

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
(As Passed the Senate)

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) (a) Notwithstanding any provisions of this chapter to
12 the contrary or any other provisions of law to the contrary,
13 private property shall not be taken or damaged except for a direct
14 public use which is the primary purpose of the taking or damage,
15 and just compensation is first made to the owner or owners
16 thereof, in a manner to be prescribed by law. Except as provided
17 in paragraph (b), whenever an attempt is made to take private
18 property for a use alleged to be a direct public use, the question
19 whether the contemplated use is a direct public use shall be a
20 judicial question, and, as such, shall be determined without
21 regard to legislative assertion that the use is a direct public
22 use.

23 (b) Without limiting or enlarging what otherwise may or
24 may not be a direct public use, for purposes of this section, an
25 increase in tax revenue for a governmental entity or a general
26 improvement in a community's economy shall not, in and of itself,
27 be a direct public use. Without limiting or enlarging what

28 otherwise may or may not be a direct public use, for purposes of
29 this section, a direct public use shall include common carriers or
30 facilities of public utilities and other entities used in the
31 generation, transmission, storage or distribution of telephone,
32 telecommunication, gas, carbon dioxide, electricity, water, sewer,
33 natural gas, liquid hydrocarbons or other utility products.

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