

May 13, 1999

**HOUSE EXECUTIVE MESSAGE NO. 2**

The Honorable Raymond G. Sanchez and

Members of the House of Representatives

Executive-Legislative Building

Santa Fe, New Mexico 87503

Honorable Speaker and Members of the House:

I have this day **SIGNED HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR HOUSE BILL 9, as amended, with certificate of correction**, enacted by the Forty-Fourth Legislature, State of New Mexico, First Special Session, 1999, but have **VETOED** the following item or items, part or parts:

I have signed this legislation because I believe it is improved over the general appropriation acts that passed earlier this year. However, I believe that greater gains for both branches were possible and I regret that this bill is not the model legislation that it could have been.

1. 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.

2. 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.

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

4. On page 25, I have vetoed all of lines 18 through 22. This language is vetoed because it would require the Administrative Office of the District Attorneys to expend base budget funds for a new unfunded program.

5. On page 33, I have vetoed all of lines 15 through 25 and on page 34, I have vetoed all of lines 1 through 2. This language seeks to define, in tedious detail, the activities of the professional contract review function that is undertaken by the Department of Finance and Administration. This provision is removed because it is an inappropriate intrusion into the authority of the executive to manage this

particular program in accordance with the responsibilities outlined in permanent law.

6. On page 86, line 24, after the word "balances," I have vetoed the remainder of the line and, on line 25, I have vetoed through the word "park". I have vetoed this language because it conflicts with state statutes that establish the responsibility for approving Youth Conservation Corps projects.

7. On page 110, I have vetoed all of lines 21 through 23. This provision attempts to make the entire budget of the Office of the Secretary of the Health Department contingent upon the appointment of an individual with no other responsibilities or assignments. This language is clearly beyond the scope of the legislature's role in making appropriations. There is presently no statutory requirement mandating that any cabinet secretary be excluded from performing duties outside of a single department. There are numerous historical examples of cabinet members performing successfully in a variety of roles beyond a single department. Moreover, it is well within the authority of the Governor to assign responsibilities to his appointees in accordance with the needs of state government and the abilities of the individuals involved.

8. On page 134, line 13 after "center.", I have vetoed the remainder of the line and all of lines 14 through 15. I have vetoed this language as the decision-making authority for the placement of inmates belongs to the executive.

9. On page 134, I have vetoed all of lines 16 through 18. I have vetoed this language because the placement of inmates and the deployment of personnel are decisions under the purview of the executive.

10. On page 147, I have vetoed all of lines 12 through 22. The foregoing appropriation and corresponding language have been removed because the four projects mentioned will not be ready for construction in the next fiscal year. Furthermore, by making appropriations contingent on the enactment of other substantive legislation, the legislature has included substantive law requirements in a general appropriation act in violation of Article IV, Section 16 of the New Mexico Constitution. In addition, the effect of making appropriations contingent on the enactment of substantive legislation is to place me in the position of having to forego my authority to veto substantive legislation in order to avoid losing the general appropriation in violation of the constitutional separation of powers.

11. On page 150, line 4, after the second occurrence of the word "data", I have vetoed the remainder of the line, and on line 5, I have vetoed through the first occurrence of the word "report". I have vetoed this language in order to broaden the range of financial and school and student performance data that may be considered in establishing a system of performance-based budgeting and reporting.

12. On page 159, I have vetoed all of lines 22 through 23. This language would defeat the efforts of the administration of the University of New Mexico to maintain gender equity within the University athletics program.

13. On page 170, I have vetoed all of lines 2 through 5. I have vetoed this language because the attempt to dictate salary increases places an unnecessary burden on school districts and erodes local control.

14. On page 170, I have vetoed all of lines 15 through 19. I have vetoed this language because the at-risk factor was added to the formula in 1997 with the general support from all school districts. Changes in the at-risk formula should not be implemented automatically with every recalculation of

the at-risk indices.

