



**ARKANSAS**

2020 Voter Guide

# Arkansas Ballot Issues

General Election | Nov. 3, 2020

**UofA** **DIVISION OF AGRICULTURE**  
**RESEARCH & EXTENSION**  
*University of Arkansas System*

**PUBLIC POLICY CENTER**

This neutral, research-based guide to the 2020 Arkansas Ballot Issues was produced by the Public Policy Center at the University of Arkansas System Division of Agriculture. For the latest ballot information visit [www.uaex.edu/ballot](http://www.uaex.edu/ballot)





# 2020 Voter Guide Arkansas Ballot Issues

On Election Day, you decide more than who will represent you. You also vote whether to approve or reject new state laws and proposed changes to the Arkansas Constitution. The Public Policy Center provides research-based information on statewide ballot issues to help voters better understand what is being asked of them.

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\*being challenged in court

## How does an issue get on the ballot?

In Arkansas, there are two ways for an issue to appear on the statewide ballot:

- **Legislators vote to put issue on the ballot.**
- **Citizens collect enough signatures from registered voters across the state.**

Putting a proposed constitutional amendment or act on the ballot is not an easy task. Legislators whittle down dozens of proposals in committee meetings to arrive at the three proposed constitutional amendments they're allowed to refer to voters.



Citizens must collect thousands of signatures from registered voters in at least 15 counties. For an amendment, citizen groups need signatures from 89,151 registered voters. This is equal to 10% of the number of people who voted in the last governor's election. For referendums, citizen groups must collect 53,491 voter signatures to qualify for the ballot. This represents 6% of the number of people who voted for governor last time.

The Arkansas Secretary of State sent the official statewide ballot to counties on Aug. 20. Several court challenges that were in place when this voter guide went to print may alter what appears on the ballot for you to decide.

**Go to [www.uaex.edu/ballot](http://www.uaex.edu/ballot) for up-to-date information about the legal status of Arkansas' 2020 ballot issues.**

**Conflict of Interest:** *The University of Arkansas System Division of Agriculture, including the Cooperative Extension Service and Public Policy Center, is funded in part by state and local government appropriations. Any legislation affecting general revenues of state and local governments has the potential to influence our financial well-being. We are obligated to divulge potential conflicts of interest and to recognize their influence on the educational programs and material we produce. We are committed to full disclosure and open recognition of our potential for bias. We strive to present Arkansas citizens with a fair and balanced representation of the issues brought to the ballot and welcome any constructive criticism of that effort.*

**Did you read the voter guide? Tell us how we did in this short survey:**

**<https://tinyurl.com/2020ARballotsurvey>**

# Arkansas State Ballot Issues Worksheet

The Public Policy Center seeks to help Arkansans better understand the financial, social or policy implications of a proposed law by publishing neutral, research-based information. Read through the fact sheets in this voter guide to find out what supporters and opponents are saying and get answers to questions about terminology or the implications of proposed amendments. Once you have all the facts, determine for yourself which vote to cast. Use the worksheet below to keep track of your decisions.

| I plan to vote...                                       |   |
|---|---|
| <input type="radio"/> FOR <input type="radio"/> AGAINST | <p><b>ISSUE NUMBER 1</b></p> <p>An amendment to the Arkansas Constitution continuing a one-half percent (0.5%) sales and use tax for state highways and bridges; county roads, bridges and other surface transportation; and city streets, bridges, and other surface transportation after the retirement of the bonds authorized in Arkansas Constitution, Amendment 91.</p> <p>Notes: _____<br/>           _____<br/>           _____</p> |
| <input type="radio"/> FOR <input type="radio"/> AGAINST | <p><b>ISSUE NUMBER 2</b></p> <p>A constitutional amendment to amend the term limits applicable to members of the General Assembly, to be known as the “Arkansas Term Limits Amendment.”*</p> <p>Notes: _____<br/>           _____<br/>           _____</p>  |
| <input type="radio"/> FOR <input type="radio"/> AGAINST | <p><b>ISSUE NUMBER 3</b></p> <p>A constitutional amendment to amend the process for the submission, challenge, and approval of proposed initiated acts, constitutional amendments, and referenda.*</p> <p>Notes: _____<br/>           _____<br/>           _____</p>  |

(continued on back side)



| I plan to vote...                                       |  |
|---|--|
| <input type="radio"/> FOR <input type="radio"/> AGAINST | <p><b>ISSUE NUMBER 4</b><br/>Arkansas Citizens' Redistricting Amendment*</p> <p>Notes: _____<br/>           _____<br/>           _____</p> <p><b>REMOVED FROM BALLOT</b></p>   |
| <input type="radio"/> FOR <input type="radio"/> AGAINST | <p><b>ISSUE NUMBER 5</b><br/>A constitutional amendment establishing top four open primary elections and majority winner general elections with instant runoffs if necessary.*</p> <p>Notes: _____<br/>           _____<br/>           _____</p> <p><b>REMOVED FROM BALLOT</b></p> |
| <input type="radio"/> FOR <input type="radio"/> AGAINST | <p><b>ISSUE NUMBER 6</b><br/>Referendum on Act 579, which is an Act to Amend the Definition of "Practice of Optometry.*"</p> <p>Notes: _____<br/>           _____<br/>           _____</p> <p><b>REMOVED FROM BALLOT</b></p>   |

\*being challenged in court

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## ISSUE NUMBER 1

(Referred to the people by the Arkansas General Assembly)

# 0.5% Sales Tax for State Highways and Bridges, County Roads, City Streets, Bridges, and Other Surface Transportation

**POPULAR NAME:** An amendment to the Arkansas Constitution continuing a one-half percent (0.5%) sales and use tax for state highways and bridges; county roads, bridges and other surface transportation; and city streets, bridges, and other surface transportation after the retirement of the bonds authorized in Arkansas Constitution, Amendment 91.

**BALLOT TITLE:** An amendment to the Arkansas Constitution to continue a levy of a one-half percent sales and use tax for state highways and bridges; county roads, bridges, and other surface transportation; and city streets, bridges, and other surface transportation after the retirement of the bonds authorized in Arkansas Constitution, Amendment 91, as special revenue to be distributed under the Arkansas Highway Revenue Distribution Law.

### What is being proposed?

This ballot initiative proposes making permanent a 0.5% state sales tax that currently helps fund Arkansas's four-lane highway system, county roads, and city streets, by amending the Arkansas Constitution to include the tax. The existing 0.5% sales tax, which is used partially to repay highway, road and street bonds, is set to expire in June 2023.

### QUICK LOOK: What does your vote mean?

**FOR:** A FOR vote means you are in favor of changing the Arkansas Constitution to include a permanent statewide 0.5% sales and use tax for state highways and bridges, county and city streets, bridges and other surface transportation.

**AGAINST:** An AGAINST vote means you are not in favor of changing the Arkansas Constitution to include a statewide 0.5% sales and use tax for state highways and bridges, county and city streets, bridges and other surface transportation.

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The following statements are examples of what supporters and opponents have made public either in media statements, campaign literature, on websites or in interviews with Public Policy Center staff. The University of Arkansas System Division of Agriculture does not endorse or validate these statements.

## What do supporters say?

- This tax will support around 3,600 jobs each year and provide \$8.2 billion of economic activity over 10 years.
- This measure helps to pay for highway and road infrastructure without adding new taxes. It is just an extension of an existing tax. It's not a new tax.
- If the tax extension doesn't pass, you're going to have county judges and mayors looking at their budget sheets thinking I've just lost 30% of my road money. Do I take that from other things? Or, do I let my roads further deteriorate? And those are tough questions.
- There is a significant need for funding for highways and roads in Arkansas to ensure public safety, repair or replace dangerous bridges, and ensure access to reliable roads. The money could improve close to all of the roads that Arkansans use most. Funds could go towards improving almost all (7,300 out of 7,900) miles of roads that carry 90% of Arkansas traffic.
- Funding for highways and roads is a growing problem because most of that funding comes from fuel taxes, which is whittled away by increasing construction costs, increasing fuel efficiency and decreased fuel consumption. Alternative funding sources are necessary.

## What do opponents say?

- ARDOT cannot take care of its existing roads because it has too many to oversee. If the highway department were to receive \$300 million, it would ask for \$300 million more. And if it gets that, it would need \$300 million more. The amount of funding it receives is never enough.
- A huge portion of the tax revenue will go to the 30 Crossing project in Little Rock, an unnecessary "boondoggle" that will benefit only a tiny percentage of Arkansans. ARDOT is currently being sued in state and federal courts for violating environmental and planning regulations on this project as well as using "4 lane highway" tax revenue for expanding these freeways from 6 lanes to 8+ lanes. Expanding I-30 will not perform as well as adding a local street bridge crossing and keeping the freeway 6 lanes.
- Many Arkansas lawmakers have pledged not to increase taxes in Arkansas, and this increase would violate that promise.
- It is a new tax. If you got a 10 year sentence in jail, and then the judge extended it, that would be an additional sentence.
- More and more states have multi-modal transportation programs that fund public transportation. To date, ARDOT has spent virtually no dollars on public transit. It is of small benefit to Arkansans who want mobility but cannot drive.

If approved by voters, this constitutional amendment would:

- Make permanent the 0.5% state sales tax.
- Use the revenue from this tax for maintaining, repairing and improving highways, roads and streets across the state.

## How did this issue get on the ballot?

The Arkansas Senate and House of Representatives voted to put Issue 1 on the 2020 General Election Ballot. The Arkansas Constitution grants the legislature the right to include up to three constitutional amendments on the general election ballot.

Constitutional amendments require the approval of a majority of voters in a statewide election. Election Day is Nov. 3, 2020.

## Who are the main sponsors of this constitutional amendment?

Rep. Jeff Wardlaw of Hermitage and Sen. Lance Eads of Springdale.

## What is Arkansas' current state sales tax rate?

Arkansas currently levies a statewide sales tax of 6.5% on most goods and some services, including an existing but temporary 0.5% sales tax for roads.

## How much money would this proposed sales tax generate and how would it be distributed?

Revenue would be divided between the state and local governments according to the Arkansas Highway Revenue Distribution Law, the same law that governs how the existing temporary 0.5% sales tax revenue is allocated. After the state takes 3% of the revenue for administrative expenses, 70% of the remaining revenue would go to the Arkansas

Department of Transportation, 15% to counties and 15% to cities.

After deducting the 3% for administrative expenses, the proposed sales tax is expected to generate approximately \$293.7 million in annual revenue. Of that, \$205.6 million would be allocated to the State Highway and Transportation Fund, \$44 million to cities, and \$44 million to counties, according to an impact statement written by the Arkansas Department of Finance and Administration about the proposed amendment. That impact statement is available at: <https://bit.ly/3boocql>.

### Could this money be used for anything else?

No. The revenue generated from the proposed tax would be treated as special revenue, meaning that it would be dedicated for a specific purpose. Under this proposal, the revenue must be spent for the maintenance, repair and improvement of Arkansas' highways, roads and streets. This tax revenue could not be used to pay off bond debt. (Bonds are certificates of debt used by states, cities, counties or other government entities to finance large projects, such as roads, schools or sewer systems. Debt is paid off over a long period of time.)

### How is the existing 0.5% sales tax for roads used?

Arkansas voters approved a temporary half-cent sales tax to help fund the "Connecting Arkansas Program" in 2012. The Arkansas Department of Transportation (ARDOT), cities and counties each receive a portion of this existing temporary 0.5% tax, according to the Arkansas Highway Revenue Distribution law. Some of the Arkansas Department of Transportation's portion is dedicated to repaying construction and improvement bonds, which were used to generate revenues for state highways, county roads and city streets. Cities and counties receive their portion as turnback funds. This tax expires when the bonds are fully paid, which is estimated to occur in June 2023.

