

1 SENATE JOINT RESOLUTION NO. 22

2 INTRODUCED BY G. HERTZ

3
4 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF
5 MONTANA CALLING FOR THE REPEAL OF THE SEVENTEENTH AMENDMENT TO THE UNITED STATES
6 CONSTITUTION.

7
8 WHEREAS, before the passage of the Seventeenth Amendment to the United States Constitution, on a
9 vacancy in the office of a senator, the governor of a state was empowered under Article I, section 3, clause 2,
10 of the United States Constitution to fill the vacancy with a temporary appointment until the state legislature
11 convened and selected a replacement; and

12 WHEREAS, on ratification of the Seventeenth Amendment to the United States Constitution in 1913,
13 the power to elect senators from each state was passed to the people of each state; and

14 WHEREAS, on ratification of the Seventeenth Amendment to the United States Constitution in 1913,
15 when a vacancy occurred in the office of a senator, the governor of the state was directed to issue a writ of
16 election to fill the vacancy provided, although the state legislature could empower the governor to appoint a
17 temporary successor until the next election; and

18 WHEREAS, the founders of our republic and the framers of the constitution recognized that in a
19 republican form of government, the legislative authority should necessarily be predominant; and

20 WHEREAS, the founders intended that the legislative authority be divided into two different branches
21 composed by different modes of election, creating different principles of action, and be as little connected with
22 each other as the nature of their common functions and their common dependencies on society would admit;
23 and

24 WHEREAS, James Madison explained the reason for bicameralism in Federalist No. 10 of the
25 Federalist Papers: "Before taking effect, legislation would have to be ratified by two independent power
26 sources: the people's representatives in the House and the state legislatures' agents in the Senate"; and

27 WHEREAS, James Madison argued in Federalist No. 62 that, "The appointment of senators by state
28 legislatures gives the state governments such an agency in the formation of the federal government as must

1 secure the authority of the former"; and

2 WHEREAS, Alexander Hamilton concluded in Federalist No. 10 that because the legislatures were
3 selected bodies of men, the choice of the United States senators would "generally be made with peculiar care
4 and judgment by the legislatures"; and

5 WHEREAS, the founders of the United States Constitution created an ingenious template of checks
6 and balances, with divisions and distributions of power to provide for and protect the highest sovereignty—that
7 of each individual citizen; and

8 WHEREAS, the Seventeenth Amendment to the United States Constitution disrupts that balance of
9 power by providing for the selection of senators by popular vote in the same manner representatives are
10 selected by popular vote; and

11 WHEREAS, popular election of senators has diluted the power of the separate states, diminished
12 federalism, and resulted in the increased power of the federal government over the individual states.

13

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

16 That the Legislature of the State of Montana urges the Montana Congressional Delegation and all the
17 members of the United States Congress to propose an amendment to the United States Constitution repealing
18 the Seventeenth Amendment that reads as follows:

19 "Section 1. The seventeenth article of amendment to the Constitution of the United States is hereby
20 repealed.

21 Section 2. The Senate of the United States shall be composed of two Senators from each State,
22 selected by the legislature of each State. Each Senator shall serve a six-year term and may be reappointed.
23 Each Senator shall have one vote in the Senate.

24 Section 3. Among the duties of each Senator is the primary duty to represent the government of his or
25 her State, and in particular the State's legislature, in the Senate. For the purpose of maintaining
26 communications with its Senators, each State legislature shall establish a liaison committee and shall specify
27 the duties, procedures, and method of appointment of that committee. A liaison committee shall work with its
28 United States Senators in evaluating the impact of federal legislation on its state. All legislation proposed by

1 Congress, and all treaties proposed, shall be submitted to each State's liaison committee.

2 Section 4. The salary and benefits for a Senator shall be provided by the Senator's State.

3 Section 5. Senators are subject to removal by the State legislature. Removal of a Senator requires a
4 majority of each house of the State legislature, or in the case of a unicameral legislature, a simple majority.

5 Section 6. Congress is precluded from enacting any legislation affecting the senatorial selection
6 process. Each State legislature shall enact rules and procedures, consistent with this amendment, related to
7 the selection and removal of Senators.

8 Section 7. This amendment shall not be so construed as to affect the term of any Senator chosen
9 before it becomes valid as part of the Constitution. A Senator chosen in each State shall have the same
10 qualifications as those required to be a member in the chamber of the State legislature that has the highest
11 number of members."

12 BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the
13 President of the United States, the Majority Leader of the United States Senate, the Speaker of the United
14 States House of Representatives, and the Montana Congressional Delegation.

15 - END -