Proposed

1972 CONSTITUTION

for the

STATE of MONTANA

OFFICIAL TEXT WITH EXPLANATION

Submitted by the

Montana Constitutional Convention

THIS PROPOSED CONSTITUTION WILL BE
SUBMITTED TO THE VOTERS OF MONTANA AT A
SPECIAL ELECTION ON JUNE 6, 1972

TABLE OF CONTENTS

SAMPLE BALLOT ........................................... 2
HISTORY AND HIGHLIGHTS .............................. 3
PROPOSED CONSTITUTION OF 1972 WITH COMMENTS .... 5
PREAMBLE .................................................. 5
ARTICLE I—COMPACT WITH THE UNITED STATES .... 5
ARTICLE II—DECLARATION OF RIGHTS ................ 6
ARTICLE III—GENERAL GOVERNMENT .................. 8
ARTICLE IV—SUFFRAGE AND ELECTIONS ................. 8
ARTICLE V—THE LEGISLATURE ........................... 9
ARTICLE VI—THE EXECUTIVE ............................ 10
ARTICLE VII—THE JUDICIARY ............................ 12
ARTICLE VIII—REVENUE AND FINANCE ................. 13
ARTICLE IX—ENVIRONMENT AND NATURAL RESOURCES .... 14
ARTICLE X—EDUCATION AND PUBLIC LANDS ............ 15
ARTICLE XI—LOCAL GOVERNMENT ...................... 15
ARTICLE XII—DEPARTMENTS AND INSTITUTIONS ......... 16
ARTICLE XIII—GENERAL PROVISIONS ................. 17
ARTICLE XIV—CONSTITUTIONAL REVISION .......... 17
TRANSITION SCHEDULE .................................. 18
ADOPTION SCHEDULE .................................. 19
DELETIONS .............................................. 21
DELEGATES AND OFFICERS OF THE
CONSTITUTIONAL CONVENTION .............. 22
EXPLANATION OF THE BALLOT

This ballot has four sections. In the first section the voter will have the opportunity to vote “FOR” or “AGAINST” the proposed 1972 Constitution.

Thereafter follow three separately submitted constitutional propositions. The voter may select either alternative on proposition No. 2. The voter may vote for or against each of the third and fourth propositions.

The three alternate issues do not affect the present Constitution. If adopted by a majority of those voting at the election they will become effective only if the proposed Constitution is adopted.

The voter should vote on all four questions regardless of whether he votes for or against the proposed Constitution.

SAMPLE BALLOT

OFFICIAL BALLOT

Instructions to voters: Place an “X” in the boxes which express your preferences. The full text of the proposed Constitution and the separate propositions is available for inspection at your polling place. If the proposed Constitution fails to receive a majority of the votes cast, alternate issues also fail.

PLEASE VOTE ON ALL FOUR ISSUES

1. (Vote for one)

☐ FOR the proposed Constitution.
☐ AGAINST the proposed Constitution.

THE PROPOSED CONSTITUTION WILL INCLUDE A BICAMERAL (2 HOUSES) LEGISLATURE UNLESS A MAJORITY OF THOSE VOTING IN THIS ELECTION VOTE FOR A UNICAMERAL (1 HOUSE) LEGISLATURE IN ISSUE 2.

2. (Vote for one)

☐ 2A. FOR a unicameral (1 house) legislature.
☐ 2B. FOR a bicameral (2 houses) legislature.

3. (Vote for one)

☐ 3A. FOR allowing the people or the legislature to authorize gambling.
☐ 3B. AGAINST allowing the people or the legislature to authorize gambling.

4. (Vote for one)

☐ 4A. FOR the death penalty.
☐ 4B. AGAINST the death penalty.
HISTORY

Montana’s first constitutional convention was called in 1889, two years after Montana became a Territory. Fifty-five delegates met for six days and adopted a constitution, the only copy of which was lost, so it was never printed or presented to the voters for ratification.

There were 45 delegates to Montana’s second constitutional convention held in 1894 and lasting for 27 days. A constitution, based largely on the California and Colorado Constitutions, was adopted and ratified by the people but Montana’s bid for statehood failed.

Montana’s present constitution was drafted by the 75 delegates to the third constitutional convention which met in 1899 for 45 days. The constitution was adopted on August 17, 1899 and ratified by the people on October 1, 1899. Montana became a state on November 8, 1899.

The 1899 constitution contains approximately 28,000 words and has been amended 37 times. (The proposed constitution contains approximately 11,200 words.)

In 1967 the Legislature requested the Legislative Council to study the 1899 constitution to determine if it was adequately serving the needs of the people. After two years of study the 16 member council concluded that there was need for substantial revision of the constitution and recommended creation of a constitutional revision commission. The 1969 legislature followed this recommendation. Section 1.1.2 of the 16 member Constitution Revision Commission composed of four members appointed by the Speaker of the House, four appointed by the Senate Committee on Committees, four appointed by the Governor, and four appointed by the Supreme Court. The 1969 legislature also referred the question of calling a constitutional convention to the people.

After a study of the problem the Constitution Revision Commission concluded that a Constitutional Convention would be the best way to change the 1899 constitution and in November 1970 the Montana voters agreed by approving a convention by a vote of 183,482 to 71,603.

The 1971 Legislature passed enabling legislation calling the convention and created a 16 member (Constitutional Convention) Convention Commission which was appointed in the same manner as the Constitution Revision Commission. The new Commission conducted research and compiled information for the Convention delegates.

On November 2, 1971, 100 delegates were elected from 25 districts to the 1971-1972 Constitutional Convention. A three day organizational session was held beginning November 29, 1971, the main convention convened on January 17, 1972. After meeting for 54 working days the Convention adjourned sine die on March 24, 1972.

There were ten substantive and four procedural committees appointed by the convention president and all proposals were considered in committees before being debated and voted upon by the Convention. The proposed constitution was adopted by the Convention on March 22, 1972. Although the votes on individual articles of the constitution were not unanimous the vote on the complete constitution was. All 100 delegates signed the proposed constitution.

The following summary briefly outlines some of the more significant provisions of the proposed constitution which will be voted on by the people of Montana on June 8, 1972.

HIGHLIGHTS

Retained From Present Constitution
No rights protected by the present Montana Declaration of Rights are deleted or abridged in the proposed Constitution. These include the freedom of speech, assembly and religion; the right of self government; the right to acquire, possess and protect property; the right to suffrage; right to bail, and right to a trial by jury, among others. In addition, the present Montana provision guaranteeing the right to keep and bear arms is retained in total.

New Provisions Added
In addition to retention of all rights protected by the present Constitution, the proposed document would protect the:
Right to clean and healthful environment. Section 3.
Right to pursue basic necessities. Section 3.
Right to know (including the right to attend meetings of public agencies and to examine the agency’s records), except when the demand of individual privacy clearly exceeds the merits of public disclosure. Section 9.
Right of privacy. Section 9.
Right to see the state and its subdivisions for injury to person or property. Section 10.
Right of participation. Governmental agencies must allow citizen access to the decision making institutions of state government. Section 8.
Right against discrimination in the exercise of civil and political rights. Section 4.
Rights of persons under the age of majority (lowered to 18). Sections 14 and 15.

Retained From Present Constitution
Rights of the people to the referendum and initiative. Sections 4 and 5.
The separation of powers principle. Section 1.

New Provisions Added
Gambling. People given choice whether to retain a complete constitutional prohibition against all forms of gambling or whether legislature should have power to legalize certain forms of gambling. Section 9.

Retained From Present Constitution
Certain election safeguards, such as protecting voters from police harassment. Section 6.

New Provisions Added
Voting age lowered to 18. Section 2.
Right to secret ballot assured. Section 1.
Legislature, in its discretion, may provide for a system of poll booth registration. Section 5.

Retained From Present Constitution
Voters are given the opportunity to retain a two house bicameral legislature, as is now in effect.
Terms of office remain for four years for senators and in a bicameral body) two years for house members. Section 3.
Certain limits on legislative power are retained, such as limitations on special laws and requirements that the title of a bill correctly reflect its contents. Section 11.

New Provisions Added
Voters are given the opportunity to adopt a one-house (unicameral) legislature; if they do so, they automatically will vote in 1972 on whether to continue the unicameral system. Section 13.
Legislators will be elected from single-member districts. Section 14.
The legislature will be reapportioned by a special commission of five citizens, to whom the legislature may submit recommendations. Section 14.
The legislature will be a continuous body, meeting in regular annual sessions of not more than 60 legislative days. A legislature may extend the session length for any necessary legislation. Section 6.
Either the governor or a majority of the legislators may call the legislature into special session. Section 6.
All sessions of the legislature and of its committees shall be public; all votes on substantive matters shall be recorded and made public. Sections 10 and 11.

Candidate for legislature must be resident of state for one year and resident of county or district for six months preceding date of election. Section 4.

Retained From Present Constitution
Effective status of governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction and auditor. Section 1.
Number of principal executive departments limited to 30. Section 7.
Governor’s pardon and military powers. Sections 12 and 13.

New Provisions Added
Governor and lieutenant governor run as a team in both primary and general election; lieutenant governor freed of duty of presiding over the Senate so that he may take a more active, fulltime role in the executive branch. Section 2.
Constitutional status of Board of Pardons, Board of Examiners, State Examiners, Board of Prison Commissioners and State Treasurer eliminated. (No mention in proposed constitution).

Procedures for determining gubernatorial disability outlined. Section 8.
Changes made in the governor’s veto power. He no longer would be able to veto proposed constitutional amendments: on the other hand, he would be granted the “amendatory veto”, under which he could return a bill to the legislature with proposed amendments. Section 10.
Pocket veto eliminated. Section 10.
Lieutenant governor not to act as governor until the Governor is out of state 45 days or unless the Governor authorizes lieutenant governor in writing to act as Acting Governor. Section 10.
Clarifies method of filling vacancies in executive offices. Section 8.
Loweres qualification regarding age of Governor. Lieutenant Governor from 30 to 25. Section 2.
Requires 5 years actual practice for Attorney General. Section 1.
New Provisions Added
Method of filling vacancies. If a district or supreme court judge resigns or dies, the governor must select a replacement from a list of candidates as provided by law who must be confirmed by the senate. Section 8.

Terms of office for supreme court increased from six to eight years; district court terms increased from four to six years, and justice of the peace terms increased from two to four years. Section 7. The legislature is empowered to increase membership of the supreme court to seven. Section 2.

Judicial standards commission. Added to allow citizens to bring complaints about judges to an independent commission to investigate and recommend retirement, removal or suspension of the judge in question to the supreme court. Section 11.

Clerk of supreme court no longer a constitutional officer. (No mention in proposed constitution.)

Number of justices of peace restricted to one per county. Salaries of justices of peace provided by legislature. Section 5.

New Provisions Added
Responsibility for system of property appraisal, assessment and equalization provisions in various articles: details of the program left to the legislature. Section 3.

Local debt left to legislative determination. The present prohibition against state financial aid to local government units eliminated. Section 10.

The legislature is given increased latitude in determining what property should or should not be granted tax-exempt status.

State debt may be authorized by either (a) a two-thirds vote of each house of the legislature or (b) a majority of the people voting on the issue. Section 8.

The legislature is charged with strict accountability and proper investment of state funds, with some limitations on investment of public school money. Sections 12 and 13.

The legislature must provide for an independent appeal procedure for taxpayer grievances. Section 7.

Article IX ENVIRONMENT AND NATURAL RESOURCES
Retained From Present Constitution
(No provisions retained because this is a new article. Several related provisions in various articles of present constitution are retained in other articles of the proposed constitution.)

New Provisions Added
The state and each citizen are directed to maintain and improve a clean and beautiful environment; the legislature is directed to provide adequate remedies to protect the environment. Section 1.