### Didn't the Arkansas legislature recently pass a tax increase to pay for roads?

Issue 1 is part of a larger plan put forward by Gov. Asa Hutchinson in 2019 to increase funding for highway and road infrastructure by \$300 million a year, according to his February 15, 2019 address.

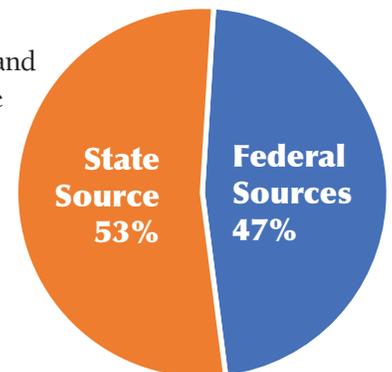
In addition to this proposed amendment, Hutchinson's plan included Act 416 of 2019, which increased the state's motor fuel tax by three cents per gallon on gasoline and six cents per gallon on diesel in October 2019. This new

state law also increased registration fees for hybrid and electric vehicles to \$100 and \$200 respectively. Act 416 also directs any new gaming tax collections that exceed \$31.2 million in a year to be used for roads. Year-to-date gaming tax revenue reached \$31.2 million in April of 2020, according to the Arkansas Department of Finance and Administration's general revenue report for that month.

### How does the state currently generate funds for road work?

Arkansas receives revenue from several sources to support all current road and bridge work and day-to-day ARDOT operations. Funding for the Arkansas state highway system totaled approximately \$1.6 billion in 2018, according to ARDOT. Approximately 47% of the revenue for the state highway system comes from the federal government. The remaining 53% comes from state sources, which include<sup>1</sup>:

- The current 0.5% sales tax
- Motor fuel taxes on gasoline, diesel, liquefied petroleum gas, compressed natural gas and other fuels
- Vehicle Registration fees
- Natural gas severance tax
- Various permit fees, transfer fees, interest and miscellaneous income
- Appropriations from general funds



**Funding for the Arkansas State Highway System (2017-2018)**

Source: Arkansas Department of Transportation

In addition to the funds above, ARDOT will receive additional funds when Act 416 of 2019 is implemented. ARDOT estimates that it will receive \$95 million from Act 416 when it is fully implemented in Fiscal Year 2021. ARDOT also estimates that cities and counties will receive about \$14 million each in additional turnback funds from this Act.

Act 416 funds will flow from the following sources:

- An increase of 3 cents per gallon on the gasoline tax and 6 cents per gallon on the diesel tax
- An increase in vehicle registration fees for hybrid and electric vehicles (\$100 and \$200 per year respectively)
- Taxes on casino gaming

<sup>1</sup>More information about highway revenue sources can be found in the 53rd Biennial Report FY 2017 & 2018 of the Arkansas State Highway Commission published by the Arkansas Department of Transportation available at: <https://bit.ly/3hKPTMe>

## How do cities and counties pay for their roads?

Cities and counties receive revenue to pay for road maintenance and construction from the state and from their own local taxes. Cities and counties receive the following revenue from the state to pay for their roads:

- **County and city road funds** - Revenue for the State Aid Road fund (for counties only) comes from one cent per gallon of the motor fuel taxes collected. Revenue for the State Aid City Street fund (for cities only) comes from an additional one cent per gallon of the motor fuel taxes collected.
- **“Turnback funds”** - Turnback funds are distributed according to the Arkansas Highway Revenue Distribution Law requiring that state revenue collected for road maintenance and construction be divided between the state, counties and cities (70% to ARDOT, 15% divided between all the counties, and 15% divided between all the cities). A portion of the existing 0.5% state sales tax makes up part of these turnback funds. According to ARDOT, cities and counties each received about \$41.6 million from the tax as turnback in Fiscal Year 2019.

Cities and counties also generate revenue from local sources to fund road and bridge work. For instance, county governments can impose a property tax, up to a maximum of three mills specifically for roads, in addition to using other sources of county government revenue<sup>2</sup>. Some of the revenue from this county road tax must be shared with any city or town within the county, according to Arkansas Code § 26-79-104. Counties and cities also generate revenue for roads through local sales taxes and from the sale of bonds.

## How would county and city road budgets be affected by the expiration of the existing 0.5% sales tax?

Cities and counties currently receive a portion of the existing half cent sales tax for road funding as part of their turnback funds. They will see their turnback funds decline when the current 0.5% sales tax expires in June



2023 unless it is replaced by the proposed permanent 0.5% sales tax. ARDOT estimates that cities and counties will experience a 30% decline in road funding without the half cent sales tax, according to their impact table. That impact table shows the turnback revenue individual cities and counties receive now and how much the amount would decline if the sales tax is discontinued. The table can be found at: [www.ardot.gov/renew/2024%20Turnback.pdf](http://www.ardot.gov/renew/2024%20Turnback.pdf).

## What does “Other Surface Transportation” mean?

This phrase typically refers to public transit, sidewalks, bike lanes, etc. though the proposed amendment does not include a definition.

## Are there any specific projects identified to be paid for with the proposed state sales tax?

The proposed amendment does not identify specific projects at the state, county or city level. ARDOT officials have said in public meetings they would use 76% of the state’s share of the tax revenue to maintain existing highways and bridges. The state’s remaining 24% would go toward funding capital projects.

April 2020 media reports indicate that current plans for the I-30 expansion project in Little Rock are partly reliant on funds that would be available only if the 0.5% sales tax is approved by voters.

While the amendment doesn’t outline any specific projects, the highway department has a draft map of projects. Those maps can be found here:

- 2024-2033 Draft Program of Bridge and Pavement Improvement Projects: [ardot.gov/renew/Statewide/Map2\\_Preservation.pdf](http://ardot.gov/renew/Statewide/Map2_Preservation.pdf)
- Potential Projects for Second Connecting Arkansas Program: [ardot.gov/renew/Statewide/Map3\\_CAP\\_2.pdf](http://ardot.gov/renew/Statewide/Map3_CAP_2.pdf)

Quorum courts and city councils would decide how the county and city shares of road funding would be used.

## How does Arkansas’ highway funding compare to other states?

Arkansas ranks relatively high among states for the number of state highway miles (12th) and public road and street miles (17th). Arkansas collects less money for every mile of road than most other states, ranking 38th in total revenues per public road mile, according to data from the U.S. Department of Transportation Office of Highway Patrol Information.

<sup>2</sup>Revenue generated from property tax is based on property assessments in the taxing unit times the millage (tax rate).



**Where can I find more information?**

The complete wording of this proposed amendment can be found at [www.uaex.edu/issue1](http://www.uaex.edu/issue1). The Arkansas State Sales and Use Tax fact sheet provides more information about the history, administration and household impact of the state sales and use tax. The fact sheet can be found at [www.uaex.edu/publications/pdf/FSCED20.pdf](http://www.uaex.edu/publications/pdf/FSCED20.pdf)

The following is the proposed constitutional amendment name and title as they will appear on the state's November General Election ballot.

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Issue No. 1

(Popular Name)

An Amendment to the Arkansas Constitution Continuing a One-Half Percent (0.5%) Sales and Use Tax for State Highways and Bridges; County Roads, Bridges and Other Surface Transportation; and City Streets, Bridges, and Other Surface Transportation After the Retirement of the Bonds Authorized in Arkansas Constitution, Amendment 91

(Ballot Title)

An Amendment to the Arkansas Constitution to continue a levy of a one-half percent sales and use tax for state highways and bridges; county roads, bridges, and other surface transportation; and city streets, bridges, and other surface transportation after the retirement of the bonds authorized in arkansas constitution, Amendment 91, as special revenue to be distributed under the Arkansas Highway Revenue Distribution Law.

FOR ISSUE NO. 1

AGAINST ISSUE NO. 1



## ISSUE NUMBER 2

(Referred to the people by the Arkansas General Assembly)

# Changing General Assembly Term Limits and Allowing Re-Election Upon A Break In Service

**POPULAR NAME:** A constitutional amendment to amend the term limits applicable to members of the General Assembly, to be known as the “Arkansas Term Limits Amendment”

**BALLOT TITLE:** A constitutional amendment to be known as the “Arkansas Term Limits Amendment”; and amending the term limits applicable to members of the General Assembly.

### What is being proposed?

This amendment asks voters to change term limits for the General Assembly as described in Amendment 73 of the Arkansas Constitution. If approved by the voters, this amendment would eliminate life-time term limits but require breaks in service for future state senators and representatives. Specifically, this amendment would:

1. Remove life-time term limits for state legislators.
2. Prohibit future legislators from serving more than 12 years in a row. Legislators who serve the full 12 years consecutively would be allowed to hold office again once four years have passed since their last term expired.
3. Include two-year senate terms resulting from apportionment after a census in calculating the years of consecutive service for legislators elected after Jan. 1, 2021. Currently, this two-year partial term does not count toward term limits.
4. Allow current legislators and any legislator elected this November to serve under the current term limit amendment, which allows them to serve 16

### QUICK LOOK: What does your vote mean?

**FOR:** A FOR vote means you are in favor of changing the Arkansas Constitution regarding term limits. This includes removing life-time limits for legislators; allowing current legislators and those elected in November to serve under existing term limits; setting a limit of 12 consecutive years of service for legislators elected after 2020; allowing legislators who reach the 12-year limit to serve again once four years have passed since their last term ended; and explaining how partial terms from apportionment are handled when calculating a legislator’s consecutive years of service.

**AGAINST:** An AGAINST vote means you are not in favor of changing the Arkansas Constitution regarding term limits and want to maintain the existing life-time limit of serving up to 16 years in the Arkansas House of Representatives or Senate.

(continued on page 12)

The following statements are examples of what supporters and opponents have made public either in media statements, campaign literature, on websites or in interviews with Public Policy Center staff. The University of Arkansas System Division of Agriculture does not endorse or validate these statements.

## What do supporters say?

- People always say they want to run government like a business. I'm not aware of any business that fires their board of directors or their management team every six, eight or 10 years.
- The amendment gives someone time to become experienced and to become effective while still accomplishing the goal of keeping term limits short enough that we get new blood.
- This especially I think comes into play when we have some folks serve in their 20s and somebody in their 50s. Something might happen to the state and people say we could really use this man, we could use this woman, to come back and help us and under current law even they couldn't do that. So this changes lifetime term limits to successive term limits.
- For those that are worried that this would create lifetime legislators, we know from experience in states with similar provisions allowing lawmakers to return to serve, only 5% of lawmakers returned. What we're trying to do – with a requirement to sit out four years rather than 2 – we're trying to take away the incumbent advantage because there definitely is one.

## What do opponents say?

- This term limit amendment is actually a term extender because it allows current legislators, after serving the currently allowable 16 years, to sit out four years and run to serve 12 more years.
- The amendment removes the current lifetime limit, allowing politicians to return to office after just four years out.
- I just prefer that issues like that come from the voters as opposed to legislators trying to do it at this point.
- Legislators could have used the ballot title to tell voters what the amendment does, but chose not to. They could have told voters that this amendment will enable legislators to serve 10 years on and 2 off for the rest of their lives. Or that the new 12 consecutive year limit doesn't apply to themselves until they've maxed out current term limits. 16 years on, 4 off, 12 on means they can serve 28 of 32 years. For senators, it would be 22-4-12, which would be 34 of 38 years. 38 years in the legislature with a single 4-year break.

(continued from page 11)

years consecutively or non-consecutively. They would be eligible to hold office in the future once four years have passed from their last term expiring.

### **How did this issue get on the ballot?**

The Arkansas Senate and House of Representatives voted to put Issue 2 on the 2020 General Election Ballot. The Arkansas Constitution grants the legislature the right to include up to three constitutional amendments on the general election ballot.

Constitutional amendments require the approval of a majority of voters in a statewide election. Election Day is Nov. 3, 2020.

