

**IN THE SUPREME COURT
OF THE STATE OF NEW MEXICO**

DUKE RODRIGUEZ,

Petitioner,

SC No.

v.

**NEW MEXICO COMPILATION COMM'N
ADVISORY COMMITTEE,**

Respondent,

and

**MICHELLE LUJAN GRISHAM, in her
official capacity as GOVERNOR of the
STATE OF NEW MEXICO,**

Real Party in Interest.

VERIFIED PETITION FOR WRIT OF MANDAMUS

Original Proceeding in Mandamus. Oral Argument Requested.

CANDELARIA LAW LLC
Jacob R. Candelaria
P.O. Box 27437
Albuquerque, New Mexico 87125
Ph: 505-295-5118
jacob@jacobcandelaria.com
Attorney for Petitioner

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NATURE OF THE CASE

This is a mandamus action over which the Supreme Court has original jurisdiction. This case requires the Court to determine the constitutional limits of the Governor's line-item veto power. The Court should consider and decide this matter in order to safeguard the balance of power between the Legislative and Executive branches of state government when it comes to the appropriation of public money.

On October 3, 2025, Governor Michelle Lujan Grisham attempted six (6) line-item vetoes to various Sections of HB-1, a General Appropriations Act, which was enacted by the Legislature during the recently concluded 2025 First Special Session.

Petitioner Duke Rodriguez, a private person, an elector, and resident of this state, who has standing to bring this case pursuant to this Court's 'question of great public importance' doctrine, challenges five (5) of the Governor's attempted line-item vetoes: Section 3(A), 3(B), 4(A)(1), 4(A)(2), and Section 6 of HB-1

The Court should declare these attempted line-item vetoes as invalid because each of them distorts legislative intent and is therefore

an unconstitutional attempt by the Executive to substitute her policy-making judgment for that of the people's elected representatives.

Petitioner respectfully asks the Court to issue a *Writ of Mandamus* compelling Respondent New Mexico Compilation Commission Advisory Committee to publish and chapter the enrolled and engrossed version of HB-1 as enacted by the Legislature without the Governor's line-item vetoes to Section 3(A), 3(B), 4(A)(1), 4(A)(2), and Section 6.

I. JURISDICTION, PARTIES, AND STANDING

1. This Court exercises constitutionally invested original jurisdiction in mandamus against all State officers, boards and commissions. N.M. const. art. VI, § 3; *State ex rel. L. v. Marron*, 17 N.M. 304, 128 P. 485 (1912); *State ex rel. Segó v. Kirkpatrick*, 1974-NMSC-059, 6, 86 N.M. 359, 524 P.2d 975.
2. Mandamus is an appropriate vehicle to test the constitutionality of line-item vetoes attempted by the Governor. *Id.* at 6.
3. Mandamus should issue in this case because Petitioner has no plain, speedy, or adequate remedy at law to redress the Governor's

attempted unconstitutional line-item vetoes to HB-1. *See State ex rel. Coll v. Johnson*, 1999 NMSC 36, ¶12, 128 N.M. 154, 990 P.2d 1277.

4. The Governor's unconstitutional line-item vetoes to HB-1 took effect immediately upon signing. N.M. Const. art. IV, § 23 (a General Appropriations Act takes effect immediately upon signing). The Governor's unlawful line-item vetoes have therefore taken full effect three (3) months before the Legislature convenes for its next Regular Session in January 2026. At that time, the Legislature may *or may not* address the unconstitutional line-item vetoes challenged by the Petitioner.
5. This Court is responsible for determining the constitutionality of a gubernatorial veto, regardless of the Legislature's unfortunate acquiescence to the erosion of its own powers. *See State ex rel. Smith v. Martinez*, 2011-NMSC-043, ¶9, 150 N.M. 703, 265 P.3d 1276
6. Mandamus is also proper because deciding this case requires the Court to decide pure questions of law.

