_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: “AN ACT ESTABLISHING A PROCESS FOR THE SELECTION, OVERSIGHT, AND REMOVAL OF COMMISSIONERS TO AN ARTICLE V CONVENTION FOR PROPOSING AMENDMENTS; PROVIDING QUALIFICATIONS FOR COMMISSIONERS; CREATING AN ARTICLE V COMMISSIONER ADVISORY COMMITTEE; AND PROVIDING DEFINITIONS.”

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Applicability.** [Sections 1 through 13] apply to a convention for proposing amendments held under Article V of the United States constitution.

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 13], the following definitions apply:

(1) "Advisory committee" means a committee consisting of members selected by each chamber using the process defined in [section 12] to perform the duties defined in [sections 1 through 13].

(2) "Chamber" means either the senate or house of representatives of the legislature.

(3) "Commissioner" means a person selected by resolution of the legislature as provided in [section 4] to represent this state at an Article V convention for proposing amendments.

(4) "Commissioning resolution" means the resolution adopted by the house of representatives and senate of the legislature that sets forth the names of the appointed commissioners and their commissions and instructions.

(5) "Delegation" means the group of commissioners and interim commissioners with the powers and duties defined in [sections 1 through 13] that is chosen by the legislature to attend an Article V convention.

(6) "Interim commissioner" means a person selected by the advisory committee pursuant to [section 8] to fill a vacancy in the delegation. [Sections 1 through 13] apply to interim commissioners.

NEW SECTION. **Section 3. Qualifications of commissioners.** At the time of the appointment and throughout the Article V convention, a commissioner:

(1) must be a United States citizen for at least 10 years prior to appointment;

(2) must be a resident of the state for at least 5 years prior to appointment;

(3) must be at least 18 years of age;

(4) must be a registered voter in the state;

(5) may not have been registered as or required to be registered as a federal lobbyist at any time within the past 5 years;

(6) may not have been a federal employee (other than a member of the United States armed forces) or a federal contractor at any time within the past 10 years;

(7) may not have held a federal elected or appointed office at any time within the past 10 years;

(8) may not have had a felony conviction for a crime involving moral turpitude in any jurisdiction or a felony conviction for any crime in any jurisdiction within the past 10 years; and

(9) may not hold a statewide office while performing the duties of commissioner. For the purposes of this section, a position as a state legislator is not considered a "statewide office".

NEW SECTION. **Section 4. Commissioner selection and removal.** (1) Commissioners must be named by a resolution passed by a majority of those present and voting in a joint session of the legislature. All commissioners must be appointed by this process.

(2) The legislature shall maintain an odd number of commissioners in the delegation.

(3) (a) A commissioner or a delegation may be recalled or removed at any time and for any reason by a joint resolution of the legislature or by a majority of those present and voting in a joint session of the legislature.

(b) If the legislature is not in session, a commissioner or a delegation may be recalled and suspended from duty by the advisory committee, pending a vote of the legislature.

(4) The advisory committee shall recall or suspend a commissioner or a delegation pursuant to a determination under [section 13] that the commissioner or the delegation has exceeded the scope of the commissioner's or the delegation's authority.

NEW SECTION. **Section 5. Commissioning resolution.** (1) The resolution naming the commissioners must include their commission. The commission must include but is not limited to the following components:

(a) A commissioner may not vote for or otherwise promote a change to the traditional convention rule of decision on the floor and in the committee of the whole that each state has one vote.

(b) A commissioner may not vote in favor of a proposed amendment that would alter the text of the specific guarantees of individual liberty established by the United States constitution, including the original United States constitution, the bill of rights, and the 13th, 14th, 15th, 19th, 23rd, 24th, and 26th amendments.

(2) The commissioning resolution must clearly state the scope of the commissioners' authority, which is limited by:

(a) (i) the subject matter enumerated in the 34 state applications that triggered the convention if this state was not one of the two-thirds of the states applying for the convention; or

(ii) the subject matter in this state's application if this state was one of the two-thirds of the states applying for the convention; and

(b) any additional instructions from the legislature, whether in the commissioning resolution or issued subsequently.

(3) The legislature may provide additional instructions at any time through a subsequent resolution. The clerk of the house of representatives shall provide a copy of the resolution to each commissioner and to the advisory committee.

NEW SECTION. **Section 6. Oath.** (1) Each commissioner shall, before exercising any function of the position, execute the following oath in writing: "I do solemnly swear (or affirm) that I accept and will act according to the limits of authority specified in my commission and any present or subsequent instructions. I understand that violating this oath may subject me to penalties provided by law. I understand that I may be recalled or suspended from my duties by the legislature or the advisory committee."

(2) A commissioner's executed oath must be filed with the secretary of state.

NEW SECTION. **Section 7. Credentials.** After a commissioner's executed oath is filed with the secretary of state as required in [section 6], the clerk of the house of representatives shall provide to the commissioner an official copy of the executed oath and the commissioning resolution, which together serve as the commissioner's credentials.