All land disturbed by the taking of natural resources must be restored as provided by law. Section 2.

Water rights are given constitutional recognition; all water is declared to be the property of the state for the use of its people. Section 3.

The legislature is directed to provide for identification and preservation of the state's cultural and historical resources. Section 4.

Article X EDUCATION AND PUBLIC LANDS
Retained From Present Constitution
Prohibition against legislation and other governmental units from spending money for sectarian purposes. The revision specifies that the prohibition does not apply to federal funds provided expressly for distribution to non-public educational institutions. Section 6.

Constitutional protection of investment of public school funds, and constitutional status for the Board of Land Commissioners. Constitutional authority for holding and disposing of public lands. Sections 2, 3, 4, and 11.

The present provision against discrimination in education was retained and substantially broadened. Section 7.

New Provisions Added
Two district boards may use higher education and one for public education are created, differing from the present system in that one board is responsible for all education matters. The two boards jointly form a third (the state board of education), which is responsible for long-range planning, policy and program coordination, and evaluation of the state's educational system. Section 9.

The Board of Regents of Higher Education is expressly given "full power, responsibility, and authority" to control the Montana University System. Section 9.

Local school trustees are guaranteed "supervision and control" over local schools. Section 9.

The "distinct and unique cultural heritage" of American Indians receives constitutional recognition; one of the state's educational goals is stated to be preservation of Indians' cultural integrity. Section 1.

New Provisions Added
Responsibility for system of property appraisal, assessment and equalization provisions in various articles: details of the program left to the legislature. Section 3.

Local government units are given broad authority to cooperate and share services and functions in about every way imaginable. Section 7.

Residents of a city or county are assured an opportunity within four years after adoption of the constitution to vote on whether they want to change their form of government. Such voter review of local government will be repeated at 10-year intervals. Section 9.

Article XI LOCAL GOVERNMENT
Retained From Present Constitution
Counties can be consolidated only with the approval of the residents of each county affected. Section 2.

The legislature is directed to provide alternative forms of city and county or city-county consolidated government; such alternative forms of government, however, cannot be adopted without approval of local voters. Section 3.

Counties which wish to retain the so-called "traditional" form of county government—three county commissioners and 10 other elected officials—are assured that they may do so. Section 3.

Unless the local voters wish to adopt a different system in their city or county, local government units will continue to have only those powers given them by the legislature. Section 3.

New Provisions Added
Two or more counties may agree to elect one official to serve a multicounty area; in addition, offices within a county continue to be subject to consolidation. Section 3.

The legislature is ordered to provide procedures by which local voters may design their own forms of government—called self-government charters. Section 5.

A new class of self-government powers is provided for those units which, with voter approval, have adopted their own charters or adopted a self-government form offered by the legislature. These units may exercise all powers except those prohibited by the constitution, state law or the local charter. Section 6.
INTRODUCTION

The PROPOSED 1972 CONSTITUTION OF THE STATE OF MONTANA APPEARS ON THIS AND THE FOLLOWING PAGES. THE OFFICIAL TEXT IS PRINTED IN BLACK. FOLLOWING EACH SECTION PRINTED IN BLUE IS INFORMATION COMPARING THE PROPOSED CONSTITUTION WITH THE CONSTITUTION OF 1889. THE PHRASE "1889 CONSTITUTION" MEANS THE 1889 CONSTITUTION AS AMENDED.

THE

CONSTITUTION

of the

STATE OF MONTANA

As adopted by the Constitutional Convention March 22, 1972.

PREAMBLE

We the people of Montana, grateful to God for the quiet beauty of our state, the grandeur of our mountains, the vastness of our rolling plains, and desiring to improve the quality of life, equality of opportunity and to secure the blessings of liberty for this and future generations do ordain and establish this constitution.

Preamble is new. The old Preamble is deleted.

ARTICLE I

COMPACT WITH THE UNITED STATES

All provisions of the enabling act of Congress (approved February 22, 1889, 25 Stat. 676), as amended and of Ordinance No. 1, appended to the Constitution of the state of Montana and approved February 22, 1889, including the agreement and declaration that all lands owned or held by any Indian or Indian tribes shall remain under the absolute jurisdiction and control of the congress of the United States, continue in full force and effect until revoked by the consent of the United States and the people of Montana.

Makes it clear that the new constitution does not affect any agreements made with the United States Government when Montana first became a state.
ARTICLE II

DECLARATION OF RIGHTS

Section 1. POPULAR SOVEREIGNTY
All political power is vested in and derived from the people. All government of right originates with the people, is founded upon their will only, and is instituted solely for the good of the whole.

Identical to 1889 constitution. Expresses the philosophy that government is founded on the will of the people and is for their good.

Section 2. SELF-GOVERNMENT
The people have the exclusive right of governing themselves as a free, sovereign, and independent state. They may alter or abolish the constitution and form of government whenever they deem it necessary.

New provision. No change except in grammar. Gives Montana the right to govern themselves and to determine their form of government.

Section 3. INalienable Rights
All persons are born free and have certain inalienable rights. They include the right to a clean and healthful environment and the rights of pursuing life's basic necessities, enjoying and defending their lives and liberties, acquiring, possessing and protecting property, and seeking their safety, health and happiness in all lawful ways. In enjoying these rights, all persons recognize corresponding responsibilities.

Revises 1889 constitution by adding three rights, relating to environment, basic necessities, and health. The last sentence is also new and provides that in accepting rights people have obligations.

Section 4. INDIVIDUAL DIGNITY
The dignity of the human being is inviolable. No person shall be denied the equal protection of the laws. Neither the state nor any person, firm, corporation, or institution shall discriminate against any person in the exercise of his civil or political rights on account of race, color, sex, culture, social origin or condition, or political or religious ideas.

New provision. Prohibiting public and private discrimination in civil and political rights.

Section 5. FREEDOM OF RELIGION
The state shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

Revises 1889 constitution by using wording of the U.S. constitution to guarantee free exercise of religion and prohibit the state from establishing a religion.

Section 6. FREEDOM OF ASSEMBLY
The people shall have the right peaceably to assemble, petition for redress or peaceably protest governmental action.

No change except in grammar. Retains basic right to assemble and to petition for redress of grievances.

Section 7. FREEDOM OF SPEECH, EXPRESSION, AND PRESS
No law shall be passed impairing the freedom of speech or expression. Every person shall be free to speak or publish whatever he will on any subject, being responsible for all abuse of that liberty. In all suits and proceedings for libel or slander the truth thereof may be given in evidence; and the jury, under the direction of the court, shall determine the law and the facts.

Revises 1889 constitution by enlarging a citizen's freedom to express himself and allowing the truth to be given in evidence in slander as well as libel cases.

Section 8. RIGHT TO VOTE
No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of the state government and its subdivisions, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure.

New provision. Prohibits governmental documents and operations from being open to public scrutiny except when the right to know is outweighed by the right to individual privacy.

Section 9. RIGHT TO PRIVACY
The right of individual privacy is essential to the well-being of a free society and shall not be infringed without the showing of a compelling state interest.

New provision. Prohibits any invasion of privacy unless the good of the state makes it necessary.

Section 10. SEARCHES AND SEIZURES
The people shall be secure in their persons, papers, homes and effects from unreasonable searches and seizures. No warrant to search any place, or seize any person or thing shall issue without describing the place to be searched or the person or thing to be seized, or without probable cause, supported by oath or affirmation reduced to writing.

Revises 1889 constitution. Identical to U.S. constitution.

Section 11. RIGHT TO BEAR ARMS
The right of any person to keep or bear arms in defense of his own home, person, and property, or in aid of the civil power when thereto legally summoned, shall not be called in question, but nothing herein contained shall be held to permit the carrying of concealed weapons.

Identical to 1889 constitution.

Section 12. RIGHT OF SUFFRAGE
All elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

Identical to 1889 constitution.

Section 13. RIGHTS OF PERSONS NOT ADULTS
The rights of persons under 18 years of age shall include, but not be limited to, all the fundamental rights of this Article unless specifically precluded by laws which enhance the protection of such persons.


Section 14. THE ADMINISTRATION OF JUSTICE
Courts of justice shall be open to every person, and speedy remedy afforded for every injury to person, property, or character. No person shall be deprived of this full legal redress for injury incurred in employment for which another person may be liable except as to fellow employees and his immediate employer who hired him if such immediate employer provides coverage under the Worker's Compensation Laws of this state. Right and justice shall be administered without delay, denial, or delay.

New provision. Adds to 1889 constitution by specifically granting a person injured in employment the right to sue a third party causing the injury, except his employer or fellow employee when his employer provides coverage under workmen's compensation laws.

Section 15. DUE PROCESS OF LAW
No person shall be deprived of life, liberty, or property without due process of law.

Identical to 1889 constitution.

Section 16. STATE SUBJECT TO SUIT
The state, counties, cities, towns, and all other local government entities shall have no immunity from suit for injury to a person or property. This provision shall apply only to causes of action arising after July 1, 1972.


Section 17. HABEAS CORPUS
The privilege of the writ of habeas corpus shall never be suspended.

Identical to 1889 constitution.
ROPOSED 1972 CONSTITUTION FOR THE STATE OF MONTANA

Section 29. INITIATION OF PROCEEDINGS

(1) Criminal offenses within the jurisdiction of any court inferior to the district court shall be prosecuted by complaint. All criminal actions in district court, except those on appeal, shall be prosecuted either by information, after examination and commitment by a magistrate or after leave granted by the court, or indictment without such examination, commitment or leave.

(2) A grand jury shall consist of eleven persons, of whom eight must concur to find an indictment. A grand jury shall be sworn and summoned only at the discretion and order of the district judge.

Section 31. BAIL

All persons shall be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great.

Identical to 1889 constitution.

Section 32. EXCESSIVE SANCTIONS

Excessive bail shall not be required, or excessive fines imposed, or cruel and unusual punishments inflicted.

Identical to 1889 constitution.

Section 33. DETENTION

No person shall be imprisoned for the purpose of securing his testimony in any criminal proceeding longer than may be necessary in order to take his deposition. If he can give security for his appearance at the time of trial, he shall be discharged upon giving the same; if he cannot give security, his deposition shall be taken in the manner provided by law, and in the presence of the accused and his counsel, or without their presence, if they shall fail to attend the examination after reasonable notice of the time and place thereof.

Identical to 1889 constitution.

Section 34. RIGHTS OF THE ACCUSED

In all criminal proceedings the accused shall have the right to appear and defend in person and by counsel; to demand the nature and cause of the accusation; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed, subject to the right of the state to have a change of venue for any of the causes for which the defendant may obtain the same.

Identical to 1889 constitution.

Section 35. SELF-INCRIMINATION AND DOUBLE JEOPARDY

No person shall be compelled to testify against himself in a criminal proceeding. No person shall be again put in jeopardy for the same offense previously tried in any jurisdiction.

Revives 1889 constitution by protecting a person from being tried for the same crime by both this state and the United States or another state.

Section 36. TRIAL BY JURY

The right of trial by jury is secured to all and shall remain inviolate. But upon demand of appearance or by consent of the parties expressed in such manner as the law may provide, all cases may be tried without a jury or before fewer than the number of jurors provided by law. In all civil actions, two-thirds of the jury may render a verdict, and a verdict so rendered shall have the same force and effect as if all have concurred therein. In all criminal actions, the verdict shall be unanimous.

Revives 1889 constitution by permitting a defendant to waive a jury trial in felony cases as well as civil and misdemeanor cases and by requiring all jurors (rather than 2/3) agree before a defendant may be convicted of a misdemeanor.

Section 37. IMPRISONMENT FOR DEBT

No person shall be imprisoned for debt except in the manner provided by law, upon refusal to deliver up his estate for the benefit of his creditors, or in cases of tort, where there is strong presumption of fraud.

