

1 HOUSE JOINT RESOLUTION NO. 11

2 INTRODUCED BY E. STAFMAN, M. MARLER, D. HAWK, M. CAFERRO, M. ROMANO, T. RUNNING WOLF,
3 J. LYNCH, B. CARTER, Z. ZEPHYR, S. DEMAROIS, M. LEE, P. STRAND, J. SECKINGER, B. CLOSE, S.
4 FYANT, J. SOOKTIS, M. CUNNINGHAM, F. SMITH, L. REKSTEN, C. KEOGH, J. COHENOUR, M. THANE
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6 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF
7 MONTANA URGING CONGRESS TO CLARIFY THAT THE RIGHTS PROTECTED UNDER THE UNITED
8 STATES CONSTITUTION ARE THE RIGHTS OF HUMAN BEINGS AND NOT THE RIGHTS OF
9 CORPORATIONS; PROVIDING THAT GOVERNMENTS MAY AND SHALL REGULATE CAMPAIGN
10 CONTRIBUTIONS AND EXPENDITURES TO PROTECT THE AMERICAN PEOPLE FROM CORRUPTION
11 AND UNDUE OR DISPROPORTIONATE INFLUENCE IN ELECTIONS AND GOVERNMENT; AND ASKING
12 THAT CONGRESS PROPOSE A CONSTITUTIONAL AMENDMENT TO PROVE THIS CLARIFICATION.
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14 WHEREAS, neither the Constitution of the United States nor any of its several amendments make any
15 reference to corporations, unions, or other artificial, government-created entities, and the rights set forth in the
16 Constitution of the United States and its several amendments were originally conceived as inalienable rights
17 belonging inherently to human beings only; and

18 WHEREAS, in a number of cases, the Supreme Court of the United States has held that the right to
19 free speech recognized in the Constitution of the United States also belongs to corporations, unions, political
20 action committees, and other artificial entities; and

21 WHEREAS, the Supreme Court of the United States has also held that certain types of regulation of
22 campaign finance impermissibly abridge the right to free speech by human beings, corporations, unions,
23 political action committees, and other artificial entities, which limits the right of the American people to regulate
24 human beings, corporations, unions, political action committees, and other artificial entities through federal,
25 state, or local law; and

26 WHEREAS, the Supreme Court decisions and the lower court decisions predicated on the Supreme
27 Court decisions allow human beings, corporations, unions, political action committees, and other artificial
28 entities to spend virtually unlimited amounts of money in support of or against candidates and ballot measures,

1 undercutting the rights of citizens to prevent corruption and enjoy equal and meaningful participation in the
2 democratic process; and

3 WHEREAS, this undermines public confidence in the democratic process and democratic institutions of
4 our nation; and

5 WHEREAS, the Bipartisan Campaign Reform Act, introduced with bipartisan support by Senator John
6 McCain of Arizona and Senator Russ Feingold of Wisconsin and passed in 2002 with the intent to preserve the
7 integrity of the United States' electoral system and reduce the role of money and corruption in politics, has been
8 undermined by the decisions of the Supreme Court; and

9 WHEREAS, the unique history of corrupt elections in Montana during the War of the Copper Kings
10 prompted the citizens of Montana to pass the Corrupt Practices Act of 1912 by initiative, WITH OVER 76% OF THE
11 VOTE AND A MAJORITY IN EVERY COUNTY, to take money out of politics. FOR NEARLY 100 YEARS, THE ACT PROHIBITED
12 CORPORATE CONTRIBUTIONS AND EXPENDITURES AND LIMITED THOSE OF INDIVIDUALS UNTIL THE 2010 UNITED STATES
13 SUPREME COURT CASE CITIZENS UNITED V. FEC, 558 U.S. 310, AND FOLLOWING DECISIONS STRUCK DOWN THOSE
14 PROTECTIONS; and

15 WHEREAS, MONTANANS PASSED INITIATIVE NO. 166 IN 2012 WITH 75% OF THE VOTE AND A MAJORITY IN
16 EVERY COUNTY, WHICH ASSERTED THAT "THE PEOPLE OF MONTANA ESTABLISH THAT THERE SHOULD BE A LEVEL
17 PLAYING FIELD IN CAMPAIGN SPENDING, IN PART BY PROHIBITING CORPORATE CAMPAIGN CONTRIBUTIONS AND
18 EXPENDITURES AND BY LIMITING POLITICAL SPENDING IN ELECTIONS"; AND

19 WHEREAS, INITIATIVE NO. 166 ASSERTED THAT THE PEOPLE OF MONTANA REGARD MONEY AS PROPERTY
20 AND NOT AS FREE SPEECH AND REGARD THE RIGHTS UNDER THE UNITED STATES CONSTITUTION AS RIGHTS BELONGING
21 TO HUMAN BEINGS; AND

22 WHEREAS, THE IMPACT OF CITIZENS UNITED ON MONTANA ELECTIONS IS BEST DEMONSTRATED BY THE
23 UNITED STATES SENATE RACES FROM 2006 TO 2024, IN WHICH TOTAL SPENDING, INCLUDING OUTSIDE GROUPS, IN
24 2006 WAS \$17.6 MILLION BEFORE THE CITIZENS UNITED DECISION AND JUMPED TO \$50 MILLION IN 2012, TO \$63
25 MILLION IN 2018, AND WAS APPROXIMATELY \$300 MILLION IN 2024; AND

26 WHEREAS, the decisions of the Supreme Court have undermined the will of the Montana people; and

27 WHEREAS, large amounts of outside spending by corporations, political action committees, super
28 political action committees, and others, often with untraceable sources, has created a crisis in Montana

1 elections, increasing partisanship, dividing Montanans, and making it more difficult for Montanans to discern
2 which candidates they wish to support; and

3 WHEREAS, Article V of the Constitution of the United States declares, "[t]he Congress, whenever two
4 thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution."

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6 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF
7 THE STATE OF MONTANA:

8 The State of Montana requests that Congress propose an amendment to the Constitution of the United
9 States that confirms that:

10 (1) the rights protected by the Constitution of the United States are rights belonging to human
11 beings only;

12 (2) any entity, including any organization or association of one or more persons, established or
13 allowed by the laws of any state, the United States, or any foreign state, may not have rights under the
14 Constitution of the United States separate from the rights of the entity's individual human members and is
15 subject to regulation by the people through federal, state, or local law;

16 (3) federal, state, and local government shall regulate, limit, or prohibit contributions and
17 expenditures, including a candidate's own contributions and expenditures, to ensure that all citizens have
18 access to the political process and that no person or entity gains, as a result of their access to or ownership of
19 money, substantially more access or ability to influence in any way the election of any candidate for public
20 office or any ballot measure;

21 (4) federal, state, and local governments shall require that the contributions and expenditures be
22 publicly disclosed; and

23 (5) the regulation and disclosure requirements enacted and performed in accordance with the
24 intents and purposes of this amendment may not be construed as a violation of the Constitution of the United
25 States.

26 BE IT FURTHER RESOLVED, THAT THE UNITED STATES CONGRESS IS REQUESTED TO SEND THE
27 AMENDMENT TO THE STATES FOR RATIFICATION.

28 BE IT FURTHER RESOLVED, that the Secretary of State is directed to provide copies of this resolution

1 to Montana's senators and representatives in Congress.

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