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Montana. Constitutional Convention (1971-1972). General Government and Constitutional Amendment Committee

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STATE DOCUMENTS

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MONTANA CONSTITUTIONAL CONVENTION

1971-1972

REPORT OF COMMITTEE ON STYLE, DRAFTING, TRANSITION AND SUBMISSION

ON

CONSTITUTIONAL REVISION

No. II

Date Reported: February 26, 1972

John M. Schultz, Chairman

William S. Burkhardt, Vice Chairman




TO: Montana Constitutional Convention  
SUBJECT: CONSTITUTIONAL REVISION

Ladies and Gentlemen:

The Committee on Style, Drafting, Transition and Submission transmits revisions of the above Article for consideration of the Convention.

Immediately following this letter you will find the above Article as revised by the Committee. Following that is the Article indicating (by underlining) words we have added and (by crossing out) words we have deleted from the Article as approved. Finally, there is an explanation of the changes we have made.

Sincerely,



John M. Schiltz, Chairman of the  
Committee on Style, Drafting,  
Transition and Submission



William A. Burkhardt, Vice Chairman  
of the Committee on Style, Drafting,  
Transition and Submission



1 BE IT PROPOSED BY THE GENERAL GOVERNMENT AND CONSTITU-  
2 TIONAL AMENDMENT COMMITTEE:

3 That there be a new Article on Constitutional  
4 Revision to read as follows:

5  
6 ARTICLE \_\_\_\_\_

7 CONSTITUTIONAL REVISION

8 Section 1. CONSTITUTIONAL CONVENTION. The legislature,  
9 by an affirmative vote of two-thirds of all the members,  
10 whether one or more bodies, may at any time submit to  
11 the qualified electors the question of whether there shall  
12 be a convention to revise, alter, or amend this constitution.

13 Section 2. INITIATIVE FOR CONSTITUTIONAL CONVENTION.

14 (1) The people may by initiative petition direct the  
15 secretary of state to submit to the qualified electors  
16 the question of whether there shall be a convention to  
17 revise, alter, or amend this constitution. The petition  
18 shall be signed by at least ten percent of the qualified  
19 electors of the state. That number shall include at least  
20 ten percent of the qualified electors in each of two-fifths  
21 of the legislative districts.

22 (2) The secretary of state shall certify the filing  
23 of the petition in his office and cause the question to be  
24 submitted at the next general election.

25 Section 3. PERIODIC SUBMISSION. If the question of  
26 holding a convention is not otherwise submitted during any  
27 period of 20 years, it shall be submitted as provided by  
28 law at the general election in the twentieth year following  
29 the last submission.

30 Section 4. CALL OF CONVENTION. If a majority of

1 those voting on the question answer in the affirmative,  
2 the legislature shall provide for the calling thereof at  
3 its next session. The number of delegates to the convention  
4 shall be the same as that of the larger body of the  
5 legislature. The qualifications of delegates shall be the  
6 same as the highest qualifications required for election to  
7 the legislature. The legislature shall determine whether  
8 the delegates may be nominated on a partisan or a non-  
9 partisan basis. They shall be elected at the same places  
10 and in the same districts as are the members of the  
11 legislative body determining the number of delegates.

12 Section 5. CONVENTION EXPENSES. The legislature shall,  
13 in the act calling the convention, designate the day, hour,  
14 and place of its meeting, and fix and provide for the pay  
15 of its members and officers and the necessary expenses of  
16 the convention.

17 Section 6. OATH, VACANCIES. Before proceeding, the  
18 delegates shall take the oath provided in this constitution.  
19 Vacancies occurring shall be filled in the manner provided  
20 for filling vacancies in the legislature if not otherwise  
21 provided by law.

22 Section 7. CONVENTION DUTIES. The convention shall  
23 meet after the election of the delegates and prepare such  
24 revisions, alterations, or amendments to the constitution  
25 as may be deemed necessary. They shall be submitted to  
26 the qualified electors for ratification or rejection as a  
27 whole or in separate articles or amendments as determined  
28 by the convention at an election appointed by the convention  
29 for that purpose not less than two months after adjournment.  
30 Unless so submitted and approved by a majority of the

1 electors voting thereon, no such revision, alteration,  
2 or amendment shall take effect.