### **Who were the main sponsors of this amendment?**

Sen. Alan Clark of Lonsdale and Rep. Jim Dotson of Bentonville.

### **When was the last time Arkansas voted on General Assembly term limits?**

Term limits have been on the Arkansas ballot several times over the past 30 years.

In 1992, Arkansas voters approved Amendment 73 which set terms for constitutional officers such as the governor and commissioner of state lands as well as state legislators. The amendment limited members of the House of Representatives to three two-year terms (a total of six years) and state senators to two four-year terms (a total of eight years).

In 2004, voters rejected a proposal to allow up to six two-year terms (12 years) in the House and three four-year terms (12 years) in the Senate.

In 2014, voters approved Amendment 94 to eliminate chamber-specific term limits and cap the total number of years state legislators can serve at 16 years. The term limits were part of an amendment known to many people as the "ethics amendment" because of the new ethics requirements it included for legislators and the creation of an independent citizens commission responsible for establishing legislative pay.

In 2018, a proposed amendment from the public seeking to undo Amendment 94 was removed from the ballot before Election Day. The Arkansas Supreme Court agreed with challengers that voter signatures should be disqualified due to paperwork errors. The proposed constitutional amendment sought to set limits of two four-year terms in the Senate (eight years) and three two-year terms in the House (six years), an overall 10-year limit on service in the House and Senate combined.

The table below shows when term limits were on the ballot, what those proposals were, who asked voters to consider the issue and the outcome.

### How many years can a legislator serve now?

Currently, members of the General Assembly can serve a total of 16 years. They can serve all 16 years in the Senate or House of Representatives or any combination of the two.

There are some exceptions to this 16-year limit:

- A member who completes his or her 16th year of service during a term in which he or she has already

been elected may serve until the completion of that term. This can create a scenario where a current legislator serves 18 to 20 years.

- Years for which a member who is serving a partial legislative term as the result of a special election called by the governor to fill a vacancy are not included in the calculation of total years.
- A two-year term served as a result of apportionment of the Senate is not included in the calculation of total years allowed. Apportionment is the process of redrawing the boundaries of an area that is represented by a state representative and senator to ensure that each legislator represents roughly the same number of people. This process occurs after a federal census.

### How many years is a single term?

The length of a single term would not change under this proposal. Senators would still be elected to four-year terms; representatives would still be elected to two-year terms.

## Term Limits Proposals on the Arkansas Ballot

| Year | Proposal   | Source               | Result  |
|------|--|----------------------|---|
| 1992 | Set term limits for state legislators: <ul style="list-style-type: none"> <li>• House of Representatives limit of 3 two-year terms (6 years)</li> <li>• Senate limit of 2 four-year terms (8 years)</li> </ul>   | Citizen Initiative   | Approved (Amendment 73)<br>494,326 (60%) – For<br>330,836 (40%) - Against |
| 2004 | Increase maximum number of terms for state legislators: <ul style="list-style-type: none"> <li>• Increase House of Representatives limit to 6 two-year terms (12 years)</li> <li>• Increase Senate limit to 3 four-year terms (12 years)</li> </ul>  | Legislative Proposal | Rejected<br>299,338 (30%) – For<br>703,171 (70 %) – Against               |
| 2014 | Allow state legislators to serve a total of 16 years combined in the House or Senate instead of a chamber-specific limit.  | Legislative Proposal | Approved (Amendment 94)<br>428,206 (52%) – For<br>388,459 (48%) – Against |
| 2018 | Reduce maximum number of terms by chamber and set overall cap on number of years legislator could serve. <ul style="list-style-type: none"> <li>• Reduce House of Representatives limit to 3 two-year terms (6 years)</li> <li>• Reduce Senate limited to 2 four-year terms (8 years)</li> <li>• All legislators limited to 10 years in the House and Senate combined</li> </ul> | Citizen Initiative   | Supreme Court removed issue from ballot before voting started             |
| 2020 | Set maximum number of consecutive years state legislators could serve in either chamber combined to 12 years, but allow legislators who have reached that limit to serve again four years after their last term expired. The clock would start over for legislators who take a break before reaching 12 years.   | Legislative Proposal | On the November 2020 ballot pending outcome of court challenge            |



### **How would this proposal affect people in office now?**

Legislators currently serving in office would be grandfathered in under the existing term limit amendment, which allows them to serve up to 16 years in the House or Senate except for special circumstances described earlier. After reaching this limit, legislators would be eligible to serve again four years after their term expired if elected.

### **How would this affect legislators first elected this November?**

The proposed amendment says legislators elected prior to Jan. 1, 2021 may serve up to 16 years under the existing term limits amendment. This would include people first elected to the General Assembly in November 2020.

All 100 seats in the House of Representatives are up for election this year. Ten of those seats have no incumbent candidate running for re-election. In the state senate, 17 of the 35 seats are up for election. Only one of those races has no incumbent candidate running for re-election.

### **How would this affect legislators who previously served but are not currently in office?**

The 2014 change in Arkansas' term limits law allowed legislators who were previously term limited to be eligible again for service up to 16 years. Therefore, this proposal would not affect their eligibility to run again. They would fall under the same rules as any other person elected after Jan. 1, 2021.

### **What would happen if a legislator serves less than 12 years consecutively?**

The four-year break required by the amendment takes effect only when a legislator serves 12 years in a row. The "clock" would reset with any break in service before 12 years. For example, a senator could serve eight years and then not be

re-elected. If the same senator runs for office again, they would be eligible for another 12 years consecutively before the four-year break in service would be required.

### **How does Arkansas compare to other states?**

Arkansas is one of 15 states with laws that limit the number of years or terms people can serve in the state legislature. Thirty-five states do not have term limits for the state legislature.

Among states with limits, Arkansas has the highest maximum number of years people can serve – up to 16 years. The state is one of six with a lifetime limit, meaning that a legislator who is re-elected and serves the maximum number of years allowed cannot run for re-election to the legislature ever again. Arkansas, California, Michigan, Missouri, Nevada and Oklahoma have these "life-time" limits.

The remaining nine states allow former legislators to run for election again after a break in service. For example, in Colorado, former legislators can (1) run for election after a four-year break, and (2) would be eligible to serve the full term limit again. Other states with these types of laws are Arizona, Florida, Louisiana, Maine, Montana, Nebraska, Ohio and South Dakota.

### **Could term limits for the General Assembly be changed in the future?**

Yes. The legislature or citizens could propose new constitutional amendments to change legislative term limits in Arkansas at future dates.

### **Isn't there another term limit proposal by the same name?**

Issue 2 is the only proposed constitutional amendment on the November 2020 ballot involving term limits for state legislators.

There was a failed attempt by Arkansas Term Limits, a citizen initiative group, to place a very different term limit proposal bearing the same name as Issue 2 on the ballot. They filed their proposal before the legislature did, but later abandoned their efforts.

### **If passed, when would the changes in Issue 2 take effect?**

The change to Arkansas' legislative term limits would become effective Jan. 1, 2021.

### **Where can I find more information?**

The complete wording of this amendment can be found at [www.uaex.edu/issue2](http://www.uaex.edu/issue2)

The following is the proposed constitutional amendment name and title as they will appear on the state's November General Election ballot.

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Issue 2

(Popular Name)

A Constitutional Amendment to Amend the Term Limits Applicable to Members of the General Assembly, to be Known as the "Arkansas Term Limits Amendment"

(Ballot Title)

A Constitutional Amendment to be known as the "Arkansas Term Limits Amendment" and amending the term limits applicable to members of the General Assembly.

FOR ISSUE NO. 2

AGAINST ISSUE NO. 2



## ISSUE NUMBER 3

(Referred to the people by the Arkansas General Assembly)

# Changing Arkansas' Citizen Initiative Process, Votes Required for Legislative Proposals, and Publication Requirements

**POPULAR NAME:** A constitutional amendment to amend the process for the submission, challenge, and approval of proposed initiated acts, constitutional amendments, and referenda

**BALLOT TITLE:** An amendment to the Arkansas Constitution to amend the process for the submission, challenge, and approval of proposed initiated acts, constitutional amendments, and referenda.

### What is being proposed?

Voters are being asked to approve changes to Arkansas' citizen initiative process, the number of votes required for legislative ballot issues, and publication requirements for legislative ballot titles.

Specifically, this amendment would change Article 5, Section 1 of the Arkansas Constitution, known as "Initiatives and Referendum." The proposed changes would:

1. Change the date when voter signatures are due for statewide ballot measures proposed by the public. Instead of four months ahead of the general election, the due date would be set as January 15 of the election year.
2. Increase the number of counties where voter signatures must be collected for statewide ballot measures and referendums proposed by the public, from 15 counties to 45 counties.
3. Establish April 15 of the election year as the deadline for filing lawsuits challenging statewide ballot measures proposed by the public.

(continued on page 17)

## QUICK LOOK: What does your vote mean?

**FOR:** A FOR vote means you are in favor of changing the Arkansas Constitution regarding the process for the submission, challenge, and approval of proposed initiated acts, constitutional amendments, and referenda. This includes moving up the date voter petitions are due, increasing the number of counties where voter signatures must be collected for all citizen-initiated ballot measures, establishing a deadline for lawsuits challenging ballot measures, eliminating extra time allowed to collect additional voter signatures at the state and local level, and increasing the number of votes from state lawmakers to place their proposals on the ballot.

**AGAINST:** An AGAINST vote means you are not in favor of changing the Arkansas Constitution regarding the process for the submission, challenge, and approval of proposed initiated acts, constitutional amendments, and referenda.

4. Eliminate the ability of statewide ballot issue groups to collect and submit additional signatures from voters to put a proposed constitutional amendment, state law or referendum on the ballot if the first round of signatures submitted to the Secretary of State do not meet the threshold. This is often called a “cure period.”
5. Eliminate the cure period for local ballot measures on a city or county-wide ballot if the first round of signatures submitted to the city or county clerk does not meet the threshold.
6. Eliminate a section requiring that a person challenging the validity of a ballot issue petition in court has the burden to prove the petition is invalid. The impact of this change is not clear.
7. Add a sentence to the constitution that extends a deadline that falls on a weekend or holiday, to the next day that isn't a Saturday, Sunday or legal holiday.

The proposed amendment would also make changes to Article 19, Section 22 of the Arkansas Constitution, known as “Miscellaneous Provisions.” The proposed changes would:

1. Increase the number of votes needed by state legislators to refer a constitutional amendment to voters, from a simple majority of legislators in each house of the General Assembly to 3/5 of the members in each house. This is a change from 50% to 60% of legislators in each house.
2. Delete a requirement that constitutional amendments proposed by the legislature be published in a newspaper in each county for six months ahead of the election. Instead, the proposed amendment would be published “in a manner provided by law.” No additional definition is provided.

The proposed amendment would also make changes to Amendment 70, Section 2 of the Arkansas Constitution impacting proposed constitutional amendments changing salaries of elected state officials:

1. Add a sentence to the constitution that would require constitutional amendments proposed under this section to comply with requirements in Article 19, Section 22. This would effectively increase the number of votes needed by state legislators to refer salary-based constitutional amendments to voters from a simple majority of legislators in each house to 3/5 of all members in each house. This is a change from 50% to 60% of legislators in each house.
2. Delete a requirement that proposed constitutional amendments affecting the salary of statewide elected officials and legislators be published in a newspaper in each county for six months ahead of the election. Similar to proposed changes to Article 19 listed above, an amendment proposed under this section would be

published “in a manner provided by law.” No additional definition is provided.

### **How did this issue get on the ballot?**

The Arkansas Senate and House of Representatives voted to place Issue 3 on the 2020 General Election Ballot. The Arkansas Constitution grants the legislature the right to include up to three constitutional amendments on the general election ballot.

