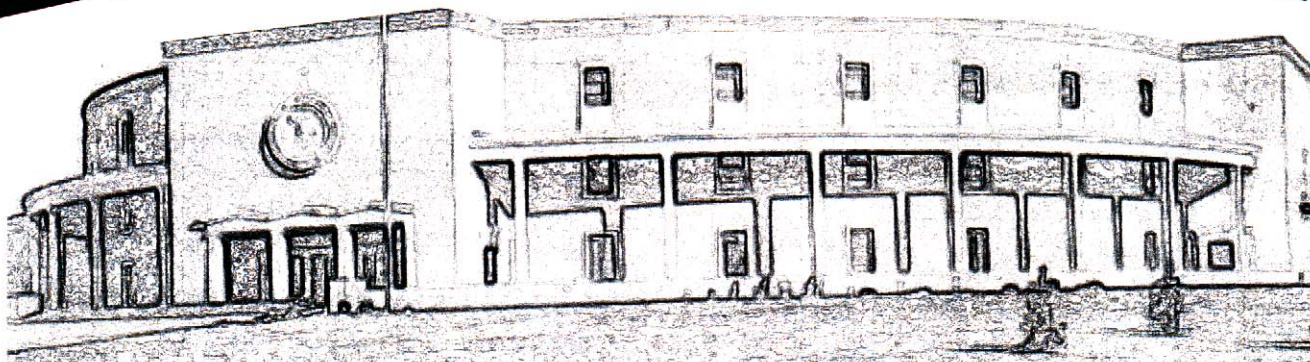


# LEGISLEADER



48th Legislative Session - February 7, 2007 - Volume V

The *Legisleader* is the official legislative newsletter of the New Mexico Farm and Livestock Bureau...the state's largest and oldest agricultural organization. *Farm Bureau....since 1917 a leader in New Mexico!*

## Eminent Domain Legislation Heats Up

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The New Mexico Farm and Livestock Bureau is closely following two eminent domain bills and supporting both of them at this point. They are **Senate Bills 469 and 659**, introduced by Senator Michael Sanchez.

**SB 469** limits municipalities' powers of condemnation to within their boundaries. This bill strikes language in law that gives municipalities the power to condemn outside their boundaries, but within their "planning and platting jurisdiction."

**SB 659** prohibits the powers of municipalities to condemn outside their boundaries, limits their

annexation powers by requiring greater consent of landowners affected by the annexation, and eliminates the municipalities' power to condemn outside their boundaries for sewage treatment and water facilities. Essentially the bill continues the municipalities' ability to condemn property for the public good, but requires them to "acquire" (purchase on the market) any property they want outside their boundaries.

### Other Eminent Domain Legislation on Farm Bureau's Radar

Representatives Peter Wirth and Richard Berry presented

**HB 393**, entitled "Elimination of Eminent Domain for Municipal Redevelopment Purposes," which went before the House Health and Government Affairs Committee on February 6th. As mentioned in the **CONTINUED, NEXT PAGE.**

#### 48th Legislative Session -

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last edition of the *Legisleader*, the bill amends the Urban Development Law and Municipal Redevelopment Code that remove the power of eminent domain that municipalities currently have. The Community Development Law is repealed entirely. The committee moved a “do pass” and the legislation will now go before the House Judiciary committee. At this time, it has not been scheduled for that committee.

During the Health and Government Affairs hearing, the NM Municipal League and the Planning Association spoke against the bill stating that this legislation prohibits economic development. Representative Mimi Stewart, the chair of the committee, made the motion of a “do pass” stating that all eminent domain bills will go before the House Judiciary Committee and that committee is the appropriate one to look at the details.

The status of the companion bill **SB 401**, introduced by Sen. Steven Neville is still in Senate Public Affairs and Senate Judiciary. This bill is scheduled for Senate Public Affairs on Thursday, February 8th.

**HB393 and SB401** mirror the recommendations developed by the Governor’s Eminent Domain Task Force. Janet Jarratt, a New Mexico Farm and Livestock Bureau board member, is on the task force. A link to the task force’s recommendations can be found on N.M. Farm Bureau’s legislative

affairs webpage at [http://www.nmfarmbureau.org/legislative\\_affairs.html](http://www.nmfarmbureau.org/legislative_affairs.html).

**Farm Bureau’s supports the exclusion of economic considerations as the justification for condemnation.**

Representative Anderson’s **HB 159** was scheduled for House Judiciary on Feb. 7. As previously stated in the *Legisleader*, this bill would take effect July 1, 2007, and the power of eminent domain would be limited to instances authorized by the state and those for public use. The public benefits of economic development, an increased tax base or taxes, employment, or general economic health are specifically **excluded** from the definition of “public use.” If private property in the form of a principal dwelling is taken, then the entity exercising eminent domain must provide a comparable replacement dwelling, unless the private property owner prefers a monetary compensation in the amount that would be necessary to purchase a comparable dwelling.