3 Section 8. AMENDMENT BY LEGISLATIVE REFERENDUM.

4 Amendments to this constitution may be proposed by any  
5 member of the legislature. If adopted by an affirmative  
6 roll call vote of two-thirds of all the members thereof,  
7 whether one or more bodies, the proposed amendment shall  
8 be submitted to the qualified electors at the next general  
9 election. If approved by a majority of the electors voting  
10 thereon, the amendment shall become a part of this  
11 constitution on the first day of July after certification  
12 of the election returns unless the amendment provides  
13 otherwise.

14 Section 9. AMENDMENT BY INITIATIVE. (1) The people  
15 may also propose constitutional amendments by initiative.  
16 Petitions including the full text of the proposed amendment  
17 shall be signed by at least 10 percent of the qualified  
18 electors of the state. That number shall include at  
19 least 10 percent of the qualified electors in each of  
20 two-fifths of the legislative districts.

21 (2) The petitions shall be filed with the secretary  
22 of state who shall check and certify the validity of the  
23 signatures thereon. If the petitions are found to have  
24 been signed by the required number of electors, the secretary  
25 of state shall cause the amendment to be published as  
26 provided by law twice each month for two months previous  
27 to the next regular state-wide election.

28 (3) At that election, the proposed amendment shall  
29 be submitted to the qualified electors for approval or  
30 rejection. If approved by a majority voting thereon, it



1 shall become a part of the constitution effective the  
2 first day of July following its approval, unless the  
3 amendment provides otherwise.

4 Section 10. PETITION SIGNERS. The number of  
5 qualified electors required for the filing of any petition  
6 provided for in this Article shall be determined by the  
7 number of votes cast for governor in the preceding general  
8 election.

9 Section 11. SUBMISSION. If more than one amendment  
10 is submitted at the same election, each shall be so prepared  
11 and distinguished that it can be voted upon separately.

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1 BE IT PROPOSED BY THE GENERAL GOVERNMENT AND CONSTITU-  
2 TIONAL AMENDMENT COMMITTEE:

3 That there be a new Article on Constitutional  
4 Revision to read as follows:

5  
6 ARTICLE \_\_\_\_\_

7 CONSTITUTIONAL REVISION

8 Section 1. CONSTITUTIONAL CONVENTION. ~~{}~~ The  
9 legislature, by an affirmative vote of two-thirds of all  
10 the members ~~thereof~~, whether one or more bodies, may at  
11 any time submit to the qualified electors ~~of-the-state~~  
12 the question of whether there shall be ~~an-unlimited~~ convention  
13 to revise, alter, or amend this constitution.

14 Section 2. INITIATIVE FOR CONSTITUTIONAL CONVENTION.

15 (1) The people may by initiative petition direct the  
16 secretary of state to submit to the qualified electors  
17 ~~voters-of-the-state~~ the question of whether there shall be  
18 ~~an-unlimited~~ convention to revise, alter, or amend this  
19 constitution. The petition ~~must~~ shall be signed by at  
20 least ten percent of the qualified electors ~~legal-voters~~  
21 of the state. ~~7-which~~ That number shall include at least  
22 ten percent of the qualified electors ~~legal-voters~~ in  
23 each of two-fifths of the legislative ~~representative~~  
24 districts. ~~of-the-state.~~

25 (2) ~~The-petition-shall-be-filed-with~~ The secretary  
26 of state ~~7-who~~ shall certify the filing of the petition in  
27 his office ~~thereof~~ and cause the question to be submitted  
28 ~~to-the-voters~~ at the next general election.

29 Section 3. PERIODIC SUBMISSION. If the question of  
30 holding a convention is not otherwise submitted ~~to-the~~

1 people-at-some-time during any period of 20 years, it shall  
2 be submitted as provided by law at the general election in  
3 the twentieth year following the last submission, of such  
4 question.

5 Section 4. CALL OF CONVENTION. If a majority of  
6 those voting on the question answer in the affirmative,  
7 ~~shall declare in favor of such convention,~~ the legislature  
8 ~~legislative assembly~~ shall ~~at its next session~~ provide for  
9 the calling thereof at its next session. The number of  
10 delegates to ~~members of~~ the convention shall be the same as  
11 that of the largest larger body of the ~~legislative legislature.~~  
12 ~~assembly.~~The qualifications of ~~members~~ delegates shall  
13 be the same as the highest qualifications required for  
14 ~~membership in~~ election to the legislature. The legislature  
15 ~~shall~~ may determine whether the delegates ~~shall~~ may be ~~elected~~  
16 ~~after nomination by political parties,~~ nominated on a  
17 partisan or ~~on~~ a non-partisan basis, but They shall be  
18 elected at the same places and in the same districts as  
19 are the members of the legislative body determining the  
20 number of delegates.

