

**2001 DRAFTING REQUEST**

**Assembly Joint Resolution**

Received: **11/09/2000**

Received By: **dykmapj**

Wanted: **Soon**

Identical to LRB:

For: **Spencer Black (608) 266-7521**

By/Representing: **him**

This file may be shown to any legislator: **NO**

Drafter: **dykmapj**

May Contact:

Alt. Drafters:

Subject: **Constitutional Amendments  
Elections - miscellaneous  
Legislature - miscellaneous  
Memorials - Congress to**

Extra Copies: **RJM  
JTK  
RAC**

**Pre Topic:**

No specific pre topic given

**Topic:**

Petition for a direct election of the President and the Vice President

**Instructions:**

See Attached

Pursuant to Article V of the U.S. constitution, that Wisconsin Legislature make application for a constitutional convention for the sole purpose of amending Article II, section 1 of the U.S. constitution and amending amendment XII of the U.S. constitution to provide for direct election of the President and the Vice President of the U.S.

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	dykmapj 11/10/2000	gilfokm 11/10/2000	jfrantze 11/13/2000	_____	lrb_docadmin 11/13/2000		
/1	dykmapj 11/15/2000	gilfokm 11/16/2000	jfrantze 11/16/2000	_____	lrb_docadmin 11/16/2000 lrb_docadmin	lrb_docadmin 11/27/2000	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
				_____	11/16/2000		

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/1	dykmapj 11/15/2000	gilfokm 11/16/2000	jfrantze 11/16/2000	_____	lrb_docadmin 11/16/2000		

*J. B. Kelly*  
11/16

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11/16

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Table with columns: Vers., Drafted, Reviewed, Typed, Proofed, Submitted, Jacketed, Required. Row 1: /P1, dykmapj, gilfokm, jfrantze, [blank], lrb\_docadmin, [blank].

FE Sent For:

Handwritten notes: 1-11/15 King, Jb 11/14, PG, 11/14, <END>

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Pursuant to Article V of the U.S. constitution, that Wisconsin Legislature make application for a constitutional convention for the sole purpose of amending Article II, section 1, of the U.S. constitution and amending amendment XII of the U.S. constitution to provide for direct election of the President and the Vice President of the U.S.

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1?	dykmapj	1/11/10 Kmg	2/11/13	2/11/13			

FE Sent For:

<END>

**Dykman, Peter**

---

**From:** Black, Spencer  
**Sent:** Thursday, November 09, 2000 12:53 PM  
**To:** Dykman, Peter  
**Subject:** resolution draft request

Peter: I would like to request a draft of a joint resolution to do the following:

Pursuant to Article V of the U.S. constitution, that Wisconsin Legislature make application for a constitutional convention for the sole purpose of amending Article II, section 1 of the U.S. constitution and amending amendment XII of the U.S. constitution to provide for direct election of the President and the Vice President of the U.S.  
Thank you. Call if you have questions

Spencer Black





PJD...  
King

5001

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION  
**2001 ASSEMBLY JOINT RESOLUTION**

D-NOTE

1 **Relating to:** requesting appropriate action by the U.S. Congress to propose an  
2 amendment to the federal constitution for the direct election by the people of  
3 the U.S. president and vice president.

***Analysis by the Legislative Reference Bureau***

\* Currently, the U.S. president and vice president are chosen, pursuant to article II, section 1 and article 12 of the U.S. Constitution, by the presidential electors. Those provisions are set forth at the end of this analysis.

This joint resolution applies to the U.S. Congress to submit to the states, for ratification, an amendment to the U.S. Constitution "providing for the direct, popular, joint election of the U.S. president and vice president and providing, further, that a runoff election be held among the 2<sup>nd</sup> slates receiving the highest number of popular votes if no slate has received at least 40% of the whole number of votes cast at the November election."

The joint resolution further requests, as an alternative, that the Congress call a federal constitutional convention for the purpose of proposing the same amendment to the states for ratification. Under article V of the U.S. Constitution, the Congress must call such a convention when two-thirds of the states (34) apply therefor. The joint resolution states that the application for a call of a constitutional convention contained in this joint resolution is void, rescinded, and of no effect if the constitutional convention is not limited to the exclusive issue of amending the federal constitution "providing for the direct, popular, joint election of the U.S. president and

vice president and providing, further, that a runoff election be held among the 2 slates receiving the highest number of popular votes if no slate has received at least 40% of the whole number of votes cast at the November election."

