

FORTY-SIXTH LEGISLATURE
FIRST SESSION

March 17, 2003

SENATE FLOOR AMENDMENT number ___1___ to HOUSE BILL 231, as amended

Amendment sponsored by Senator Timothy Z. Jennings

1. Strike House Judiciary Committee Amendments 2 through 12.
2. On page 10, line 8, strike "ten" and insert in lieu thereof "five".
3. On page 14, line 20, strike "Section 8" and insert in lieu thereof "Sections 7, 8 and 10".
4. On page 19, line 20, strike "not".
5. On page 19, line 22, after the comma insert "only to the extent permitted in the Tort Claims Act,".
6. On page 19, lines 22 and 23, strike "or attempting to comply with".
7. On page 19, lines 24 and 25 and on page 20, line 1, strike "The immunity shall not extend to acts of willful misconduct, gross negligence or recklessness.".
8. On pages 20 and 21, strike Section 15 in its entirety and insert in lieu thereof the following new sections to read:

"Section 15. A new section of Chapter 12, Article 10 NMSA 1978 is enacted to read:

"[NEW MATERIAL] COMPENSATION. --

A. The state shall pay just compensation to the owner of health care supplies, a health facility or any other property that is lawfully taken or appropriated by the secretary of health, the

FORTY-SIXTH LEGISLATURE
FIRST SESSION

SF1/HB 231, aa

Page 2

secretary of public safety or the director for temporary or permanent use during a public health emergency. The amount of compensation due shall be calculated in the same manner as compensation due for taking of property pursuant to nonemergency eminent domain procedures, as provided by the Eminent Domain Code; provided that the amount of compensation calculated shall include lost revenues and expenses incurred due to the taking or appropriating of property, including a health facility.

B. The attorney general shall make a preliminary determination of whether or not compensation is due to an owner of health care supplies, a health facility or any other property. The owner may appeal the preliminary determination pursuant to rules promulgated by the attorney general. The rules shall include the owner's right to speak at the appeal and the owner's right to present facts pertinent to the appeal to a hearing officer appointed by the attorney general. A record shall be made of the hearing. The hearing officer shall preside over and take evidence at a hearing held pursuant to this section. The hearing officer shall prepare and submit to the attorney general a summary of the evidence taken at the hearing. The hearing officer shall also submit proposed findings of fact to the attorney general. The attorney general shall render a decision that sets forth the amount of compensation, if any, due to the owner. The attorney general's decision shall include findings of fact and conclusions of law.

C. A decision made by the attorney general pursuant to this section shall be subject to an appeal to the district court, pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

D. To the extent practicable and consistent with protection of public health, the attorney general, prior to the taking or appropriating of property, shall institute civil proceedings against the property to be taken or appropriated in accordance with the Eminent Domain Code, other applicable laws, court rules or rules the courts may develop during a state of public

FORTY-SIXTH LEGISLATURE
FIRST SESSION

SF1/HB 231, aa

Page 3

health emergency. "

Section 16. A new section of Chapter 12, Article 10 NMSA 1978 is enacted to read:

"[NEW MATERIAL] JOB PROTECTION FOR A PERSON WHO IS ISOLATED OR QUARANTINED. --An employer or an agent of an employer shall not discharge from employment a person who is placed in isolation or quarantine pursuant to the provisions of the Public Health Emergency Response Act. "".

9. Renumber the succeeding sections accordingly.

Respectfully submitted,

Timothy Z. Jennings