Filed
Supreme Court of New Mexico
11/1/2021 6:06 PM
Office of the Clerk

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

NO. S-1-SC-38996

**STATE ex rel JACOB R. CANDELARIA,
in his capacity as STATE SENATOR, and
GREGORY BACA, in his capacity as STATE SENATOR,**

Petitioners,

v.

**MICHELLE LUJAN GRISHAM,
in her capacity as GOVERNOR,**

Respondent,

and

**TIM EICHENBERG, in his capacity as
STATE TREASURER,**

Real Party in Interest.

ORIGINAL PROCEEDING ON MANDAMUS

REPLY BRIEF

Respectfully submitted by:

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STATEMENT OF PAGE/WORD COUNT COMPLIANCE:

Counsel used Microsoft Word for iMac with a proportionally spaced Times New Roman typeface in 14-point font. The body of the document consists of 4,393 words total.

TABLE OF AUTHORITIES

New Mexico Case Authority:

New Mexico Statutes and Rules:

Case Law Authority from Federal or Sister Jurisdictions:

Other Authority:

New Mexico State Treasurer Tim Eichenberg, Real Party in Interest, in compliance with this Court's October 20, 2021 Order requesting a reply to the response to the verified emergency petition for writ of mandamus and request for stay, states:

INTRODUCTION AND SUMMARY OF REPLY ARGUMENT

> The laws and Constitution are designed to survive, and remain in force, in extraordinary times.
>
> *Boumediene v. Bush*,
> 553 U.S. 723, 798, 128 S. Ct. 2229 (2008)

* * *

This case concerns the constitutional exercise of separate powers at the highest levels of New Mexico State Government. This matter is not and should not be a political dispute, but one concerning the application of a clear constitutional mandate.[1] The Treasurer has the statutory duty to "disburse the public money upon warrants drawn according to law and not otherwise[.]" NMSA 1978, § 8-6-3. The

[1] The Treasurer disagrees with the Governor's position but does not argue that her position is taken in bad faith. The Governor's denigration of the Treasurer, an elected constitutional officer who proposes that the language of New Mexico's constitution should control the expenditure of a vast sum of public funds, is unnecessary and elides the constitutional imperative. Insinuating that the Treasurer's constitutional evaluation is "de minimis," or that the Treasurer changed his position, or failed to provide necessary information [Governor's Brief, pages 7, 10, 12, 14] does not make the Governor's position any less unconstitutional but does demonstrate a lack of decorum by the Governor's counsel. *See Hagen v. Faherty*, 2003-NMCA-060, ¶ 21, 133 N.M. 605 (decrying legal advocacy that utilizes exaggeration over accuracy, attack over debate, and indiscriminate barrage over efficiency and cooperation).

Treasurer worked diligently to identify the controlling authority in the state constitution and filed his response brief well in advance of the deadline to provide the Governor with notice of the Treasurer's position.

As set forth in the Treasurer's October 12, 2021 Response to the verified petition, one billion seven hundred fifty one million five hundred forty two thousand eight hundred thirty five dollars ($1,751,542,835) was received by the State under the American Rescue Plan Act of 2021 (ARPA). 42 U.S.C. § 802(d)(1). The money was deposited into New Mexico's General Fund Investment Pool, an interest-bearing account in the New Mexico State Treasury. *See* NMSA 1978, § 8-6-3 (providing that the state treasurer shall receive and keep all money of the state except when otherwise specially provided) *and* NMSA 1978, § 6-10-10 (providing that the state treasurer having on hand any public money by virtue of the office shall deposit that money in financial institutions designated and authorized to receive the deposits of all money received or collected by the treasurer). The funds are not and have never been "unearned moneys deposited in a suspense account with the state treasurer." NMSA 1978, § 6-10-41; NMSA 1978, § 6-10-3(C).

The Governor misreads *State ex rel. Sego v. Kirkpatrick*, 1974-NMSC-059, ¶¶ 48-49, 86 N.M. 359, and her reliance upon that case is misplaced. *State ex rel. Sego* simply did not make a "broad, categorical holding that the Legislature does

not have the authority to appropriate federal money." [Governor's Brief, p. 31] In *State ex rel. Sego* this Court held that, in the circumstances presented, the monies at issue were non-state funds, "related solely to Higher Education" where the powers of control and management of these institutions was vested in constitutionally created boards of regents. *Id.* at ¶¶ 46-49.