15. On page 173, I have vetoed all of lines 5 through 10. This language maintains that all appropriations to state government and higher education include \$7 million to replenish the Public Liability Fund. This cost was never included in either the executive or Legislative Finance Committee recommendations for these various agencies and institutions, nor was it included in appropriations to these entities during legislative consideration of this bill. It is a misuse of the appropriation process to attempt to recoup this cost from operating budgets that were never intended to include it.

16. On page 185, line 6, after "plan.", I have vetoed the remainder of the line and all of lines 7 through 16. I have vetoed this language because it imposes unnecessary requirements on the chief information officer (CIO) and it represents inappropriate substantive law in a general appropriation act. The duties and responsibilities of the CIO are already set forth in Laws of 1999, Chapter 16.

17. On page 188, line 23, after the first occurrence of the word "Act", I have vetoed through the second occurrence of the word "Act". I have vetoed this language because the act cited in the vetoed language is scheduled by statute to expire prior to the fiscal year in which the appropriation takes effect and because there is no expectation that the act cited will be extended beyond its scheduled expiration date.

18. On page 189, line 8 after the word "increase", I have vetoed the remainder of the line, all of lines 9 through 17, and line 18 through "(250)". This provision attempts to implement an unacceptable compensation plan for "exempt" employees. The conditions outlined here are an intrusion into the authority of the executive to set compensation for employees under the Governor's Exempt Salary Plan as provided by law. In addition to constitutional problems, the compensation policies established by this provision are unworkable.

19. I have vetoed the following language:

On page 191, line 9, after the word "benefits", I have vetoed the remainder of the line, all of lines 10 and 11, and line 12 through the word "rates".

On page 191, line 18, after the word "benefits", I have vetoed the remainder of the line, and line 19 through the word "system".

On page 192, line 22, after the word "individuals", I have vetoed through the word "basis".

The purpose of this veto is to remove language that would effectively subdivide the Medicaid budget into a managed care budget and a fee for service budget and place a ceiling on each. Since certain citizens can opt in or out of the program and since this primarily federally funded program mandates eligible service expenditures, the restrictions imposed by this language are unworkable.

20. On page 192, I have vetoed all of lines 23 through 25; and on page 193, I have vetoed all of lines 1 through 5. This veto eliminates a restricted contingent appropriation, which, although it may be required in FY 2000, is contingent upon signing of other legislation, which has previously been vetoed. Furthermore, by making appropriations contingent on the enactment of other substantive legislation, the legislature has included substantive law requirements in a general appropriation act in violation of Article IV, Section 16 of the New Mexico Constitution. In addition, the effect of making appropriations contingent on the enactment of substantive legislation is to place me in the position of

having to forego my authority to veto substantive legislation in order to avoid losing the general appropriation in violation of the constitutional separation of powers.

21. On page 198, I have vetoed all of lines 14 through 15. This language simply states the legislature's intention to "restitute the budget review and adjustment pilot project". I have removed this provision as an indication of my observation that this project has yielded nothing in terms of government efficiency and has simply added meaningless activity to an already ponderous bureaucracy.

22. On page 202, I have vetoed all of lines 9 through 10, and line 11 through the semicolon. This restrictive language places limitations on the State Highway and Transportation Department's ability to manage resources effectively.

23. On page 202, I have vetoed all of lines 18 through 22. This language is vetoed because it represents an inappropriate and arbitrary method for lowering appropriations and attempting to balance a budget retrospectively.

24. The following appropriations have been vetoed:

On page 5, I have vetoed all of line 17.

On page 26, I have vetoed all of lines 22 through 25; and on page 27 I have vetoed all of line 1.

On page 38, I have vetoed all of lines 4 through 5.

On page 38, I have vetoed all of lines 18 through 25, and on page 39, I have vetoed all of lines 1 through 3.

On page 59, I have vetoed all of lines 9 through 13.

On page 76, I have vetoed all of lines 7 through 10.