Identical to 1889 constitution.

Section 38. RIGHTS OF THE CONVICTED

Laws for the punishment of crime shall be founded on the principles of retribution and reformation. Full rights are restored by termination of state supervision for any offense against the state.

Revives 1889 constitution by deleting reference to capital punishment and providing that rights a person loses when convicted of a crime are automatically restored when he has served his sentence.

Section 39. TREASON AND DESCENT OF ESTATES

Treason against the state shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on his confession in open court; no person shall be attainted of treason or felony by the legislature; no conviction shall cause the loss of property to the relatives or heirs of the convicted. The estates of suicides shall descend or vest as in cases of natural death.

No change except in grammar.

Section 31. EX POST FACTO, OBLIGATION OF CONTRACTS, AND IRREVOCABLE PRIVILEGES

No ex post facto law nor any law impairing the obligation of contracts, or making any irrevocable grant of special privileges, franchises, or immunities, shall be passed by the legislature.

Identical to 1889 constitution.

Section 32. CIVILIAN CONTROL OF THE MILITARY

The military shall always be in strict subordination to the civil power; no soldier shall be in time of peace quartered in any house without the consent of the owner, nor in time of war, except in the manner provided by law.

Identical to 1889 constitution.

Section 33. IMPORTATION OF ARMED PERSONS

No armed person or persons or armed body of men shall be brought into this state for the preservation of the peace, or the suppression of domestic violence, except upon the application of the legislature, or of the governor when the legislature cannot be convened.

Identical to 1889 constitution.

Section 34. UNENUMERATED RIGHTS

The enumeration in this constitution of certain rights shall not be construed to deny, impair, or disannul others retained by the people.

Identical to 1889 constitution.

Section 35. SERVICEWOMEN, SERVICEMEN, AND VETERANS

The people declare that Montana servicemen, servicewomen, and veterans may be given special considerations determined by the legislature.

New provision allowing legislature to give servicemen, servicewomen, and veterans special treatment in the law.
ARTICLE III

GENERAL GOVERNMENT

Section 1. SEPARATION OF POWERS

The power of the government of this state is divided into three distinct branches—legislative, executive, and judicial. No person or persons charged with the exercise of power properly belonging to one branch shall exercise any power properly belonging to either of the others, except as in this constitution expressly directed or permitted.

* * *

Identical to 1889 constitution except for substitution of the word "branches" for "departments". This distinguishes the three branches of government from the 20 departments in the executive branch.

* * *

Section 2. CONTINUITY OF GOVERNMENT

The seat of government shall be in Helena, except during periods of emergency resulting from disasters or enemy attack. The legislature may enact laws to insure the continuity of government during a period of emergency without regard for other provisions of the constitution. They shall be effective only during the period of emergency that affects a particular office or governmental operation.

* * *

Revises 1889 constitution by removing provision which allowed seat of government to be moved by a vote of 2/3 of the people. No other change except in grammar.

* * *

Section 3. OATH OF OFFICE

Members of the legislature and all executive, ministerial and judicial officers, shall take and subscribe the following oath or affirmation, before they enter upon the duties of their offices: "I do solemnly swear (or affirm) that I will support, protect and defend the constitution of the United States, and the constitution of the state of Montana, and that I will discharge the duties of my office with fidelity (so help me God)." No other oath, declaration, or test shall be required as a qualification for any office or public trust.

* * *

Shortened version of oath contained in 1889 constitution.

* * *

Section 4. INITIATIVE

(1) The people may enact laws by initiative on all matters except appropriations of money and local or special laws.

(2) Initiative petitions must contain the full text of the proposed measure, shall be signed by at least five percent of the qualified electors in each of at least one-third of the legislative representative districts and the total number of signers must be at least five percent of the total qualified electors of the state. Petitions shall be filed with the secretary of state at least three months prior to the election at which the measure will be voted upon.

(3) The sufficiency of the initiative petition shall not be questioned after the election is held.

* * *

Revises 1889 constitution by requiring a petition to be signed by 5% of electors in 1/3 of the legislative districts instead of 8% in 2/5 of the counties.

* * *

Section 5. REFERENDUM

(1) The people may approve or reject by referendum any act of the legislature except an appropriation of money. A referendum shall be held either upon order by the legislature or upon petition signed by at least five percent of the qualified electors in each of at least one-third of the legislative representative districts. The total number of signers must be at least five percent of the qualified electors of the state. A referendum petition shall be filed with the secretary of state no later than six months after adjournment of the legislature which passed the act.

(2) An act referred to the people is in effect until suspended by petitions signed by at least 10 percent of the qualified electors in a majority of the legislative representative districts. If so suspended the act shall become operative only after it is approved at an election, the result of which has been determined and declared as provided by law.

* * *

Revises 1889 constitution by allowing people to vote on any act of the legislature except appropriations and by requiring referendum petitions to be signed by 5% of the electors in 1/3 of the legislative districts instead of 8% of the electors in 2/5 of the counties. 1889 Constitution does not allow referendums on laws "necessary for the immediate preservation of the public peace, health, or safety".

* * *

Section 6. ELECTIONS

The people shall vote on initiative and referendum measures at the general election unless the legislature orders a special election.

* * *

No change except in grammar.

* * *

Section 7. NUMBER OF ELECTORS

The number of qualified electors required in each legislative representative district and in the state shall be determined by the number of votes cast for the office of governor in the preceding general election.

* * *

No change except in grammar.

* * *

Section 8. PROHIBITION

The provisions of this Article do not apply to CONSTITUTIONAL REVISION, Article XIV.

* * *

New provision which differentiates the general initiative and referendum requirements from the special initiative and referendum requirements for amending the constitution.

* * *

Section 9. GAMBLING

All forms of gambling, lotteries, and gift enterprises are prohibited.

* * *

Adds the word "gambling" to language of 1889 constitution. Makes it clear that all forms of gambling are prohibited.

* * *

ARTICLE IV

SUFFRAGE AND ELECTIONS

Section 1. BALLOT

All elections by the people shall be by secret ballot.

* * *

Revises 1889 constitution by adding the word "secret".

* * *

Section 2. QUALIFIED ELECTOR

Any citizen of the United States 18 years of age or older who meets the registration and residence requirements provided by law is a qualified elector unless he is serving a sentence for a felony in a penal institution or is of unsound mind, as determined by a court.

* * *

Revises 1889 constitution. Provides legislative rather than constitutional requirements for residence and registration. Convicted felon loses voting rights only while incarcerated. 18th voting age established for all elections by 24th amendment to U.S. constitution ratified June 30, 1971.

* * *

Section 2. ELECTIONS

The legislature shall provide by law the requirements for
residence, registration, absentee voting, and administration of elections. It may provide for a system of poll booth registration, and shall insure the purity of elections and guard against abuses of the electoral process.

Revises 1889 constitution. Provides legislative rather than constitutional establishment of requirements which are often affected by—and sometimes in conflict with federal law and court decisions. When necessary to comply with federal requirements it is much easier to change the law than to amend the constitution. Second sentence specifically authorizes legislature to provide for voter registration at time and place of voting—rather than in advance of election.

Section 6. ELIGIBILITY FOR PUBLIC OFFICE

Any qualified elector is eligible to any public office except as otherwise provided in this constitution. The legislature may provide additional qualifications but no person convicted of a felony shall hold office until his final discharge from state supervision.

Revises 1889 constitution by providing that a felon’s right to seek public office is automatically restored after serving sentence.

Section 5. RESULT OF ELECTIONS

In all elections held by the people, the person or persons receiving the largest number of votes shall be declared elected.

* * * * *

Section 6. PRIVILEGE FROM ARREST

A qualified elector is privileged from arrest at polling places and in going to and returning therefrom, unless apprehended in the commission of a felony or breach of the peace.

1889 constitution reworded. Voter is immune from arrest during the voting process unless during such time he commits a felony or breach of peace.

* * * * *

ARTICLE V

THE LEGISLATURE

Section 1. POWER AND STRUCTURE

The legislative power is vested in a legislature consisting of a senate and a house of representatives. The people reserve to themselves the powers of initiative and referendum.

* * * *

No change except in grammar.

Section 2. SIZE

The size of the legislature shall be provided by law, but the senate shall not have more than 50 or fewer than 40 members and the house shall not have more than 100 or fewer than 80 members.

* * * *

New provision for determining size of legislature.

Section 3. ELECTION AND TERMS

A member of the house of representatives shall be elected for a term of two years and a member of the senate for a term of four years each to begin on a date provided by law. One-half of the senators shall be elected every two years.

* * * *

Revises 1889 constitution by adding requirement for staggered terms for senators.

Section 4. QUALIFICATIONS

A candidate for the legislature shall be a resident of the state for at least one year next preceding the general election. For six months next preceding the general election, he shall be a resident of the county if it contains one or more districts of the district if it contains all or parts of more than one county.

* * * *

New provision which would require filling vacancies by election if the present law requiring appointments is ever repealed.

Section 5. COMPENSATION

Each member of the legislature shall receive compensation for his services and allowances provided by law. No legislature may fix its own compensation.

* * * *

No change except in grammar.

Section 6. SESSIONS

The legislature shall be in continuous session for two-year periods beginning when newly elected members take office. Any business, bill, or resolution pending at adjournment of a session shall carry over with the same status to any other session of the legislature during the biennium. The legislature shall meet at least once a year in regular session of not more than 40 legislative days. Any legislature may recess the limit on the length of any subsequent session. The legislature may be convened in special session by the governor or at the written request of a majority of the members.

* * * *

New provision. "Continuous body" does not mean the legislature is in continuous session but means the legislature has legal existence even when not regularly meeting. It will have regular annual sessions of 60 days. A legislature cannot pass a law that it can meet for more than 40 legislative days but can provide that future legislatures may meet longer. Legislature as well as the governor may call a special session.

Section 7. VACANCIES

A vacancy in the legislature shall be filled by special election for the unexpired term unless otherwise provided by law.

* * * *

Section 8. IMMUNITY

A member of the legislature is privileged from arrest during attendance at sessions of the legislature and in going to and returning therefrom, unless apprehended in the commission of a felony or breach of the peace. He shall not be questioned in any other place for any speech or debate in the legislature.

* * * *

No change except in grammar.

Section 9. DISQUALIFICATION

No member of the legislature shall, during the term for which he shall have been elected, be appointed to any civil office under the state; and no member of congress, or other person holding an office (except notary public, or in the military under the United States or this state), shall be a member of the legislature during his continuance in office.

* * * *

No change except in grammar.

Section 10. ORGANIZATION AND PROCEDURE

(1) Each house shall judge the election and qualifications of its members. It may by law vest in the courts the power to try and determine contested elections. Each house shall choose its officers from among its members, keep a journal, and make rules for its proceedings. Each house may expel or punish a member for good cause shown with the concurrence of two-thirds of all its members.

(2) A majority of each house constitutes a quorum. A smaller number may adjourn from day to day and compel attendance of absent members.
Section 11. BILLS

(1) A law shall be passed by bill which shall not be so altered or amended on its passage through the legislature as to change its original purpose. No bill shall become law except by a vote of the majority of all members present and voting.

(2) Every vote of each member of the legislature on each substantive question in the legislature, in any committee, or in committee of the whole shall be recorded and made public. On final passage, the vote shall be taken by ayes and nays and the names entered on the journal.

(3) Each bill, except general appropriation bills and bills for the codification and general revision of the laws, shall contain only one subject, clearly expressed in its title. If any subject is embraced in any act and is not expressed in the title, only so much of the act not so expressed is void.

(4) A general appropriation bill shall contain only appropriations for the ordinary expenses of the legislative, executive, and judicial branches, for interest on the public debt, and for public schools. Every other appropriation shall be made by a separate bill, containing but one subject.

