



State of New Mexico

April 5, 2013

HOUSE EXECUTIVE MESSAGE NO. 42

The Honorable W. Ken Martinez and
Members of the House of Representatives
State Capitol Building
Santa Fe, NM 87501

Honorable Speaker Martinez 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 JUDICIARY COMMITTEE SUBSTITUTE FOR HOUSE BILL 146, as amended, which was enacted by the Fifty-First Legislature, First Session, 2013.

House Bill 146 seeks to electronically track pseudoephedrine sales for the purpose of implementing a “real-time stop-sale” system called the National Precursor Log Exchange (NPLEX). While there are many positive aspects of the bill, enacting House Bill 146 allows for a reduction in penalties for those who illegally purchase and/or sell pseudoephedrine products and will ultimately have a negative impact on law enforcement efforts to curb the production of methamphetamine.

House Bill 146 duplicates some of the provisions set forth under the Controlled Substances Act, NMSA 1978, Section 30-31-10(A)(2), which sets limits and recording requirements for the purchase of pseudoephedrine. By duplicating parts of the Controlled Substances Act, House Bill 146 provides for lesser misdemeanor charges in certain instances where the Act currently would call for fourth degree felony charges. *See* NMSA 1978, § 30-31-24. New Mexico law enforcement continues to work hard to reduce the number of meth labs operating throughout the state. In good conscience, I cannot support legislation that provides for a reduced penalty for those who break the law by obtaining pseudoephedrine for the purposes of making methamphetamine.

New Mexico already has an electronic tracking system designed to track the sales of pseudoephedrine. The system is called the New Mexico Methamphetamine Special Information System (NMMSIS). The NMMSIS is a more controlled access system than the NPLEX system, as it is not accessible by non-law enforcement agencies or personnel who do not meet certain certifications needed to investigate the sale of

pseudoephedrine in New Mexico. NMMSIS provides greater protection for our consumers, while also allowing for responsible pseudoephedrine purchases. The Regional Director of the Southwest Border High Intensity Drug Trafficking Administration - New Mexico Region, in a letter provided to my office, put it well:

“The NMMSIS has stricter access controls than NPLEX and we train all users on New Mexico law, administrative regulations and case law. This is not the case with NPLEX, which is a national program that was designed broadly in an attempt to accommodate all the different states’ laws and regulations in addition to Federal law. New Mexico differs from other states on how it handles pharmaceutical issues.”

Creating a one-size fits-all stop-sale system would ultimately create problems for law enforcement. The stop-sale system purports to stop people from purchasing illegal amounts of pseudoephedrine, but it only stops them from purchasing over the legal amount in their own name. Other states that have implemented the NPLEX system have seen an increase in false identification cards used to purchase pseudoephedrine. Unfortunately, stop-sale systems do not reduce the amount of pseudoephedrine purchased, but only reduce the ability for our law enforcement to identify and prosecute these violators. Albuquerque Police Department’s Meth Unit also voiced concerns with this legislation:

“While [the stop-sale aspect of the bill] on its face appears to be a great plan, it has been proven not to work in states which have this system. The National Methamphetamine and Pharmaceutical Initiative had proposed this system years ago but have realized this system does not reduce the sale of pseudoephedrine which will be diverted to meth labs and greatly hampers police investigations. The stop-sale program allows Smurfers to continue to purchase 9 grams and stay under the radar of law.”

The production of, and addiction to, methamphetamine are serious and dangerous problems for our state. While I support efforts to curb the issues of illegal pseudoephedrine use, I do not believe House Bill 146 will be effective in doing so. Insofar as this bill would hinder law enforcement efforts or result in reduced penalties for offenders in some circumstances, I do not believe it is the right way to attack this problem.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Martinez", with a stylized, cursive script.

Susana Martinez
Governor

RECEIVED FROM THE OFFICE OF THE GOVERNOR

