



Introduced Version

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# HOUSE JOINT RESOLUTION No. 5

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## DIGEST OF INTRODUCED RESOLUTION

**Citations Affected:** Article V, Section 17, of the United States Constitution.

**Synopsis:** Article V convention. Makes application to the Congress to call a constitutional convention under Article V of the Constitution of the United States for the specific and exclusive purpose of proposing an amendment repealing the 17th Amendment to the Constitution of the United States concerning the direct election of United States Senators.

**Effective:** A constitutional convention is called when two-thirds of the state legislatures make application to the Congress to call a constitutional convention to consider an amendment to the Constitution of the United States.

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January 19, 2016, read first time and referred to Committee on Judiciary.

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20161529

2016

HJ 5—HJ 9205/DI 75



Introduced

Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

## HOUSE JOINT RESOLUTION No. 5

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A JOINT RESOLUTION requesting Congress to call a constitutional convention for the purpose of proposing an amendment to the Constitution of the United States concerning the direct election of United States Senators.

*Be it resolved by the General Assembly of the State of Indiana:*

1 SECTION 1. That the general assembly of the State of Indiana  
2 makes application to the Congress of the United States for a convention  
3 under Article V of the Constitution of the United States for the specific  
4 and exclusive purpose of proposing the following amendment to the  
5 Constitution of the United States:  
6 "The seventeenth article of amendment to the Constitution of the  
7 United States is hereby repealed."  
8 SECTION 2. The State of Indiana requests that such an amendment  
9 be valid for all intents and purposes as part of the Constitution of the  
10 United States when ratified by the legislatures of three-fourths (3/4) of  
11 the several states.

2016

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1 SECTION 3. Because the power of the sovereign states to propose  
2 amendments to the Constitution of the United States by convention  
3 under Article V has never been exercised and no precedent exists for  
4 the calling or holding of such a convention, the State of Indiana hereby  
5 declares the following basic principles with respect to an Article V  
6 convention:

7 (1) That the power of the sovereign states to amend the  
8 Constitution of the United States under Article V is absolute.

9 (2) That the power of the sovereign states to propose amendments  
10 to the Constitution of the United States by convention under  
11 Article V is absolute.

12 (3) That the power of the sovereign states extends over an Article  
13 V convention and the scope and control the convention.

14 (4) That it is within the sovereign power of the sovereign states to  
15 prescribe whether an Article V convention shall be general or  
16 shall be limited to the proposal of a specified amendment or of  
17 amendments in a specified field.

18 (5) That the exercise by the sovereign states of their power to  
19 require the calling of an Article V convention contemplates that  
20 the applications of the several states for such a convention  
21 prescribe the scope of the convention and the essential provisions  
22 for holding the convention.

23 (6) That the scope of an Article V convention and the provisions  
24 for holding the convention are established in and by the  
25 applications for the convention by the legislatures of two-thirds  
26 (2/3) of the several states required by Article V to call a  
27 convention.

28 (7) That it is the duty of the Congress to call a convention in  
29 conformity with Article V.

30 (8) That an Article V convention is without power to transcend,  
31 and the delegates to the convention are without power to act,  
32 except within the limitations and provisions described in this  
33 SECTION.

34 SECTION 4. The State of Indiana requests that an Article V  
35 convention be called and held in conformity with the following  
36 limitations and provisions, and that the Congress, in the call for the  
37 convention, is requested to prescribe the following:

38 (1) That the convention be held in the city of Philadelphia, in the  
39 State of Pennsylvania, on the first Monday of the first December  
40 following transmission to the Senate and the House of  
41 Representatives of the Congress of the United States of  
42 applications for such a convention by the legislatures of



1 two-thirds (2/3) of the several states and, in honor of the nation's  
 2 founders and for invocation, shall convene at Constitution Hall,  
 3 at Independence Square, at the hour of 10:00 o'clock in the  
 4 morning of that day, and then adjourn to more commodious  
 5 quarters within that city for session as the convention determines.  
 6 (2) That the following apply to the delegates from each of the  
 7 states:

8 (A) Each state have equal suffrage at the convention.

9 (B) Each state be entitled to three (3) delegates.

10 (C) Each delegate be entitled to one (1) vote.

