to today's drug war for reasons already stated. While advocating for drug policy reform and raising public awareness about the drug problem, I will continue my public education campaign to tell all New Mexicans that drugs are a bad choice.

On page 37, I have vetoed all of lines 22 through 25 and on page 38, I have vetoed all of lines 1 through 6. These appropriations have been removed because they attempt to divert funds from a loan fund for primary care capital outlay. If grants for primary care capital needs are justified, they should be made from a more appropriate source.

On page 38, line 9 after "center;", I have vetoed "fifty", and I have vetoed line 10 through "county;". This General Fund appropriation for county road improvements is more appropriate to the Local Government Road Fund and has been removed accordingly.

On page 64, line 5 after the period, I have vetoed "Cash balances" and I have vetoed all of lines 6 through 8. This language is a well-intentioned attempt to require certain licensing boards to reduce their excessive cash balances. Unfortunately, the specific terms of the provision are impractical.

On page 65, I have vetoed all of lines 5 through 7. This appropriation for telecommunications consumer rights has been removed because its enabling legislation was not enacted.

On page 81, I have vetoed all of lines 17 through 21. This level of appropriation from the State Road Fund to the Energy, Minerals and Natural Resources Department is unnecessary at this time. The Highway and Transportation Department will fulfill the intent of the language through a cooperative effort with the Energy, Minerals and Natural Resources Department over the next several years.

On page 84 line 17 after "fund", I have vetoed the comma and the remainder of the line and I have vetoed line 18 through "fund". This appropriation from the Corrective Action Fund to the State Engineer is an inappropriate use of the fund.

On page 89 I have vetoed all of line 15. This appropriation for the Office of African American Affairs has been removed because another appropriation to this office in another section of this bill has been approved.

On page 95, line 23 after "recipient;", I have vetoed "four" and I have vetoed all of lines 24 and 25. On page 96 I have vetoed line 1 and line 2 through "guidelines;". This appropriation would have mandated a significant enhancement of the Medicaid program. The appropriation was vetoed because such a program expansion is ill advised in light of the long-range costs and the need to stabilize our existing Medicaid program.

On page 107, line 5, after "program", I have vetoed the semicolon and the remainder of the line and I have vetoed line 6 through "clinic". This appropriation has been removed because it is an unnecessary program expansion.

On page 107, I have vetoed all of lines 7 and 8. This provision would have eliminated the Chief Medical Officer from the Health Department. There is no rational justification to support the elimination of this position since the practice of medicine is essential to the Health Department's mission.

On page 107, line 10, after "include", I have vetoed the remainder of the line and I have vetoed line 11 through "and". This appropriation for early childhood home visiting services is an inappropriate use of tobacco settlement funds.

On page 117, I have vetoed all of lines 20 through 22. This language attempts to transfer funds from the Corrective Action Fund to the State Engineer and is vetoed because it is an inappropriate use of that fund.

On page 122, I have vetoed all of lines 5 through 7. This appropriation for a "life skills" program is an inappropriate use of tobacco settlement funds.

On page 122, I have vetoed all of lines 8 through 10. This appropriation for domestic violence is an unnecessary program expansion.

On page 131, line 13 after "south", I have vetoed the remainder of the line and I have vetoed line 14 through "facility". The language is removed because it is unworkable, as it requires certain programming before inmates can be housed in the Penitentiary of New Mexico South unit. Since

inmates are presently in residence it would be impractical to remove them. The Corrections Department will provide the programming contemplated in this language in a timely manner.

On page 136, I have vetoed all of lines 9 through 13. This language represents an attempt to micromanage the State Highway and Transportation Department and has therefore been removed.

On page 136, I have vetoed all of lines 15 and 16. This appropriation for the Columbus border crossing is premature and is an inappropriate attempt to override the State Highway Commission's responsibilities for prioritizing highway construction and maintenance.

On page 137, I have vetoed all of lines 12 through 16. These appropriations are either premature or an inappropriate attempt to override the State Highway Commission's responsibilities for prioritizing highway construction and maintenance.

On page 138, I have vetoed all of lines 4 through 6. This appropriation for the air services assistance program is an inappropriate attempt to override the State Highway Commission's responsibilities for prioritizing the use of road fund.

On page 147, I have vetoed all of lines 11 and 12. This appropriation for a viticulturist has been removed because it is a program expansion that was not reviewed by the Commission on Higher Education.

On page 154, I have vetoed all of lines 4 through 15. This language improperly attempts to amend the statutory public school equalization via an appropriation bill and is therefore vetoed.

On page 155, I have vetoed all of lines 13 through 17. This language improperly attempts to amend the statutory public school equalization via an appropriation bill and is therefore vetoed.

On page 170, I have vetoed all of lines 12 and 13. This appropriation for moving costs can be accommodated within other resources available to the court.

On page 170, I have vetoed all of lines 14 and 15. Furniture replacement may be accomplished within other resources available to the District Attorney.

On page 173, I have vetoed all of lines 16 through 22. This appropriation would have mandated a significant enhancement of the Medicaid program contingent upon the State receiving a waiver from the U. S. Health Care Financing Administration. The appropriation was vetoed because the long-range costs of this program expansion have yet to be determined.

On page 176, I have vetoed all of lines 10 through 13. This appropriation from the cash balances of the Children, Youth and Families Department is inappropriate to finance a meaningful statewide program because it would be funding a recurring expense from non-recurring sources.

On page 177, I have vetoed all of lines 10 and 11. The examination of the funding formula for higher education is well within the mission and resources of the Commission on Higher Education. A special appropriation for an activity that is fundamental to the Commission's existence is