21 Section 5. CONVENTION EXPENSES. The ~~legislative~~  
22 ~~assembly~~ legislature shall, in the act calling the convention,  
23 designate the day, hour, and place of its meeting, and  
24 fix and provide for the pay of its members and officers,  
25 ~~and provide for the payment of the same, together with~~ and  
26 the necessary expenses of the convention.

27 Section 6. OATH, VACANCIES. Before proceeding, the  
28 ~~members~~ delegates shall take the oath ~~otherwise~~ provided in  
29 this constitution. ~~The qualifications of members shall be~~  
30 ~~the same as the highest qualifications required for membership~~

1 ~~in-the-legislature.~~ Vacancies occurring shall be filled  
2 in the manner provided for filling vacancies in the  
3 legislature legislative-assembly, ~~or-as~~ if not otherwise  
4 provided by law.

5 Section 7. CONVENTION DUTIES. The convention shall  
6 meet after the election of the delegates and prepare such  
7 revisions, alterations, or amendments to the constitution  
8 as may be deemed necessary, ~~which~~ They shall be submitted  
9 to the qualified electors for ~~their~~ ratification or  
10 rejection as a whole or in separate articles or amendments  
11 as determined by the convention and at an election appointed  
12 by the convention for that purpose, ~~or-at-the-next-general~~  
13 ~~election,~~ but not less than two months after the adjournment,  
14 ~~thereof.~~ Unless so submitted and approved by a majority of  
15 the electors voting thereon, no such revision, alteration,  
16 or amendment shall take effect.

17 Section 8. CONSTITUTIONAL AMENDMENT BY THE-LEGISLATURE-  
18 LEGISLATIVE REFERENDUM. Amendments to this constitution  
19 may be proposed by any member of the legislature. legislative  
20 ~~assembly.~~ If adopted by an affirmative roll call vote of  
21 two-thirds of all the members thereof, whether one or more  
22 bodies, the proposed amendment shall ~~become-a-part-of-the~~  
23 ~~constitution-when-approved-by-the-following-procedure:~~

24 ~~Section-9.--The-legislative-assembly-shall-refer-the~~  
25 ~~proposed-amendment~~ be submitted to the qualified electors  
26 ~~voters-of-the-state-of-Montana-to-be-voted-on-in~~ at the next  
27 general election, ~~held-in-the-state.~~ If approved by a  
28 majority of the electors voting thereon, the amendment shall  
29 become a part of this constitution on the first day of July  
30 after certification of the election returns unless the

1 amendment ~~otherwise~~ provides; ~~or~~ otherwise.

2 Section ~~10~~ 9. CONSTITUTIONAL AMENDMENT BY INITIATIVE.

3 (1) The people ~~of-Montana~~ may also propose constitutional  
4 amendments by initiative. ~~process.~~ Petitions shall  
5 including include the full text of the proposed amendment  
6 and shall be signed by ~~not-less-than~~ at least 10 percent  
7 of the ~~legal-voters~~ qualified electors of the state. ~~in~~  
8 ~~Montana-which~~ That number shall include at least 10 percent  
9 of the qualified electors ~~legal-voters~~ in each of two-fifths  
10 of the legislative ~~representative~~ districts. ~~of-Montana.~~

11 (2) The petitions shall be filed with the secretary  
12 of state; who shall ~~cause-the-same-to-be-checked~~ check and  
13 ~~certified-as-to~~ certify the validity of the signatures  
14 thereon. ~~and;~~ If the petitions are found to be ~~have been~~  
15 signed by the required number of electors, ~~voters~~ the secretary  
16 of state shall cause the amendment ~~same~~ to be published  
17 ~~in-such-manner~~ as provided by law twice each month for two  
18 months previous to the next regular state-wide election. ~~;~~  
19 ~~at-which-time-the-proposed-amendment-shall-be-voted-on.~~

20 (3) At ~~said~~ that election, the proposed amendment  
21 shall be submitted to the qualified electors ~~of-the-state~~  
22 for ~~their~~ approval or rejection. If approved by a  
23 majority voting thereon, it shall become a part of the  
24 constitution effective the first day of July following  
25 its approval, unless ~~otherwise-provided-in~~ the amendment;  
26 provides otherwise.

