



State of New Mexico
House of Representatives
Santa Fe

April 14, 2026

The Honorable Javier Martinez
Speaker of the House
New Mexico House of Representatives
State Capitol, Room 104
Santa Fe, New Mexico 87501

The Honorable Mimi Stewart
Senate President Pro Tempore
New Mexico State Senate
State Capitol, Room 105
Santa Fe, New Mexico 87501

Dear Mr. Speaker and Madam President Pro Tempore:

We are writing to request that two additional items be placed on the Legislative Council's agenda for the upcoming meeting scheduled for April 17, 2026. These two additional agenda items are: 1) possible litigation to stop the Lujan Grisham Administration from utilizing dollars in the State Operating Reserve as a funding source for the governor's hundreds of emergency executive orders issued over the past two years and 2) possible litigation to end the governor's inappropriate usage of her line-item veto authority regarding numerous appropriation items within House Bill 2.

Both items are related to the preservation of the Legislature's power of the purse in that action must be taken to limit the power of the executive branch to spend money without clear legislative authorization and to end the practice of executive line-item vetoes that violate established constitutional principles. Therefore, these two items need serious review by the Legislative Council, including the consideration of possible litigation, to protect the Legislature's power of appropriations from the illegal usurpation of legislative power due to executive branch overreach.

For example, during the past two years, the current Administration has taken more than \$350 million from the State Operating Reserve to fulfill the governor's mandate to spend \$750,000 per emergency executive order because there were insufficient funds available in the Appropriations Contingency Fund --- the proper fund where emergency executive orders are to be financed. Further, it is our understanding the Legislative Finance Committee (LFC) and the Legislative Council Service (LCS) have taken the position this utilization of State Operating Reserve funds for these executive orders is illegal, since the executive branch had no explicit authority to take such action. Of course, the Department of Finance and Administration disagrees with such an assessment.

During the 2026 legislative session, legislation (House Bill 180) was approved by the House and Senate to revise the current statutory framework governing emergency reserves,

disaster response funding, and other related spending, but the governor vetoed this legislation. Therefore, if New Mexico should experience wildfires and other disasters in the future, the practice of illegally using the State Operating Reserve for related emergency executive orders will most certainly continue. Since the governor has refused to approve bipartisan legislation to address her Administration's improper expenditure of emergency funds without legislative authorization, we believe this emergency executive order funding issue can only be settled in a court of law.

Regarding the inappropriate use of line-item veto authority by the governor, there are numerous examples after the 2026 session where her line-item vetoes in House Bill 2 have exceeded this constitutional authority in light of previous NM Supreme Court decisions. In *Sego v. Kirkpatrick*, the Court ruled the governor could not use the power of the partial veto to make appropriations by carefully striking words, phrases, or sentences from an item or part of an appropriation. In other words, the principle of the *Sego* decision is that a partial veto cannot create legislation. Rather, a partial veto is a negative power and must be exercised in a way that eliminates or destroys the whole of the item. If only part of the whole is destroyed, it must also not distort legislative intent.

Another Court decision in *Stewart v. Martinez* established that all language related to the subject to be proscribed by the partial veto must be vetoed for it to be valid. Plus, there is also a premise that the remaining legislation must continue to be a workable piece of legislation.

Yet, in contradiction to these established Court rulings, several of the governor's line-item vetoes in House Bill 2 left nonsensical or unimplementable line-item descriptions, while other line-item vetoes expanded the potential use of an appropriation. All these actions are contrary to the Court's rulings as mentioned above.

According to a LFC memorandum dated March 11, 2026, there were numerous instances of where the governor's partial vetoes violated the Court's stated principles. For example in Section 5 of House Bill 2:

- The governor vetoed a \$2 million appropriation to the LFC, vetoing language in the appropriation leaving only the phrase "for a performance."
- The governor struck language for a \$500,000 appropriation to DFA leaving the statement "For the implementation of juvenile justice." The original language in HB 2 called for a study and plan "for the implementation of the cambiar model of juvenile justice."
- The governor struck language for a \$200,000 appropriation to HCA leaving the statements "for residential treatment services in."
- The governor struck language for a \$1.2 million appropriation to Regional Education Cooperatives leaving the phrase "To conduct student reading."

- The governor struck language for a \$3 million appropriation to UNM “to the health sciences center for an actuarial study on healthcare, including cost drivers.” But after the governor struck major portions of the above language, it read as “For healthcare.”

There are other examples in the LFC memorandum from Section 4 of House Bill 2 where the governor’s line-item veto modified legislative intent. For example, there was a \$60 million appropriation in the Early Childhood Education and Care Department’s budget to finance a wage and career ladder for the universal childcare program. Yet, after the governor’s line-item veto involving language on how this \$60 million can be spent, the legislative intent is now changed so this funding can now be used for various rate increases within the program, rather than the original legislative desire that the dollars be used for the wage and career ladder that is essential to improving professional salaries within childcare centers.

In addition, the governor line-item vetoed a \$7.7 million earmark to CYFD’s Protective Services to match federal revenue for proven programming that protects vulnerable children. If past practices are an indication of future action, the Administration will, in turn, claim this vetoed \$7.7 million appropriation is still available for expenditure and will utilize those dollars for some other purpose within CYFD. In the aftermath of the recent report by the NM Department of Justice regarding CYFD’s failure to protect our most vulnerable children, this example of the governor changing legislative intent for funding directed to programs with a proven record of protecting children must not go unchallenged.

These examples of inappropriate use of the governor’s line-item veto authority are mirrored throughout the governor’s tenure in office. The reason this usurpation of the Legislature’s power of the purse continues is because the legislative branch has never fought back. The reluctance to oppose the governor’s line-item vetoes must come to an end and now is the perfect time for the Legislative Council to consider taking all possible action to preserve its constitutional authority. Therefore, we again request that these two items as discussed above be added to the agenda of the Legislative Council’s meeting on April 17.

Thank you for your consideration of our request. We would be pleased to answer any questions.

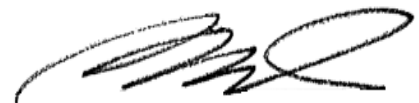
Respectfully yours,



Gail Armstrong
House Republican Leader



Alan T. Martinez
House Republican Whip



Rebecca Dow
Caucus Chair