



May 26, 2017

Governor Susana Martinez  
Office of the Governor  
490 Old Santa Fe Trail  
Room 400  
Santa Fe, NM 87501

Dear Governor Martinez,

On behalf of the R Street Institute, we urge you to veto H.B. 2, which seeks to expand New Mexico's taxing authority beyond its borders to businesses with no physical presence in your state.

By redefining physical presence to include sales where the purchaser, not the seller, resides in your state, H.B. 2 sets New Mexico up for a collision course with the courts, a case the state is unlikely to win given Supreme Court precedent. It would also put New Mexico businesses at risk if other states were to follow your lead and pass similar measures. Applying these proposed taxing standards, any New Mexico business that sells into another state would be at the mercy of that state's auditing authorities, despite having no physical presence and therefore no representation in that state.

Earlier this year, we, along with nine other free-market organizations and taxpayer advocates, [wrote](#) to the New Mexico legislature urging them to vote down similar measures, H.B. 202 and S.B. 264. We were heartened when you made the wise decision to veto H.B. 202 when it came across your desk. It is unfortunate, therefore, to see this same unconstitutional provision included in the broader package of H.B. 2.

We strongly urge you to veto H.B. 2 as well, and commend your dedication to keeping the New Mexico tax code consistent with the Constitution.

Sincerely,

Lori Sanders  
R Street Institute