(5) No appropriation shall be made for religious, charitable, industrial, educational, or benevolent purposes to any private individual, private association, or private corporation not under control of the state.

(6) A law may be challenged on the ground of noncompliance with this section only within two years after its effective date.

Section 12. LOCAL AND SPECIAL LEGISLATION

The legislature shall not pass a special or local act when a general act is, or can be made, applicable.

Section 13. IMPEACHMENT

(1) The governor, executive officers, heads of state departments, judicial officers, and such other officers as may be provided by law are subject to impeachment, and upon conviction shall be removed from office. Other proceedings for removal from public office for cause may be provided by law.

(2) The legislature shall provide for the manner, procedure, and causes for impeachment and may select the senate as tribunal.

(3) Impeachment shall be brought only by a two-thirds vote of the house. The tribunal hearing the charges shall convict only by a vote of two-thirds or more of its members.

(4) Conviction shall extend only to removal from office, but the party, whether convicted or acquitted, shall also be liable to prosecution according to law.

Minor revision. Two-thirds rather than a majority vote necessary to impeach. The legislature may choose the senate of another body to hear the charges.

Section 14. DISTRICTING AND APPOINTMENT

(1) The state shall be divided into as many districts as there are members of the house, and each district shall elect one representative. Each senate district shall be composed of two adjoining house districts, and shall elect one senator. Each district shall consist of compact and contiguous territory. All districts shall be as nearly equal in population as is practicable.

(2) In the legislative year following ratification of this constitution and thereafter in each session preceding each federal population census, a commission of five citizens, none of whom may be public officials, shall be selected to prepare a plan for redistricting and reapportioning the state into legislative and congressional districts. The majority and minority leaders of each house shall each designate one commissioner. Within 30 days after their designation, the four commissioners shall select the fifth member, who shall serve as chairman of the commission. If the four members fail to select the fifth member within the time prescribed, a majority of the supreme court shall select him.

(3) The commission shall submit its plan to the legislature at the first regular session after its appointment or after the census figures are available. Within 30 days after submission, the legislature shall return the plan to the commission with its recommendations. Within 30 days thereafter the commission shall file its final plan with the secretary of state and it shall become law. The commission is then dissolved.

(1) New provision for single-member house districts. Two house districts constitute a senatorial district. (2) and (3) new provision which establishes a five-member commission to recommend a reapportionment plan after each U.S. census.

ARTICLE VI
THE EXECUTIVE

(2) Each candidate for governor shall file jointly with a candidate for lieutenant governor in primary elections, or so otherwise comply with nomination procedures provided by law that the office of governor and lieutenant governor are voted upon together in primary and general elections.

Only change is subsection (2) which is new requirement that governor and lieutenant governor run as a team.

Section 2. QUALIFICATIONS

(1) No person shall be eligible to the office of governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, or auditor unless he is 25 years of age or older at the time of his election. In addition, each shall be a citizen of the United States who has resided within the state two years next preceding his election.

(2) Any person with the foregoing qualifications is eligible to the office of attorney general if an attorney in good standing admitted to practice law in Montana who has engaged in the active practice thereof for at least five years before election.

(3) The superintendent of public instruction shall have such educational qualifications as are provided by law.

Only change is subsection (2) which is new requirement that governor and lieutenant governor run as a team.

(1) The executive power is vested in the governor who shall see that the laws are faithfully executed. He shall have such other duties as are provided in this constitution and by law.

(2) The lieutenant governor shall perform the duties provided by law and those delegated to him by the governor. No power specifically vested in the governor by this constitution may be delegated to the lieutenant governor.

(3) The secretary of state shall maintain official records of the executive branch and of the acts of the legislature, as provided by law. He shall keep the great seal of the state of Montana and perform any other duties provided by law.

(4) The attorney general is the legal officer of the state and shall have the duties and powers provided by law.
Section 1. COMPENSATION
(1) Officers of the executive branch shall receive salaries provided by law.

(2) During his term, no elected officer of the executive branch may hold another public office or receive compensation for services from any other governmental agency. He may be a candidate for any public office during his term.

Revises 1889 constitution. Salaries may be increased or decreased. Public official may not receive more than one salary orholder of one office but may be candidate for another office without re-signing.

Section 2. VACANCY IN OFFICE
(1) If the office of lieutenant governor becomes vacant by his succession to the office of governor, or by his death, resignation, or disability as determined by law, the governor shall appoint a qualified person to serve in that office for the remainder of the term. If both the elected governor and the elected lieutenant governor become unable to serve in the office of governor, succession to the respective offices shall be provided for by law for the period until the next general election. Then, a governor and lieutenant governor shall be elected to fill the remainder of the original term.

(2) If the office of secretary of state, attorney general, auditor, or superintendent of public instruction becomes vacant by death, resignation, or disability as determined by law, the governor shall appoint a qualified person to serve in that office until the next general election and until a successor is elected and qualified. The person elected to fill a vacancy shall hold the office until the expiration of the term for which his predecessor was elected.

Revises 1889 constitution by changing method of filling vacancies in office of lieutenant governor. Senate confirmation no longer required for appointments to fill vacancies in offices listed.

Section 7. 30 DEPARTMENTS
All executive and administrative offices, boards, bureaus, commissions, agencies and instrumentalities of the executive branch (except for the office of governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, and auditor) and their respective functions, powers, and duties, shall be allocated by law among not more than 30 principal departments so as to provide an orderly arrangement in the administration of state government. Temporary commissions may be established by law and need not be located within a department.

Only grammar change in 30 department reorganization amendment adopted by the people in November, 1979.

Section 8. APPOINTING POWER
(1) The departments provided for in section 7 shall be under the supervision of the governor. Except as otherwise provided in this constitution or by law, each department shall be headed by a single executive appointed by the governor subject to confirmation by the senate to hold office until the end of the governor's term unless sooner removed by the governor.

(2) The governor shall appoint, subject to confirmation by the senate, all officers provided for in this constitution by law whose appointment by election is not otherwise provided for. They shall hold office until the end of the governor's term unless sooner removed by the governor.

(3) If a vacancy occurs in any such office when the legislature is not in session, the governor shall appoint a qualified person to discharge the duties thereof until the office is filled by appointment and confirmation.

(4) A person not confirmed by the senate for an office shall not, except at its request, be nominated again for that office at the same session, or be appointed to that office when the legislature is not in session.

Subsection (1) new provision. Unless law provides otherwise governor appoints heads of the 20 departments, subject to senate confirmation. No change except in grammar in subsections (2) and (3). Subsection (4) is new provision prohibiting nomination or appointment of persons previously rejected by senate.

Section 9. BUDGET AND MESSAGES
The governor shall at the beginning of each legislative session, and at any other time, give the legislature information and recommend measures he considers necessary. The governor shall submit to the legislature at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail for all operating funds the proposed expenditures and estimated revenue of the state.

* * * * *

Makes it mandatory that Governor send budget to legislature. Otherwise no change except in grammar.

Section 10. VETO POWER
(1) Each bill passed by the legislature, except bills proposing amendments to the Montana constitution, bills ratifying proposed amendments to the United States constitution, resolutions, and initiative and referendum measures, shall be submitted to the governor for his signature. If he does not sign or veto the bill within five days after its delivery to him if the legislature is in session or within 25 days if the legislature is adjourned, it shall become law. The governor shall return a vetoed bill to the legislature with a statement of his reasons thereof.

(2) The governor may return any bill to the legislature with his recommendation for amendment. If the legislature passes the bill in accordance with the governor's recommendation, it shall again return the bill to the governor for his reconsideration. The governor shall not return a bill for amendment a second time.

(3) If after receipt of a veto message, two-thirds of the members present approve the bill, it shall become law.

(4) If the legislature is not in session when the governor vetoes a bill, he shall return the bill with his reasons therefor to the legislature as provided by law. The legislature may reconvene to reconsider any bill so vetoed.

(5) The governor may veto items in appropriation bills, and in such instances the procedure shall be the same as upon veto of an entire bill.

Subsection (1) revises 1889 constitution. Amendments to U.S. and Montana constitutions and legislative resolutions may be passed without governor's signature. Pocket veto after adjournment eliminated. Subsection (2) new provision. "Amendatory veto" enables governor to return bills with suggestions for changes. No change in subsection (3) except for grammar. Provision in subsection (4) for recommending to consider vetoed bills is new.

Section 11. SPECIAL SESSION
Whenever the governor considers it in the public interest, he may convene the legislature.

* * * * *

Revises 1889 constitution. Continues power of governor to call special sessions of the legislature but removes his power to limit subjects to be considered.

Section 12. PARDONS
The governor may grant reprieves, commutations and pardons, restore citizenship, and suspend and remit fines and forfeitures subject to procedures provided by law.

* * * * *

Revises 1889 constitution. Deletes reference to board of pardons (which is provided for by the state and to the board of prison commissioners which is defunct).

Section 13. MILITIA
(1) The governor is commander-in-chief of the militia forces of the state, except when they are in the actual service of the United States. He may call out any part or all of the forces to aid in the execution of the laws, suppress insurrection, repel invasion, or protect life and property in natural disasters.

(2) The militia forces shall consist of all able-bodied citizens of the state except those exempted by law.

* * * * *

Last phrase of subsection (1) regarding protection of life and property is new. Subsection (2) removes sex and age qualifications for militia.

Section 14. SUCCESSION
(1) If the governor-elect is disqualified or dies, the lieutenant governor-elect upon qualifying for the office shall become governor for the full term. If the governor-elect fails to assume office for any other reason, the lieutenant governor-elect upon qualifying as such shall serve as acting governor until the governor-elect is able to assume office, or until the office becomes vacant.

(2) The lieutenant governor shall serve as acting governor when so requested in writing by the governor. After the governor has been absent from the state for more than 45 consecutive days, the lieutenant governor shall serve as acting governor.

(3) He shall serve as acting governor when the governor is so disabled as to be unable to communicate to the lieutenant governor the fact of his inability to perform the duties of his office. The lieutenant governor shall continue to serve as acting governor until the governor is able to resume the duties of his office.

(4) Whenever, at any other time, the lieutenant governor and attorney general transmit to the legislature their written declaration that the governor is unable to discharge the powers and duties of his office, the legislature shall convene to determine whether he is able to do so.

(5) If the legislature, within 21 days after convening, determines by two-thirds vote of its members that the governor is unable to discharge the powers and duties of his office, the lieutenant governor shall serve as acting governor. Thereafter, when the governor transmits to the legislature his written declaration that he is unable to exist, he shall resume the powers and duties of his office within 15 days, unless the legislature determines otherwise by two-thirds vote of its members. If the legislature so determines, the lieutenant governor shall continue to serve as acting governor.

(6) If the office of the governor becomes vacant by reason of death, resignation, or disqualification, the lieutenant governor shall become governor for the remainder of the term, except as provided in this constitution.

(7) Additional succession to fill vacancies shall be provided by law.

(8) When there is a vacancy in the office of governor, the successor shall be the governor. The acting governor shall have the powers and duties of the office of governor only for the period during which he serves.
New provision based on 25th amendment to U.S. Constitution. If governor dies, is disqualified, or resigns, the lieutenant governor takes his place. If governor is gone from the state more than 45 days or in temporarily disabled the lieutenant governor becomes acting governor. If the lieutenant governor and the attorney general think the governor is unable to perform his duties they may send notice to the legislature. By a two-thirds vote the legislature can decide that the lieutenant governor shall serve as acting governor because the governor is unable to act.

Section 18. INFORMATION FOR GOVERNOR
(1) The governor may require information in writing, under oath when required, from the officers of the executive branch upon any subject relating to the duties of their respective offices.