The ARPA money was not allocated to specific public works, institutions, programs, or designated agencies. A plain reading of Article IV, Section 30 of the New Mexico Constitution mandates that federal funds put in the State Treasury without specific conditions as to their application and use are subject to the legislative power of appropriation. This Court should reject the Governor's attempt to create a false dichotomy between public state funds - which the Governor would allow the Legislature to appropriate - and public federal funds - which the Governor wants to control. [Governor's Brief, page 29-30] All money in the State Treasury is public money. All public money in the State Treasury is subject to legislative appropriation.

The Governor's zeal to have the Court adopt the Colorado approach is puzzling in light of the fact that the first tranche of Colorado's ARPA state fiscal relief funds were recently appropriated by the Colorado legislature and signed into

law by Colorado's governor.[2] Reference to or adoption of a categorical or ad hoc approach from any sister jurisdiction is unnecessary where New Mexico's Constitution mandates appropriation of money through the legislative process, which provides the opportunity for public participation, public votes by elected representatives, gubernatorial veto, and judicial review.

Finally, the Governor's Brief references the difficult times created by the COVID-19 global health crisis and asks for a categorical ruling that federal money shall henceforth be removed from legislative appropriation. The need for a system of checks and balances and the importance of restraining executive power is clear when the Governor makes the following proposition:

> It would, therefore, be expedient to leave the management of federal funds to the Governor, an elected official vested with the supreme executive power of the State who is duty-bound to "take care that the laws be faithfully executed."

[Governor's Brief, page 29]. The Governor's opinion that it would be easier to determine the allocation and expenditure of over $1 billion dollars without public participation, legislative action, or judicial oversight is precisely the kind of authoritarianism foreseen and decried by the Nation's founders and by Justice Pamela Minzner of this Court, who wrote:

> The doctrine of separation of powers rests on the notion that the accumulation of too much power in one governmental entity presents

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[2] *See* drive.google.com/file/d/12-3rd8Pz0S6zMzUVvPbOhsxr7vrsMXo5/view (last viewed October 31, 2021)

> a threat to liberty. [] James Madison expressed this sentiment more than two hundred years ago when he wrote, "[t]he accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny." 1 Alexander Hamilton, James Madison & John Jay, *The Federalist, A Commentary on the Constitution of the United States No. XLVII*, at 329 (1901 ed.).

State ex rel. Clark v. Johnson, 1995-NMSC-048, ¶ 31, 120 N.M. 562. It is precisely when the circumstances presented are difficult or grave that adherence to the ordinary course of business and to foundational doctrines is most critical. Constitutional principles that are applied only when unimportant are not principles at all.

ANALYSIS AND AUTHORITY IN REPLY

1. Article IV, Section 30

This Court reviews questions of statutory and constitutional interpretation *de novo*. *State v. Ordunez*, 2012-NMSC-024, ¶ 6, 283 P.3d 282 (internal quotation marks and citation omitted). The most important consideration is that this Court "interpret the constitution in a way that reflects the drafters' intent." *State v. Lynch*, 2003-NMSC-020, ¶ 24, 134 N.M. 139. The rules of statutory construction "apply equally to constitutional construction." *State ex rel. Richardson v. Fifth Judicial Dist. Nominating Comm'n*, 2007-NMSC-023, ¶ 17, 141 N.M. 657.

Applying the rules of construction, this Court first examines the plain meaning of the words. *See State v. Nick R.*, 2009-NMSC-050, ¶ 18, 147 N.M. 182

(recognizing that our courts interpret the intended meaning of statutory language by consulting the dictionary to ascertain the words' ordinary meaning). The plain meaning rule requires that the constitutional provision under consideration be given effect as written without construction unless the language is doubtful, ambiguous, or adherence to the literal use of the words would lead to injustice, absurdity, or contradiction, in which case the provision is to be construed according to its obvious spirit or reason. *State v. Boyse*, 2013-NMSC-024, ¶ 9, 303 P.3d 830, *citing State v. Maestas*, 2007-NMSC-001, ¶ 9, 140 N.M. 836.