On page 95, line 23 after the first occurrence of the word "education", I have vetoed the remainder of the line, and all of lines 24 through 25; and on page 96, line 1 I have vetoed the word "county".

On page 97, I have vetoed all of lines 13 through 17.

On page 97, I have vetoed all of lines 21 through 22.

On page 100, I have vetoed all of lines 2 through 9.

On page 104, I have vetoed all of lines 15 through 17.

On page 113, line 20 after the word "county", I have vetoed the remainder of the line, all of line 21, and through the word "county" on line 22.

On page 115, I have vetoed all of lines 8 through 10.

On page 116, I have vetoed all of lines 1 through 3.

On page 116, line 9 after the word "Mexico", I have vetoed the remainder of the line, all of lines 10 through 11, and through the word "counties" on line 12.

On page 120, I have vetoed all of line 25; and on page 121 I have vetoed all of lines 1 through 3.

On page 126, line 24 after the word "programs", I have vetoed the remainder of the line, and all of line 25; and on page 127 I have vetoed all of lines 1 through 2, and through the word "alternatives" on line 3.

On page 127, I have vetoed all of lines 17 through 22.

On page 128, line 19 after the word "includes", I have vetoed the remainder of the line, all of lines 20 through 24, and through the word "and" on line 25.

On page 146, I have vetoed all of lines 12 through 15.

On page 151, I have vetoed all of lines 2 through 3, and I have also vetoed the corresponding language on page 152 lines 6 through 8.

On page 151, I have vetoed all of lines 4 through 5, and I have also vetoed the corresponding language on page 152 lines 9 through 10.

On page 151, I have vetoed all of lines 6 through 7, and I have also vetoed the corresponding language on page 152 lines 11 through 14.

On page 151, I have vetoed all of lines 8 through 9, and I have also vetoed the corresponding language on page 152 lines 15 through 18.

On page 151, I have vetoed all of lines 10 through 11, and I have also vetoed the corresponding language on page 152 lines 19 through 22.

On page 151, I have vetoed all of lines 13 through 14 and I have also vetoed the corresponding language on page 152, line 25 and on page 153, line 1 through 2.

On page 151, I have vetoed all of lines 18 through 19 and I have also vetoed the corresponding language on page 153, lines 7 through 9.

On page 151, I have vetoed all of lines 23 through 24, and I have also vetoed the corresponding language on page 153 lines 13 through 14.

On page 151, I have vetoed all of line 25, on page 152 I have vetoed all of line 1, and I have also vetoed the corresponding language on page 153 lines 15 through 18.

On page 152, I have vetoed all of lines 2 through 3

On page 153, I have vetoed all of lines 20 through 25.

On page 156, I have vetoed all of lines 7 through 9.

On page 159, I have vetoed all of lines 4 through 5.

On page 159, I have vetoed all of line 8.

On page 159, I have vetoed all of line 9.

On page 159, I have vetoed all of line 10.

On page 159, I have vetoed all of lines 14 through 16.

On page 159, I have vetoed all of lines 19 through 21.

On page 159, I have vetoed all of lines 24 through 25.

On page 160, I have vetoed all of lines 1 through 2.

On page 160, I have vetoed all of lines 6 through 7.

On page 161, I have vetoed all of line 10.

On page 161, I have vetoed all of lines 12 through 14.

On page 161, I have vetoed all of lines 15 through 17.

On page 161, line 18 after the word "includes", I have vetoed the remainder of the line, and on line 19 through the word "and".

On page 161, I have vetoed all of lines 21 through 24.

On page 162, on line 1 after the word "includes", I have vetoed through the semicolon.

On page 162, I have vetoed all of lines 22 through 24.

On page 163, I have vetoed all of lines 11 through 13.

On page 164, I have vetoed all of lines 6 through 8.

On page 164, I have vetoed all of lines 9 through 11.

On page 164, I have vetoed all of lines 14 through 16.

On page 165, I have vetoed all of lines 11 through 12.

On page 166, I have vetoed all of lines 4 through 7.

