

HJR 22 INTRODUCED BY RAPP-SVRCEK, ET AL.
JOINT RESOLUTION TO REPEAL THE MONTGOMERY AMENDMENT

1/30 INTRODUCED
1/30 REFERRED TO STATE ADMINISTRATION
2/10 HEARING
2/11 COMMITTEE REPORT--BILL NOT PASSED
2/12 ADVERSE COMMITTEE REPORT ADOPTED 63 33

Hayes JOINT RESOLUTION NO. 22

INTRODUCED BY *Lynn Smith Bob*

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE REPEAL OF THE MONTGOMERY AMENDMENT.

WHEREAS, Article 1, section 8, clause 16, of the United States Constitution provides that Congress shall have power "To provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress"; and

WHEREAS, in 1986 Congress passed and the President signed the Montgomery Amendment to Title 32, section 501, of the United States Code; and

WHEREAS, the Montgomery Amendment reverses 200 successful years of control over the National Guard in peacetime by the governors and in times of war or national emergency by the President; and

WHEREAS, disallowing the Governor control over the location, purpose, type, or schedule of training of the National Guard in peacetime removes from the Governor the

1 constitutionally mandated "authority of training the
2 militia"; and

3 WHEREAS, the framers of the Constitution intended that
4 there would be a militia distinct from the standing army and
5 specified that the states would control the training of that
6 militia; and

7 WHEREAS, Montanans are protective of our state's rights
8 and do not lightly accept the loss of these rights to the
9 federal government; and

10 WHEREAS, a court challenge may be the only way to
11 resolve this important constitutional question.

12
13 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE
14 OF REPRESENTATIVES OF THE STATE OF MONTANA:

15 (1) That the President of the United States and
16 Congress be urged to repeal the Montgomery Amendment.

17 (2) That members of Montana's Congressional Delegation
18 be encouraged to work diligently for the repeal of the
19 Montgomery Amendment.

20 (3) That the Governor of Montana, as Commander of the
21 National Guard, and the Attorney General of Montana, as the
22 state's chief legal officer, be strongly urged to join in a
23 court challenge to the Montgomery Amendment and seek an
24 immediate injunction to halt implementation of the
25 Montgomery Amendment.



1 (4) That the Secretary of State be directed to send a
2 copy of this resolution to the President of the United
3 States, and to the members of Montana's Congressional
4 Delegation.

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