NEW SECTION. **Section 8. Vacancies.** A vacancy on the commission must be filled by the advisory committee's selection of an interim commissioner until a joint session of the legislature selects a permanent replacement.

NEW SECTION. **Section 9. Compensation and expenses.** A commissioner is entitled to receive the same compensation and expenses as a legislator as provided in 5-2-301.

NEW SECTION. **Section 10. Emolument and gift prohibition.** (1) During a commissioner's time of service, the commissioner may not accept any gifts or benefits with a combined value of more than $200, other than from a member of the commissioner's family and of the kind customarily granted by a member of one's family.

(2) For the purposes of this section, the term "gift or benefit" must be construed liberally to include current and future loans, lodging, food, offer of prospective employment, and other actual and prospective benefits. An employer's decision to continue paying a commissioner's current salary may not be construed as a gift.

NEW SECTION. **Section 11. Quorum, conduct, and rule of decision within delegation.** (1) (a) The commissioners within the delegation shall choose from among the delegation:

(i) a person to chair the delegation;

(ii) a person to cast the state's vote on the convention floor; and

(iii) a person to speak to the mass media on behalf of the delegation.

(b) The delegation may choose the same person to exercise any two or all three functions described in subsection (1)(a).

(c) The delegation may designate a different commissioner to perform a function described in subsection (1)(a) at any time.

(2) Each commissioner shall take care to avoid communicating the impression to any person outside the delegation that the delegation is divided on a question on which the delegation has taken a formal position, including but not limited to casting a vote.

(3) Only the commissioner who is designated to communicate with the mass media on behalf of the delegation may communicate with the mass media about convention business during the convention or during a temporary recess or temporary adjournment.

(4) A commissioner who violates subsection (2) or (3) may be suspended or recalled by the advisory committee or by the legislature as provided in [section 13].

(5) Subsections (2) and (3) may not be construed to prevent a commissioner from presenting the commissioner's opinions to the convention or debating a matter at the convention on which the commissioner's delegation has not formally taken a position.

(6) (a) The quorum for a decision by the delegation, including the designation of commissioners for particular duties and the determination of how the state's vote is cast, must be a majority present and voting at the time the delegation is polled.

(b) If less than a majority of the delegation votes in the poll, a decision may not be made and a vote may not be cast.

(c) When a quorum is present, the rule of decision for the delegation must be a majority of those present and voting at the time the delegation is polled.

NEW SECTION. **Section 12. Article V commissioner advisory committee.** (1) The advisory committee for an Article V convention consists of the following members:

(a) a state senator appointed by the president of the senate;

(b) a state representative appointed by the speaker of the house; and

(c) a member of the legislature nominated by joint action of the president of the senate and the speaker of the house of representatives and approved by a majority of those voting in each chamber.

(2) If a convention for proposing amendments held under Article V of the United States constitution

is ongoing at the beginning of a legislative session, members of the advisory committee must be appointed or reappointed as provided in subsection (1), no later than the 10th legislative day.

(3) The advisory committee shall select one of its members to serve as chairperson.

(4) A commissioner may request that the advisory committee advise the commissioner on whether a prospective action by the commissioner would violate the commissioning resolution or any subsequent instructions.

(5) The advisory committee:

(a) shall communicate its determination to the commissioner requesting advice within 24 hours of receiving the request;

(b) may communicate a determination by an appropriate medium; and

(c) has authority to hire staff and develop appropriate procedures and mechanisms for monitoring the convention and its committees and subcommittees.

(6) The advisory committee members shall serve without compensation.

NEW SECTION. **Section 13. Monitoring commissioner authority.** (1) Whenever the advisory committee has reason to believe that a commissioner or a delegation has exceeded the scope of the commissioner's or the delegation's authority, the committee shall notify the speaker of the house, the president of the senate, and the attorney general.

(2) On the request for a determination by the speaker of the house, the president of the senate, or the attorney general on whether a commissioner or a delegation has exceeded the scope of the commissioner's or the delegation's authority, the advisory committee shall issue a determination on whether the commissioner or the delegation exceeded the commissioner's or the delegation's authority. The determination must be made expeditiously and then communicated immediately to the person requesting it.

(3) After determining that a commissioner or a delegation has exceeded the scope of the commissioner's or the delegation's authority pursuant to subsection (1) or (2), the advisory committee shall immediately exercise its authority under [section 4] to remove the commissioner or the delegation and shall communicate the action and the reasons for the determination to the speaker of the house, the president of the senate, the attorney general, and the presiding officers of the Article V convention.

NEW SECTION. **Section 14. Codification instruction.** [Sections 1 through 13] are intended to be codified as a new part in Title 5, chapter 5, and the provisions of Title 5, chapter 5, apply to [sections 1 through 13].

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