11 (D) The delegates to the convention from each state be the  
 12 highest officer of the senate and the highest officer of the  
 13 house of representatives of their respective legislatures at the  
 14 time of the convention, except that in states where the  
 15 lieutenant governor is president of the senate, the president of  
 16 the senate pro tempore or other highest officer from the  
 17 membership of the senate be the delegate from the senate. In  
 18 states having a unicameral legislature, the two highest officers  
 19 of its legislature are the delegates. The two (2) delegates thus  
 20 determined for each of the states shall jointly designate a  
 21 citizen of the state at large who shall be the third delegate from  
 22 the state to the convention. If there is a vacancy in the office  
 23 of any delegate during the convention not otherwise filled by  
 24 law, by legislative act, or as described in this resolution, the  
 25 vacancy shall be filled by the governor of the state from the  
 26 senate or house of its legislature or the state at large,  
 27 respectively, as the case may be. During a vacancy and during  
 28 the absence of a delegate from the floor of the convention, the  
 29 delegates present from the state are authorized to exercise the  
 30 vote of the absent delegate or delegates from the state.  
 31 However, the legislature of a state may choose its delegates to  
 32 the convention, other than described above, in which case the  
 33 delegates so chosen shall be certified to the convention by the  
 34 secretary of state of the state and constitute the delegates of the  
 35 state at the convention instead of the delegates otherwise  
 36 designated.

37 (3) That the convention be limited and restricted specifically to  
 38 the following:

39 (A) The consideration and proposal of the amendment stated  
 40 in SECTION 1 of this resolution.

41 (B) The choosing of officers and adoption of rules of  
 42 procedure for:



- 1 (i) the conduct of the convention and the maintenance of  
 2 order at the convention;  
 3 (ii) the determination of any issue respecting the seating of  
 4 delegates; and  
 5 (iii) adjournment from day to day and to a day certain and  
 6 from place to place within the city as may be convenient,  
 7 and adjournment sine die.
- 8 (C) The convention may not be held for any other purpose or  
 9 have any other power, and the delegates have no power other  
 10 than within the limitations described in this resolution.
- 11 (4) That a permanent record be made of the proceedings of the  
 12 convention, which must be certified by the secretary of the  
 13 convention, the original of which must be placed in the Library of  
 14 Congress and printed copies of which must be transmitted to the  
 15 Senate and the House of Representatives of the Congress, to the  
 16 Secretary of State of the United States, and to each house of the  
 17 legislature and to the secretary of state of each of the several  
 18 states.
- 19 (5) That the powers of the convention be exercised by the states,  
 20 represented at the convention by their duly constituted delegates,  
 21 by majority vote of the states present and voting on the proposal,  
 22 and not otherwise.
- 23 SECTION 5. The State of Indiana requests that this application  
 24 constitute a continuing application for a convention under Article V of  
 25 the Constitution of the United States until the legislatures of two-thirds  
 26 (2/3) of the several states have made like applications and a convention  
 27 has been called and held in conformity with those applications, unless  
 28 the Congress itself proposes the amendment stated in SECTION 1 of  
 29 this resolution within the time and the manner provided in this  
 30 resolution.
- 31 SECTION 6. The State of Indiana requests that the proposal of the  
 32 amendment stated in SECTION 1 of this resolution by the Congress  
 33 and its submission for ratification to the legislatures of the several  
 34 states in the form stated in SECTION 1 of this resolution, at any time  
 35 before sixty (60) days after the legislatures of two-thirds (2/3) of the  
 36 several states have made application for a convention, renders a  
 37 convention unnecessary and therefore, should not be held; otherwise,  
 38 a convention shall be called and held in conformity with the  
 39 applications of the several states.
- 40 SECTION 7. The State of Indiana requests that as this application  
 41 under Article V of the Constitution of the United States is the exercise  
 42 of a fundamental power of the sovereign states under the Constitution



1 of the United States, receipt of this application by the Senate and the  
2 House of Representatives of the Congress of the United States be  
3 officially noted and entered upon their respective records, and that the  
4 full text of this resolution be published in the official publication of  
5 both the Senate and the House of Representatives of the Congress.

6 SECTION 8. That certified copies of this resolution be sent to each  
7 of the following:

8 (1) The presiding officers of the Congress of the United States.

9 (2) The Secretary of the United States Senate and the Clerk of the  
10 United States House of Representatives.

11 (3) The presiding officer of each chamber of each state legislature  
12 in the United States.

13 (4) The members of the Congress of the United States from  
14 Indiana.