Constitutional amendments require the approval of a majority of voters in a statewide election. Election Day is Nov. 3, 2020.

### **Who were the main sponsors of this amendment?**

Rep. DeAnn Vaught of Horatio and Sen. Matthew Pitsch of Fort Smith.

### **What are initiated acts, constitutional amendments, and referenda?**

Initiated acts are state laws proposed by the public. Constitutional amendments are changes to the state constitution. Referenda refers to special elections requested by voters on state laws passed by the legislature. Collectively, these are often called ballot measures or ballot issues.

Once passed, constitutional amendments cannot be changed without a vote of the people, unless the amendment specifically gives legislators or others authority to make changes. Initiated acts, which are state laws, can be changed or repealed by a two-thirds vote of both houses of the General Assembly.

### **Who can propose constitutional amendments?**

The legislature and Arkansas citizens can change the existing state constitution through the ballot issue process.

Legislators have the right to refer ballot issues to the public. They can propose up to three amendments on the General Election ballot. Legislators also have the authority to propose a fourth amendment if it deals with legislative salaries.

The ability for citizens to petition voters was first put in place in 1910, though it wasn't cemented in law until 1925 when the Arkansas Supreme Court upheld Amendment 7 of 1920 that spelled out the citizen initiative process that is in the Constitution today.

Arkansas is one of 15 states that allow citizens the ability to collect voter signatures to put a proposed state law, constitutional amendment, or referendum on the ballot for voters to decide. A ballot issue group must file a statement of organization with the Arkansas Ethics Commission if any

The following statements are examples of what supporters and opponents have made public either in media statements, campaign literature, on websites or in interviews with Public Policy Center staff. The University of Arkansas System Division of Agriculture does not endorse or validate these statements.

## What do supporters say?

- In Arkansas, out-of-state interest groups have taken advantage of the current initiative process by buying signatures in the parts of Arkansas that have large populations and predominantly one type of ideology. By collecting signatures there, these interest groups can affect governance to the left when our state has predominantly gone middle to the slightly middle right. Entities like casinos, marijuana, higher minimum wage, and things that were introduced to the state by large special interest groups; things that the liberal-type entities want to get across our country.
- The Arkansas Constitution should be held as our sacred governing document, and should not be easily changed by outside influence. Issue 3 would build a layer of protection around the constitution.
- This proposal requires a specified number of citizens in 60% of the counties to sign a petition or yes votes by 60% of the legislature to put a measure on the ballot. These changes seek to ensure that the only measures placed on the ballot will have been considered important by a significant number of Arkansans.
- Both the Courts and electors benefit from a deadline to file lawsuits. The court is given ample time to rule on the proposal and if a proposal is removed from the ballot by the court, it should be done before money has been raised and spent to support or oppose a measure.

## What do opponents say?

- It will make it virtually impossible to get a petition on the ballot and that's their goal.
- If the politicians, the lobbyists at the State Chamber and the Farm Bureau wanted to protect our constitution then they should have proposed an amendment to restrict the number of amendments that they can refer since over 80% of the amendments originated with the legislature. But they did not, and the reason that they did not is that this is not about the number of amendments to the constitution that have been approved by voters. It is an attempt by the politicians to take power away from the people.
- If everyday Arkansans couldn't propose ballot measures, the minimum wage in Arkansas would still only be \$8.50 an hour. But in 2018, because of a citizen-led ballot measure, over 68 percent of Arkansas voters approved an increase in the pay of hardworking people.
- It would make it much more difficult for citizen-led ballot measures to collect the signatures they need to get their proposal on the ballot. It would more than double the requirement for the number counties where signatures would be collected, from 15 to 45 counties. More signatures required means more money would have to be spent to collect signatures; so only the biggest, best-financed campaigns could succeed in moving their measure forward. It would also decrease the amount of time citizens can collect signatures for ballot measure petitions by about six months, adding yet another barrier to signature collection.

money is raised or spent on a campaign.

According to historical sources, Arkansas legislators referred 124 constitutional amendments to voters between 1884 and 2018<sup>1</sup>. Voters approved 71 of those measures and rejected 53 proposals.

The same sources show that between 1912 and 2018, citizen-led groups succeeded in putting 77 amendments on the ballot for voters to decide. Voters approved 36 of those measures and rejected 41.

Citizen-led groups also proposed 31 state laws. Voters approved 16 of the measures and rejected 15 proposals. During that same time period, seven state laws adopted by the legislature were put on the ballot as referendums. Voters decided to keep two of the laws and overturned the rest.

Many of the proposals made since 1874 have dealt with similar subject matter. For example, taxes, casino gaming and term limits have been the subject of multiple proposals over the decades.

### What is the signature collection process now?

To put a proposed constitutional amendment, state law or referendum on the statewide ballot, a citizen must first file the proposed ballot title with the Secretary

<sup>1</sup>Goss, Kay. (2011). The Arkansas Constitution. P 21-25. Arkansas Secretary of State. Historical Initiatives & Referenda Election Results (1938-2018). Accessed from <https://bit.ly/3gTUtXe>

of State's Office. Only after this initial step is completed can they begin to ask voters to sign their petition.

Some ballot issue groups rely on volunteers to ask voters for their signatures while others pay companies to send canvassers out across the state.

For constitutional amendments, Arkansas' Constitution requires groups obtain voter signatures equaling 10% of the number of people who voted in the last governor's election. For state laws, they must have signatures equaling 8%. For referendums, they must have signatures equaling 6%.

For 2020, petitions for constitutional amendments must contain at least 89,151 voter signatures. Those 89,151 signatures must come from at least 15 different counties. In those 15 counties, ballot issue groups are required to collect signatures from at least 5% of the number of people who voted for governor in that county.

For example, if 1,000 people voted for governor in a particular county, a petition from that county must have at least 50 valid voter signatures to count as one of the 15 required counties.

The Secretary of State's office is charged with verifying signatures to ensure the correct number of valid signatures have been submitted for the issue to appear on the ballot.

### **How would this amendment change the signature collection process for statewide ballot measures?**

If approved, this amendment would make three substantial changes to the signature collection process for statewide ballot measures:

1. Ballot issue groups must collect signatures from voters in 30 additional counties. The total number of signatures submitted would have to come from at least 45 counties instead of 15 counties as currently required.
2. More signatures would be needed to offset invalid signatures, such as duplicates, those with illegible signatures or identifying information, or when people who aren't registered to vote sign petitions. While the number of total signatures required wouldn't change, the proposed amendment would eliminate the ability for groups to collect additional signatures to offset any that are eliminated. That additional time is often called a "cure period."
3. Signatures would have to be submitted earlier in the year. The proposal sets January 15 of the election year as a new due date for signatures, rather than early July of the election year, which is four months ahead of the general election.



### **Does signing a petition mean you are in favor of the ballot measure passing?**

No. By signing a petition, you are expressing support for putting the proposed measure on a statewide or local ballot for Arkansas voters to decide during an election.

### **How would this amendment change the process legislators use to refer constitutional amendments to voters?**

Issue 3 would increase the number of votes required to put their proposed constitutional amendments on the ballot for voters to decide.

- An additional 3 senators – from 18 of 35 senators to 21 of 35 senators – would have to vote yes to put an amendment on the ballot.
- An additional 9 representatives in the House – from 51 of 100 representatives to 60 of 100 representatives – would have to vote in favor of referring an amendment to voters.
- Overall, this is a total of 12 additional votes needed from the General Assembly to refer a proposed constitutional amendment to voters.

### **Does voting to place a constitutional amendment on the ballot mean a legislator is in favor of the ballot measure passing?**

No. While some legislators may support a constitutional amendment, many have said in media interviews they want voters to decide an issue.

### **How would this amendment affect lawsuits related to ballot measures?**

Issue 3 includes two changes affecting lawsuits related to ballot measures.

1. The proposed amendment would remove a section of the constitution that states a person challenging the validity of a ballot issue petition in court has the burden

to prove the petition is invalid. The language is part of a larger section Issue 3 proposes to delete regarding “cure periods.”

The impact of deleting this language regarding burden of proof is not immediately known. However, even without that language, the burden of proof in most civil lawsuits is on the plaintiff who brings the suit. So, if the opponent of a petition files a lawsuit challenging the validity of a petition, it is still likely that the opponent would have the burden to prove the petition’s invalidity except where other existing Arkansas laws put the burden on the sponsor.

2. The amendment would create a deadline by which lawsuits challenging citizen-initiated statewide ballot measures must be filed. The deadline would be April 15 of the election year.

Currently there are no deadlines for when someone must file a lawsuit regarding statewide ballot measures. Lawsuits related to ballot measures are typically filed within a few months or weeks of Election Day because the Secretary of State certifies voter signatures and the official ballot in late August. However, under the proposed amendment, which eliminates the cure period for collecting additional signatures, all signatures would be due by January 15 of the election year. So, if approved, people would have three months to file lawsuits challenging citizen-initiated statewide ballot measures. The April 15 deadline would not apply to proposed amendments referred by the legislature.

Opponents often file lawsuits to stop a measure from being placed on the ballot. Lawsuits typically (1) question the wording of a ballot measure or title, or (2) challenge the validity of voter signatures collected to put the measure on the statewide ballot.



For example, a September 2016 court challenge to a medical marijuana amendment resulted in the Arkansas Supreme Court striking the measure from the ballot after early voting started. The court agreed with opponents that more than 12,000 signatures shouldn’t have applied toward the signature requirement because canvassers (1) lacked the proper background checks or had other paperwork problems, or (2) voters used business addresses instead of residential addresses when signing petitions.

### **How does this amendment apply to local ballot issues?**

Issue 3 would not increase the number of signatures required for local ballot measures submitted to cities or counties. But it would eliminate the “cure period” that local ballot issue groups currently have to obtain additional signatures after submitting their first petition.

### **How has the Arkansas Constitution changed over time?**

Arkansas voters approved their state’s fifth constitution in 1874 during a period known as Reconstruction after the Civil War. Legislators and governors have made several major attempts since then to replace or modernize the Arkansas Constitution through Constitutional Conventions.

Proposals for new state constitutions were placed on the ballot in 1918, 1970 and 1980. Voters rejected the proposals each time for different reasons.

According to a book about the Arkansas Constitution, the 1918 vote came during World War I and the deadly flu pandemic. There was very low turnout with some precincts not reporting any votes, according to the book, *The Arkansas Constitution*, by Kay Goss.

Voters in 1968 authorized a Constitutional Convention but rejected a much shorter constitution presented to them two years later. The 1970 proposed constitution was rejected by a vote of 223,334 (43%) in favor to 301,195 against (57%)

Newly elected Gov. David Pryor led a push in 1975 for another attempt at replacing the constitution. Voters approved a new convention in 1976. Legislators worked on a new draft, with years of revision and public hearings. However, voters again rejected a new constitution in 1980 by a vote of 276,257 voters in favor (37%) to 464,210 against (63%).

The Arkansas Constitution now includes 100 amendments, some of which have since been voided by court decisions or altered by newer ballot measures.

Voters approved the state’s first amendment in 1884 and its 100th in 2018. The 1884 amendment, involving bond issues, was referred by legislators. The 100th amendment was a

result of a ballot issue petition to legalize casino gaming in certain parts of Arkansas.

### **When was the last time Arkansans voted on changing the ballot initiative process?**

Voters approved Amendment 93 in 2014, which changed an important part of the citizen initiative process for campaigns. This amendment from the legislature created a new threshold for ballot issue groups to meet before they could gather additional voter signatures for their proposals under the “cure period” provisions.

Before the amendment, ballot issue groups automatically received 30 days to collect additional voter signatures after turning in their first batch of petitions to the Secretary of State’s Office. Groups would submit thousands of signatures but continue to canvass and ask voters to sign their petitions. They did this in case some of the signatures submitted were rejected due to being unreadable, involved fake names or were from people not registered to vote.

