

By: Senator(s) Ross, Flowers

To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2565

1 AN ACT TO AMEND SECTION 11-27-1, MISSISSIPPI CODE OF 1972, TO
2 PROHIBIT USE OF THE POWER OF EMINENT DOMAIN EXCEPT FOR A DIRECT
3 PUBLIC USE; AND FOR RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 **SECTION 1.** Section 11-27-1, Mississippi Code of 1972, is
6 amended as follows:

7 11-27-1. (1) Any person or corporation having the right to
8 condemn private property for public use shall exercise that right
9 as provided in this chapter, except as elsewhere specifically
10 provided under the laws of the State of Mississippi.

11 (2) Notwithstanding any provisions of this chapter to the
12 contrary or any other provisions of law to the contrary, private
13 property shall not be taken or damaged except for a direct public
14 use which is the primary purpose of the taking or damage, and
15 compensation is first made to the owner or owners thereof, in a
16 manner to be prescribed by law. An increase in tax revenue for a
17 governmental entity shall not, in and of itself, be a direct
18 public use. Whenever an attempt is made to take private property
19 for a use alleged to be a direct public use, the question whether
20 the contemplated use is a direct public use shall be a judicial
21 question, and, as such, shall be determined without regard to
22 legislative assertion that the use is a direct public use. For
23 purposes of this section, a direct public use shall include common
24 carriers or facilities of public utilities and other entities used
25 in the generation, transmission, storage or distribution of
26 telephone, telecommunication, gas, carbon dioxide, electricity,

27 water, sewer, natural gas, liquid hydrocarbons or other utility
28 products.

29 **SECTION 2.** This act shall take effect and be in force from
30 and after its passage.