

SJR 2 JOINT RESOLUTION CALLING FOR THE REPEAL OF

2

THE 17TH AMENDMENT

3

2016 GENERAL SESSION

4

STATE OF UTAH

5

Chief Sponsor: Alvin B. Jackson

6

House Sponsor: Ken Ivory

7

8 **LONG TITLE**

9 **General Description:**

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

13 **Highlighted Provisions:**

14 This resolution:

- 15 ▶ urges Utah's congressional delegation and all the members of the United States
16 Congress to propose an amendment to the United States Constitution to repeal the
17 Seventeenth Amendment; and
- 18 ▶ provides language for the proposed amendment.

19 **Special Clauses:**

20 None

21 0

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

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

28 WHEREAS, upon ratification of the Seventeenth Amendment 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 WHEREAS, upon ratification of the Seventeenth Amendment to 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 WHEREAS, 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 WHEREAS, 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 WHEREAS, 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 WHEREAS, 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 WHEREAS, 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 WHEREAS, 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;

WHEREAS, Article V of the Constitution for the United States, last sentence states in part:

. . . "no State, without its Consent, shall be deprived of its equal Suffrage in the Senate;

WHEREAS, there were several states that did not ratify the Seventeenth Amendment, thereby not
giving their "Consent". These states then were deprived of equal suffrage in the Senate since
Senators elected in a general election are not equal with Senators elected by the state legislature.

62 NOW, THEREFORE, BE IT RESOLVED 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.

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 BE IT FURTHER RESOLVED 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.