Further, the legislation calls for the state or political subdivision to prove a clear and convincing standard of evidence that the taking is necessary to eliminate a threat to public health or safety, that the property is abandoned, or that there is no reasonable alternative. And, it would call for the possible awarding of attorneys fees to the landowner if he or she prevails, but not to the state or political subdivision challenged.

**HJR1** sponsored by Rep. Thomas Anderson, would send to the voters a proposal to amend New Mexico’s Constitution, Article 2, Section 20, to **limit the use of eminent domain (for the benefit of commercial enterprises) to public uses** which are defined as occupation, possession, or enjoyment of property by the public at large. Under this legislation, additional definitions of public uses include easements for public utilities, pipeline common carriers, and putting water to beneficial use. It includes actions taken to mitigate health or safety threats from structures or activities on a property. The proposed legislation further states that except for public uses, private property cannot be taken by private commercial enterprises for the purpose of economic development or other private uses unless there is consent by the owner of the private property, even if the public will benefit from a more profitable use of the property.

**Workers Compensation**

Rep. Antonio Lujan introduced **HB80** which expands the coverage of “workers’ comp” to include farm and ranch laborers. The bill repeals the language that exempts employers of farm and ranch laborers from paying in accordance with the Workers’ Comp’ Act.” **Farm Bureau opposes the repeal.**

Though this legislation did not receive approval from the Governor’s “Workers Comp-

sation Advisory Council," it appeared before the House Labor and Human Resources committee on January 25. Representative Ezzell made a motion to "table the bill" and the motion failed. Rep. Garcia, the chairman of the committee, made a motion for a "do pass with no recommendation." By a vote of 4-2, the motion carried. The next committee is House Business and Industry.

Representative Miguel Garcia is proposing to introduce a memorial that creates a task-force composed of representatives engaged in an agricultural enterprise, agriculture laborers and Governor representatives from the "Workers Compensation Advisory Council" to study the issue during the interim and submit a recommendation to the legislature for the next session. This memorial has yet to be introduced.

## Minimum Wage

Senator Ben Altimirano, Senate Pro Tem, introduced **SB 324** on minimum wage, Jan. 22. Refer to the Legisleader, Volume IV for a summary of the Senate and House versions of this bill, which vary greatly. This bill was given two committee assignments; Senate Finance

and Senate Corporations.. The legislation passed all committees and the Senate on Feb 2. It has been introduced in the House and has been given two committee assignments, House Human and Labor and Government. At this time, it has not been scheduled.

Rep. Ben Lujan introduced **HB 759**, which increases the state minimum wage to \$6.50 per hour on July 1, 2007, \$7.50 per hour on January 1, 2008, and provides for cost-of-living increases on January 1, 2009 and succeeding years. Tipped employees do not get a specified hourly wage increase, but their combined tips and wages may not equal less than the prevailing minimum wage. **There are no exemptions (including agriculture) in the legislation.** The bill is currently in the House Labor Committee.

There has been much Congressional activity pertaining to minimum wage. At the federal level, there are agriculture exemptions for small to medium operations and food processing. To some extent, this bill mirrors Sen. Altimirano's bill. However, the minimum wage is capped at \$7.25 at the federal level, and \$7.50 at the state level.

## AgFest Heading to the City Different

The annual celebration of the state's diverse agricultural industry is set for Feb. 15, at the La Fonda Hotel in downtown Santa Fe. The event will begin at 6 p.m. and features an opportunity for Farm Bureau members to visit with their elected state representatives in a relaxed, festive atmosphere. A showcase of food from the Land of Enchantment and other agricultural products is the centerpiece of this tradition.

The annual legislative breakfast will convene on the morning of Feb. 15 at 7 a.m. at the La Fonda Hotel. Our legislative guest speakers are Representative Joseph Cervantes from Las Cruces and Senator John Ryan from Albuquerque. Both representatives are co-sponsoring legislation pertaining to agriculture water conservation

Other Farm Bureau events associated with AgFest this year include a council of county Farm Bureau presidents meeting on Feb. 14 at 1:30 p.m. and a New Mexico Farm and Livestock Bureau board of directors meeting on Feb. 15-16. The La Fonda Hotel is located at 100 E. San Francisco St., downtown Santa Fe. For more information on AgFest, call (505) 532-4702.