27 Section ~~11~~ 10. LEGAL-VOTERS PETITION SIGNERS. ~~The~~  
28 ~~number-of-votes-cast-for-the-office-of-governor-in-the~~  
29 ~~general-election-immediately-preceding-the-filing-of~~  
30 ~~any-petition-provided-for-in-this-Article-shall-determine~~

1 ~~the number of legal voters.~~ The number of qualified electors  
2 required for the filing of any petition provided for in this  
3 Article shall be determined by the number of votes cast  
4 for governor in the preceding general election.

5 Section ~~12~~ 11. SUBMISSION. ~~Should~~ If more than one  
6 ~~amendments than one~~ is submitted at the same election,  
7 ~~they~~ each shall be so prepared and distinguished ~~by numbers~~  
8 ~~or otherwise~~ that it each can be voted upon separately.

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Report #2 - Constitutional Revision

COMMENTS ON STYLE, FORM, AND GRAMMAR

- 1 General: 1. Section titles were added as necessary.
- 2 2. The phrase "qualified elector", adopted in
- 3 report #1, was substituted for "legal voter"
- 4 or its equivalent.
- 5 Section 1. The adjective "unlimited" was deleted from
- 6 line 12 and line 17, section 2, because its presence is not
- 7 necessary to provide for such power. In addition, its
- 8 presence would make possible an interpretation that there is
- 9 no power to call a "limited" convention.
- 10 Section 2. The structural changes do not alter sub-
- 11 stance, but clarify the Convention's intention to require
- 12 that the number of petitioners be spread across the state.
- 13 Adding subsections serves clarity.
- 14 Section 3. The words deleted are superfluous. Adding
- 15 "as provided by law" empowers the legislature to identify
- 16 the submitter.
- 17 Section 4. Deletion, substitution, and rearrangement
- 18 of language does not alter substance. The noun "delegate"
- 19 was substituted for "member" because it is more appropriate.
- 20 Section 5. Grammatical changes do not alter substance.
- 21 Section 6. Two changes of labels, deletion of "other-
- 22 wise" in line 18, and moving one sentence to section 4, do
- 23 not alter substance.
- 24 Section 7. Structural change and deletion of super-
- 25 fluity do not alter substance.
- 26 Sections 8 and 9. The operative portions of each
- 27 section were combined to produce one section with no change
- 28 in substance.
- 29 Section 10. Renumbered "9". Structural changes and
- 30 removal of superfluity do not alter substance. That portion

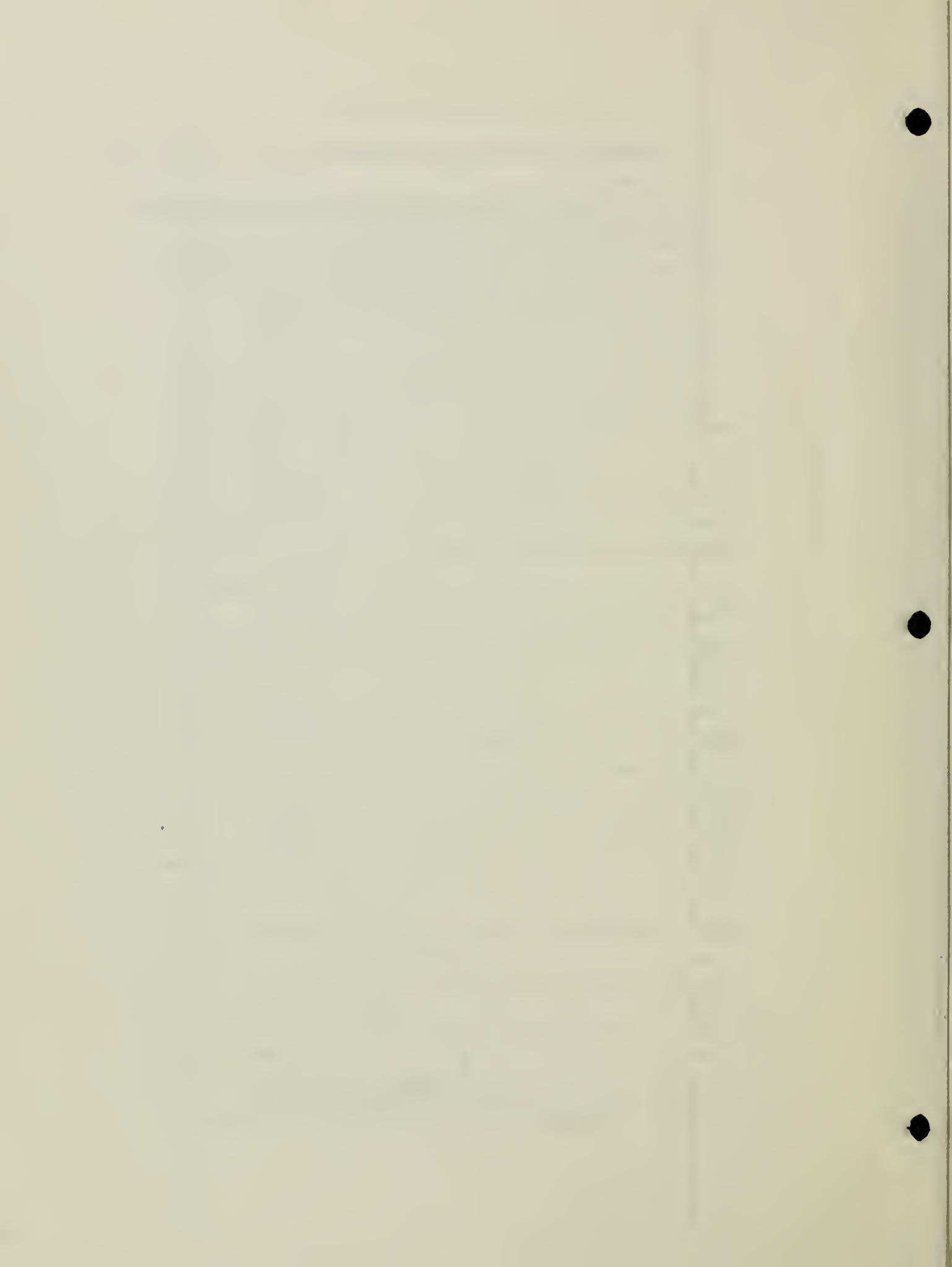
1 prescribing the number of signers accords with the alteration  
2 in section 2.