Section 4. DISTRICT COURT JURISDICTION
(1) The district court has original jurisdiction in all criminal cases amounting to felony and all civil matters and cases at law and in equity. It may issue all writs appropriate to its jurisdiction. It shall have the power of naturalization and such additional jurisdiction as may be delegated by the laws of the United States or the state of Montana. Its process shall extend to all parts of the state.

(2) The district court shall hear appeals from inferior courts as trials anew unless otherwise provided by law. The legislature may provide for direct review by the district court of decisions of administrative agencies.

(3) Other courts may have jurisdiction of criminal cases not amounting to felony and such jurisdiction concurrent with that of the district court as may be provided by law.

Section 5. JUSTICES OF THE PEACE
(1) There shall be elected in each county at least one justice of the peace with qualifications, training, and monthly compensation provided by law. There shall be provided such facilities that they may perform their duties in dignified surroundings.

(2) Justice courts shall have such original jurisdiction as may be provided by law. They shall not have trial jurisdiction in any criminal case designated a felony except as examining courts.

(3) The legislature may provide for additional justices of the peace in each county.

Section 6. JUDICIAL DISTRICTS
(1) The legislature shall divide the state into judicial districts and provide for the number of judges in each district. Each district shall be formed of compact territory and be bounded by county lines.

(2) The legislature may change the number and boundaries of judicial districts and the number of judges in each district, but no change in boundaries or the number of districts or judges therein shall work a removal of any judge from office during the term for which he was elected or appointed.

(3) The chief justice may upon request of the district judge assign district judges and other judges for temporary service from one district to another, and from one county to another.

Section 7. TERMS AND PAY
(1) All justices and judges shall be paid as provided by law, but salaries shall not be diminished during terms of office.

(2) Terms of office shall be eight years for supreme court justices, six years for district court judges, four years for justices of the peace, and as provided by law for other judges.

Section 8. SELECTION
(1) The governor shall nominate a replacement from nominees selected in the manner provided by law for any vacancy in the office of supreme court justice or district court judge. If the governor fails to nominate within thirty days after receipt of nominees, the chief justice or acting chief justice shall make the nomination. Each nomination shall be confirmed by the senate, but a nomination made while the senate is not in session shall be effective as an appointment until the end of the next session. If the nomination is not confirmed, the office shall be vacant and another selection and nomination shall be made.

(2) If, at the first election after senate confirmation, and at the election before each succeeding term of office, any candidate other than the incumbent justice or district judge files for election to that office, the name of the incumbent shall be placed on the ballot. If there is no election contest for the office, the name of the incumbent shall nevertheless be placed on the general el-
section ballot to allow voters of the state or district to approve or reject him. If an incumbent is rejected, another selection and nomination shall be made.

(3) If an incumbent does not run, there shall be an election for the office.

* * * *

Revises 1889 constitution. Contested election of judges is not changed, however if a judge in office does not have an opponent in an election his name will be put on the ballot anyway and the people asked to approve or reject him. If rejected, the governor appoints another judge. When there is a vacancy (such as death or resignation) the governor appoints a replacement but does not have unlimited choice of lawyers as under 1889 constitution. He must choose his appointee from a list of nominees and the appointment must be confirmed by the senate—a new requirement.

Section 9. QUALIFICATIONS

(1) A citizen of the United States who has resided in the state two years immediately before taking office is eligible to the office of supreme court justice or district court judge if admitted to the practice of law in Montana for at least five years prior to the date of appointment or election. Qualifications and methods of selection of judges of other courts shall be provided by law.

* * * *

(1) Revises 1889 constitution by making residency requirements for candidates for district court judge the same as for supreme court and by deleting age requirements. Requirement for five years of law practice new. (2) Revises 1889 constitution by specifically allowing travel expense. (3) Only change specifically prohibits a judge from holding office in a political party. (4) No change except in grammar.

Section 10. FORFEITURE OF JUDICIAL POSITION

Any holder of a judicial position forfeits that position by either filing for an elective public office other than a judicial position or abstaining himself from the state for more than 60 consecutive days.

* * * *

Revises 1889 constitution by eliminating references to particular kinds of revenue sources (such as property taxes, license fees, and income taxes) and continues the legislative power to determine tax structures.

Section 11. REMOVAL AND DISCIPLINE

(1) The legislature shall create a judicial standards commission consisting of five persons and provide for the appointment thereof of two district judges, one attorney, and two citizens who are neither judges nor attorneys. (2) The commission shall investigate complaints, make rules implementing this section, and keep its proceedings confidential. It may subpoena witnesses and documents. (3) Upon recommendation of the commission, the supreme court may:

(a) Retire any justice or judge for disability that seriously interferes with the performance of his duties and is or may become permanent; or
(b) Censure, suspend, or remove any justice or judge for willful misconduct in office, willful and persistent failure to perform his duties, or habitual intemperance.

* * * *

New provision. A judicial standards commission may investigate whenever a judge, because of disability or bad habits, does not perform his duties properly. The commission can recommend to the supreme court that the judge be retired, censured, suspended or removed.

ARTICLE VIII
REVENUE AND FINANCE

Section 1. TAX PURPOSES

Taxes shall be levied by general laws for public purposes.

* * * *

Revises 1889 constitution by removing references to county boards of equalization and state board of equalization leaving the legislature free to determine the method of securing property tax equalization.

Section 4. EQUAL VALUATION

All taxing jurisdictions shall use the assessed valuation of property established by the state.

* * * *

No change except in grammar. Guarantees the same assessed value will be used by all taxing authorities.

Section 5. PROPERTY TAX EXEMPTIONS

(1) The legislature may exempt from taxation:

(a) Property of the United States, the state, counties, cities, towns, school districts, municipal corporations, and public libraries, but any private interest in such property may be taxed separately.

(b) Institutions of purely public charity, hospitals and places of burial not used or held for private or corporate profit, places for actual religious worship, and property used exclusively for educational purposes.

(c) Any other classes of property.

(2) The legislature may authorize creation of special improvement districts for capital improvements and the maintenance thereof. It may authorize the assessment of charges for such improvements and maintenance against tax exempt property directly benefited thereby.

* * * *

1889 constitution makes it mandatory that all property listed in subsection (1) (a) be exempt from taxation. Revision leaves all exemptions at discretion of legislature. Specifically permits taxation of private interests in government-owned property and assessment of special improvement district charges on tax exempt property.

Section 6. HIGHWAY REVENUE NON-DIVERSION

(1) Revenue from gross vehicle weight fees and excise and license taxes (except general sales and use taxes) on gasoline, fuel, and other energy sources used to propel vehicles on public highways shall be used as authorized by the legislature, after deduction of statutory refunds and adjustments, solely for:

(a) Payment of obligations incurred for construction, reconstruction, repair, operation, and maintenance of public highways, streets, roads, and bridges.

(b) Payment of county, city, and town obligations on streets, roads, and bridges.

(c) Enforcement of highway safety, driver education, tourist promotion, and administrative collection costs.

(2) Such revenue may be appropriated for other purposes by a three-fifths vote of the members of each house of the legislature.

* * * *

Revises 1956 amendment to the 1889 constitution by removing motor vehicle registration fees from the earmarking provision. By including local government road and street systems, highway safety programs and driver education programs as permissible use of such revenue.
marked funds; and by allowing the legislature by a three-fifths vote to divert the earmarked funds to other purposes.

Section 7. TAX APPEALS
The legislature shall provide independent appeal procedures for taxpayer grievances about appraisals, assessments, equalization, and taxes. The legislature shall include a review procedure at the local government unit level.

* * * *
New provision requiring the legislature to establish procedures for taxpayer appeals. Appeal procedures must include an opportunity to have the complaint heard at the local level.

Section 8. STATE DEBT
No state debt shall be created unless authorized by a two-thirds vote of the members of each house of the legislature or a majority of the voters voting thereon. No state debt shall be created to cover deficits incurred because appropriations exceeded anticipated revenue.

* * * *
Revises 1889 constitution by replacing obsolete $100,000 limit on state debt with provision that only a 2/3 vote of the legislature or majority vote at an election may create state debt.

Section 9. BALANCED BUDGET
Appropriations by the legislature shall not exceed anticipated revenue.

* * * *
No change except in grammar. Requires legislature to set estimated revenue limits when appropriating funds.

Section 10. LOCAL-GOVERNMENT DEBT
The legislature shall by law limit debts of counties, cities, towns, and all other local governmental entities.

* * * *
Revises 1889 constitution. Debt limitations for all local governmental entities will be set by law rather than by the constitution.

Section 11. USE OF LOAN PROCEEDS
All money borrowed by or on behalf of the state or any county, city, town, or other local governmental entity shall be used only for purposes specified in the authorizing law.

* * * *
No change except in grammar.

Section 12. STRICT ACCOUNTABILITY
The legislature shall by law insure strict accountability of all revenue received and money spent by the state and counties, cities, towns, and all other local governmental entities.

* * * *

Section 13. INVESTMENT OF PUBLIC FUNDS
(1) The legislature shall provide for a unified investment program for public funds and provide rules therefor, including supervision of investment of surplus funds of all counties, cities, towns, and other local governmental entities. Each fund forming a part of the unified investment program shall be separately identified. Except for moneys contributed to retirement funds, no public funds shall be invested in private corporate capital stock. The investment program shall be audited at least annually and a report thereof submitted to the governor and legislature.
(2) The public school fund and the permanent funds of the Montana university system and all other state institutions of learning shall be safely and conservatively invested in:
(a) Public securities of the state, its subdivisions, local government units, and districts within the state, or
(b) Bonds of the United States or other securities fully guaranteed as to principal and interest by the United States, or
(c) Such other safe investments bearing a fixed rate of interest as may be provided by law.

* * * *
Revises 1889 constitution by providing for a unified investment program for all state funds. Allows retirement funds to be invested in private corporate stock, but provides that the public school fund and university system funds may be invested only in interest-bearing securities.

Section 14. PROHIBITED PAYMENTS
Except for interest on the public debt, no money shall be paid out of the treasury unless upon an appropriation made by law and a warrant drawn by the proper officer in pursuance thereof.

* * * *
No change except in grammar.

ARTICLE IX
ENVIRONMENT AND NATURAL RESOURCES

Section 1. PROTECTION AND IMPROVEMENT
(1) The state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations.
(2) The legislature shall provide for the administration and enforcement of this duty.
(3) The legislature shall provide adequate remedies for the protection of the environmental life support system from degradation and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources.

* * * *
New provision creating a duty of the state and its people to protect and improve the environment.
D.O.W.R. & C.

Section 2. RECLAMATION
All lands disturbed by the taking of natural resources shall be reclaimed. The legislature shall provide effective requirements and standards for the reclamation of lands disturbed.

Section 3. WATER RIGHTS
(1) All existing rights to the use of any waters for any useful or beneficial purpose are hereby recognized and confirmed.
(2) The use of all water that is now or may hereafter be appropriated for sale, rent, distribution, or other beneficial use, the right of way over the lands of others for all ditches, drains, flumes, canals, and aqueducts necessarily used in connection therewith, and the sites for reservoirs necessary for collecting and storing water shall be held to be a public use.
(3) All surface, underground, flood, and atmospheric waters within the boundaries of the state are the property of the state for the use of its people and are subject to appropriation for beneficial uses as provided by law.
(4) The legislature shall provide for the administration, control, and regulation of water rights and shall establish a system of centralized records, in addition to the present system of local records.

* * * *
(1) New provision guaranteeing all existing rights to the use of water. (2) No change except in grammar.
(3) New provision recognizing state ownership of all water subject to use and appropriation by its people.
(4) New provision requiring legislature to pass laws establishing a central records system so that records of water rights may be found in a single location as well as locally.

Section 4. CULTURAL RESOURCES
The legislature shall provide for the identification, acquisition, restoration, enhancement, preservation, and administration of scenic, historic, archeological, scientific, cultural, and recreational areas, sites, records and objects, and for their use and enjoyment by the people.