The Governor insists that Article IV, § 30 applies only to state funds in the State Treasury. [Governor's Brief at 2] The main problem with the Governor's parenthetical and arguments advancing this limited reading of Article IV, § 30 is that the plain language of § 30 contains no such limitation:

> Except interest or other payments on the public debt, money shall be paid out of the treasury only upon appropriations made by the legislature. No money shall be paid therefrom except upon warrant drawn by the proper officer. Every law making an appropriation shall distinctly specify the sum appropriated and the object to which it is to be applied.

Clearly the drafters of Article IV, § 30 knew how to exempt items from legislative appropriation ("*Except* interest and other payments on the public debt. . . "). It is also clear that Article IV, § 30 envisioned no limitation whatsoever on the "type" of money or "source" of money in the State Treasury that might be subject to legislative appropriation. Article IV, § 30 refers to "money" in the state treasury.

Not "state money," "state revenues," "money from state sources," or money "earned by" or "the absolute property of" the State. This Court should reject the Governor's transparent attempt to read language and meaning into the unambiguous provisions of Article IV, § 30.

Indeed, as this Court noted in *Gamble v. Velarde*, 1932-NMSC-048, 36 N.M. 262, "[t]he stock formula is that of the Federal Constitution: "No money shall be drawn from the treasury, but in consequence of appropriations made by law." *Id.* at ¶ 13, *citing* United States Constitution, Article 1, § 9, clause 7. *Gamble* went on to note that, "we have never encountered any other claim as to the purpose of the provision than that it is to insure legislative control, and to exclude executive control, over the purse strings." 1932-NMSC-048, ¶ 15; *see also New Mexico Bd. of Pub. Accountancy v. Grant,* 1956-NMSC-068, ¶ 10, 61 N.M. 287 (holding that, once solicited funds were deposited in the state treasury, where they were commingled with other funds, they could only be withdrawn in a single manner, that is through appropriations made by the legislature upon warrants drawn by the proper officer); *McAdoo Petroleum v. Pankey*, 1930-NMSC-100, ¶ 13, 35 N.M. 246 (noting that the strict provisions of Article IV, § 30 were designed to secure to the Legislature the exclusive power of deciding how, when, for what purposes, and in what amounts, the moneys in the treasury shall be paid out).

"[It] must be remembered that legislatures are ultimate guardians of the liberties and welfare of the people in quite as great a degree as the courts." *Missouri, K. & T. Ry. Co. v. May*, 194 U.S. 267, 270, 24 S. Ct. 638 (1904) (Justice Oliver Wendell Holmes). The Governor's Brief discusses no canon of statutory or constitutional construction that demonstrates ambiguity in the constitutional appropriation language, much less that enable deviation from it in this instance.

Strained interpretations of attorney general opinions [Governor's Brief, pages 19-20] are unhelpful to the extent that they conflict with the plain language of the constitution. *See Hanagan v. Bd. of Cnty. Comm'rs of Lea Cnty.*, 1958–NMSC–053, ¶ 9, 64 N.M. 103 (overruling nonbinding opinions of the Attorney General where they might conflict with the judicial conclusions). In *McAdoo*, this Court upheld the appropriation power; an Attorney General opinion cannot overrule this Court. This Court should decline the Governor's invitation to read into Article IV, § 30 language or meaning that simply is not there. *Regents of UNM v. NM Fed'n of Teachers*, 1998-NMSC-020, ¶ 28, 125 N.M. 401.

2. <u>Requirements for Accounting and Use</u>

The Governor's Brief makes much of the Treasury regulations and compliance guidance for ARPA fund recipients. [Governor's Brief, pages 6-7; 25-26] Federal statutory and reporting requirements are binding on the states under the Supremacy Clause and there is no dispute that the ARPA funds must be spent

in accordance with ARPA's requirements. Compliance with the requirements is not an issue, because the legislative appropriations can and will comply with them. The Governor's attempt to turn the existence of ARPA's conditions and reporting requirements into mandates that impress the money with a trust fails. [Governor's Brief, page 26]

