

By: Representative Chism

To: Constitution

HOUSE CONCURRENT RESOLUTION NO. 26

1 A CONCURRENT RESOLUTION PROPOSING AN AMENDMENT TO SECTION 17,  
 2 MISSISSIPPI CONSTITUTION OF 1890, TO PROHIBIT FEE SIMPLE TITLE TO  
 3 PRIVATE PROPERTY THAT HAS BEEN TAKEN FOR PUBLIC USE FROM EVER  
 4 BEING TRANSFERRED OR CONVEYED TO A PRIVATE PERSON OR NONPUBLIC  
 5 ENTITY EXCEPT SUCH PERSON OR PERSONS FROM WHICH THE PROPERTY WAS  
 6 ORIGINALLY TAKEN, OR THE HEIRS OR ASSIGNS OF SUCH PERSON OR  
 7 PERSONS; TO AUTHORIZE THE LEGISLATURE, BY GENERAL LAW, TO  
 8 PRESCRIBE THE MANNER AND PROCEDURE FOR DISPOSING OF SUCH PROPERTY  
 9 WHEN THE PERSON OR PERSONS FROM WHOM SUCH PROPERTY WAS TAKEN, OR  
 10 THEIR HEIRS OR ASSIGNS, ARE NO LONGER LIVING OR CANNOT BE FOUND;  
 11 AND FOR RELATED PURPOSES.

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 for public use, except on due compensation being first made to the  
 20 owner or owners thereof, in a manner to be prescribed by law; and  
 21 whenever an attempt is made to take private property for a use  
 22 alleged to be public, the question whether the contemplated use be  
 23 public shall be a judicial question, and, as such, determined  
 24 without regard to legislative assertion that the use is public.

25 Whenever private property is taken for public use, fee simple  
 26 title to such property shall never be transferred or conveyed to a  
 27 private person or nonpublic entity except such person or persons  
 28 from which the property was originally taken, or the heirs or  
 29 assigns of such person or persons. However, the Legislature, by  
 30 general law, may prescribe the manner and procedure for disposing  
 31 of such property when the person or persons from whom such



32 property was taken, or their heirs or assigns, are no longer  
33 living or cannot be found."

34 BE IT FURTHER RESOLVED, That this proposed amendment shall be  
35 submitted by the Secretary of State to the qualified electors at  
36 an election to be held on the first Tuesday after the first Monday  
37 of November 2003, as provided by Section 273 of the Constitution  
38 and by general law.

39 BE IT FURTHER RESOLVED, That the explanation of this proposed  
40 amendment for the ballot shall read as follows: "This proposed  
41 constitutional amendment prohibits property that has been taken  
42 for public use from being conveyed to a private person or  
43 nonpublic entity except the person or persons from which the  
44 property was originally taken, or their heirs or assigns.  
45 However, the Legislature may enact laws to prescribe how such  
46 property may be disposed of when the original owner or his heirs  
47 are no longer living or cannot be found."

