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State of New Mexico

OFFICE OF
SECRETARY OF STATE

Susana Martinez
Governor

April 7, 2011

HOUSE EXECUTIVE MESSAGE NO. 22

The Honorable Ben Luján and
Members of the House of Representatives
State Capitol Building
Santa Fe, NM 87501

Honorable Speaker Luján and Members of the House:

Pursuant to the Constitution of the State of New Mexico, Article IV, Section 22, I hereby VETO and am returning HOUSE HEALTH AND GOVERNMENT AFFAIRS COMMITTEE SUBSTITUTE FOR HOUSE BILL 267, enacted by the Fiftieth Legislature, First Session, 2011.

This bill amends New Mexico's Medical Malpractice Act by making various changes to existing law including raising liability caps and amending the definition of a "business entity."

While I support efforts to reform the State's Medical Malpractice Act, this bill could reduce the number of doctors practicing in New Mexico because this legislation raises the maximum cap on liability awards from \$600,000 to \$1,000,000. This increase in judgment amounts could lead to an increase in frivolous lawsuits, insurance rates and other high costs that would be passed on to patients and hospitals and discourage physicians from coming to our state.

Additionally, this bill adjusts the liability cap up to three percent each year—raising the \$1,000,000 ceiling even higher every single year thereafter. This directly conflicts with reform that is occurring in other states, where existing liability caps are being reduced to encourage more physicians to relocate. Furthermore, while this bill seeks to limit liability exposure, it does nothing to address punitive liability.

This bill also makes clear that the Medical Malpractice Act applies to healthcare providers, corporations, limited liability companies or other business entities. This need for clarification arises from a Superintendent of Insurance's opinion that currently is the

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subject of litigation. I favor clarifying that the Act applies to these business entities and will support such legislation in the next legislative session.

Respectfully yours,



Susana Martinez
Governor

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Time: 9:18 a.m. p.m.
Date: April 7 2011

By Patricia L. Romero for
Secretary of State

Time: _____ a.m. p.m.
Date: _____ 2011

By _____
Chief Clerk of the House