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SENATE BILL 103

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Michael S. Sanchez

AN ACT

**RELATING TO EMINENT DOMAIN; CHANGING THE RATE OF INTEREST IN
CERTAIN CONDEMNATION PROCEEDINGS.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 42A-1-24 NMSA 1978 (being Laws 1981,
Chapter 125, Section 20) is amended to read:**

**"42A-1-24. DETERMINATION OF COMPENSATION AND DAMAGES--
INTEREST. --**

**A. For the purposes of assessing compensation and
damages, the right thereto shall be deemed to have accrued as
of the date the petition is filed, and actual value on that
date shall be the measure of compensation for all property
taken, and also the basis of damages for property not taken
but injuriously affected in cases where such damages are
legally recoverable; the amount of the award shall be**

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1 determined from the evidence and not be limited to any amount
2 alleged in the petition or set forth in the answer.

3 B. Whenever just compensation shall be ascertained
4 and awarded in such proceeding and established by judgment,
5 the judgment shall include as a part of the just compensation
6 awarded interest at the rate of [~~eight~~] ten percent a year
7 upon the unpaid portion of the compensation awarded from the
8 date the petition is filed to the date of payment or the date
9 when the proceedings are finally abandoned. The judgment
10 shall not include interest upon the amount represented by
11 funds deposited by the condemnor pursuant to the provisions of
12 Sections 42A-1-19 and 42A-1-22 NMSA 1978.

13 C. The court shall have the power to direct the
14 payment of delinquent taxes, special assessments and rental or
15 other charges owed out of the amount determined to be just
16 compensation and to make orders as the court deems necessary
17 with respect to encumbrances, liens, rents, insurance and
18 other just and equitable charges.

19 D. The judgment shall credit against the total
20 amount awarded to the condemnee any payments or deposits paid
21 over to him made before the date of entry of judgment by the
22 condemnor as compensation for the property taken, including
23 any funds which the condemnee withdrew from the amount
24 deposited by the condemnor pursuant to the provisions of
25 Section 42A-1-19 or 42A-1-22 NMSA 1978.

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E. If the amount to be credited against the award under Subsection D of this section exceeds the total amount awarded, the court shall require that the condemnee pay the excess to the condemnor.

F. The price paid for similar property by one other than the condemnor may be considered on the question of the value of the property condemned or damaged if there is a finding that there have been no material changes in conditions between the date of the prior sale and the date of taking, that the prior sale was made in a free and open market and that the property is sufficiently similar in the relevant market with respect to situation, usability, improvements and other characteristics. "