The joint resolution also proposes that the legislatures of each of the states apply to the Congress requesting the enactment of an appropriate amendment to the federal constitution or requiring the Congress to call a constitutional convention for proposing such an amendment to the federal constitution similar in subject matter to the amendment proposed in this joint resolution.

An amendment submitted to the states by the Congress or by a convention becomes part of the constitution when ratified by three-fourths of the states (38).

**U.S. CONSTITUTION**

Article II, Section 1 (part), and article 12 of the U.S. Constitution state:

~~Article II, Section 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice-President chosen for the same Term, be elected, as follows:~~

~~Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector. (The next clause, not set forth here, was superseded by Amendment XII.)~~

~~The Congress may determine the Time of choosing the Electors, and the Day on which they shall give their Votes, which Day shall be the same throughout the United States.~~

~~Amendment XII The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;~~

~~The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;~~

~~The person having the greatest Number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a~~

*LPS: do not change spelling in the Constitution text.*

*No B*

*INS. 2A*

*INS. 2B*

*LPS: Prop of U.S. Constitution; see King.*

President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.

The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States."

*Handwritten initials*

*cap all refs.*

①

Whereas, currently, the U.S. president and vice president are chosen, pursuant

②

to article II, section 1, and article 12 of the U.S. Constitution, by the presidential electors; and

4

Whereas, under article V of the Constitution of the United States, the Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to the federal constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments; now, therefore, be it

9

**Resolved by the assembly, the senate concurring, That** the legislature of the state of Wisconsin proposes to the Congress of the United States that procedures be instituted in the Congress to add a new article to the Constitution of the United States, and that the state of Wisconsin requests the Congress to prepare and submit to the several states an amendment to the Constitution of the United States, providing for the direct, popular, joint election of the U.S. president and vice president and providing, further, that a runoff election be held among the 2 slates receiving the highest number of popular votes if no slate has received at least 40% of the whole number of votes cast at the November election; and, be it further

17

1           **Resolved, That**, alternatively, the legislature of the state of Wisconsin makes  
2 application and requests that the Congress of the United States call a constitutional  
3 convention for the specific and exclusive purpose of proposing an amendment to the  
4 federal <sup>✓</sup> constitution providing for the direct, popular, joint election of the U.S.  
5 president and vice president and providing, further, that a runoff election be held  
6 among the 2 slates receiving the highest number of popular votes if no slate has  
7 received at least 40% of the whole number of votes cast at the November election;  
8 and, be it further

9           **Resolved, That** the application for a call of a constitutional convention  
10 contained in this joint resolution is void, rescinded, and of no effect if the  
11 constitutional convention is not limited to the exclusive issue of amending the federal  
12 <sup>✓</sup> constitution providing for the direct, popular, joint election of the U.S. president and  
13 vice president and providing, further, that a runoff election be held among the 2  
14 slates receiving the highest number of popular votes if no slate has received at least  
15 40% of the whole number of votes cast at the November election; and, be it further

16           **Resolved, That** this application by the legislature of the state of Wisconsin  
17 constitutes a continuing application in accordance with article V of the <sup>✓</sup> Constitution  
18 of the United States until at least two-thirds of the legislatures of the several states  
19 have made an application for a similar constitutional convention in accordance with  
20 article V of the Constitution of the United States or until the Congress has submitted  
21 to the several states an amendment to the Constitution of the United States similar  
22 in subject matter to the amendment proposed in this joint resolution; and, be it  
23 further

24           **Resolved, That** the legislature of the state of Wisconsin also proposes that the  
25 legislatures of each of the several states comprising the United States apply to the

1 Congress requesting the enactment of an appropriate amendment to the federal  
2 ✓ constitution or requiring the Congress to call a constitutional convention for  
3 proposing such an amendment to the federal constitution similar in subject matter  
4 to the amendment proposed in this joint resolution; and, be it further

5 ***Resolved, That*** a duly attested copy of this joint resolution be immediately  
6 transmitted to the president and secretary of the ✓ Senate of the United States, to the  
7 speaker and clerk of the ✓ House of ✓ Representatives of the United States, to the ✓ Office  
8 of the Federal Register, to the Library of Congress, to each member of the  
9 congressional delegation from this state, to the ✓ National Conference of State  
10 Legislatures, to the Council of State Governments, and to the presiding officer of  
11 each house of each state legislature in the United States, attesting the adoption of  
12 this joint resolution by the 2001 legislature of the state of Wisconsin.

