

By: Senator(s) Ross

To: Constitution

SENATE CONCURRENT RESOLUTION NO. 536

1 A CONCURRENT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 17,
2 MISSISSIPPI CONSTITUTION OF 1890, TO PROVIDE THAT PRIVATE PROPERTY
3 SHALL NEVER BE TAKEN SOLELY FOR PRIVATE ECONOMIC DEVELOPMENT
4 PURPOSES BUT SHALL REQUIRE A DIRECT PUBLIC USE; TO FURTHER DEFINE
5 DIRECT PUBLIC USE; AND FOR RELATED PURPOSES.

6 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF
7 MISSISSIPPI, That the following amendment to the Mississippi
8 Constitution of 1890 is proposed to the qualified electors of the
9 state:

10 Amend Section 17, Mississippi Constitution of 1890, to read
11 as follows:

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

28 BE IT FURTHER RESOLVED, That this proposed amendment shall be
29 submitted by the Secretary of State to the qualified electors at
30 an election to be held on the first Tuesday after the first Monday
31 of November 2006, as provided by Section 273 of the Constitution
32 and by general law.

33 BE IT FURTHER RESOLVED, That the explanation of this proposed
34 amendment for the ballot shall read as follows: "This proposed
35 constitutional amendment prohibits use of the power of eminent
36 domain to take private property solely for private economic
37 development purposes; direct public use is required.