The question is whether the terms and conditions of funding are so dedicated to specific institutions or programs (as in *Sego*) that the administration of the funds are ministerial acts, or whether the funding grant is broad and flexible, subject to more general policy considerations and allocation. A cursory read of 42 U.S.C. § 802(c)(1)(A) through (D) reveals that the ARPA funds are of the latter type. The funds were not allocated to specific public works, institutions, programs, or designated agencies. *Compare and contrast State ex rel. Sego*, 1974-NMSC-059, ¶¶ 48-49. Within the eligible use categories outlined in the State Fiscal Recovery Funds provisions of ARPA, State governments have flexibility to determine how best to use payments from the Fiscal Recovery Funds to meet the needs of their communities and populations. *See* https://www.federalregister.gov/d/2021-10283/p-41 (last visited 10/31/21). The interim final rule facilitates swift and effective implementation by establishing a framework - not a mandate - for determining the types of programs and services that are eligible under the ARPA along with examples of possible uses that State, local, and Tribal governments may

consider. *Id.* Examination of the provisions of ARPA reveals it is a broad and flexible grant of discretionary funds to be appropriate according to need.

3. The Use of a Suspense Fund or Suspense Account Does Not Change the Nature of the Funds or Override the Legislature's Constitutional Prerogative

The Governor insists that the ARPA funds are not in the State Treasury because they were deposited into a "suspense fund" or "suspense account" controlled by the Department of Finance and Administration. [Governor's Brief, page 1, 16-18] The Governor insists that the separation of powers and constitutional provisions governing appropriations are inapplicable to these funds. [*Id.*] The Governor attempts to create a false dichotomy between the State Treasury and a suspense fund; suspense funds are simply a type of account within the State Treasury.

There are several analytical problems with the Governor's position, the first being that one of the stated purposes of the ARPA state fiscal relief funds is to restore states' revenue lost due to the COVID-19 pandemic. 42 U.S.C. § 802(c)(1)(C) (authorizing expenditure for the provision of government services to the extent of the reduction in revenue of such State [] government due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year of the State, territory, or Tribal government prior to the emergency). The New Mexico General Fund has a primary claim to the entire

balance of ARPA funds on this basis alone. *See Federal Register*, Vol. 86, No. 93, May 17, 2021, page 26796 (noting that State governments may use the Fiscal Recovery Funds under 42 U.S.C. § 802(c)(1)(C) to provide "government services" broadly to the extent of their reduction in revenue). General Fund revenue restored by ARPA may be appropriated by the Legislature without question under Article IV, § 30. Allocation of the funds in light of state and local need identified by policy makers is the stated purpose of ARPA's state and local fiscal relief funds regardless of whether the money was deposited into a suspense fund or not.

The Governor's proposition that money deposited into a suspense account is somehow transmuted so that the money is insulated from legislative appropriation is a severe encroachment on the enumerated powers of the Legislature, accomplished by a simple accounting maneuver. The Governor insists that the executive can spend at will without legislative involvement so long as the money is first placed in a suspense fund. A suspense account is an account utilized to ensure that dedicated public funds are assessed and allocated properly, not to alter the character of money or to evade constitutional limitations. Money in a suspense fund is owed to something specific for a specific time or purpose and must be transferred when that "something" is identified. The provisions of ARPA are intentionally and necessarily broad to provide flexibility in addressing the myriad problems created by the pandemic. 42 U.S.C. § 802(c)(1)(A) through (D). The

ARPA funds were not allocated to specific public works, institutions, programs, or designated agencies such that a suspense fund was a necessary tool to identify and segregate funds.

Finally, as set forth in the Treasurer's Affidavit, attached hereto and incorporated herein by reference, the ARPA funds are not "unearned moneys" and were not deposited in a suspense account with the Treasurer. NMSA 1978, § 6-10-41. The ARPA funds are "public money" in the custody or under the control of the Treasurer in the General Fund. NMSA 1978, § 6-10-3. Section 6-10-3 makes clear that the source of funds is not determinative; all public money is to be paid into the State Treasury. The public ARPA funds are held in the State Treasury in the General Fund Investment Pool; disbursements have been made to address immediate and necessary needs created by the pandemic, most notably replenishment of the Unemployment Insurance fund of the Department of Workforce Solutions. Sections 6-10-3(C) and 6-10-41 cannot and do not change the intent of ARPA to provide broad, flexible federal funds to be allocated according to state law. State law begins with the constitutional provisions governing the power of appropriation and limits that power to the Legislature, subject to gubernatorial veto and judicial review.

4. *Sego* Supports the Legislative Appropriation of ARPA Funds.