7. The Court should grant Petitioner, a natural person and resident of this State, standing to vindicate the public's interest in this matter, consistent with its past practice.
8. This Court routinely grants standing to private parties to vindicate the public interest in cases presenting issues of great public importance. *Sego*, 1974-NMSC-059 at 7.
9. Petitioner's challenge to the Governor's attempted line-item vetoes of HB-1 concerns the constitutional boundaries of the Governor's line-item veto power. This challenge, therefore, addresses the separation of powers between the Legislative and Executive branches of state government when it comes to the appropriation of public funds.
10. The separation of powers is an issue of substantial public importance, and in such cases, this Court has typically granted standing to private individuals to protect the public's interest. *Sego*, 1974-NMSC-059 at ¶7; *State ex rel. Candelaria v. Grisham*, 2023-NMSC-031, ¶7,539 P.3d 690; *State ex rel. Clark v. Johnson*, 1995-NMSC-048, ¶15, 120 N.M. 562, 904 P.2d 11; and, *N.M. Bldg.*

& Constr. Trades Council v. Dean, 2015-NMSC-023, ¶7, 353 P.3d 1212.

11. This mandamus action is directed at Respondent New Mexico Compilation Commission Advisory Committee, which has the statutory authority to provide for the official publication and compilation of state statutes. NMSA 1978, Section 12-1-3.
12. Real Party in Interest Michelle Lujan Grisham is named in her official capacity as the Governor of the State of New Mexico. It is her unlawfully attempted line-item vetoes that are challenged in this mandamus action.

II. THE LAW

The Separation of Powers and the Appropriation of Public Funds

13. Article III, Section 1 of the New Mexico Constitution sets forth the separation of powers doctrine for state government. There are three distinct departments of government: legislative, executive, and judicial. N.M. Const. art. III, § 1 ("[N]o person or collection of persons charged with the exercise of powers properly belonging to one of these departments, shall exercise any powers properly

belonging to either of the others, except as in this constitution otherwise expressly directed or permitted.").

14. Under Article IV of the New Mexico Constitution, the Legislature and the Executive are given separate roles in respect to appropriations. The New Mexico Constitution vests the power to appropriate money exclusively with the Legislature. N.M. Const. art. IV, § 16. Our Constitution further requires that a law making an appropriation must "distinctly specify the sum appropriated and the object to which it is to be applied," with money being "paid out of the treasury only upon appropriations made by the legislature." N.M. Const. art. IV, § 30.
15. The Governor has the power to "approve or disapprove any part or parts, item or items, of any bill appropriating money, and such parts or items approved shall become a law, and such as are disapproved shall be void unless passed over his [or her] veto." N.M. Const. art. IV, § 22.
16. The Governor's partial veto power is a quasi-legislative function, which is an exception to the separation of powers doctrine laid out in our state's constitution. *State ex rel. Smith v. Martinez*, 2011-NMSC-043, 6, 150 N.M. 703, 265 P.3d 1276.

The Line-Item Veto Power does Not Allow the Governor to Create New Law that is Contrary to Legislative Intent

17. The partial veto or line-item veto power created by Article IV, § 22, “like all powers constitutionally conferred on a governmental officer or agency, is not absolute and may not be exercised without any restraint or limitation whatsoever.” *Sego*, 1974-NMSC-059 at 5.
18. This Court has held, for example, that the Governor’s power is constrained by the constitutional principle that the line-item veto it is ultimately:

“the power to disapprove. This is a negative power, or a power to delete or destroy a part or item, and is not a positive power, or a power to alter, enlarge or increase the effect of the remaining parts or items. It is not the power to enact or create new legislation by selective deletions. Thus, a partial veto must be so exercised that it eliminates or destroys the whole of an item or part and does not distort the legislative intent, and in effect create legislation inconsistent with that enacted by the Legislature, by the careful striking of words, phrases, clauses or sentences.” *Sego*, 1974-NMSC-059 at ¶18. (Internal quotations omitted).