Because of the amendment, ballot issue groups must wait to hear from the Secretary of State if they qualify for that “cure period” time. Amendment 93 only allows that time if 75% of the signatures turned in are valid.

### **How does Arkansas’ citizen initiative process compare to other states?**

Signature requirements, petition deadlines, and processes vary across the states that allow citizens to propose an amendment or new state law to voters. No state is exactly like Arkansas.

When it comes to the geographical spread of required voter signatures, some states require a certain number of signatures from congressional districts or state legislative districts. Some require a certain number of counties while others offer a simple prohibition of collecting all the signatures in one county. Like Arkansas, some states tie their requirements to the number of people who voted in a particular election, while other states require a certain percentage of registered voters.



For more information about the processes other states follow, you can find a 2019 analysis by the Public Policy Center at <https://bit.ly/32bv2wo>.

### **If passed, when would the changes in Issue 3 take effect?**

The amendment would go into effect Jan. 1, 2021.

### **Where can I find more information?**

The complete wording of this amendment can be found at [www.uaex.edu/issue3](http://www.uaex.edu/issue3)

The following is the proposed constitutional amendment name and title as they will appear on the state’s November General Election ballot.

Issue No. 3

(Popular Name)

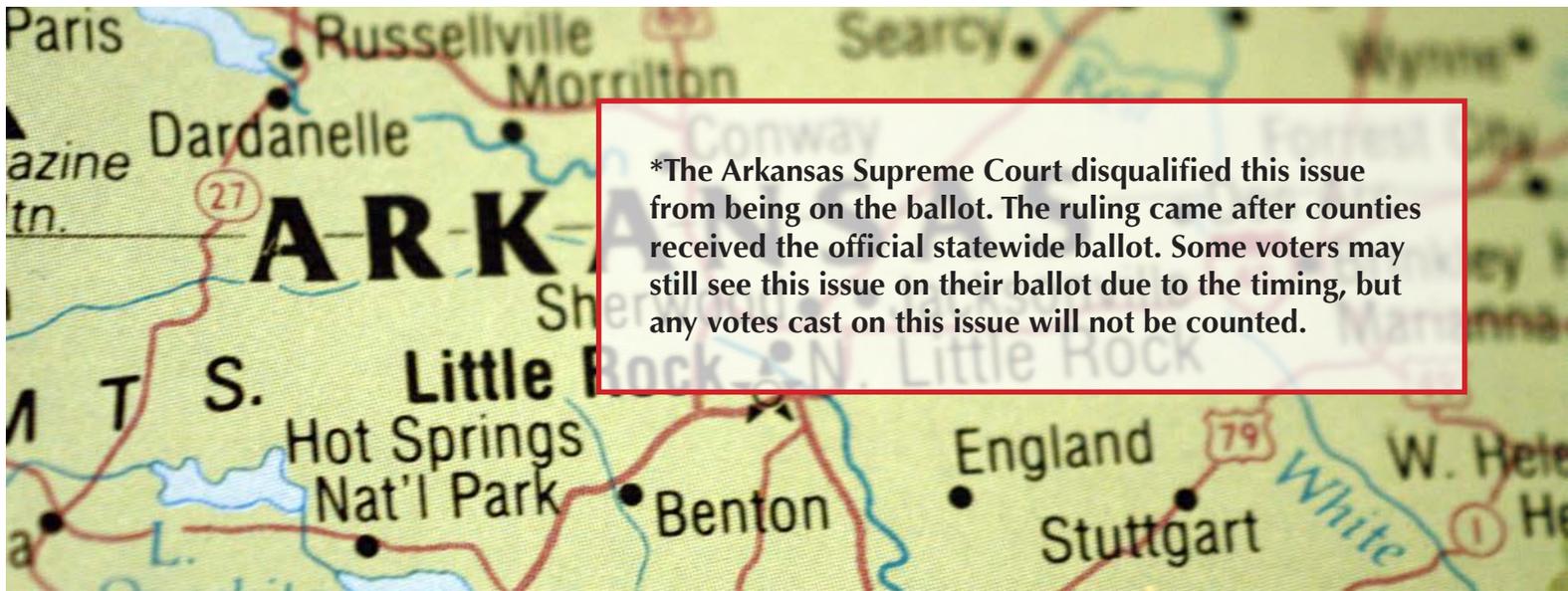
A Constitutional Amendment To Amend The Process For The Submission, Challenge, And Approval Of Proposed Initiated Acts, Constitutional Amendments, And Referenda

(Ballot Title)

An Amendment to the Arkansas Constitution to amend the process for the submission, challenge, and approval of proposed initiated acts, constitutional amendments, and referenda.

FOR ISSUE NO. 3

AGAINST ISSUE NO. 3



## ISSUE NUMBER 4

(Proposed by Petition of the People)

# Arkansas Citizens' Redistricting Commission Amendment

**POPULAR NAME:** The Arkansas Citizens' Redistricting Commission Amendment

**BALLOT TITLE:** An amendment to the constitution repealing and amending Sections 1, 4, and 5 of Article 8 of the constitution to create a Citizens' Redistricting Commission consisting of nine commissioners who are registered voters in Arkansas, that will replace the Board of Apportionment, consisting of the governor, secretary of state, and attorney general for the redistricting and apportionment of legislative districts, and the General Assembly for the redistricting and apportionment of congressional districts; providing the commission shall apportion and redistrict congressional and legislative districts after the census every ten years; providing commission meetings be advertised and public; requiring the secretary of state to publish the commission's work product and redistricting maps; providing records of communications of the commissioners, commission staff, and outside consultants relating to the commission's duties be public records; requiring persons receiving income or reimbursement to influence commission action to publicly disclose such fact; providing any registered Arkansas voter may apply for the commission but disqualifying anyone who, within the immediately preceding five years, has served as an elected or appointed federal, state, county or city official, registered lobbyist or officer of a political party, or has been employed by a registered lobbyist, political party, political campaign or political action committee, or is related by blood or marriage to a disqualified person; providing for an application requiring

## QUICK LOOK: What does your vote mean?

**FOR:** A "FOR" vote means you are in favor of changing the Arkansas Constitution to establish a new process for drawing state and congressional districts after the census every 10 years through a Citizens' Redistricting Commission replacing the existing process where state districts are determined by the governor, secretary of state, and attorney general and congressional districts are drawn by legislators. It means you are in favor of establishing criteria in the constitution for drawing districts and establishing a system for public input.

**AGAINST:** An "AGAINST" vote means you are opposed to changing the Arkansas Constitution to establish a new process and criteria for drawing state and congressional districts after the census every 10 years through a Citizens' Redistricting Commission. The current redistricting process would remain in place where state districts are determined by the governor, secretary of state, and attorney general and congressional districts are drawn by legislators.

(continued on page 23)

(continued from page 22)

statement of the applicant's qualifications, residential address, and political party affiliation or lack of party affiliation; requiring the secretary of state to prepare and advertise the application; providing applicants be selected by a panel appointed by the Arkansas Supreme Court chief justice, with consideration of racial, gender, and geographical diversity, of three retired Supreme Court justices and Court of Appeals judges, and circuit judges if necessary to fill the panel; requiring the panel by majority decision to place the applicants into pools based on party affiliation and choose thirty applicants from the pool affiliated with the party with the largest representation in the General Assembly, thirty from the pool affiliated with the party with the next-largest representation in the General Assembly, and thirty who are not affiliated with the largest or next-largest party; providing the chosen applicants be publicly disclosed, and that the governor and the parliamentary leaders of the parties with the largest and next-largest representation in the state House of Representatives and Senate may each eliminate up to two applicants from each pool; providing the panel shall then randomly select three applicants from each pool to serve as commissioners, and providing for random replacement draws if necessary to ensure at least one commissioner is selected from each congressional district, and that the panel shall fill any commission vacancy; requiring commissioner terms to end when a new commission is convened and prohibiting commissioners from holding elected office or serving as a registered lobbyist while a commissioner and for three years thereafter; requiring the commission to elect its chair and vice chair from different pools; providing a quorum for any meeting is seven commissioners, and requiring attendance and voting in person and not by proxy; requiring at least two votes from each pool to approve any final redistricting map and six votes to approve any other commission act; requiring the secretary of state to provide the commission census and election data and a means for public comment and proposal of maps; requiring any congressional district to have a population as equal as practical to the population of the state as reported in the census divided by the number of districts to be established; requiring any map for a state House of Representatives or Senate district to vary by no more than three percent from the population of the state divided by the number of state House of Representatives and state Senate seats, respectively; requiring the commission to conduct at least one public meeting in each congressional district and to publish three redistricting maps of congressional seats and three redistricting maps of state House and Senate seats, with a written report of the basis for the districts; requiring maps be drawn not to favor or disfavor any political party when viewed on a statewide basis; directing, to the extent

practicable, districts be contiguous, not deny or abridge the right to vote on account of race or language, be reasonably compact, and except as required to meet the other criteria, not divide cities or counties, and as feasible after satisfying the preceding criteria, promote competition among political parties; requiring the commission to certify its final maps, and the respective populations and boundaries, to the secretary of state, which shall become binding unless, within thirty days, a petition for review is filed in the Supreme Court, in which case the apportionment becomes effective thirty days after the commission certifies to the secretary of state any revision pursuant to the Supreme Court's mandate; providing reasonable reimbursement of panelists' and commissioners' expenses related to their duties and a per diem of up to \$200, subject to increase by the General Assembly; requiring the General Assembly to appropriate moneys, in no case less than \$750,000, for the commission's duties, and providing, to the extent the commission requires moneys prior to such appropriation, the commission shall receive such moneys from the Constitutional Officers Fund; providing the Supreme Court have original jurisdiction to require by mandamus the chief justice, panel, secretary of state, and commission to perform their duties; providing references to the Board of Apportionment in the constitution shall refer to the Citizens' Redistricting Commission; and repealing Arkansas Code §§ 7-20-101 through 105.

### **What is being proposed?**

This amendment asks voters to change parts of the Arkansas Constitution establishing who is responsible for dividing the state into districts for representation in the Arkansas General Assembly and the U.S. House of Representatives every decade after the U.S. Census, and establishing criteria for how these districts would be created starting in 2021.

The amendment proposes to remove and replace parts of Article 8 of the Arkansas Constitution. It would:

1. Do away with the existing Board of Apportionment (governor, secretary of state and attorney general) currently responsible for establishing state legislative district boundaries.
2. End the practice of state legislators creating boundaries for the four Arkansas U.S. House of Representative districts.





3. Create a nine-member Citizens' Redistricting Commission and the process by which members are selected by a panel of three retired judges to establish state legislative and congressional districts. Commissioners would include:
  - 3 people who self-identify as affiliated with the political party having the largest number of legislators in the General Assembly
  - 3 people who self-identify as affiliated with the political party having the second largest number of legislators in the General Assembly
  - 3 people who self-identify as unaffiliated with major political parties
4. Establish who may serve on the commission and the process the panel of judges would use for selecting commissioners.
5. Allow the governor and legislative leaders from the two largest political parties in the state legislature to each remove a maximum of two applicants from the semi-final pool of commission candidates.
6. Prohibit commissioners from being elected or appointed to a state office or working as a lobbyist during their time as commissioner and for the three years after their term ends.
7. Require Citizens' Redistricting Commission meetings be advertised and open to the public and the commission's work be considered public records.
8. Require the secretary of state to develop and publicize an application form for serving on the Citizens' Redistricting Commission, provide information and existing maps to commissioners, and establish multiple methods for the public to comment and propose alternate maps.
9. Require people who receive money for influencing commission action to publicly disclose this information.
10. Establish criteria to guide how the commission draws maps, including federal requirements of equal population in U.S. Congressional districts and no more than a 3% difference in population in state legislative districts; districts that do not favor or disfavor a political party; keeping cities and towns intact as much as possible, and promoting competition within districts.