* * * *
New provision. Self-explanatory.
ARTICLE X

EDUCATION AND PUBLIC LANDS

Section 1. EDUCATIONAL GOALS AND DUTIES

(1) It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state. (2) The state recognizes the distinct and unique cultural heritage of the American Indians and is committed to its educational goals to the preservation of their cultural integrity. (3) The legislature shall provide a basic system of free quality elementary and secondary schools. The legislature may provide such other educational institutions, public libraries, and educational programs as it deems desirable. It shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system.

* * * * *

Revises 1889 Constitution. Expresses the goal of the State to educate all of its citizens regardless of their age, race, creed, color, or religious belief, and guarantees equal educational opportunity and specifically recognizes unique heritage of Indians.

---

Section 2. PUBLIC SCHOOL FUND

The public school fund of the state shall consist of: (1) Proceeds from the school lands which have been or may hereafter be granted by the United States, (2) Lands granted in lieu thereof, (3) Lands given or granted by any person or corporation under any law or grant of the United States, (4) All other grants of land or money made by the United States for educational purposes or without special purpose, (5) All interests in estates that escheat to the state, (6) All unclaimed shares and dividends of any corporation incorporated in the state, (7) All other grants, gifts, devises or bequests made to the state for educational purposes.

* * * * *

No change except in grammar. Gives constitutional recognition to the public school fund.

---

Section 3. PUBLIC SCHOOL FUND INVOLVEMENT

The public school fund shall forever remain inviolate, guaranteed by the state against loss or diversion.

* * * * *

No change except in grammar.

---

Section 4. BOARD OF LAND COMMISSIONERS

The governor, superintendent of public instruction, auditor, secretary of state, and attorney general constitute the board of land commissioners. It has the authority to direct, control, lease, exchange, and sell school lands and lands which have been or may be granted for the support and benefit of the various state educational institutions, under such regulations and restrictions as may be provided by law.

* * * * *

Revises 1889 constitution by adding state auditor to board of land commissioners and adding the power to exchange land.

---

Section 5. PUBLIC SCHOOL FUND REVENUE

(1) Ninety-five percent of all the interest received on the public school fund and ninety-five percent of all rent received from the leasing of school lands and all other income from the public school fund shall be appropriated annually for the support of public elementary and secondary school districts as provided by law.

* * * * *

The remaining five percent of all rent received on the public school fund, and the remaining five percent of all rent received from the leasing of school lands and all other income from the public school fund shall annually be added to the public school fund and become and forever remain an inseparable and inviolate part thereof.

* * * * *

Revises 1889 constitution by replacing specific language regarding distribution to be made "in proportion to the number of children between ages of 6 and 21" with general language that the income be "equitably apportioned" by allowing distribution of interest and income money to high schools as well as elementary schools.

---

Section 6. AID PROHIBITED TO SECTARIAN SCHOOLS

(1) The legislature, counties, cities, towns, school districts, and public corporations shall not make any direct or indirect appropriation or purchase by any public fund or moneys, or any grant of lands or other property for any sectarian purpose or to aid any church, school, academy, seminary, college, university, or other literary or scientific institution, controlled in whole or in part by any church, sect, or denomination.

(2) This section shall not apply to funds from federal sources provided to the state for the express purpose of distribution to non-public education.

* * * * *

Revises 1889 constitution by specifying that federal funds may be distributed to private schools. Proposed section still prohibits state aid to private schools.

---

Section 7. NON-DISCRIMINATION IN EDUCATION

No religious or partisan test or qualification shall be required of any teacher or student as a condition of admission into any public educational institution. Attendance shall not be required at any religious service. No sectarian tenets shall be advocated in any public educational institution of the state. No person shall be refused admission to any public educational institution on account of sex, race, creed, religion, political beliefs, or national origin.

* * * * *

Last sentence revises 1889 constitution which merely forbids denying any person entrance to a university because of his or her sex, or by broadening the language to include all public educational institutions and to include other kinds of discrimination. Other changes in grammar only.

---

Section 8. SCHOOL DISTRICT TRUSTEES

The supervision and control of schools in each school district shall be vested in a board of trustees to be elected as provided by law.

* * * * *

New provision which guarantees control of schools to local boards. Deletes requirement in 1889 constitution that elections for school district officers must be separate from state and county elections.

---

Section 9. BOARDS OF EDUCATION

(1) There is a state board of education composed of the board of regents of higher education and the board of public education. It is responsible for long-range planning, and for coordinating and evaluating policies and programs for the state's educational systems. It shall submit unified budget requests. A tie vote at any meeting may be broken by the governor, who is an ex officio member of each component board.

(2) The governor and control of the Montana university system is vested in a board of Regents of Higher Education which shall have full power, responsibility, and authority to supervise, coordinate, manage and control the Montana University system and shall supervise and coordinate other public educational institutions assigned by law.

* * * * *

Revises 1889 constitution by replacing specific language regarding distribution to be made "in proportion to the number of children between ages of 6 and 21" with general language that the income be "equitably apportioned" and by allowing distribution of interest and income money to high schools as well as elementary schools.

* * * * *

Revises 1889 constitution by creating one board (Board of Public Education) to supervise the public school system and a separate board (Board of Regents of Higher Education) to supervise the university system. The two boards together form one board (Board of Education) for considering mutual problems. Under 1889 constitution there is just one board to supervise the entire educational system. Each of the two proposed boards retains a name and is appointed by the governor (one less than in 1889 constitution). The governor and superintendent are ex officio, non-voting members (the latter general is an ex officio member in 1889 constitution.)

---

Section 10. STATE UNIVERSITY FUNDS

The funds of the Montana university system and of all other state institutions of learning, from whatever source accruing, shall forever remain inviolate and sacred to the purpose for which they were dedicated. The various funds shall be respectively invested under such regulations as may be provided by law, and shall be guarded against the state against loss or diversion. The interest from such invested funds, together with the rent from leased lands or properties, shall be devoted to the maintenance and perpetuation of the respective institutions.

* * * * *

No change except in grammar. (Section 10 of Article VIII, REVENUE AND FINANCE, provides for the investment of university funds.)

---

Section 11. PUBLIC LAND TRUST, DISPOSITION

(1) All lands of the state that have been or may be granted by Congress, or acquired by gift or grant or devise from any person or corporation, shall be public lands of the state. They shall be held in trust for the people, to be disposed of as hereafter provided, for the respective purposes for which they have been or may be granted, donated, or devised.

(2) No such land or any estate or interest therein shall ever be disposed of except in pursuance of general laws providing for such disposition, or until the full market value of the estate or interest disposed of, is to be ascertained in such manner as may be provided by law, has been paid or safely secured to the state.

(3) No land which the state holds by grant from the United States which prescribes the manner of disposal and minimum price shall be disposed of except in the manner and for at least the price prescribed without the consent of the United States.

(4) All public land shall be classified by the board of land commissioners in a manner authorized by law. Any public land may be exchanged for other land, public or private, which is equal in value and, as closely as possible, equal in area.

* * * * *

Only change in subsection (1). Subsections (2) and (3) are in grammar. Subsection (4) revises 1889 classification by deleting the 1889 constitutional classification of property into grazing, timber, agricultural or city lands and by stipulating that public lands may be exchanged.
ARTICLE XI
LOCAL GOVERNMENT

Section 1. DEFINITION
The term "local government units" includes, but is not limited to, counties and incorporated cities and towns. Other local government units may be established by law.

** * * *

New provision defining the term "local government unit" to include counties, cities and towns.

---

Section 2. COUNTIES
The counties of the state are those that exist on the date of ratification of this constitution. No county boundary may be changed or county seat transferred until approved by a majority of those voting in the question in each county affected.

** * * *

Revised 1889 constitution by requiring only a majority of those voting to approve county seat or boundary changes. 1899 constitution requires a majority of qualified electors.

---

Section 3. FORMS OF GOVERNMENT
(1) The legislature shall provide methods for governing local government units and procedures for incorporating, classifying, merging, consolidating, and dissolving such units, and altering their boundaries. The legislature shall provide such optional or alternative forms of government that each unit or combination of units may adopt, amend, amend, or abandon an optional or alternative form by a majority of those voting on the question.

(2) One optional form of county government includes, but is not limited to, the election of three county commissioners, a clerk and recorder, a clerk of district court, a county attorney, a sheriff, a treasurer, a county auditor, a county superintendent of schools, an assessor, a coroner, and a public administrator. The terms, qualifications, duties, and compensation of those offices shall be provided by law. The Board of county commissioners may consolidate two or more such offices. The Boards of two or more counties may provide for a joint office and for the election of one official to perform the duties of any such offices in those counties.

** * * *

New provision directing legislature to provide alternative forms of city and county or city-county governments, one of which must be the "traditional" form including the elected officials listed. Two or more counties may agree to elect one official to serve a multicounty area. Offices within counties are subject to consolidation.

---

Section 4. GENERAL POWERS
(1) A local government unit without self-government powers shall not have the following general powers:
(a) An incorporated city or town has the powers of a municipality and legislative, administrative, and other powers provided or implied by law.
(b) A county has legislative, administrative, and other powers provided or implied by law.
(c) Other local government units have powers provided by law.

(2) The powers of incorporated cities and towns and counties shall be liberally construed.

** * * *

New provision allowing legislature to grant legislative, administrative and other powers to local government units.

---

Section 5. SELF-GOVERNMENT ChARTERS
(1) The legislature shall provide procedures permitting a local government unit or combination of units to frame, adopt, amend, or abandon a self-government charter with the approval of a majority of those voting on the question. The procedures shall not require approval of a charter by a legislative body.

(2) If the legislature does not provide such procedures by July 1, 1975, they may be established by election either:
(a) Initiated by petition in the local government unit or combination of units;
(b) Called by the governing body of the local government unit or combination of units.

(3) Charter provisions establishing executive, legislative, and administrative structure and organization are superior to statutory provisions.

** * * *

New provision directing legislature to pass laws concerning procedures for local voters to design their own forms of government (self-government charters). The charter provisions concerning structure of local governments would take precedence over general laws on such matters.

---

Section 6. SELF-GOVERNMENT POWERS
A local government unit adopting a self-government charter may exercise any power not prohibited by this constitution, law, or charter. This grant of self-government powers may be extended to other local government units through optional forms of government provided for in section 2.

** * * *

New provision allowing local government units to share powers with the state and to have all powers not specifically denied. At present, local governments have only these powers specifically granted.

---

Section 7. INTERGOVERNMENTAL COOPERATION
(1) Unless prohibited by law or charter, a local government unit may
(a) cooperate in the exercise of any function, power, or responsibility with other local government units, school districts, the state, or the United States.
(b) The qualified electors of a local government unit may, by initiative or referendum, require it to do so.

** * * *

New provision allowing local governments to share services and functions with other units of government, the state, and the United States.

---

Section 8. INITIATIVE AND REFERENDUM
The legislature shall extend the initiative and referendum power reserved to the people by the constitution to the qualified electors of each local government unit.

** * * *

New provision directing legislature to give residents the power to initiate local ordinances by petition or to petition to vote on ordinances passed by local governments.

---

Section 9. VOTER REVIEW OF LOCAL GOVERNMENT
(1) The legislature shall, within four years of the ratification of this constitution, provide procedures requiring each local government unit or combination of units to review its structure and submit one alternative form of government to the qualified electors at the next general or special election.

(2) The legislature shall require a review procedure once every ten years after the first election.

** * * *

New provision. By 1976 the legislature must give local residents the opportunity to vote on whether or not to change their form of government. Laws must be passed requiring local forms of government to be studied and evaluated every ten years.