13 (END)

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0968/P1ins  
PJD:kmg:jf

IMS  
2A.

" **Article II, Section 1.** The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected, as follows:

Each state shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector."

~~"This clause, deleted here, is superseded by the 12th Amendment."~~

"The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States."

~~Amendment XII~~

IMS  
2B

~~1804~~  
The electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate; The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; the person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States."

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0968/P1dn

PJD.....  
*king*

November 10, 2000

Please review this draft carefully to ensure that it is consistent with your intent. Do you wish to retain all of the provisions in this draft?

Atty. Peter J. Dykman  
General Counsel  
Phone: (608) 266-7098  
E-mail: peter.dykman@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0968/P1dn  
PJD:kmg:jf

November 13, 2000

Please review this draft carefully to ensure that it is consistent with your intent. Do you wish to retain all of the provisions in this draft?

Atty. Peter J. Dykman  
General Counsel  
Phone: (608) 266-7098  
E-mail: [peter.dykman@legis.state.wi.us](mailto:peter.dykman@legis.state.wi.us)



*rec'd  
New*

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

# 2001 ASSEMBLY JOINT RESOLUTION

*Stet*

*article 23  
and  
amendment  
stet*

1 **Relating to:** requesting appropriate action by the U.S. Congress to propose an  
 2 amendment to the federal constitution for the direct election by the people of  
 3 the U.S. president and vice president.

### *Analysis by the Legislative Reference Bureau*

Currently, the U.S. president and vice president are chosen, pursuant to article II, section 1, ~~and article 23~~ of the U.S. Constitution, by the presidential electors. Those provisions are set forth at the end of this analysis.

*stet*

This joint resolution applies to the U.S. Congress to submit to the states, for ratification, an amendment to the U.S. Constitution "providing for the direct, popular, joint election of the U.S. president and vice president ~~and providing, further, that a runoff election be held among the 2 states receiving the highest number of popular votes if no state has received at least 40% of the whole number of votes cast at the November election.~~"

~~The joint resolution further requests, as an alternative, that the Congress call a federal constitutional convention for the purpose of proposing the same amendment to the states for ratification. Under article V of the U.S. Constitution, the Congress must call such a convention when two-thirds of the states (34) apply therefor. The joint resolution states that the application for a call of a constitutional convention contained in this joint resolution is void, rescinded, and of no effect if the constitutional convention is not limited to the exclusive issue of amending the federal constitution "providing for the direct, popular, joint election of the U.S. president and~~

vice president and providing, further, that a runoff election be held among the 2 slates receiving the highest number of popular votes if no slate has received at least 40% of the whole number of votes cast at the November election."

The joint resolution also proposes that the legislatures of each of the states apply to the Congress requesting the enactment of an appropriate amendment to the federal constitution ~~or requiring the Congress to call a constitutional convention for proposing such an amendment to the federal constitution~~ similar in subject matter to the amendment proposed in this joint resolution.

An amendment submitted to the states by the Congress ~~or by a convention~~ becomes part of the constitution when ratified by three-fourths of the states (38).

~~U.S. CONSTITUTION~~ U.S. CONSTITUTION

Article II, section 1 (part), ~~and article 12~~ of the U.S. Constitution state:

**"Article II, Section 1.** The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected, as follows:

Each state shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector." (The next clause, not set forth here, was superseded by Amendment XII.)

"The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States." *(The remaining clauses are not set forth here.)*

**"Amendment XII** The electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;

The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;

The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be

1

23  
and  
Article  
Amendment

article 23  
of  
amendment 23

XXIII

necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.

The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States."