19. The Legislature has the power to affix reasonable provisions, conditions or limitations upon appropriations and upon the expenditure of the funds appropriated. *Sego*, 1974-NMSC-059 at ¶23. The Governor may not distort, frustrate or defeat the legislative purpose by a veto of proper legislative conditions, restrictions, limitations or contingencies placed upon an appropriation and permit the appropriation to stand. *Id.* “[S/]he would thereby create new law, and this power is vested in the Legislature and not in the Governor.” *Id.*
20. The New Mexico Supreme Court has differentiated between vetoes of “items” and attempted vetoes of legislative “conditions.” *See State ex rel. Smith v. Martinez*, 2011-NMSC-043 at ¶7; *Sego*, 1974-NMSC-059 at ¶17. The “item” of appropriation refers to the distinct sum of money allocated by the Legislature toward a defined purpose or entity. In contrast, legislative “conditions” are those limitations, contingencies, and limitations used by the Legislature to ensure its wishes are carried out.
21. Allowing a governor to remove a condition while retaining the appropriated “item” would effectively allow the governor to create

new law, exceed the office's constitutional authority, and violate separation of powers principles.

22. All language that relates to the subject to be proscribed by the veto, therefore, must be vetoed for the veto to be valid. In addition, the remaining legislation must continue to be a workable piece of legislation. *Stewart*, 2011-NMSC-045 at ¶15; *See also State ex rel. Cisneros v. Martinez*, 2015-NMSC-001 at ¶23, 340 P.3d 597 (“a partial veto must “destroy[] the whole of an item or part [without] distort[ing] the legislative intent.”).

23. At the same time, the Legislature cannot circumvent the Governor's veto power by the careful drafting of legislation. *Stewart*, 2011-NMSC-045 at 11.

24. *State ex rel. Coll v. Carruthers*, 1988-NMSC-057, 107 N.M. 439, 759 P.2d 1380, remains the only instance when this Court has rejected a challenge to a partial veto based, at least in part, on a refusal to validate “artful drafting” by the Legislature.

25. *Coll* teaches that the Legislature oversteps the mark and engages in “artful drafting” when it: 1) attempts to make detailed, miniscule, inconsequential executive management decisions

instead of focusing on matters of significant fiscal impact; 2) attempts to enact general legislation, or to nullify general legislation, in a General Appropriations Act; 3) attempts to micromanage the manner and means by which the Executive can achieve an appropriation's purpose; 4) attempts to alter existing contractual relationships through a General Appropriations Act; or, 5) imposes blanket prohibitions on interdepartmental fund transfers within Executive agencies. *See Coll*, 1988-NMSC-057 at ¶¶ 10-36.

III. HB-1, FIFTY-SEVENTH LEGISLATURE, FIRST SPECIAL SESSION 2025

26. The First Special Session of the Fifty-Seventh Legislature convened on October 1, 2025 and adjourned sine die on October 2, 2025.
27. The New Mexico Legislature enacted HB-1 during the Special Session. As a General Appropriations Act, HB-1 is subject to the Governor's line-item veto. *Sego*, 1974-NMSC-059 at ¶17.
28. Several Sections of HB-1 reflect the Legislature's policy judgments on how to best reallocate state general fund dollars in

response to recently enacted budget cuts at the federal level. [Attachment A, Fiscal Impact Report; Governor Press Release regarding Special Session; and, Governor Proclamation regarding Special Session].

29. Section 3 appropriated approximately six (6) million general fund dollars to the Department of Administration and the Indian Affairs Department for educational television and public radio.
30. The Legislature decided that these funds should be spent in fiscal years 2026 and 2027, and that any unexpended fund balances from this appropriation should revert to the general fund at the end of fiscal year 2027.
31. Section 4 appropriated nearly seventeen (17) million dollars to the New Mexico Healthcare Authority to maintain the minimum federal Supplemental Nutrition Assistance Program cash benefit for “elders,” “people with disabilities,” and “lawfully present residents.” [Attachment C, at Section 4].
32. Section 6 appropriated four hundred and fifty (450) thousand dollars to the Board of Regents of New Mexico State University for expenditure in fiscal year 2026 for the university's college

assistance program to “provide post-secondary educational needs of United States citizens and permanent legal residents who worked as migratory seasonal farmworkers, dairy workers and ranch workers.”

33. The Legislature also required that any unexpended balance remaining at the end of fiscal year 2026 would revert to the general fund.

