

**Adopted  
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

**House Concurrent Resolution No. 10**

**BY: Committee**

1           **Amend by striking all and inserting in lieu thereof the**  
2 **following:**

3           WHEREAS, under the current judicial decisions interpreting  
4 Section 17 of the Mississippi Constitution of 1890, property may  
5 be taken by eminent domain only for direct public uses; and

6           WHEREAS, the Legislature is concerned that future judicial  
7 decisions may adopt a more expansive interpretation of the term  
8 public use; and

9           WHEREAS, the Mississippi Legislature proposes to engraft in  
10 the text of the Constitution the effect of those current judicial  
11 decisions: NOW, THEREFORE,

12           BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF  
13 MISSISSIPPI, That the following amendment to the Mississippi  
14 Constitution of 1890 is proposed to the qualified electors of the  
15 state:

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

18           Section 17. Private property shall not be taken or damaged  
19 except for a direct public use which is the primary purpose of the  
20 taking or damage, and compensation is first made to the owner or  
21 owners thereof, in a manner to be prescribed by law. An increase  
22 in tax revenue for a governmental entity shall not, in and of

23 itself, be a direct public use. Whenever an attempt is made to  
24 take private property for a use alleged to be a direct public use,  
25 the question whether the contemplated use is a direct public use  
26 shall be a judicial question, and, as such, shall be determined  
27 without regard to legislative assertion that the use is a direct  
28 public use. For purposes of this section, without limiting or  
29 enlarging what otherwise may or may not be a direct public use, a  
30 direct public use shall include common carriers or facilities of  
31 public utilities and other entities used in the generation,  
32 transmission, storage or distribution of telephone,  
33 telecommunications, gas, carbon dioxide, electricity, water,  
34 sewer, natural gas, liquid hydrocarbons or other utility products.

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

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

45 **Further, amend by striking the title in its entirety and**  
46 **inserting in lieu thereof the following:**

47 A CONCURRENT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 17,  
48 MISSISSIPPI CONSTITUTION OF 1890, TO PROVIDE THAT PRIVATE PROPERTY  
49 SHALL NEVER BE TAKEN SOLELY FOR PRIVATE ECONOMIC DEVELOPMENT  
50 PURPOSES BUT SHALL REQUIRE A DIRECT PUBLIC USE; TO FURTHER DEFINE  
51 DIRECT PUBLIC USE; AND FOR RELATED PURPOSES.