

HOUSE JOINT RESOLUTION NO. 11

INTRODUCED BY D. GALLIK

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A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING CONGRESSIONAL ACTION TO ACKNOWLEDGE AND PASS LEGISLATION APPROPRIATELY RECOGNIZING THAT THE RIGHTS OF INDIVIDUAL CITIZENS ARE THE BASIS OF DEMOCRACY AND LIMITING THE RIGHTS OF CORPORATIONS AS "PERSONS".

WHEREAS, the citizens of Montana wish to nurture and strengthen democracy in our state and across our nation by emphasizing that governance "of, by, and for the people" refers to governance of, by, and for individual human beings; and

WHEREAS, corporations, too, are governed but in a democracy do not govern; and

WHEREAS, corporations are artificial entities created by law and are not mentioned in the U.S. Constitution; and

WHEREAS, judicial interpretations, including *Santa Clara County v. Southern Pacific Railway Co.*, 118 U.S. 394 (1886), and *Minneapolis & St. Louis Railway Co. v. Beckwith*, 129 U.S. 26 (1889), have resulted in corporations gaining "personhood" status with constitutional rights to free speech, privacy, due process, and equal protection of the laws; and

WHEREAS, the U.S. Congress has never passed legislation that directly addresses the broader issue of corporate personhood and when given an option of broader rights under the Taft-Hartley Act of 1947 chose instead to grant corporations only "free speech" rights in the union certification process; and

WHEREAS, under corporate charters, corporations often are required to be managed solely for the best interests of the corporation, which generally is interpreted to mean providing the greatest financial return to the corporation's shareholders as evidenced in part by section 35-1-418, MCA, which states that corporate directors shall act "in a manner the director reasonably believes to be in the best interests of the corporation"; and

WHEREAS, corporate entities have increased in size and number in this country and worldwide, controlling vast amounts of our nation's and the world's wealth, as noted in a 1999 Institute for Policy Studies report that said of the world's 100 largest economic entities, 51 are corporations, and 49 are countries; and

WHEREAS, corporations through direct ownership or through their advertising expenditures influence a large proportion of our nation's media, which in turn can impact the types of information disclosed or kept from

1 public access in a democracy; and

2 WHEREAS, corporations exercise political power through contributions to political races and legislative
3 issues and through lobbying expenditures, as indicated in 2002 and 2004 when corporate spending on two
4 Montana ballot initiatives, Initiative Measure No. 145, which was related to a state purchase of hydroelectric
5 dams, and Initiative Measure No. 147, which was related to the use of cyanide in open pit mining, each topped
6 99.5% of total spending on those initiatives; and

7 WHEREAS, corporations wield educational power by investing in various forms of and access to
8 knowledge through their funding of university research and public school education programs; and

9 WHEREAS, corporate power can negatively impact the balance of income and property tax burdens,
10 shifting the burden to individual taxpayers; and

11 WHEREAS, many citizens feel that corporations are too powerful, as reflected in a 2005 Harris
12 copyrighted poll in which 90% of the respondents said big companies have too much power.

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

16 That the Montana Legislature finds that corporate wealth and power, corporate focus on profit, and
17 corporate rights as "persons" combine to pose a significant threat to our democracy and the governance of our
18 republic of, by, and for the people.

19 BE IT FURTHER RESOLVED, that the Montana Legislature urges Congress to examine and debate the
20 appropriateness of corporations receiving rights granted to "persons" under the U.S. Constitution, especially those
21 rights granted under the 1st, 4th, 5th, and 14th amendments, and that Congress pass laws limiting corporate
22 rights and subordinating corporate rights to the rights of individuals.

23 BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to each member
24 of the Montana Congressional Delegation.

25 - END -