3 Section 11. Renumbered "10". Sentence structure has  
4 been altered for clarity without change in substance.

5 Section 12. Renumbered 11. Structural change and  
6 deletion of superfluity do not alter substance.

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ORDER OF BUSINESS NO. 5 - FINAL CONSIDERATION  
STYLE AND DRAFTING - CONSTITUTIONAL REVISION-NO. II

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ARTICLE

CONSTITUTIONAL REVISION

Section 1. CONSTITUTIONAL CONVENTION. The legislature, by an affirmative vote of two-thirds of all the members, whether one or more bodies, may at any time submit to the qualified electors the question of whether there shall be an unlimited convention to revise, alter, or amend this constitution.

Section 2. INITIATIVE FOR CONSTITUTIONAL CONVENTION.

(1) The people may by initiative petition direct the secretary of state to submit to the qualified electors the question of whether there shall be an unlimited convention to revise, alter, or amend this constitution. The petition shall be signed by at least ten percent of the qualified electors of the state. That number shall include at least ten percent of the qualified electors in each of two-fifths of the legislative districts.

(2) The secretary of state shall certify the filing of the petition in his office and cause the question to be submitted at the next general election.

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1 legislature. The qualifications of delegates shall be the  
2 same as the highest qualifications required for election to  
3 the legislature. The legislature shall determine whether  
4 the delegates may be nominated on a partisan or a non-  
5 partisan basis. They shall be elected at the same places  
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17 provided by law.

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19 meet after the election of the delegates and prepare such  
20 revisions, alterations, or amendments to the constitution  
21 as may be deemed necessary. They shall be submitted to  
22 the qualified electors for ratification or rejection as a  
23 whole or in separate articles or amendments as determined  
24 by the convention at an election appointed by the convention  
25 for that purpose not less than two months after adjournment.  
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27 electors voting thereon, no such revision, alteration,  
28 or amendment shall take effect.

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4 be submitted to the qualified electors at the next general  
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16 two-fifths of the legislative districts.

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18 of state. If the petitions are found to have  
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21 provided by law twice each month for two months previous  
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24 be submitted to the qualified electors for approval or  
25 rejection. If approved by a majority voting thereon, it  
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27 first day of July following its approval, unless the  
28 amendment provides otherwise.

29 Section 10. PETITION SIGNERS. The number of  
30 qualified electors required for the filing of any petition

1 provided for in this Article shall be determined by the  
2 number of votes cast for the office of governor in the  
3 preceding general election.

4       Section 11. SUBMISSION. If more than one amendment  
5 is submitted at the same election, each shall be so pre-  
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