



C.L. "BUTCH" OTTER
GOVERNOR

April 16, 2015

The Honorable Lawrence Denney
Secretary of State
Idaho Senate
State Capitol
Boise, ID 83702

Dear Mr. Secretary of State,

I hereby advise you that I have returned without my approval, disapproved and vetoed, the following Senate Bill, to wit:

S1146a

within the time limited by law, the same having arrived in the Office of the Governor at the hour of 9:24 a.m. on April 9, 2015.

I don't know what more I or senior members of my administration could have done to help legislators understand our strong opposition to this legislation. Both the House and Senate were told by the Office of Drug Policy, the Department of Health and Welfare, and the Idaho State Police – as well as prosecutors and local law enforcement officers from throughout Idaho – that there were too many questions and problems and too few answers and solutions in this bill to let it become law.

Of course I sympathize with the heartbreaking dilemma facing some families trying to cope with the debilitating impacts of disease. They find themselves grasping for an answer – any answer that might help reduce or eliminate the pain and suffering, or that might provide some hope for a better, healthier future. It is difficult as a public official to separate those very real and profoundly upsetting situations from the tough public policy decisions we are elected to make. Nonetheless, such separation sometimes is necessary.

From the purposefully incorrect fiscal impact statement to the claims of patient outcomes that are more speculative than scientific, this legislation unfortunately – and with the very best of intentions and sense of humanity – is not what Benjamin Franklin meant when he described states as the laboratories of the republic. It ignores ongoing scientific testing on alternative treatments. It asks us to trust but not to verify. It asks us to legalize the limited use of cannabidiol oil, contrary to federal law. And it asks us to look past the potential for misuse and abuse with criminal intent.

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So in vetoing this legislation, I echo the sentiments of the administrator of my Office of Drug Policy and the director of Health and Welfare, who wrote in an April 7 letter to me: "While we acknowledge the compassionate intention of S1146a, the list of negative outcomes associated with this bill will be extensive. In our quest to relieve suffering, it is vital that we ensure the solutions employed do not exacerbate health problems of the critically ill or decrease public safety. This bill has the potential to do both."

As an alternative to this legislation, I soon will issue an Executive Order authorizing the Department of Health and Welfare to study, and implement as it deems appropriate, an expanded access program for treatment-resistant epilepsy in children. That program has been approved by the U.S. Food and Drug Administration.

As Always – Idaho, "Esto Perpetua"

A handwritten signature in black ink, appearing to read "C.L. Butch Otter". The signature is stylized and cursive, with a long horizontal line extending to the right.

C.L. "Butch" Otter
Governor of Idaho



The Office of the Governor

Executive Department
State of Idaho

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

State Capitol
Boise

EXECUTIVE ORDER NO. 2015-03

AUTHORIZING THE DEPARTMENT OF HEALTH AND WELFARE TO IMPLEMENT A FDA-APPROVED EXPANDED ACCESS PROGRAM FOR TREATMENT-RESISTANT EPILEPSY IN CHILDREN

WHEREAS, Idaho's citizens with severe or life-threatening diseases or conditions may not be able to access critical medications that are still in clinical trials; and

WHEREAS, the U.S. Food and Drug Administration (FDA) has established Expanded Access Programs to allow limited, supervised access to such medications; and

WHEREAS, the FDA has approved an Expanded Access Program for Epidiolex®, a drug being evaluated for treatment-resistant epilepsy; and

WHEREAS, it is estimated that eight people per 1,000 have active epilepsy; and

WHEREAS, there are children in Idaho with treatment-resistant epilepsy who may benefit from Epidiolex®; and

WHEREAS, the Department of Health and Welfare operates to improve the health status of Idahoans, increase the safety and self-sufficiency of individuals and families, and enhance the delivery of health and human services;

NOW, THEREFORE, I, C.L. "BUTCH" OTTER, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and laws of the State of Idaho, do hereby order as follows:

- 1. The Department of Health and Welfare shall investigate the need for, and implement if appropriate, as determined by the Department, a FDA-approved Expanded Access Program for Epidiolex®;*
- 2. Further, as part of the investigation, the Department shall estimate the scope of the need in Idaho for this program, and shall determine whether appropriate medical supervision is available that allows safe and effective implementation of such a program;*
- 3. If implemented, the Department shall investigate and monitor long-term solutions, such as licensure of the medication, that may reduce or eliminate the need for the program in the future; and*

4. *The Department shall track funding utilized for the program and may accept private contributions, federal funds, funds from other public agencies or any other source for the purpose of implementing this study.*



Lawrence Denney

LAWRENCE DENNEY
SECRETARY OF STATE

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 16th day of April, in the year of our Lord two thousand and fifteen, and of the independence of the United States of America the two hundred thirty-ninth and of the Statehood of Idaho the one hundred twenty-fifth.

C.L. "Butch" Otter

C.L. "BUTCH" OTTER
GOVERNOR