

February 29, 2008

HOUSE EXECUTIVE MESSAGE NO. 53

The Honorable Ben Lujan
Speaker of the House
New Mexico House of Representatives
State Capitol Building
Santa Fe, NM 87501

Honorable Speaker Lujan and Members of the House:

Pursuant to the Constitution of the State of New Mexico, Article IV, Section 22, I hereby VETO and return HOUSE BILL 193, as amended, which was enacted during the Forty-Eighth Legislature, Second Session, 2008.

I veto this bill in accordance with the advice of the Chief Public Defender and for the following reasons.

The composition and structure of the Public Defender Commission raise concerns that it will create ethical problems within the agency. Originally, the bill prohibited the commission from interfering with the statutory duties of the Chief Public Defender, including the allocation and distribution of resources and the management of personnel. Unfortunately, this provision was removed by the House Judiciary Committee. The commission, therefore, would have independent oversight of the Department without the appropriate limit on the commission to prevent improper interference with the professional operation of the Department.

Regardless, this bill creates an unnecessary and unaccountable new bureaucracy that encroaches on executive authority.

A criminal defendant's right to counsel is guaranteed by the Sixth Amendment of the United States Constitution and Article II, Section 14 of the New Mexico Constitution. By vetoing this bill, I am protecting this important right. As written, House Bill 193 enables the Commission to intrude into areas affecting the Public Defenders' representation of a

criminal defendant and could prevent the Public Defender from providing independent, professional judgments regarding a defendant's representation. The bill is too vague with respect to the commission's role in the operations of the Department to ensure that improper intrusions will not occur.

For these reasons, signature of this bill is not appropriate at this time.

Respectfully yours,

Bill Richardson
Governor

RECEIVED FROM THE OFFICE OF THE GOVERNOR:

Time: _____ a.m./p.m.
Date: _____ 2008

by:

Chief Clerk of the Senate

Time: _____ a.m./p.m.
Date: _____ 2008

by:

Secretary of State