3A  
↑

1           Whereas, currently, the U.S. President and Vice President are chosen,  
2 pursuant to article II, section 1, and ~~article II~~<sup>state</sup> of the U.S. Constitution, by the  
3 presidential electors; and ~~amendment XXIII~~

4           Whereas, under article V of the Constitution of the United States, the Congress,  
5 whenever two-thirds of both houses shall deem it necessary, shall propose  
6 amendments to the federal constitution, ~~or, on the application of the legislatures of~~  
7 ~~two-thirds of the several states, shall call a convention for proposing amendments,~~  
8 now, therefore, be it

9           **Resolved by the assembly, the senate concurring, That** the legislature of  
10 the state of Wisconsin proposes to the Congress of the United States that procedures  
11 be instituted in the Congress to add a new article to the Constitution of the United  
12 States, and that the state of Wisconsin requests the Congress to prepare and submit  
13 to the several states an amendment to the Constitution of the United States,  
14 providing for the direct, popular, joint election of the U.S. President and Vice  
15 President ~~and providing, further, that a runoff election be held among the 2 states~~  
16 ~~receiving the highest number of popular votes if no state has received at least 40%~~  
17 ~~of the whole number of votes cast at the November election;~~ and, be it further

1 **Resolved, That**, alternatively, the legislature of the state of Wisconsin makes  
2 application and requests that the Congress of the United States call a constitutional  
3 convention for the specific and exclusive purpose of proposing an amendment to the  
4 federal constitution providing for the direct, popular, joint election of the U.S.  
5 President and Vice President and providing, further, that a runoff election be held  
6 among the 2 slates receiving the highest number of popular votes if no slate has  
7 received at least 40% of the whole number of votes cast at the November election;  
8 and, be it further

9 **Resolved, That** the application for a call of a constitutional convention  
10 contained in this joint resolution is void, rescinded, and of no effect if the  
11 constitutional convention is not limited to the exclusive issue of amending the federal  
12 constitution providing for the direct, popular, joint election of the U.S. President and  
13 Vice President and providing, further, that a runoff election be held among the 2  
14 slates receiving the highest number of popular votes if no slate has received at least  
15 40% of the whole number of votes cast at the November election; and, be it further

16 **Resolved, That** this application by the legislature of the state of Wisconsin  
17 constitutes a continuing application in accordance with article V of the Constitution  
18 of the United States until ~~at least two-thirds of the legislatures of the several states~~  
19 ~~have made an application for a similar constitutional convention in accordance with~~  
20 ~~article V of the Constitution of the United States or until~~ the Congress has submitted  
21 to the several states an amendment to the Constitution of the United States similar  
22 in subject matter to the amendment proposed in this joint resolution; and, be it  
23 further

24 **Resolved, That** the legislature of the state of Wisconsin also proposes that the  
25 legislatures of each of the several states comprising the United States apply to the

1 Congress requesting the enactment of an appropriate amendment to the federal  
2 constitution ~~or requiring the Congress to call a constitutional convention for~~  
3 ~~proposing such an amendment to the federal constitution~~ similar in subject matter  
4 to the amendment proposed in this joint resolution; and, be it further

5 ***Resolved, That*** a duly attested copy of this joint resolution be immediately  
6 transmitted to the president and secretary of the Senate of the United States, to the  
7 speaker and clerk of the House of Representatives of the United States, to the Office  
8 of the Federal Register, to the Library of Congress, to each member of the  
9 congressional delegation from this state, to the National Conference of State  
10 Legislatures, to the Council of State Governments, and to the presiding officer of  
11 each house of each state legislature in the United States, attesting the adoption of  
12 this joint resolution by the 2001 legislature of the state of Wisconsin.

13 (END)

**Dykman, Peter**

---

**From:** Dykman, Peter  
**Sent:** Wednesday, November 15, 2000 4:35 PM  
**To:** Gilfoy, Karen; Frantzen, Jean; Haugen, Caroline  
**Subject:** Amendment XXIII into analysis of 01-0968/1

Please put Amendment XXIII into analysis of 01-0968/1 as insert 3a

ⓐ "Amendment XXIII

3A

ⓑ Section 1. The District constituting the seat of government of the United States shall appoint in such manner as the Congress may direct:

ⓐ A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a state, but in no event more than the least populous state; they shall be in addition to those appointed by the states, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a state; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

ⓐ Section 2. The Congress shall have power to enforce this article by appropriate legislation."

