

Statement of  
**The Honorable John Conyers**

United States Representative  
Michigan  
March 11, 2009

House Judiciary Committee Chairman John Conyers  
Joint Hearing on S.J. Res. 7 and H.J. Res. 21:  
A Constitutional Amendment Concerning Senate Vacancies  
Wednesday, March 11, 2009, 10 a.m.  
216 Hart Senate Office Building

I am pleased to join a bipartisan and bicameral group of colleagues in support of the constitutional amendment to require that Senate vacancies be filled only by elections. This will finally ensure that voters directly elect all Members of Congress, regardless of how seats become vacant.

I would like to highlight three reasons why I have concluded that this constitutional amendment is necessary.

First, the appointment of Senators by Governors is undemocratic - it takes voters out of the equation.

In 45 states, Governors now appoint Senators when seats become vacant. This practice is a vestige from the time before the 17th Amendment, when State legislatures selected U.S. Senators, and Governors made temporary appointments until the State legislature filled a vacancy.

The 17th Amendment rightly changed how Senators were elected, by requiring direct election by the people. But it left in place the Governor's role to temporarily fill a Senate vacancy, if expressly authorized to do so by the State legislature.

Recent experience has highlighted the need to once again revisit Senate vacancies. With governors having appointed four Senators after the 2008 election, over 12% of our nation's population will be represented in the next two years by a Senator they did not elect. In all, 12 States have been represented at some point in the past decade by an unelected Senator.

This is a voting rights issue.

Second, this can't be fixed by legislation. Right in the text of the 17th Amendment, it clearly says that "the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct."

Experts say legislation - such as Congressman Aaron Schock's bill, H.R. 899 - would likely be ruled unconstitutional, because it would infringe on the 17th Amendment's grant of authority to the States to direct how Senate vacancies are filled.

Limiting a constitutional grant of State authority requires a Constitutional amendment.

Third, we should have basic consistency in how our Representatives in Congress are elected. The Constitution has always required that House vacancies be filled by election. The Senate should not be subject to a different standard. Americans should always have a direct say in who represents them in Congress - in both Houses, all of the time.

I applaud my colleagues on their dedication to this important effort and I look forward to working with them to restore the basic ideals of our democracy.