11. Require the commission to conduct public meetings in each U.S. House of Representatives district, publish three alternative maps, provide a written report explaining the basis for proposed congressional and state districts, and certify the final apportionment with the secretary of state.
12. Require the final maps be approved by at least six members of the commission, with approval coming from at least two members from each majority party and from the group of commissioners who do not identify with the majority parties.
13. Require the General Assembly to budget at least \$750,000 for the commission to fulfill its duties, including payment to commissioners for their time and reimbursement for their expenses. The legislature would have the authority to increase the budget by a majority vote.
14. Replace existing language in Section 5 of Article 8 regarding the jurisdiction of the Arkansas Supreme Court with language consistent with this proposed amendment, including the power to compel the chief justice, panel of judges, secretary of state, and Citizens' Redistricting Commission to perform their duties.

This amendment also would repeal Arkansas Code § 7-2-101 through § 7-2-105 about U.S. House of Representatives districts. This would:

1. Eliminate the requirement in state law that Arkansas is divided into four U.S. House of Representatives districts.
2. Remove language listing specific counties and other geographic locations making up current congressional districts.

### **How did this issue get on the ballot?**

Sponsors collected signatures from at least 89,151 Arkansas voters, equal to 10% of the people who voted for governor in the last election, to put Issue 4 on the statewide general election ballot.

Constitutional amendments require the approval of a majority of voters in a statewide election. Election Day is Nov. 3, 2020.

### **Who are the main sponsors of this constitutional amendment?**

Arkansas Voters First

### **What is "redistricting"?**

Following the completion of the U.S. Census every decade, each state reviews boundaries for their legislative districts at the state and congressional level to reflect population changes. The process is meant to accomplish the principle of "one person, one vote" to ensure all citizens have equal legislative representation.

Boundaries for legislative districts may need to shift, expand, or shrink if the population of the district increases or declines. The process for changing boundaries after a census is called “redistricting.”

Arkansas has 100 state representatives and 35 state senators. The total number of state legislators always remains the same, but the communities and residents in districts that legislators represent may change after the census to reflect shifts in population. Districts must be nearly identical in population size.

The same thing happens at the federal level for the U.S House of Representatives. The total number of representatives remains at 435, but the number of representatives per state can change depending on population change. The process for determining the number of congressional representatives is called “apportionment.” Arkansas has four U.S. House of Representatives seats and is expected to keep that number after the 2020 census, though how districts within the state are drawn can change during the redistricting process.

The following statements are examples of what supporters and opponents have made public either in media statements, campaign literature, on websites or in interviews with Public Policy Center staff. The University of Arkansas System Division of Agriculture does not endorse or validate these statements.

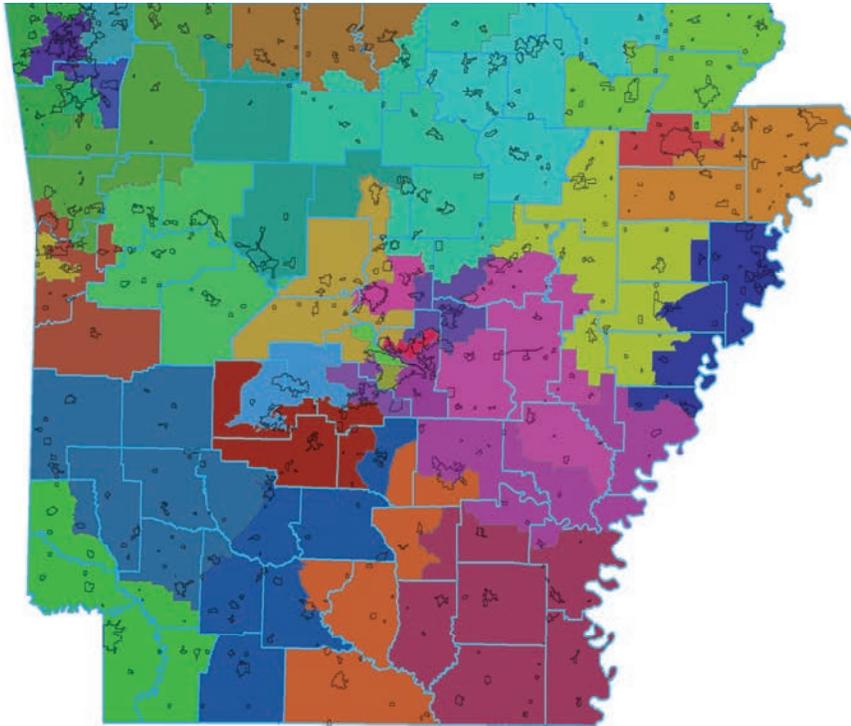
## What do supporters say?

- Arkansas voters deserve fair maps, drawn by the people in an open and transparent process. It’s time we put the voices of Arkansans ahead of lobbyists and political insiders. It’s time to end the practice of politicians picking their voters, and instead have voters pick their politicians in fairly drawn districts.
- There are absolutely no restrictions in the current process to prevent undue influence by lobbyists, party bosses, and other special interests to establish districts in their own benefit. This has led to special interests from both sides of the aisle drawing maps that overwhelmingly benefit people already in power. By manipulating data to draw districts that “pack” some constituents into one district and “crack” their opponents across several districts they dilute the power of voters based on how they vote. At the end of the day, politicians and representatives aren’t held accountable.
- Those who strongly oppose non-partisan redistricting do so for one simple reason: The system already benefits them. One of the core principles of democracy is that everyone’s vote counts equally. Gerrymandering does away with all that.
- Politicians rail about groups from outside our community, or outside our country, that are “trying to steal our elections.” Our elections are already being stolen by a system that determines the winner before the race even starts. We need a transparent and accountable redistricting process to end hyper-partisan practices that don’t benefit anyone except the people already in office.

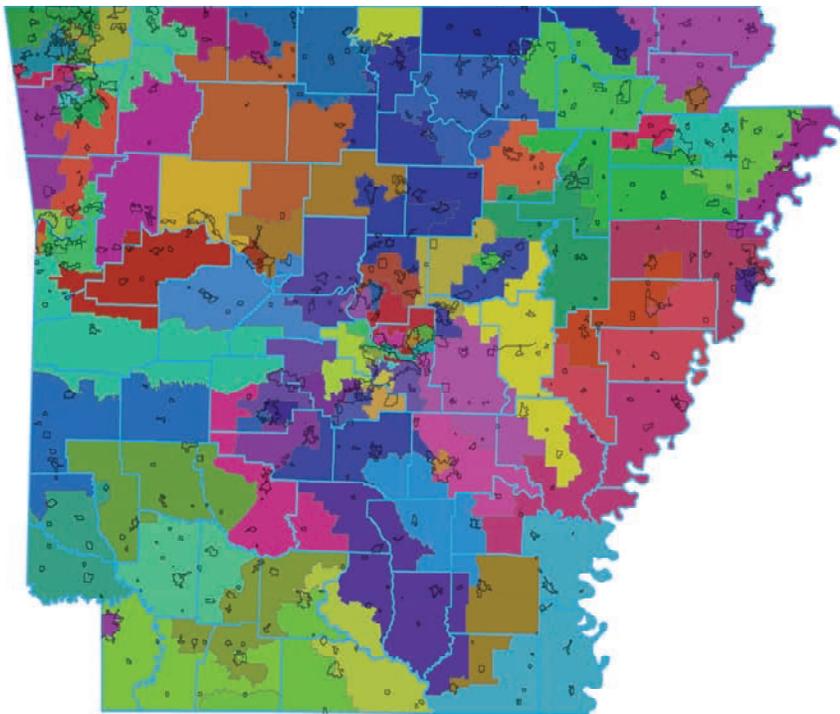
## What do opponents say?

- Democrats have controlled this process since it was created. Now that Republicans are the majority party, out of state Democrats are funding an effort to strip that responsibility from Republicans.
- Shifting redistricting to an independent commission sounds good in theory. But if you take away redistricting responsibilities from the governor, attorney general and the secretary of state – and give those duties to an independent commission – all you do is strip the obvious politics from the process. Unless the folks nominated to an independent commission are robots, they’re going to have thoughts, opinions, biases and political affiliations. More likely, when a new commission’s lines get warped for political purposes, voters won’t have a constitutional office to blame. Or hold accountable.
- The representatives of the state are voted into office by we the People and they decide how to distribute/allocate the districts. This is how the people’s constitution works. Allowing a few politically appointed people to decide how our votes are counted will lead to gerrymandering on a scale never seen before.
- The proponent of the amendment has operated under a false guise of transparency in an attempt to both confuse and deceive the Arkansas electorate. This effort is being championed by out-of-state interests as a way of stealing elections right in our own backyard. They’ve essentially described Arkansas as a lab rat for their own social and election engineering efforts. It’s unacceptable, and it’s not the way we do things in Arkansas.

## Arkansas Senate Districts



## Arkansas House of Representative Districts



The current Arkansas Senate and House districts (represented by the different colors in the maps above) were established in 2011. There are 35 Senate districts and 100 House of Representative districts.

Source: [www.arkansasredistricting.org/maps](http://www.arkansasredistricting.org/maps)

## How does redistricting work now in Arkansas?

The process for redistricting in Arkansas is set out in the state constitution through amendments passed by voters in 1936 and 1945. Several provisions have been declared unconstitutional by courts since that time, but the law remains that state and congressional districts be divided into approximately equal size populations. There are no other criteria for redistricting in the state constitution.

The governor, secretary of state and attorney general make up the Board of Apportionment and are responsible for creating state legislative districts. They along with their staff review census data to determine which districts gained population or lost population and establish new district boundaries. Districts must have close to the same number of people living within them with a 10% or less difference in population.

The process takes several months. In 2011, the last time redistricting occurred, the Board of Apportionment started its work in April and finalized maps by August. They accepted public comment and held public meetings on the proposed maps.

State legislators are responsible for setting boundaries for the U.S. House of Representatives districts, which are defined in state law. The U.S. Constitution requires congressional districts to be nearly equal in population with less than a 1% difference in population allowed.

To be in compliance with federal and state laws and with court orders, congressional districts are supposed to be drawn in a way that they do not discriminate against

a race or minority, that they are reasonably compact, and geographically connected. It's also common practice to avoid splitting counties, cities or voting districts. Read more about general legal principles for redistricting at [www.arkansasredistricting.org/redistricting-criteria](http://www.arkansasredistricting.org/redistricting-criteria).

The last time legislators drew congressional districts in 2011, they did so during their spring legislative session. Hundreds of proposals from senators and representatives were studied, with nine being discussed publicly, according to an April 2011 Arkansas Democrat-Gazette article about the process when the final plan was approved.

### **How would redistricting work under Issue 4? What criteria would be used to create maps?**

Issue 4 proposes to disband the Board of Apportionment and end the role of legislators in setting congressional district boundaries. Instead, a nine-member Citizens' Redistricting Commission would set boundaries for state and congressional districts by November of the year following a census.

The proposal would delete old language in Article 8 that has already been found unconstitutional by courts and replace it with new sections describing the role of the Citizens' Redistricting Commission, the process for filling the commission and how it would operate.

Similar to existing law, the commission would be required to create congressional districts that have nearly equal populations. Populations of state representative and senate districts could not vary by more than 3% from each other.

The commission would be required to prepare three alternate maps for the state and congressional districts for public comment, along with a written report explaining their basis for the districts. Their meetings would be open to the public and their materials considered public record.