---

ARTICLE XII
DEPARTMENTS AND INSTITUTIONS

Section 1. AGRICULTURE
(1) The legislature shall provide for a Department of Agriculture and enact laws and provide appropriations to protect, enhance, and develop all agriculture.

(2) Special levies may be made on livestock and on agricultural commodities for disease control and indemnification, predation control, and livestock and commodity insurance, protection, research, and promotion. Revenue derived shall be used solely for the purposes of the levies.

** * * *

(1) Revises 1899 constitution. Provides that a department of agriculture will be a separate department and eliminates the provision that 10 percent of the time shall be divided among the executive branch. Deletes reference to a commissioner of agriculture. Directs legislature to provide money for agriculture.

(2) Revises 1899 constitution by extending the special pests and diseases laws and allowing the department to be used for the benefit of both. Deletes reference to maximum levy allowed.

---

Section 2. LABOR
(1) The legislature shall provide for a Department of Labor and Industry, headed by a commissioner appointed by the governor and confirmed by the senate.

(2) A maximum term of 8 hours in a regular day's work in all industries and employment except agriculture and stock raising. The legislature may change this maximum period to promote the general welfare.

** * * *

New provision. By 1976 the legislature must give local residents the opportunity to vote on whether or not to change their form of government. Laws must be passed requiring local forms of government to be studied and evaluated every ten years.
ARTICLE XIII
GENERAL PROVISIONS

Section 1. NON-MUNICIPAL CORPORATIONS
(1) Corporate charters shall be granted, modified, or dissolved only pursuant to general law.
(2) The legislature shall provide protection and education for the people against harmful and unfair practices by either foreign or domestic corporations, individuals, or associations.
(3) The legislature shall pass no law retrospective in its operations which imposes on the people a new liability in respect to transactions or considerations already passed.

Section 2. CONSUMER COUNSEL
The legislature shall provide for an office of consumer counsel which shall have the duty of representing consumer interests in hearings before the public service commission or any other agency. The legislature shall provide for the funding of the office of consumer counsel by a special tax on the net income or gross revenues of regulated companies.

ARTICLE XIV
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.

(1) No change except in grammar. (Delete references to specific types of institutions.) (2) New provision that a person in an institution may exercise all rights except those that are impossible because of the confinement and that all rights are automatically restored when the person is released. (3) Revises 1889 constitution which states that the "several counties" must provide welfare. Revision leaves it up to the legislature to determine whether the state, county, or a combination of the two must provide welfare.

New provision. The legislature must enact laws concerning conflict of interest involving legislators and other public officials.

Section 5. EXEMPTION LAWS
The legislature shall enact liberal homestead and exemption laws.

Identical to 1889 Constitution.

Section 6. PERPETUITIES
No perpetuities shall be allowed except for charitable purposes.

Identical to 1889 Constitution.

Revise 1889 constitution. Legislation shall determine whether constitutional convention delegates be elected on partisan or non-partisan basis. (1889 constitution not explicit on this point. Montana Supreme Court held convention delegates must run on partisan basis.)
## TRANSITION SCHEDULE

The following provisions shall remain part of this Constitution until their terms have been executed. Once each year the attorney general shall review the following provisions and certify to the secretary of state which, if any, have been executed. Any provisions so certified shall thereafter be removed from this Schedule and no longer published as part of this Constitution.

### Sections

<table>
<thead>
<tr>
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<th>Description</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td>Accelerated Effective Date</td>
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<tr>
<td>2</td>
<td>Delayed Effective Date</td>
</tr>
<tr>
<td>3</td>
<td>Prospective Operation of Declaration of Rights</td>
</tr>
<tr>
<td>4</td>
<td>Terms of Judiciary</td>
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<tr>
<td>5</td>
<td>Terms of Legislators</td>
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<td>General Transition</td>
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**Sections on size of legislature, election and terms of its members would become effective when the reapportionment plan becomes law.** If this is in 1974 then elections would be held in November, 1974 for new members of the legislature to take office January 1, 1975.

### TRANSITION SCHEDULE

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**Sections on size of legislature, election and terms of its members would become effective when the reapportionment plan becomes law.** If this is in 1974 then elections would be held in November, 1974 for new members of the legislature to take office January 1, 1975.

### Section 4. TERMS OF JUDICIARY

Supreme court justices, district court judges, and justices of the peace holding office when this Constitution becomes effective shall serve the terms for which they were elected or appointed.

### Section 5. TERMS OF LEGISLATORS

1. The terms of all legislators elected before the effective date of this Constitution shall end on December 31 of the year in which the first redistricting and reapportionment plan becomes law.
2. The senators first elected under this Constitution shall draw lots to establish a term of two years for one-half of their number.
3. If the reapportionment and redistricting plan becomes ineffective after the 1974 legislative session, the terms of legislators serving in that session would end December 31, 1974. (Section 3, Article V provides that senators have four year terms but that one-half are elected every two years. This section provides that one-half of the senators first elected will have only two year terms.

### Section 6. GENERAL TRANSITION

1. The rights and duties of all public bodies shall remain as if this Constitution had not been adopted with the exception of such changes as are contained in this Constitution. All laws, ordinances, regulations, and rules of court not contrary to, or inconsistent with, the provisions of this Constitution shall remain in force, until they shall expire by their own limitation or shall be altered or repealed pursuant to this Constitution.
2. The validity of all public and private bonds, debts, and contracts, and of all suits, actions, and rights of action, shall continue as if no change had taken place.
3. All officers filling any office by election or appointment shall continue the duties thereof, until the end of the terms to which they were appointed or elected, and until their offices shall have been abolished or their successors selected and qualified in accordance with this Constitution or laws enacted pursuant thereto.

### Section 7. CONVENTION DUTIES

The convention shall meet after the election of the delegates and prepare such revisions, alterations, or amendments to the Constitution as may be deemed necessary. They shall be submitted to the qualified electors for ratification or rejection as a whole or in separate articles or amendments as determined by the convention at an election appointed by the convention for that purpose not less than two months after adjournment. Unless so submitted and approved by a majority of the electors voting thereon, no such revision, alteration, or amendment shall take effect.

### Section 8. AMENDMENT BY INITIATIVE

(1) The people may also propose constitutional amendments by initiative. Petitions including the full text of the proposed amendment shall be signed by at least ten percent of the qualified electors at the nearest general election. If approved by a majority of the electors voting thereon, the amendment shall become a part of this constitution on the first day of July after certification of the election returns unless the amendment provides otherwise.

### Section 9. AMENDMENT BY REFERENDUM

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

### Section 10. PETITION SIGNERS

The number of qualified electors required for the filing of any petition provided for in this Article shall be determined by the number of votes cast for the office of governor in the preceding general election.

### Section 11. SUBMISSION

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

### Section 12. TRANSITION

Only change is removal of requirements in 1889 constitution that a convention meet within a certain time after election and that the election on the proposed constitution be held within six months.

### Section 13. NEW PROVISION

New provision. Ten percent of voters may propose constitutional amendments by petition.

### Section 14. NO CHANGE

No change except in grammar.
ADOPTION SCHEDULE

These Schedule provisions are part of this Constitution only for the limited purposes of determining whether this Constitution has been adopted, determining what changes result from the vote on each of the separately submitted issues, and establishing the general effective date of this Constitution. No provision of this Schedule shall be published unless it becomes part of the Constitution as the result of the adoption of a separately submitted provision.

New provision. Self-explanatory.

Section 3. ELECTION AND TERMS

A senator shall be elected for a term of four years to begin on a date provided by law. One-half of the senators shall be elected every two years.

No change except in grammar.

Section 4. QUALIFICATIONS

A candidate for the legislature shall be a resident of the state for at least one year next preceding the general election. For six months next preceding the general election he shall be a resident of the county if it contains one or more districts or of the district if it contains all or part of more than one county.

Revises 1899 constitution by reducing district or county residency requirements from one year to six months and eliminating age requirements.

No change except in grammar.

Section 5. COMPENSATION

Each member of the legislature shall receive compensation for his services and allowances provided by law. No legislature may fix its own compensation.

New provision. Self-explanatory.

Section 6. SESSIONS

The legislature shall be a continuous body for two-year periods beginning when newly elected members take office. Any business, bill, or resolution pending at adjournment of a session shall carry over with the same status to any other session of the legislature during the biennium. The legislature shall meet at least once a year in regular sessions of not more than 60 legislative days. Any legislature may increase the limit on the length of any subsequent session. The legislature may be convened in special sessions by the governor or at the written request of a majority of the members.

New provision. "Continuous body" does not mean the legislature is in continuous session but means the legislature has legal existence even when not actually meeting. It will have regular annual sessions of 60 days. A legislature cannot pass a law that it can meet for more than 60 legislative days but can provide that future legislatures may meet longer. Legislation as well as the governor may call a special session.

New provision which would require filling vacancies by election if the present law requiring appointments is ever repealed.

Section 7. VACANCIES

A vacancy in the legislature shall be filled by special election for the unexpired term unless otherwise provided by law.

New provision for determining size of the legislature.

Section 8. IMMUNITY

A member of the legislature is privileged from arrest during attendance at sessions of the legislature and in going to and returning thereto, unless apprehended in the commission of a felony or a breach of the peace. He shall not be questioned in any other place for any speech or debate in the legislature.

No change except in grammar.

Section 9. DISQUALIFICATION

No member of the legislature shall, during the term for which he shall have been elected, be appointed to any civil office under the state, and no member of congress, or other person holding an office (except notary public, or the militia) under the United States or this state, shall be a member of the legislature during his continuance in office.

No change except in grammar.

Section 10. ORGANIZATION AND PROCEDURE

(1) The legislature shall judge the election and qualifications of senators. It may by law vest in the courts the power to try and determine contested elections. It shall choose its officers from among its members, keep a journal, and make rules for its proceedings. It may expel or punish a senator for good cause shown with the concurrence of two-thirds of all the senators.

(2) A majority of the senators constitutes a quorum. A smaller number may adjourn from day to day and compel attendance of absent members.

(3) The sessions of the legislature and of the committee of the whole, all committee meetings, and all hearings shall be open to the public.

(4) The legislature may establish a legislative council and other standing committees. The legislature shall establish a legislative post-audit committee which shall supervise post-auditing duties provided by law.

New provision specifically allowing the legislature to create committees to work between the annual meetings.

No change except in grammar.

Section 11. BILLS

(1) A law shall be passed by bill which shall not be so altered or amended on its passage through the legislature as to change its original purpose. No bill shall become law except by a vote of the majority of all members present and voting.

(2) Every vote of each member on each substantive question in the legislature, in any committee, or in committee of the whole shall be recorded and made public. On final passage, the vote shall be taken by ayes and noes and the names entered on the journal.

(3) Each bill, except general appropriation bills and bills for the codification and general revision of the laws, shall contain only one subject, clearly expressed in its title. If any subject is embraced in any act and is not expressed in the title, only so much of the act not so expressed is valid.

(4) A general appropriation bill shall contain only appropriations for the ordinary expenses of the legislative, executive, and judicial branches, for interest on the public debt, and for public schools. Every other appropriation shall be made by a separate bill containing but one subject.

(5) No appropriation shall be made for religious, charitable, industrial, educational, or benevolent purposes to any private individual, private association, or private corporation not under control of the state.

(6) A law may be challenged on the ground of non-compli-
Section 12. LOCAL AND SPECIAL LEGISLATION

The legislature shall not pass a special or local act when a general act is, or can be made, applicable.

Section 13. IMPREACHMENT

(1) The governor, executive officers, heads of state departments, judicial officers, and such other officers as may be provided by law are subject to impeachment, and upon conviction shall be removed from office. Other proceedings for removal from public office for cause may be provided by law.

(2) The legislature shall provide for the manner, procedure, and causes for impeachment and shall provide for a tribunal.

(3) Impeachment may be brought only by a two-thirds vote of the legislature.

