

By: Senator(s) Ross, Albritton, Brown, Burton, Butler, Carmichael, Chassaniol, Clarke, Davis, Dearing, Fillingane, Gollott, Hewes, Hyde-Smith, Jackson (15th), Jackson (32nd), King, Kirby, Lee (35th), Mettetal, Moffatt, Morgan, Nunnelee, Posey

To: Judiciary, Division A

SENATE BILL NO. 2152

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.
23 Without limiting or enlarging what otherwise may or may not be a
24 direct public use, for purposes of this section, a direct public
25 use shall include common carriers or facilities of public
26 utilities and other entities used in the generation, transmission,
27 storage or distribution of telephone, telecommunication, gas,

28 carbon dioxide, electricity, water, sewer, natural gas, liquid
29 hydrocarbons or other utility products.

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