

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE JOINT  
4 RESOLUTION 1064

By: Key

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6 AS INTRODUCED

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8 A Joint Resolution calling for the repeal of the  
9 Seventeenth Amendment to the Constitution of the  
10 United States; declaring the current process of  
11 choosing Senators for the United States Senate  
12 defective; requesting that Congress transmit for  
13 consideration by states of the United States a new  
14 amendment that repeals the Seventeenth Amendment to  
15 the United States Constitution; providing for state  
16 legislatures to elect members of the United States  
17 Senate; creating liaison committees; and directing  
18 distribution.

19  
20 WHEREAS, the Founding Fathers came to a great compromise at the  
21 Constitutional Convention of 1787 and provided for proportional  
22 representation in the House of Representatives of the United States  
23 and equal representation for the states in the Senate of the United  
24 States; and

WHEREAS, the Founding Fathers determined that equal  
representation of the states in the Senate of the United States  
recognized the individual sovereignty of each state; and

WHEREAS, Alexander Hamilton in the Federalist Papers, Number 27,  
concluded that because the legislatures were select bodies of men,

1 the choice of United States Senators would generally be made with  
2 peculiar care and judgment by the legislatures, a selection process  
3 originally provided for in Article I, Section 3, Clause 1 of the  
4 Constitution of the United States; and

5 WHEREAS, the Tenth Amendment declared a division of authority  
6 between the states and the United States and was for the first 140  
7 years of this nation invoked by the Supreme Court of the United  
8 States as a constitutional limit of congressional power as against  
9 the powers of the several states; and

10 WHEREAS, the election of the United States Senators by the state  
11 legislatures was the political mechanism against congressional  
12 encroachment into the sovereignty of the states; and

13 WHEREAS, one of the essential aspects of the states' exercise of  
14 this political mechanism is the United States Senate's advice and  
15 consent for treaties and appointments of executive and judicial  
16 officers made by the President of the United States; and

17 WHEREAS, the ratification of the Seventeenth Amendment in 1913  
18 changed the election of the United States Senators from the state  
19 legislatures to the popular vote of the people of the states,  
20 thereby divesting the states of any direct voice in the federal  
21 government; and

22 WHEREAS, due to the differing modes of representation and  
23 election in the House and the Senate prior to 1913, each branch  
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1 provided a balance of legislative power against, and an independent  
2 check upon, the other; and

3 WHEREAS, prior to 1913 history reveals that in choosing their  
4 Senators, the individual state legislatures supported the federal  
5 government, thereby providing harmony between the governments of the  
6 states and the government of the United States; and

7 WHEREAS, the Congress of the United States has, since the  
8 ratification of the Seventeenth Amendment, steadily encroached upon  
9 the sovereignty of this and the other states united by and under the  
10 Constitution of the United States; and

11 WHEREAS, a Senator's general responsibility is to represent  
12 state government and the state legislature; and

13 WHEREAS, since not all state legislatures are in session when  
14 the United States Congress is in session, a method is required for  
15 keeping states informed when critical federal action is taking place  
16 and providing states with a role for reviewing federal legislation  
17 and treaties and for defining each state legislature's relationship  
18 to the appointed Senators; and

19 WHEREAS, the state legislature has a role in compelling  
20 accountability from United States Senators; and

21 WHEREAS, a state has the right to prescribe its own procedures  
22 regarding the selection process for United States Senators,  
23 including appointments in the case of deadlock.

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1 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES  
2 AND THE SENATE OF THE 2ND SESSION OF THE 52ND OKLAHOMA LEGISLATURE:

3 THAT the Legislature of this state finds and declares to be  
4 defective the current process of electing United States Senators by  
5 the popular vote of the people which fails to represent the  
6 interests of the individual states.

7 THAT a copy of this resolution be distributed to the President  
8 of the United States, the President of the United States Senate, the  
9 Speaker of the United States House of Representatives, the Speaker  
10 of the House and the President of the Senate of each state's  
11 legislature of the United States of America, and each member of the  
12 Oklahoma Congressional Delegation.

13 THAT the Congress, in accordance with Article V of the  
14 Constitution of the United States, immediately transmit to the  
15 several states for ratification the amendment to the United States  
16 Constitution, as described below, repealing the Seventeenth  
17 Amendment and resolving the procedural problems, particularly the  
18 problem of the deadlocked state legislature, inherent in the  
19 original concept.

20 THAT the amendment reads as follows:

21 An Amendment to Repeal the Seventeenth Amendment and  
22 Relink the States to the Federal Political Process.

23 SECTION 1. The Seventeenth Article of Amendment to the  
24 Constitution of the United States is hereby repealed.

1 SECTION 2. The Senate of the United States shall be composed of  
2 two Senators from each state, selected by the legislature of each  
3 state. Each Senator shall serve a six-year term and may be  
4 reappointed. Each Senator shall have one vote.

5 SECTION 3. Among the duties of each Senator is the primary duty  
6 to represent the government of their state, and in particular, their  
7 state's legislature, in the Senate. For the purpose of maintaining  
8 communications with its Senators, each state legislature shall  
9 establish a liaison committee and shall specify the duties,  
10 procedures, and method of appointment of that committee. This  
11 committee shall work with its United States Senators in evaluating  
12 the impact of federal legislation on their state. All legislation  
13 proposed by Congress, and all treaties proposed, shall be submitted  
14 to each state's liaison committee.

15 SECTION 4. Senators are subject to removal by the state  
16 legislature. Removal of a Senator requires a majority of each house  
17 of the state legislature.

18 SECTION 5. Congress is precluded from enacting any legislation  
19 affecting the senatorial selection process. Each state legislature  
20 shall enact rules and procedures, consistent with this amendment,  
21 related to the selection and removal of Senators. A state  
22 legislature may implement a selection procedure whereby the state  
23 legislature selects a Senator by a plurality vote rather than a  
24 majority. If a state legislature fails to enact a selection

1 procedure, then the state legislature shall sit as a single body and  
2 shall select a Senator by a plurality vote. Irrespective of the  
3 procedures followed by the state legislature, if the state  
4 legislature does not choose a Senator within thirty days after a  
5 vacancy, the Governor of the state shall select the Senator.

6 SECTION 6. This amendment shall not be construed as to affect  
7 the term of any Senator chosen before it becomes valid as part of  
8 the Constitution. All state legislative proceedings, including, but  
9 not limited to, those concerning the liaison committee, procedural  
10 issues, and the selection and removal of a Senator are open to the  
11 public. The electors in each state shall have the qualifications  
12 requisite for electors of the most numerous branch of the state  
13 legislatures.

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