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## 2001 ASSEMBLY JOINT RESOLUTION

1 **Relating to:** requesting appropriate action by the U.S. Congress to propose an  
2 amendment to the federal constitution for the direct election by the people of  
3 the U.S. president and vice president.

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### *Analysis by the Legislative Reference Bureau*

Currently, the U.S. president and vice president are chosen, pursuant to article II, section 1, ~~and~~ article 12, and of the U.S. Constitution, by the presidential electors. Those provisions are set forth at the end of this analysis.

This joint resolution applies to the U.S. Congress to submit to the states, for ratification, an amendment to the U.S. Constitution "providing for the direct, popular, joint election of the U.S. president and vice president."

The joint resolution also proposes that the legislatures of each of the states apply to the Congress requesting the enactment of an appropriate amendment to the federal constitution similar in subject matter to the amendment proposed in this joint resolution.

An amendment submitted to the states by the Congress becomes part of the constitution when ratified by three-fourths of the states (38).

4

### U.S. CONSTITUTION

Article II, section 1 (part), article 12, and article 23 of the U.S. Constitution state:

**"Article II, Section 1.** The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years,

and, together with the Vice President, chosen for the same term, be elected, as follows:

Each state shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector." (The next clause, not set forth here, was superseded by Amendment XII.)

"The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States." (The remaining clauses are not set forth here.)

**"Amendment XII** The electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;

The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;

The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.

The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States."

**"Amendment XXIII**

**Section 1.** The District constituting the seat of government of the United States shall appoint in such manner as the Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled



if it were a state, but in no event more than the least populous state; they shall be in addition to those appointed by the states, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a state; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

**Section 2.** The Congress shall have power to enforce this article by appropriate legislation.”

---

1           Whereas, currently, the U.S. President and Vice President are chosen,  
2           pursuant to article II, section 1, article 12, and article 23 of the U.S. Constitution,  
3           by the presidential electors; and

4           Whereas, under article V of the Constitution of the United States, the Congress,  
5           whenever two-thirds of both houses shall deem it necessary, shall propose  
6           amendments to the federal constitution; now, therefore, be it

7           ***Resolved by the assembly, the senate concurring, That*** the legislature of  
8           the state of Wisconsin proposes to the Congress of the United States that procedures  
9           be instituted in the Congress to add a new article to the Constitution of the United  
10          States, and that the state of Wisconsin requests the Congress to prepare and submit  
11          to the several states an amendment to the Constitution of the United States,  
12          providing for the direct, popular, joint election of the U.S. President and Vice  
13          President; and, be it further

14          ***Resolved, That*** this application by the legislature of the state of Wisconsin  
15          constitutes a continuing application in accordance with article V of the Constitution  
16          of the United States until the Congress has submitted to the several states an  
17          amendment to the Constitution of the United States similar in subject matter to the  
18          amendment proposed in this joint resolution; and, be it further

19          ***Resolved, That*** the legislature of the state of Wisconsin, also proposes that the  
20          legislatures of each of the several states comprising the United States apply to the

1 Congress requesting the enactment of an appropriate amendment to the federal  
2 constitution similar in subject matter to the amendment proposed in this joint  
3 resolution; and, be it further

4 ***Resolved, That*** a duly attested copy of this joint resolution be immediately  
5 transmitted to the president and secretary of the Senate of the United States, to the  
6 speaker and clerk of the House of Representatives of the United States, to the Office  
7 of the Federal Register, to the Library of Congress, to each member of the  
8 congressional delegation from this state, to the National Conference of State  
9 Legislatures, to the Council of State Governments, and to the presiding officer of  
10 each house of each state legislature in the United States, attesting the adoption of  
11 this joint resolution by the 2001 legislature of the state of Wisconsin.

12 (END)



STEPHEN R. MILLER  
CHIEF

# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
5TH FLOOR  
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561  
LEGAL FAX: (608) 264-6948

November 16, 2000

### MEMORANDUM

To: Representative Black

From: Attorney Peter J. Dykman, General Counsel

Re: LRB-0968 Petition for a direct election of the President and the Vice President

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY     JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-7098 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.