Commissioners could not propose maps that excessively favor or disfavor any political party. They would be required to draw maps that follow the criteria below in priority order. Districts must:

1. Share common borders so areas in districts are connected.
2. Avoid discriminating on account of race or language.
3. Avoid dividing cities or counties except as needed to meet population requirements.
4. Be reasonably compact.
5. Promote competition among the political parties.

Public hearings on proposed maps would be required in each of the state's four congressional districts. Revised maps and accompanying reports must be released at least 30 days before a final vote of the commission.

The final maps would require support from at least six commissioners, with support required from at least two commissioners representing each of the three pools of commissioners. The maps would be due to the secretary of state by Nov. 1 of the year following a federal census.

The new boundaries would take effect after 30 days unless they are challenged in the Arkansas Supreme Court. If challenged, the commission would make revisions to comply with Supreme Court findings and the revised maps would go into effect 30 days after being submitted to the secretary of state.

### **How would the nine commissioners be selected?**

If approved by voters, the selection process would start no later than Jan. 1, 2021. In future years, the process would start by December 1 of each federal census year. The chief justice of the Arkansas Supreme Court would appoint a three-person panel of retired judges, considering geographic, racial and gender diversity, to oversee the application process and select commissioners.

The secretary of state would advertise the opportunity to serve on the commission by January 15 of the year following the census. Any registered Arkansas voter would be eligible to apply for the commission with certain exceptions, as described in the following section.

The deadline to apply would be March 1. By April 1, the panel of judges would select 90 applicants to choose from, making an effort to select candidates that are geographically and demographically representative of the population of the state.

Candidates would be divided into three separate pools of 30 people. The pools would represent (1) the two major political parties in the state legislature and (2) people who do not affiliate with either of the major political parties.

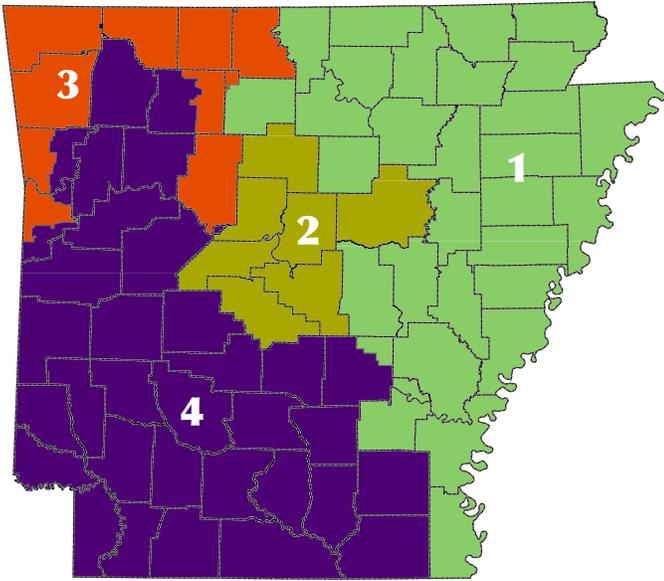
Currently, that would mean:

- 30 people who self-identify as Republicans
- 30 people who self-identify as Democrats
- 30 people who self-identify as a member of other political parties or no political party at all.

The governor, the speaker of the house, the minority leader of the house, the senate pro tempore, and the minority leader of the senate would each have the right to eliminate two applicants from each pool of candidates.

The panel of judges would then randomly draw three applicants from each pool of remaining candidates for a total of nine people. If any of the state's four congressional districts lacks representation, the panel would remove a drawn applicant from the district having the most drawn applicants and draw again from that pool. This process would be repeated as many times as necessary to have

## Arkansas Congressional Districts



Source: [www.sos.arkansas.gov/elections/district-maps](http://www.sos.arkansas.gov/elections/district-maps)

representation from all four congressional districts from each of the three pools. The only exception to this would be if there aren't enough applicants from an unrepresented district. This process must be completed by May 1.

The panel of judges would fill any vacancies on the commission by selecting someone from the remaining pool of applicants, approved by at least two of the three judges and maintaining district representation to the extent possible.

### Who can't serve on the commission?

Any registered voter would be eligible to serve on the commission, with a few exceptions. A person could not be appointed if in the previous five years he or she:

- Has served as an elected federal, state, city or county official
- Has served as an appointed federal or state official
- Has worked as a registered lobbyist
- Has served as an officer of a political party
- Has worked as an employee of a registered lobbyist, political party, political campaign committee, or political action committee
- Was by blood or marriage the spouse, child, parent or sibling of any of the above

### How long would a commissioner's term last?

Commissioners would serve from when they are selected until after the next census and a new commission is appointed. Federal censuses are conducted every 10 years, so commission terms could last up to 11 years depending on the completion of the federal census and convening of a new commission.

Commissioners could not hold elected or appointed state office or register as a lobbyist during their tenure and for three years afterward.

### Would commissioners be paid?

Yes. Commissioners would be paid \$200 each per day when meeting and could be reimbursed for their expenses. These payments are known as "per diem." The per diem could be increased by state legislators with a majority vote in the future.

### How would this new process be funded?

The proposal would require the state to fund the commission at an amount sufficient to carry out its duties. The legislature would appropriate money in the fiscal year in which the census is performed and the year immediately following the census. The total amount budgeted for the tenure of each commission must be at least \$750,000.

If the commission needs funding before the legislature appropriates it, the amendment would require the commission to receive the funding it needs from the Constitutional Officers Fund until the legislature is able to pass its appropriation.

Funding would be used to pay commissioners' per diem and reimbursements for expenses, and for other expenses necessary to complete their task.

### How does redistricting work in other states?

States differ in the process for drawing boundaries for state and congressional districts.

According to The Brennan Center for Justice, state legislatures are responsible for drawing state districts in 30 states. Another nine states use commissions made up of people appointed by elected officials or party leaders to draw state districts. Six states have advisory commissions, which may include a mix of legislators and non-legislators, to recommend districts. The legislature then votes on their recommended maps. Four states currently use an independent commission model to draw boundaries for state districts. Arkansas is the only state where members of the executive branch create state legislative districts.

At the federal level, legislatures are responsible for creating congressional boundaries in 31 states, including Arkansas. Seven states have only one representative so congressional redistricting isn't needed. In the remaining states, four have advisory committees, four have political appointee commissions, and four have independent commissions without public or elected officials.

## Why change redistricting processes?

Arkansas is one of several states where changes to the redistricting process have been proposed in an effort to remove or limit legislators' role in drawing boundaries.

At a national level, these changes have been proposed to make the process more open to the public and to prevent legislative district boundaries from being drawn to give one political party an advantage over another or from being overly political. This type of boundary manipulation is often called "gerrymandering." One form of this dilutes the strength of voters from opposing parties by spreading them across as many districts as possible is often called "cracking." Another variation, called "packing," is used to isolate voters from opposing parties into a single district to allow the party in power to win as many other districts as possible. Boundaries may be drawn to make it harder for the incumbent legislator to be challenged.

Gerrymandering can erode public trust in political processes or lead to citizen disengagement when people feel their voices are not being heard. Gerrymandering is not limited to one political party. Historically, legislative districts have favored whichever political party was dominant at the time maps were created. Distinguishing between unfair gerrymandering and acceptable redistricting can

be a challenge because the U.S. Supreme Court has not established a standard for what constitutes gerrymandering.

## When was the last time Arkansas voted on redistricting?

Arkansas voters amended the original Article 8 of the Arkansas Constitution in 1936. Amendment 23 created the Board of Apportionment for establishing state legislative districts, the process for determining districts, and how legislative terms would be affected after redistricting. The vote tally is not known.

Voters in 1956 approved Amendment 45, a citizen initiative that condensed some of the wording in Article 8. Voters passed the amendment by a vote of 197,602 (58%) in favor and 143,100 (42%) against.

Parts of Article 8 that called for every county to have at least one representative and then dividing the remaining 25 seats among the more populated counties were ruled unconstitutional because representation was geographical rather than based on population.

## Where can I find more information?

The complete wording of this amendment can be found at [www.uaex.edu/issue4](http://www.uaex.edu/issue4)

The following is the proposed constitutional amendment name and title as they will appear on the state's November general election ballot.

Issue No. 4

(Popular Name)

Arkansas Citizens' Redistricting Commission Amendment

(Ballot Title)

An amendment to the Constitution repealing and amending Sections 1, 4, and 5 of Article 8 of the Constitution to create a Citizens' Redistricting Commission, consisting of nine Commissioners who are registered voters in Arkansas, that will replace the Board of Apportionment, consisting of the Governor, Secretary of State, and Attorney General for the redistricting and apportionment of legislative districts, and the General Assembly for the redistricting and apportionment of congressional districts; providing the Commission shall apportion and redistrict congressional and legislative districts after the census every ten years; providing Commission meetings be advertised and public; requiring the Secretary of State to publish the Commission's work product and redistricting maps; providing records of communications of the Commissioners, Commission staff, and outside consultants relating to the Commission's duties be public records; requiring persons receiving income or reimbursement to Influence Commission action to publicly disclose such fact; providing any registered Arkansas voter may apply for the Commission but disqualifying anyone who, within the immediately preceding five years, has served as an elected or appointed federal, state, county or city official, registered lobbyist or officer of a political