IV. THE GOVERNOR’S ATTEMPTED LINE-ITEM VETOES OF HB-1 DISTORT LEGISLATIVE INTENT AND ARE THEREFORE UNCONSTITUTIONAL AND INVALID

34. As a preliminary matter, the Governor’s veto message on HB-1 articulates mutually exclusive grounds to justify the line-item vetoes which she has attempted in this piece of legislation.

35. In the same sentence, the Governor characterizes the language she attempts to line-item veto from HB-1 as “minor provisions,” which despite being *minor* somehow “unduly constrain” the Executive Department’s ability to help New Mexicans. [Attachment B , Governor’s Veto Message on HB-1].

36. The language at issue cannot be both minor *and* amount to an unconstitutional attempt by the Legislature to control how the Executive Department faithfully executes the law.
37. The self-confused nature of the Governor's veto message belies just how little support her attempted vetoes find in the plain text of our Constitution or in this Court's precedent.

The Governor's Line-Item Vetoes to Sections 3 and 6 Destroy the Legislature's Intent that Appropriated Funds be Spent with Urgency

38. Against the backdrop of federal budget cuts, the Legislature made the policy decision that general fund dollars appropriated by Sections 3 and 6 of HB-1 should be spent with a sense of urgency given contemporary and dramatic reductions in federal funding to New Mexico for various programs. [Attachment C, HB-1 with Governor's attempted line-item vetoes at Sections 3 and 6].
39. In order to achieve this policy objective, the Legislature conditioned or otherwise limited the expenditure of these appropriations to specific fiscal years. *Id.*
40. The Legislature also importantly included language in these Sections which provides that the subject appropriations are to

revert to the general fund if they are not spent in these time periods. *Id.* The revision language in these sections sends a clear message to the recipients of these funds to either ‘use them or lose them.’

41. This is a proper exercise of the Legislature’s power to place reasonable conditions and limitations on appropriations, and this Court has never held otherwise.

42. Unlike in *Coll*, these limitations or conditions do not dictate the manner or means by which the Executive must accomplish the purpose of the appropriation. They also deal with matters of substantial fiscal importance, and not with detailed, miniscule, inconsequential executive management decisions. *See Coll*, 1988-NMSC-057 at ¶¶ 10-36

43. The Governor also surely cannot argue in good faith that these limitations or conditions are an unconstitutional effort by the Legislature to constrain her line-item veto power.

44. To wit, the Governor left intact identical language that limits the expenditure of general fund dollars to specific fiscal years, or which provides for reversion to the general fund, in Section 7,

which provides appropriations to the Administrative Offices of the Courts for the expansion of assisted outpatient treatment programs, competency diversion pilot programs and other behavioral health pilot programs. [Attachment C, at Section 7].

45. The Governor's line-item vetoes to Sections 3 and 6 eliminate the Legislature's specified fiscal year limitations when the appropriations must be spent, as well as the language concerning reversion to the general fund.

46. In so doing, the Governor has taken it upon herself to rewrite the law to her liking by granting executive agencies and institutions of higher education the discretion to spend the appropriated funds in any fiscal year, and to retain these appropriate funds unless and until such time as the Legislature enacts a separate piece of legislation to sweep these appropriations back into the general fund.

47. These line-item vetoes thereby destroy the Legislature's intent that the appropriations made by Sections 3 and 6 be spent as quickly as possible for the public's benefit. The line-item vetoes are therefore invalid.

The Governor's Line-Item Vetoes to Section 4 Destroys the Legislature's Intent to Appropriate Money to Sustain a Fiscally Responsible and Sustainable SNAP Benefit Level

48. In October 2024, the Governor's administration announced that the total monthly SNAP ("Supplemental Nutrition Assistance Program") benefit for approximately 26,000 disabled and elderly persons would increase from \$32.00/month, the federal minimum, to \$100.00/month. [Attachment D, Healthcare Authority Press Release regarding expanded SNAP benefit].
49. One year later, the Legislature, faced with the prospect of losing approximately \$200 million dollars in federal SNAP funding, made the decision to limit Section 4's appropriation to the Healthcare Authority to "maintain the minimum federal" SNAP benefit." [Attachment E, Healthcare Authority one-pager on federal SNAP cuts].
50. These limitations or conditions do not amount to an effort by the Legislature to unconstitutionally micromanage the manner or means by which the Executive may accomplish the purpose of the appropriation.