On page 166, I have vetoed all of line 15.

On page 167, I have vetoed all of lines 11 through 12.

On page 167, I have vetoed all of line 18.

On page 167, I have vetoed all of lines 19 through 21.

On page 168, I have vetoed all of line 4.

On page 168, I have vetoed all of lines 11 through 12.

On page 169, I have vetoed all of lines 9 through 24.

On page 169, I have vetoed all of line 25, and on page 170, I have vetoed all of line 1.

On page 172, I have vetoed all of lines 8 through 11.

On page 172, I have vetoed all of lines 12 through 15.

On page 172, I have vetoed all of lines 16 through 19.

On page 172, I have vetoed all of lines 20 through 23.

On page 174, I have vetoed all of lines 15 through 16.

On page 174, I have vetoed all of lines 17 through 18.

On page 175, I have vetoed all of lines 2 through 3.

On page 175, I have vetoed all of lines 4 through 5.

On page 175, I have vetoed all of lines 16 through 23.

On page 176, I have vetoed all of lines 5 through 6.

On page 176, I have vetoed all of lines 7 through 8.

On page 176, I have vetoed all of lines 9 through 11.

On page 176, I have vetoed all of lines 12 through 13.

On page 178, I have vetoed all of lines 7 through 9.

On page 178, I have vetoed all of lines 10 through 11.



On page 178, I have vetoed all of lines 12 through 15.

On page 178, I have vetoed all of lines 23 through 25, and on page 179, I have vetoed all of line 1.

On page 179, I have vetoed all of lines 12 through 14.

On page 179, I have vetoed all of lines 15 through 18.

On page 179, I have vetoed all of lines 22 through 25.

On page 180, I have vetoed all of lines 1 through 4.

On page 180, I have vetoed all of lines 17 through 18.

On page 180, I have vetoed all of lines 19 through 21.

On page 180, I have vetoed all of lines 24 through 25, and on page 181, I have vetoed all of line 1.

On page 181, I have vetoed all of lines 4 through 5.

On page 181, I have vetoed all of lines 6 through 7.

On page 181, I have vetoed all of lines 19 through 21.

On page 184, I have vetoed all of lines 4 through 6.

On page 192, I have vetoed all of lines 14 through 18.

The effect of these vetoes is the elimination of certain appropriations to limit the growth of recurring expenses of state government. These vetoes will reduce recurring general fund appropriations by approximately \$21.0 million. Recurring general fund spending contained in this and other legislation passed to date for Fiscal Year 2000 amounts to \$3.323 billion. This compares with recurring revenue of \$3.325 billion including the effect of revenue reductions adopted by the legislature. Based on existing appropriations recurring spending is about \$4 million more than recurring revenue.

It appears that the Child Support Enforcement, Corrections and Medicaid programs are under-funded and may require supplemental appropriations of several million dollars. These supplemental appropriations, combined with the appropriations already enacted, imply a level of recurring spending

that significantly exceeds recurring revenue for Fiscal Year 2000. To no avail, I recommended that the legislature provide a more secure funding structure for these entitlement programs in the form of contingency appropriations. The contingencies provided were greatly reduced and tied to unacceptable conditions. I now find it necessary to reduce the overall spending level to provide for these programs should the need arise.

In addition to these programs, there is concern that the Temporary Assistance to Needy Families (TANF) program may need a substantial increase in general fund over the next few fiscal years, due to the use of one-time federal balances in current budgets. I had not realized the full implications of this problem until the issue was examined in hearings before the House Taxation and Revenue Committee. Since TANF is an essential element of our welfare-to-work program, prudence dictates reserving funds to address this future need.

I remain confident that true educational reform will be enacted during my term. I fully expect that such reform will require a significant investment in the form of general fund appropriations. Therefore, I believe it is prudent to remove some of the expansionary appropriations in this bill so that resources will be available for the higher and better purpose of educational reform.

Sincerely,

Gary E. Johnson

Governor