The Governor isolates a paragraph in this Court's decision in *State ex rel. Sego*, and characterizes the Court's opinion as adopting a "categorical" holding that the Legislature lacks authority to appropriate non-state funds or "to control the use thereof through the power of appropriation." Governor's Brief at 25-28; *Sego*, 1974-NMSC-059, ¶ 48. A global reading of *Sego* reveals no support for a categorical approach; *Sego's* holding cannot be adjusted to accommodate a desired outcome that is contrary to the conclusion mandated by the State Constitution.

In *Sego*, the Court first noted the Legislature's unconditional appropriation of state and federal sums. *Id.* at ¶ 20. Moving on to consideration of federal funds designated for higher education institutions, this Court observed that the powers of control and management of each of the institutions of higher education at issue was vested in a Board of Regents, so that money provided to the State and dedicated to these institutions was held by the State as a trust. *Id.* at ¶ 49, *citing* New Mexico Constitution, Article XII, § 13. It was the identity and constitutionally authorized self-governance of the institutions - not the source of the funds - that dictated the result in *Sego*. Imposing trust principles on federal funds designated to identified institutions is a far cry from a judicial determination that all federal money is exempt from legislative appropriation.

5. <u>ARPA's Broad, Flexible Authorization Lends Itself to a Legislative Appropriation Process</u>.

Implementation of the Fiscal Recovery Funds reflects the importance of public input, transparency, and accountability. https://www.federalregister.gov/d/2021-10283/p-42 (viewed 10/31/21). The ARPA funds granted to New Mexico under 42 U.S.C. § 802(c) could have been allocated by Congress to specific programs to be implemented by the executive branch or provided directly to the running of those programs. Funds could have been appropriated directly to the executives or governors of the states for ease of administration. Instead, ARPA allocated the funds to "the states" and thus New Mexico's share is public money belonging to New Mexico. Under New Mexico law, public money is paid out of the Treasury only upon appropriations made by the Legislature and warrants drawn by proper officers. Article IV, § 30. Congress cannot empower a Governor to disregard state law and did not purport to do so here. *State ex rel. Clark*, 1995-NMSC-048, ¶ 44 (holding "[t]he Governor has only such authority as is given to him by our state Constitution and statutes enacted pursuant to it.").

If ARPA funds had been designated to specific New Mexico state offices or agencies subject to the condition that they be used only for objects specified by federal statutes or regulations, the money would have been impressed with a trust and not subject to legislative appropriation. The fund recipient(s) have no choice

but to comply with the requirements imposed by federal law, and the executive power to ensure compliance with the law is properly used to ensure compliance.

But not all federal money is received in trust for specific institutions, agencies, or programs. Where, as here, the federal disbursements are general and are intended to reimburse the State for lost revenue, this money is subject to the legislative power of appropriation. Because 42 U.S.C. § 802(c)(1)(A) through (D) allows money to be disbursed to New Mexico for expenditure within broad categories of public policy and need, it is subject to appropriation by the Legislature, which is then subject to veto by the Governor, judicial oversight, and public referenda.

6. <u>The Governor's Prudential Arguments are Unavailing</u>

This Court has previously and properly resisted calls to redefine or reallocate the constitutional separation of powers. In *State ex rel. Cisneros v. Martinez*, 2015-NMSC-001, ¶¶ 42-44, 340 P.3d 597, this Court noted that, the appropriations process established by New Mexico's constitution has been largely unregulated over the century since enactment.

> The legislative power of the State of New Mexico is vested in the Legislature. Except for interest or other payments on the public debt, money shall be paid out of the treasury of the State only upon appropriations made by the Legislature, and every law making an appropriation shall distinctly specify the sum appropriated and the object to which it is to be applied. The supreme executive power of the State is vested in the Governor, whose principal function, insofar as legislatively enacted law is concerned, is to faithfully execute these laws. [She] does, however, have the power to

> exercise veto control over the enactments of the Legislature to the extent that this power or authority is vested in [her] by Art. IV, § 22, supra. As to bills appropriating money, [she] clearly has the power to veto a "part or parts" or "item or items" thereof.

Id., quoting Sego, 1974–NMSC–059, ¶ 12 (alterations in *Cisneros*). This Court noted that the New Mexico Constitution provides the political and logistical framework within which the appropriations process takes place.

