

JOINT RESOLUTION CALLING FOR THE REPEAL OF  
THE 17TH AMENDMENT  
2016 GENERAL SESSION  
STATE OF UTAH

Chief Sponsor: Alvin B. Jackson

House Sponsor: Ken Ivory

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LONG TITLE

General Description:

This joint resolution of the Legislature requests that the United States Congress propose an amendment to the United States Constitution to repeal the Seventeenth Amendment to the United States Constitution.

Highlighted Provisions:

This resolution:

urges Utah's congressional delegation and all the members of the United States Congress to propose an amendment to the United States Constitution to repeal the Seventeenth Amendment; and

provides language for the proposed amendment.

Special Clauses:

None

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Be it resolved by the Legislature of the state of Utah:

WHEREAS, before the passage of the Seventeenth Amendment to the United States Constitution, upon a vacancy in the office of a senator, the governor of a state was empowered under the United States Constitution Article I, Section 3, Clause 2 to fill the vacancy with a temporary appointment until such time as the state legislature convened and selected a replacement;

\*SJR002\*

SJR.2

28 W H E R E A S , upon ratification of the Seventeenth A m e n d m e n t to the United States  
29 Constitution in 1913, the power to elect senators from each state was passed to the people of  
30 each state;

31 W H E R E A S , upon ratification of the Seventeenth A m e n d m e n t of the United States  
32 Constitution in 1913, when a vacancy occurred in the office of a senator, the governor of the  
33 state was directed to issue a writ of election to fill the vacancy provided, although the state  
34 legislature could empower the governor to appoint a temporary successor until the next  
35 election;

36 W H E R E A S , the founders of our republic and the framers of the constitution recognized  
37 that in a republican form of government, the legislative authority should necessarily be  
38 predominant;

39 W H E R E A S , the founders intended that legislative authority be divided into two  
40 different branches composed by different modes of election, creating different principles of  
41 action, and be as little connected with each other as the nature of their common functions and  
42 their common dependencies on society would admit;

43 W H E R E A S , James Madison explained the reason for bicameralism in Federalist Papers  
44 No. 10: "Before taking effect, legislation would have to be ratified by two independent power  
45 sources: the people's representatives in the House and the state legislatures' agents in the  
46 Senate";

47 W H E R E A S , James Madison argued in Federalist Papers No. 62 that, "The appointment  
48 of senators by state legislatures gives the state governments such an agency in the formation of  
49 the federal government as must secure the authority of the former";

50 W H E R E A S , Alexander Hamilton, in Federalist Papers No. 10, concluded that because  
51 the legislatures were selected bodies of men, the choice of United States Senators would  
52 "generally be made with peculiar care and judgment by the legislatures";

53 W H E R E A S , the founders of the constitution created an ingenious template of checks  
54 and balances, with divisions and distributions of power to provide for and protect the highest  
55 sovereignty – that of each individual citizen;

56 W H E R E A S , the Seventeenth A m e n d m e n t of the United States Constitution disrupts  
57 that balance of power by providing for the selection of senators by popular vote in the same  
58 manner representatives are selected by popular vote; and

59           W H E R E A S , popular election of senators has diluted the power of the separate states,  
60   diminished federalism , and resulted in the increased power of the federal government over the  
61   individual states:

62           N O W , T H E R E F O R E , B E I T R E S O L V E D that the Legislature of the state of Utah  
63   urges Utah's congressional delegation and all the members of the United States Congress to  
64   propose an amendment to the United States Constitution repealing the Seventeenth  
65   Amendment that reads as follows:

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

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

71           Section 3. Among the duties of each Senator is the primary duty to represent the  
72   government of his or her State, and in particular the State's legislature, in the Senate. For the  
73   purpose of maintaining communications with its Senators, each State legislature shall establish  
74   a liaison committee and shall specify the duties, procedures, and method of appointment of that  
75   committee. A liaison committee shall work with its United States Senators in evaluating the  
76   impact of federal legislation on its state. All legislation proposed by Congress, and all treaties  
77   proposed, shall be submitted to each State's liaison committee.

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

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

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

85           Section 7. This amendment shall not be so construed as to affect the term of any  
86   Senator chosen before it becomes valid as part of the Constitution. The electors in each State  
87   shall have the qualifications requisite for electors of the most numerous branch of the State  
88   legislatures."

89           B E I T F U R T H E R R E S O L V E D that copies of this resolution be sent to the President of

90 the United States, the Majority Leader of the United States Senate, the Speaker of the United  
91 States House of Representatives, and the members of Utah's congressional delegation.

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Legislative Review Note

Office of Legislative Research and General Counsel