



The Council  
of State Governments



*National League of Cities*



December 11, 2007

The Honorable Tom Harkin, Chair  
Agriculture, Nutrition and Forestry Committee  
United States Senate  
Washington, D.C. 20510

Dear Senator Harkin:

On behalf of the undersigned organizations, we write in strong opposition to the amendment offered by Sen. Larry Craig (No. 3640) to H.R. 2419, the "Food and Energy Security Act of 2007," which is scheduled for floor debate today. This amendment is not only ill-advised, but it is also unconstitutional. Amendment No. 3640 would preempt state and local land use laws by prohibiting any federal funding that goes to state and local governments from being used for acquiring "farmland or gracing land for the purpose of a park, recreation, open space, conservation, preservation view, scenic vista, or similar purpose." This would severely chill state and local historical preservation, community service, and environmental efforts.

Under this amendment, if a state or locality were to use the power of eminent domain for virtually any public purpose, even if such action was completely in accordance with its own statutes and land use development ordinances and regulations, the state or locality could lose all applicable federal funding. The 5th Amendment of the U.S. Constitution expressly permits the taking of private property for public use provided just compensation is provided to the owner of the property.

The power of eminent domain has always been, and should remain, a state and local power. The state power to use eminent domain for public purposes is fundamental to a state's and locality's ability to provide for the community needs of its citizens, to protect unique and scenic areas of a state by creating parks, and to preserve wildlife and topography of a significant nature.

Again, we urge you to reject the Craig Amendment No. 3640 because it preempts state and local law and thwarts valid state and local efforts to preserve their natural resources for the use and enjoyment of all citizens.

Don Borut  
Executive Director  
National League of Cities

Tom Cochran  
Executive Director  
The U.S. Conference Of Mayors

Carl Tubbesing  
Deputy Executive Director  
National Conference of State Legislatures

Jim Brown  
Washington Director  
Council of State Governments

