_____ JOINT RESOLUTION NO. _____

INTRODUCED BY _____

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA CALLING ON THE UNITED STATES SUPREME COURT TO REVERSE THE OBERGEFELL V. HODGES DECISION.

WHEREAS, the decision by the United States Supreme Court in Obergefell v. Hodges, 576 U.S. 644 (2015), is at odds with the Constitution of the United States and the principles on which the United States was established; and

WHEREAS, liberty has long been understood as individual freedom from government action, not as a right to a particular governmental entitlement; and

WHEREAS, Obergefell involves a definition of "liberty" that the framers would not have recognized, because it rejects the idea captured in the Declaration of Independence that human dignity is innate and instead suggests that it comes from the government; and

WHEREAS, when the framers proclaimed in the Declaration of Independence that "all men are created equal" and are "endowed by their Creator with certain unalienable Rights", they referred to a vision of mankind in which all humans are created in the image of God and are therefore of inherent worth; and

WHEREAS, Obergefell undermines this vision by declaring that citizens must seek dignity from the state; and

WHEREAS, Obergefell relies on the dangerous fiction of treating the Due Process Clause of the 14th Amendment to the Constitution as a font of substantive rights, a doctrine that strays from the full meaning of the Constitution and exalts judges at the expense of the people from whom they derive their authority; and

WHEREAS, Obergefell's inversion of the original meaning of liberty causes collateral damage to other aspects of our constitutional order that protect liberty, including religious liberty; and

WHEREAS, the United States Supreme Court recognized in United States v. Windsor, 570 U.S. 744 (2013), that the definition of marriage is "an area that has long been regarded as a virtually exclusive province of the States", meaning that Montana, and not the Supreme Court, has the right to regulate marriage for its

citizens; and

WHEREAS, Obergefell requires states to issue marriage licenses to same-sex couples and to recognize same-sex marriages in complete contravention of their own state constitutions and the will of their voters and thus undermines the civil liberties of those states' residents and voters; and

WHEREAS, marriage as an institution has been recognized as the union of one man and one woman for more than 2,000 years and within common law, the basis of the United States' Anglo-American legal tradition, for more than 800 years; and

WHEREAS, Obergefell arbitrarily and unjustly rejected this definition of marriage in favor of a novel, flawed interpretation of key clauses within the Constitution of our nation's legal and cultural precedents; and

WHEREAS, the Obergefell decision was illegitimate because two of the justices in the majority ruling, Justices Ruth Bader Ginsburg and Elena Kagan, had previously officiated same-sex weddings and thus were not impartial triers of fact and therefore should have recused themselves according to 28 U.S.C. 455; and

WHEREAS, since court rulings are not laws and only legislatures elected by the people may pass laws, Obergefell is an illegitimate overreach.

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

That the Montana Legislature rejects the United States Supreme Court's Obergefell v. Hodges decision.

BE IT FURTHER RESOLVED, that the Montana Legislature calls on the United States Supreme Court to reverse the Obergefell decision and restore the natural definition of marriage as a union of one man and one woman.

BE IT FURTHER RESOLVED, that the Montana Legislature insists on returning the issue of marriage and enforcement of all laws pertaining to marriage back to the several states and the people.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to each member of the United States Supreme Court.

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