(4) Conviction shall extend only to removal from office, but the party, whether convicted or acquitted, shall also be liable to prosecution according to law.

Section 14. DISTRICTING AND APPOINTMENT

(1) The state shall be divided into as many districts as there are senators and each district shall elect one senator. Each district shall consist of compact and contiguous territory. All districts shall be as nearly equal in population as is practicable.

(2) In the legislative session following ratification of this constitution and thereafter in each session preceding each federal population census, a commission of five citizens, none of whom shall be a member of the legislative council, shall be selected to prepare a plan for redistricting and reapportioning the state into legislative and congressional districts. The majority and minority leaders of the legislature shall select these two commissioners. Within 20 days after their designation, the four commissioners shall select the fifth member, who shall serve as chairman of the commission. If the four members fail to select the fifth member within the time provided, a majority of the supreme court shall select him.

(3) The commission shall submit its plan to the legislature at the first regular session after its appointment or after the census figures are available. Within 30 days after submission, the legislature shall return the plan for final action in the same session with its recommendations. Within 30 days thereafter, the commission shall file its final plan with the secretary of state and it shall become law. The commission is then dissolved.

(4) The members of the unicameral legislature shall remain in office and their authority to act shall continue until the members of a bicameral body are elected and qualified.

(5) The Senate chamber existing upon the date of adoption of this Constitution shall continue to exist until the legislature is convened for the first time.

(6) When the provisions of this section have been carried out, it shall be of no further effect.

Minor revision. Two-thirds rather than a majority vote necessary to impeach. Since there is only one house, the legislature will have to decide by law what other body will hear the charges.

Section 15. REFERENDUM OF UNICAMERAL LEGISLATURE

(1) In 1980 the secretary of state shall place upon the ballot at the general election the question "Shall the unicameral legislature form be continued?"

(2) If a majority of the qualified electors voting on the question answer in the affirmative, the form shall be continued, and this section shall be of no further effect.

(3) If a majority of the qualified electors voting on the question answer in the negative, Article V of this Constitution is amended by deleting sections 1, 2, 3, 10, 13, and 14, and inserting in lieu thereof the following:

(a) "Section 1. POWER AND STRUCTURE. The legislative power is vested in a legislature consisting of a senate and assembly of representatives. The people reserve to themselves the powers of initiative and referendum."

(b) "Section 2. SIZE. The size of the legislature shall be provided by law, but the senate shall not have more than 50 senators or fewer than 40 members and the house shall not have more than 100 or fewer than 80 members."

(c) "Section 3. ELECTION AND TERMS. A member of the house of representatives shall be elected for a term of two years and a member of the senate for a term of four years, each to begin on a date provided by law. One-half of the senators shall be elected every two years."

(d) "Section 10. ORGANIZATION AND PROCEDURE. (1) Each house shall have the power to determine its rules of procedure and to set its own calendar. Each house may make its rules of procedure subject to the approval of the other house. Each house may adjourn from time to time."

(e) "Section 13. IMPREACHMENT. (1) The governor, executive officers, heads of state departments, judicial officers, and such other officers as may be provided by law are subject to impeachment, and upon conviction shall be removed from office. Other proceedings for removal from public office for cause may be provided by law.

(f) "The legislature shall provide for the manner, procedure, and causes for impeachment and may select the senate as the tribunal.

(g) "Impeachment shall be brought only by a two-thirds vote of the house. The tribunal hearing the charges shall convict only by a vote of two-thirds or more of its members.

(h) Conviction shall extend only to removal from office, but the party, whether convicted or acquitted, shall also be liable to prosecution according to law.

(2) Section 14. DISTRICTING AND APPOINTMENT. (1) The state shall be divided into as many districts as there are senators and each district shall elect one senator. Each district shall consist of compact and contiguous territory. All districts shall be as nearly equal in population as is practicable.

(3) In the legislative session following this amendment and thereafter in each session preceding each federal population census, a commission of five citizens, none of whom shall be a member of the legislative council, shall be appointed to prepare a plan for redistricting and reapportioning the state into legislative and congressional districts. The majority and minority leaders of the legislature shall select the five commissioners. Each house shall select a commissioner. Each district shall consist of compact and contiguous territory. All districts shall be as nearly equal in population as is practicable.

(4) If a separate issue 2A concerning the unicameral form of the legislature is not approved by the electors and if the proposed Constitution is approved by the electors, then ARTICLE V, THE LEGISLATURE, shall be retained.

(c) The words "senate" in subsections (1), (2), and (4) of section 8, ARTICLE VI, THE EXECUTIVE, in subsections (1) and (2) of section 8, ARTICLE VII, THE JUDICIARY, and in subsection (1) of section 2, ARTICLE XII, DEPARTMENTS AND INSTITUTIONS.

If one house legislature is adopted the words "of each house" are meaningless so will be deleted from constitution before it is published.

(e) The words "of senate" in subsections (1), (2), and (4) of section 8, ARTICLE VI, THE EXECUTIVE, in subsections (1) and (2) of section 8, ARTICLE VII, THE JUDICIARY, and in subsection (1) of section 2, ARTICLE XII, DEPARTMENTS AND INSTITUTIONS.

If one house legislature is adopted the sections of the constitution dealing with confirmation by the senate will be changed to read confirmation by the legislature.

If separate issue 2A concerning the unicameral form of the legislature is not approved by the electors and if the proposed Constitution is approved by the electors, then ARTICLE V, THE LEGISLATURE, shall be retained.

If the proposed constitution is adopted it will contain a provision for a two-house legislature (senate and house of representatives) unless voters adopt one-house form.
approved by the electors, then section 9 of ARTICLE III, GENERAL GOVERNMENT shall be retained.

(2) If separate issue 2A is approved by the electors and if the proposed Constitution is approved by the electors, then section 9 shall be deleted from ARTICLE III, GENERAL GOVERNMENT and the following substituted therefor: "Section 9. GAMBLING. All forms of gambling, lotteries, and gift enterprises are prohibited unless authorized by acts of the legislature or by the people through initiative or referendum."

* * * * *

If adopted the proposed constitution will contain a

prohibition against all gambling unless the people vote to allow the legislature or the people to authorize certain forms of gambling. If the voters approve of this authorization then the proposed constitution will be so worded before publication.

Section 4.

If separate issue 4B is approved by a majority of those voting at the election and if the proposed Constitution is approved by the electors, then there shall be added to section 28, ARTICLE VIII—JUDICIAL DEPARTMENTS

DELETIONS

The following provisions appearing in the 1889 constitution are not included in the proposed constitution of 1972.

PREAMBLE—The Preamble was completely rewritten.

ARTICLE I—BOUNDARIES

Boundaries of all states are determined by the United States Congress.

ARTICLE II—MILITARY RESERVATIONS

Concerns military posts now abandoned.

ARTICLE III—A DECLARATION OF RIGHTS

Section 25. Provides that aliens have the same rights as citizens to own mines.
Section 28. Prohibition against slavery.
Section 29. Declaration that constitutional provisions are mandatory.

ARTICLE V—LEGISLATIVE DEPARTMENT

Section 3. References to age requirements of 21 for representatives and 24 for senators. (Article IV of the proposed constitution makes 18-year olds eligible to run for the legislature.)
Section 5. Omit delete provision on pay of legislators.
Section 20. Prohibits enacting clause of bills.
Section 21. Introduction of bill deadline.
Section 22. Requires that bills be considered by committee and be printed.
Section 25. Requires that an amendatory bill set out entire law being amended.
Section 27. Requires presiding officer sign bills in presence of legislative members.
Section 28. Requires number, duties and compensation of legislative officers and employees be set by law.
Section 29. Prohibits extra compensation by bill.
Section 30. Legislative printing requirements.
Section 31. Prohibits laws changing salaries or extending terms of public officials.
Section 32. Requires all revenue bills to be introduced in house.
Section 36. Prohibits delegating municipal functions to private organizations.
Section 37. Prohibits investing trust funds in corporate bonds or stock.
Section 38. Prohibits state aid to railroads.
Section 39. Prohibits laws diminishing or extinguishing debts owed the state.
Section 41. Bribery of legislators.
Section 42. Bribery of state officials.
Section 43. Corrupt solicitation of legislators.
Section 44. Prohibits legislator from voting on bill in which he has private interest.

ARTICLE VI—APPOINTMENT AND REPRESENTATION

Section 1. Election of representative to Congress—this is provided for in U.S. Constitution.

ARTICLE VII—EXECUTIVE DEPARTMENT

Section 8. State Examiner.
Section 18. Requires all grants and commissions be sealed and signed by governor and secretary of state.
Section 19. Accounting by executive officers and institutions.
Section 20. Board of State Prison Commissioners.

II. DECLARATION OF RIGHTS, the following sentence: "Death shall not be prescribed as a penalty for any crime against the state." And there shall be deleted from section 21 of the same ARTICLE, the following: "except for capital offenses, when the proof is evident or the presumption great."

* * * * *

If the proposed constitution is adopted and the people vote against the death penalty then the constitution will contain the language prohibiting the death penalty and the reference to "capital offenses" meaning punishable by death will be deleted.

ARTICLE VIII—JUDICIAL DEPARTMENTS

Section 3. Provision for Supreme Court Jury.
Section 4. Requiring 1 term of Supreme Court each year.
Section 8. First election of Justices.
Section 9. Clerk of the Supreme Court.
Section 13. Sets up 8 judicial districts.
Section 17. Requires district courts to be open at all times and to hold four terms each year.
Section 18. Clerk of District Court.
Section 19. County Attorney.
Section 21. Types of cases JPs cannot handle.
Section 22. Requires JPs courts to be open at all times.
Section 24. Police and municipal courts.
Section 25. Courts of Record.
Section 26. Uniform laws and organization of courts.
Section 27. Style of process.
Section 28. Law and equity same form of civil action.
Section 32. Publication of Supreme Court decisions.
Section 34. Filling vacancies in offices of county attorney, clerk of district court and JP's.
Section 36. Judges pro tempore of district court.

ARTICLE IX—RIGHTS OF SUFFRAGE AND QUALIFICATIONS TO HOLD OFFICE

Section 3. Change of residence because of job or status.
Section 5. Electors exempt from military duty on election day.
Section 6. Military residence not voting residence.
Section 10. Eligibility for state school officers.
Section 12. Equal rights for women voters.

ARTICLE X—STATE INSTITUTIONS AND PUBLIC BUILDINGS

Section 2. Provision for vote on first location of capital.
Section 3. 2 /3 vote to change location of capital.
Section 4. No money for building until capital first located.

ARTICLE XII—REVENUE AND TAXATION

Section 1. Requiring all property to be taxed.
Section 1a. Allows taxing incomes.
Section 3. Taxation of mines and proceeds.
Section 4. Prohibits state aid to local governments.
Section 5. Prohibits taking private property for corporate debts. (This prohibition is covered by the U.S. Constitution.)
Section 9. Two-million limitation on property taxes.
Section 11. Uniformity clause.
Section 12. Details of State accounting.
Section 14. State Depository Board.
Section 15. County and State boards of equalization.
Section 16. Specifies assessment and apportionment of railroad property.
Section 17. Defines the word "property."
Section 18. Gives legislature power to pass laws.

ARTICLE XIII—PUBLIC INDEBTEDNESS

Section 1. Lending of state's credit.
Section 2. $100,000 debt limit for state.
Section 4. Prohibits state from assuming debt of local governments.
Section 5. $10,000 county debt limit.
Section 6. Local government debt limit.

ARTICLE XIV—MILITARY AFFAIRS

Section 2. Requires laws concerning the militia.
Section 3. Requires appropriations for the militia.
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Proposed
1972 CONSTITUTION
for the
STATE of MONTANA
OFFICIAL TEXT WITH EXPLANATION

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