51. Given the number of New Mexicans that receive SNAP benefits, the Legislature was also surely concerning itself with a matter of significant fiscal impact.
52. Nor do these limitations represent an effort by the Legislature to enact general legislation through the General Appropriations Act.
53. In HB-1, the Legislature is limiting the expenditure of state funds by the Executive up to a certain threshold and for a certain purpose. It is not enacting positive legislation that establishes who is eligible to receive SNAP benefits or even what the benefit amount should be for certain classes of persons.
54. While the Governor's desire to provide an expanded SNAP benefit amount to the elderly, disabled, and lawfully present residents may have its merits, the Legislature was not persuaded that it should fund an expanded SNAP benefits package with state general fund dollars given the imminent loss of hundreds of millions of dollars in federal SNAP funding. This policy decision rightly belongs to the Legislature and *not* to the Governor.

55. The Governor's strategic veto of the words "federal" and "minimum federal" at Section 4(A)(1) and 4(A)(2) destroys the Legislature's limitations or conditions on the use of these appropriated funds, while still allowing the Executive to spend the appropriated money.

56. As a result, the Governor may attempt to use funds appropriated by the Legislature to provide SNAP benefits that exceed the federal minimum, or to provide SNAP benefits to an expanded class of beneficiaries, in direct contravention of legislative intent.

57. This is an invalid exercise of the line-item veto power and the Court should reinstate the language "federal" and "minimum federal" where the Governor has attempted to delete them.

58. Lastly, Petitioner does not challenge the line-item vetoes to Section 4(A)(3).

V. PRAYER FOR RELIEF

WHEREFORE Petitioner respectfully asks the Court to declare that the Governor's attempted line-item vetoes to Section 3(A), 3(B), 4(A)(1), 4(A)(2), and Section 6 of HB-1 are invalid and unconstitutional, and to issue a *Writ of Mandamus* ordering Respondent New Mexico Compilation Commission Advisory Committee to chapter and publish the enrolled and engrossed version of HB-1 as passed by the Legislature and without the Governor's invalid line-item vetoes.

Petitioner lastly asks for any other forms of relief the Court deems just and proper.

Respectfully submitted,

CANDELARIA LAW LLC

/s/ Jacob R. Candelaria

Jacob R. Candelaria
P.O. Box 27437
Albuquerque, New Mexico 87125
Ph: 505-295-5118
jacob@jacobcandelaria.com

Attorney for Petitioner

VERIFICATION

I hereby state upon my oath and penalty of perjury that:

1. My name is Duke Rodriguez. I am over the age of eighteen (18) years and am of sound mind.
2. I am the Petitioner in mandamus action.
3. I make this Verification based upon my personal knowledge.
4. I have read Petitioner's *Verified Petition for Writ of Mandamus* and hereby verify that the information contained therein is true and correct to the best of my knowledge and belief.
5. I further certify that the documents attached to this *Petition* are true and correct copies of the original documents as published by the Legislature or the Executive.

/s/ Duke Rodriguez, 10/16/25

Duke Rodriguez

STATEMENT OF COMPLIANCE

I hereby certify, pursuant to Rule 12-504 NMRA, that this *Petition* is written using Century Schoolbook which is a proportionally spaced typeface. The body of the *Petition* is a total of 3,056 words. I made this determination using the Google Docs word count function.

/s/ Jacob R. Candelaria

Jacob R. Candelaria

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of this *Petition* to be delivered to the following persons by personal service of process on October 16, 2025:

Paula Tackett,
Chair, NM Compilation Comm'n Advisory Committee
Attn: Ralph Trujillo, Executive Director and Legal Editor
4355 Center Place
Santa Fe, NM 87507-9706

Governor Michelle Lujan Grisham
490 Old Santa Fe Trail #400
Santa Fe, NM 87501

Raul Torrez
Attorney General
408 Galisteo Street
Villagra Building
Santa Fe, NM 87501

/s/ Jacob R. Candelaria

Jacob R. Candelaria