Eminent Domain Legislation: Post-*Kelo* Update

Larry Morandi
National Conference of State Legislatures
January 1, 2012
Legislative/Electoral Response to Kelo

Updated January 1, 2012
Categories of Legislation

• Prohibiting eminent domain for economic development, to increase tax revenue or employment, or to transfer property to another private entity.

• Defining "public use" to be possession, occupation or enjoyment of property by the public at large or public agencies.
Categories of Legislation

• Restricting its use to blighted properties and redefining blight to emphasize public health, safety and welfare considerations.

• Requiring greater public notice, more public hearings, negotiation in good faith and approval by elected governing bodies.

• Requiring compensation at greater than fair market value.
<table>
<thead>
<tr>
<th>Category</th>
<th>Number</th>
<th>States</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prohibition for Economic Development</td>
<td>23</td>
<td>AL, AK, AZ, CO, FL, GA, ID, IL, KS, LA, ME, MI, MO, NE, NH, NM, OR, SD, TN, TX, VT, WV, WI</td>
</tr>
<tr>
<td>Limitation to Public Use</td>
<td>12</td>
<td>AZ, DE, GA, IN, IA, MN, NV, NC, ND, SC, VA, WY</td>
</tr>
<tr>
<td>Blight</td>
<td>12</td>
<td>AL, FL, GA, IA, IL, IN, MT, NC, PA, SC, WV, WI</td>
</tr>
<tr>
<td>Category</td>
<td>Number</td>
<td>States</td>
</tr>
<tr>
<td>-------------------</td>
<td>--------</td>
<td>---------------------------------</td>
</tr>
<tr>
<td>Process</td>
<td>8</td>
<td>CT, GA, IA, MN, MO, RI, UT, WV</td>
</tr>
<tr>
<td>Compensation</td>
<td>5</td>
<td>CT, IN, KS, MI, RI</td>
</tr>
</tbody>
</table>
How Absolute the Limitations?

Many state laws restrict eminent domain:

• *Primarily* to enhance tax revenue.
• *Solely* to promote economic development.
• *Predominantly* for use by a private entity.

Who makes those determinations?
Contact Information

Larry Morandi
Director, State Policy Research
National Conference of State Legislatures
7700 East First Place
Denver, CO 80230
(303) 364-7700
larry.morandi@ncsl.org