

REPORT OF CONFERENCE COMMITTEE

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MR. SPEAKER AND MADAM PRESIDENT:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

H. B. No. 100: Eminent Domain; restrict use of.

We, therefore, respectfully submit the following report and recommendation:

1. That the Senate recede from its Amendment No. 1.
2. That the House and Senate adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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 predominate purpose of the taking or damage, and
15 due compensation is first made to the owner or owners thereof, in
16 a manner to be prescribed by law. An increase in tax revenue for
17 a governmental entity shall not be considered a direct public use.
18 Whenever an attempt is made to take private property for a use
19 alleged to be a direct public use, the question whether the
20 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 drainage and levee facilities and usages, roads
26 and bridges for public conveyance, and common carriers or

27 facilities of public utilities and other entities used in the
28 generation, transmission, storage or distribution of telephone,
29 telecommunication, gas, carbon dioxide, electricity, water, sewer,
30 natural gas, liquid hydrocarbons or other utility products.

31 (3) Property condemned pursuant to any provision of law, if
32 not used in thirty (30) years for the direct public use for which
33 it was condemned or for some other direct public use, that
34 subsequently is determined to be sold shall be offered first for
35 sale to the person or persons from whom the property was
36 condemned, or to his or her known or ascertainable heirs or
37 assigns, at the price paid for the property together with the fair
38 market value of any improvements thereon. However, if the offer
39 is not accepted within ninety (90) days from the date it is made,
40 the property may be sold to any other person, but only at public
41 sale after legal notice is given.

42 (4) Notwithstanding any other provision herein, the Yellow
43 Creek Port Authority Board may sell land in Tishomingo County
44 taken by eminent domain back to the person or persons from whom
45 the land was taken at the price paid for the property, together
46 with the fair market value of any improvements thereon, if the
47 authority spreads on its minutes a resolution that the land is of
48 no future use to the authority.

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

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

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.

CONFEREES FOR THE HOUSE

X (SIGNED)
Blackmon

X (SIGNED)
Simpson

X (SIGNED)
Franks

CONFEREES FOR THE SENATE

X (SIGNED)
Ross

(NOT SIGNED)
Doxey

X (SIGNED)
Michel