The Legislature passes a general appropriations act each year and submits it to the Governor for approval. *See* N.M. Const. art. IV, § 22. The Governor participates in and influences the legislative process as bills takes shape. Negotiations and discussions between the Governor and the Legislature ensue. The Legislature must consider, weigh, and balance the Governor's position on a particular appropriation with the spectre of a gubernatorial veto, the likelihood of a legislative override, or the possibility of a special session. "This is all part of the give and take of any legislative session, and it is where the competing interests of those two co-equal branches of state government are best played out." *Cisneros*, 2015-NMSC-001, ¶ 44. The destruction of this carefully constructed edifice of checks and balances on the grounds proposed by the Governor would be short sighted at best and destabilizing at worst.

The Governor suggests that there are reasons that justify setting aside fealty to the constitution in the interests of expediency in the current climate. Specifically, the Governor asks that the mandate of Article IV, § 30 be disregarded

in the interests of spending the ARPA funds "expeditiously." [Governor's Brief, page 28-29] The Governor opines that there is no "guarantee that the Legislature could reach a decision on how to even spend the funds [sic]" [Governor's Brief, page 29], perhaps forgetting that the Legislature attempted to appropriate the funds expeditiously in advance of their receipt but the appropriations were vetoed by the Governor as an encroachment upon her purported authority. *See* New Mexico House Executive Message No. 21, April 9, 2021, explaining the Governor's vetos of pages 216-221 of House Bill 2.

The Governor notes that New Mexico's Citizen Legislature is not always in session, which is posited as a problem for the quick expenditure of funds. Since the initial emergency replenishment of the unemployment fund was accomplished without incident, most of the funds have remained on deposit. The Governor makes no explanation of any emergency that cannot be addressed by the Legislature and the Treasurer is unaware of any. [Governor's Brief, p. 28]

New Mexico is proud of its citizen legislature. The women and men who serve as legislators live and work in the communities they represent. They work tirelessly throughout the year to hear from constituents and to address pressing matters of public concern in committees, hearings, and special sessions, in addition to the regular legislative sessions. Who better than such elected representatives to

determine the need for the funds? The Governor's fears that the ARPA funds might not be timely appropriated are speculative and unfounded.

Finally, allowing the Legislature to appropriate significant resources that have been granted to the State by the Congress to respond to the COVID-19 public health emergency and its economic impacts is not only required by the New Mexico Constitution, it makes sense. [*Contrast* Governor's Brief, pages 29-30] Responding to the impacts of COVID-19 and working to contain COVID-19 on communities, residents, and businesses requires input from communities, residents, and businesses, input that can best be provided in a legislative setting using established Legislative processes. Through the public hearing and legislative process, the myriad needs of all New Mexico citizens are weighed, evaluated, and addressed.

This Court should reject the misquotation of *Gamble* [Governor's Brief, pages 29-30]. *Gamble* considered the plain language of Article IV, § 30 and concluded, "we have never encountered any other claim as to the purpose of [Article IV, § 30] than that it is to insure legislative control, and to exclude executive control, over the purse strings." *Gamble* did not limit its holding to "state money" and a limitation is not supported. The Governor's analysis of *McAdoo* begs the question: the ARPA funds have been provided by Congress, received from the U.S. Treasury, and are held in the New Mexico State General

Fund Investment Pool. They are now State funds, subject to appropriation under the applicable provisions of the New Mexico Constitution.

7. The New Mexico State Constitution Sets Out the Means to Change It.

The New Mexico Constitution provides mechanisms for amendment to enact the limitations the Governor apparently believes necessary. Article XIX, § 1 of the New Mexico State Constitution provides several avenues for constitutional amendment, including proposal in either legislative body during a regular session and passed by a majority vote of all elected members. Amendments may also be proposed by an independent commission established for that purpose, and with proposed amendments submitted to the Legislature for its review. *Id.* Amendment to limit the existing broad legislative appropriation power established by Article IV, § 30 can also be accomplished through a constitutional convention or popular vote. Article XIX, § 2. Absent amendment, the New Mexico Constitution says what it means and means what it says: money shall be paid out of the State Treasury only upon appropriations made by the Legislature.

CONCLUSION

Mandamus relief should be granted in favor of Petitioners.

Respectfully submitted,

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I certify that this document was electronically filed and served using the Odyssey file-and-serve platform on November 1, 2021.

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