

## House Concurrent Resolution No. 5040

By Committee on Federal and State Affairs

2-23

---

9 A PROPOSITION to amend article 15 of the constitution of the state of  
10 Kansas by adding a new section thereto, concerning eminent domain.

11

12 *Be it resolved by the Legislature of the State of Kansas, two-thirds of the*  
13 *members elected (or appointed) and qualified to the House of Repre-*  
14 *sentatives and two-thirds of the members elected (or appointed) and*  
15 *qualified to the Senate concurring therein:*

16 Section 1. The following proposition to amend the constitution of the  
17 state of Kansas shall be submitted to the qualified electors of the state  
18 for their approval or rejection: Article 15 of the constitution of the state  
19 of Kansas is amended by adding a new section thereto to read as follows:

20 “§ 17. Private property shall not be taken except for public use,  
21 and private property shall not be taken without just compensation.  
22 The taking of private property with the intent to or in anticipation  
23 of selling, leasing or otherwise transferring any interest in the prop-  
24 erty to any private entity is not a valid public use and is prohibited  
25 except by law enacted upon the vote of  $\frac{2}{3}$  of the members of the  
26 senate and  $\frac{2}{3}$  of the members of the house of representatives and  
27 the signature of the governor.”

28 Sec. 2. The following statement shall be printed on the ballot with  
29 the amendment as a whole:

30 “*Explanatory statement.* There is currently no constitutional pro-  
31 vision prohibiting state or local government from taking private  
32 property except for public use, and there is no definition of “pub-  
33 lic use”.

34 “A vote for this proposition would amend the Kansas constitution  
35 to prohibit state and local governments from taking private prop-  
36 erty except for public use and would require that the owner of  
37 any property taken for public use be paid just compensation. It  
38 also would clarify that “public use” does not include the taking  
39 and transfer of private property to any private entity, except as  
40 approved by a  $\frac{2}{3}$  majority of both houses of the legislature and  
41 the signature of the governor.

42 “A vote against this proposition would not amend the constitution.”

43 Sec. 3. This resolution, if approved by two-thirds of the members

1 elected (or appointed) and qualified to the House of Representatives, and  
2 two-thirds of the members elected (or appointed) and qualified to the  
3 Senate shall be entered on the journals, together with the yeas and nays.  
4 The secretary of state shall cause this resolution to be published as pro-  
5 vided by law and shall cause the proposed amendment to be submitted  
6 to the electors of the state at the general election in November in the  
7 year 2006.