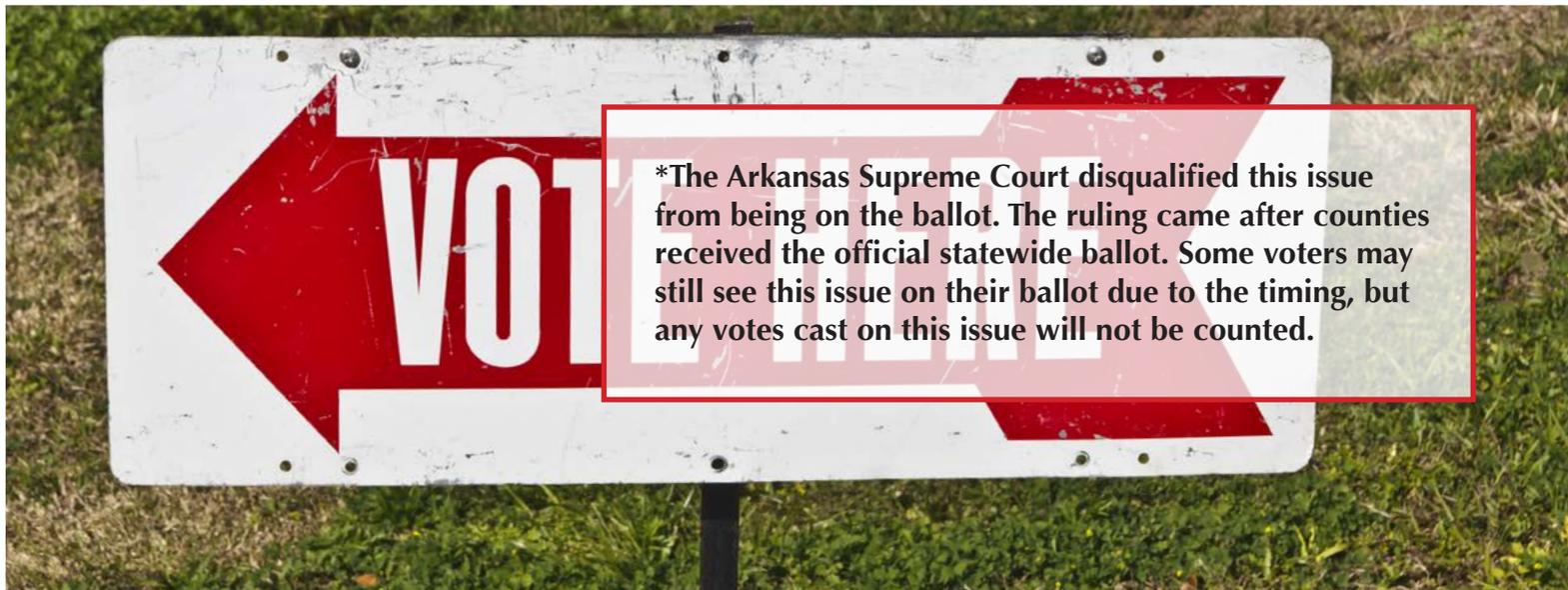
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party, or has been employed by a registered lobbyist, political party, political campaign or political action committee, or is related by blood or marriage to a disqualified person; providing for an application requiring statement of the applicant's qualifications, residential address, and political party affiliation or lack of party affiliation; requiring the Secretary of State to prepare and advertise the application; providing applicants be selected by a panel appointed by the Arkansas Supreme Court Chief Justice, with consideration of racial, gender, and geographical diversity, of three retired Supreme Court Justices and Court of Appeals Judges, and circuit Judges if necessary to fill the panel; requiring the panel by majority decision to place the applicants into pools based on party affiliation and choose thirty applicants from the pool affiliated with the party with the largest representation in the General Assembly, thirty from the pool affiliated with the party with the next-largest representation in the General Assembly, and thirty who are not affiliated with the largest or next-largest party; providing the chosen applicants be publicly disclosed, and that the Governor and the parliamentary leaders of the parties with the largest and next-largest representation in the state House of Representatives and Senate may each eliminate up to two applicants from each pool; providing the panel shall then randomly select three applicants from each pool to serve as Commissioners, and providing for random replacement draws if necessary to ensure at least one Commissioner is selected from each congressional district, and that the panel shall fill any Commission vacancy; requiring Commissioner terms to end when a new Commission is convened and prohibiting Commissioners from holding elected office or serving as a registered lobbyist while a Commissioner and for three years thereafter; requiring the Commission to elect its chair and vice chair from different pools; providing a quorum for any meeting is seven Commissioners, and requiring attendance and voting in person and not by proxy; requiring at least two votes from each pool to approve any final redistricting map and six votes to approve any other Commission act; requiring the Secretary of State to provide the Commission census and election data and a means for public comment and proposal of maps; requiring any congressional district to have a population as equal as practical to the population of the state as reported in the census divided by the number of districts to be established; requiring any map for a state House of Representatives or Senate district to vary by no more than three percent from the population of the state divided by the number of state House of Representatives and state Senate seats, respectively; requiring the Commission to conduct at least one public meeting in each congressional district and to publish three redistricting maps of congressional seats and three redistricting maps of state House and Senate seats, with a written report of the basis for the districts; requiring maps be drawn not to favor or disfavor any political party when viewed on a statewide basis; directing, to the extent practicable, districts be contiguous, not deny or abridge the right to vote on account of race or language, be reasonably compact, and except as required to meet the other criteria, not divide cities or counties, and as feasible after satisfying the preceding criteria, promote competition among political parties; requiring the Commission to certify its final maps, and the respective populations and boundaries, to the Secretary of State, which shall become binding unless, within thirty days, a petition for review is filed in the Supreme Court, in which case the apportionment becomes effective thirty days after the Commission certifies to the Secretary of State any revision pursuant to the Supreme Court's mandate; providing reasonable reimbursement of panelists' and Commissioners' expenses related to their duties and a per diem of up to \$200, subject to increase by the General Assembly; requiring the General Assembly to appropriate moneys, in no case less than \$750,000, for the Commission's duties, and providing, to the extent the Commission requires moneys prior to such appropriation, the Commission shall receive such moneys from the Constitutional Officers Fund; providing the Supreme Court have original jurisdiction to require by mandamus the Chief Justice, panel, Secretary of State, and Commission to perform their duties; providing references to the Board of Apportionment in the Constitution shall refer to the Citizens' Redistricting Commission; and repealing Arkansas Code §§ 7-20-101 through 105.

FOR ISSUE NO. 4

AGAINST ISSUE NO. 4



**\*The Arkansas Supreme Court disqualified this issue from being on the ballot. The ruling came after counties received the official statewide ballot. Some voters may still see this issue on their ballot due to the timing, but any votes cast on this issue will not be counted.**

## ISSUE NUMBER 5

(Proposed by Petition of the People)

# Single Ballot Primary With Top Four Candidates Advancing To General Election For Ranked Choice Voting and Instant Runoff

**POPULAR NAME:** A constitutional amendment establishing top four open primary elections and majority winner general elections with instant runoffs if necessary.

**BALLOT TITLE:** An amendment to the Arkansas Constitution requiring that all qualified electors be permitted to vote in a primary election, which must use a single ballot that lists all candidates for a covered office for whom that elector can vote regardless of political-party affiliation (or lack thereof) of the elector or candidate; defining the term “covered office” to mean each federal congressional office, each member of the general assembly, and the governor, lieutenant governor, secretary of state, treasurer of state, auditor of state, attorney general, and commissioner of state lands; providing that “covered office does not include the office of the president of the United State; defining “qualified elector to mean a person who meets the requirements of Arkansas Constitution Article 3, § 1 and Amendment 51; providing that the four candidates for each covered office at a primary election who receive the most votes, regardless of party, will then appear on the general-election ballot for that covered office, and requiring that no other candidates can appear on the general-election ballot for a covered office; providing that, at a general election for

(continued on page 32)

## QUICK LOOK: What does your vote mean?

**FOR:** A FOR vote means you are in favor of changing the Arkansas Constitution to replace the state’s existing party-based primary election system and runoff election process. It means you are in favor of replacing the current system with a top-four open primary and ranked-choice general election system with instant runoffs. This system would apply to the following elected offices: U.S. Senator and Representative, Arkansas Senate and House of Representatives, governor, lieutenant governor, secretary of state, treasurer, auditor, attorney general and commissioner of state lands.

**AGAINST:** An AGAINST vote means you are not in favor of changing the Arkansas Constitution to replace the state’s existing party-based primary election system and runoff election process. It means you are not in favor of replacing the current system with a top-four open primary and ranked-choice general election system with instant runoffs for state and congressional legislators and state constitutional offices.

**REMOVED FROM BALLOT\***

The following statements are examples of what supporters and opponents have made public either in media statements, campaign literature, on websites or in interviews with Public Policy Center staff. The University of Arkansas System Division of Agriculture does not endorse or validate these statements.

## What do supporters say?

- This reform gives voters the freedom to choose the candidates that best represent them, regardless of party, and ensures that winning candidates earn a majority of the votes.
- This reform ensures that every Arkansas voter has the right to have their voice heard in November, regardless of whether they think of themselves as a Republican, an Independent, or Democrat.
- Arkansas needs open primaries to elect leaders who can work together to fix our state's problems.
- Our current partisan primary system forces Arkansans to vote on a party ballot in the primaries and often advances candidates from the extremes of the two-party system to the general election. Costly taxpayer-funded runoffs often result in winners who do not have majority support and typically refuse to work together to move Arkansas forward.

## What do opponents say?

- We already have open primaries in Arkansas. Any registered voter of any political party can vote in either primary they choose.
- When Democrats lose power, they will stop at nothing to confuse and diminish the will of the majority.
- Ranked-choice voting is confusing and elevates candidates who have less support under different systems.
- The open primary and these whacky instant runoffs are a cause for extreme worry. For example, the open primary for governor in 2021 might have eight candidates — three Republican candidates, two Democrat candidates, a Libertarian, a Socialist and a Free-Thinker Party member or a write-in candidate — all on the same ballot for a primary. So, come November, there possibly could be three Republicans and a lone Democrat on the ballot or, perhaps, any mixture of candidates.

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a covered office, qualified electors may rank one or more candidates in order of preference; requiring that the winner of a general election for a covered office be determined through an instant runoff process where votes must first be counted based on first-choice rankings; establishing that if, after counting votes according to first-choice rankings, a candidate has a majority of votes, that candidate must be declared the winner; providing that if the no candidate has a majority of votes, then the candidate with the fewest votes is eliminated and the vote of each qualified elector whose first choice was the eliminated candidate is then counted for the electors' next choice-candidate (if any); providing that if a candidate then has a majority of votes remaining, that candidate must be declared the winner; providing that if no candidate has a majority of the votes, then the candidate with the fewest votes is eliminated and the vote of each qualified elector whose next choice was the eliminated candidate is then counted for the elector's next choice-candidate (if any); providing that if a candidate then has a majority of votes remaining, they must be declared the winner; providing that candidates for a covered office at a primary election, and at a general election, may choose to have their political-party affiliation indicated on the ballot; providing that such an indication will not constitute or imply the political party's nomination, endorsement, or selection of the candidate; providing that political parties may have their preferences for candidates for a covered office indicated on the primary and general election ballots and may also nominate, endorse, support, or oppose any candidate; and requiring the general assembly to enact legislation to provide for a revised election process in accordance with and in furtherance of this amendment; providing that all provisions of the constitution, statutes, and common law of this state to the extent inconsistent or in conflict with any provision of this amendment are expressly declared null and void as to, and do not apply to, any activities provided for under this amendment.

## What is being proposed?

This amendment proposes to replace the current party-based primary election system in Arkansas for certain elected positions with a top four open primary and ranked-choice process for determining general election winners. Specifically, it would:

1. Adopt a top four open primary system to elect federal congressional offices, the general assembly,

governor, lieutenant governor, secretary of state, treasurer, auditor, attorney general and commissioner of state lands.

2. Require all candidates for these offices to be listed on a single ballot with a space for write-in candidates in primary elections.
3. Allow the four candidates who receive the most votes for a position in the primary election to be placed on the general election ballot.
4. Give voters the choice to rank candidates in order of their preference in general elections when more than two candidates are running for the same office
5. Eliminate a run-off election at a later date by establishing that the general election winner be determined by voter rankings rather than the current practice of holding a run-off election at a later date if no candidate gets a majority of the votes.
6. Declare the candidate with the majority of first-choice votes as the winner.
7. Eliminate the candidate with the fewest votes if no candidate has a majority of first-choice votes. For ballots in which the eliminated candidate was ranked first, the voters' second choice would receive their vote.
8. Declare the candidate with the majority of first-choice votes after this process as the winner.
9. Repeat this process if no candidate has a majority at this point until a candidate receives a majority of votes.

If passed, the proposed amendment would also:

1. Allow voters to select any candidate regardless of political-party affiliation.
2. Allow candidates affected by this amendment to identify their political party affiliation on the primary and general election ballots.
3. Allow political parties to indicate their preferred candidate on primary and general election ballots for the positions affected by this amendment.
4. Require legislators to pass laws necessary to put the new election system into place.

### **How did Issue 5 get on the ballot?**

Sponsors collected signatures from at least 89,151 Arkansas voters, equal to 10% of the people who voted for governor in the last election, to put Issue 5 on the statewide general election ballot.

Constitutional amendments require the approval of a majority of voters in a statewide election. Election Day is Nov. 3, 2020.

### **What is a primary?**

A primary election is a way to narrow down the field of candidates prior to a general election. There are multiple forms of primaries.

In some states, only people who are members of a political party can vote in that party's primary to choose a candidate. These are considered "closed primary"

systems. Other states use an "open primary" system where any voter can select a party ballot to vote for a candidate regardless of their own political affiliation.

In these primary systems, the winning candidates go on to compete against each other in the general election. Voters can choose any candidate in the general election regardless of their political party. Collectively, these primary systems are the most commonly used in the United States.

In the early 2000s, some states began adopting a "top-two" primary system. In this system, all candidates are listed on the primary ballot, regardless of political party. The two candidates receiving the most votes, or "top two," go on to compete in the general election. California and Washington are the only states to use a top-two primary system for state elections according to the National Conference of State Legislatures.

### **How do primaries currently work in Arkansas?**

When registering to vote in Arkansas, a person can choose whether to identify with a political party or as an independent. However, Arkansas uses an open primary system, which allows voters to participate in political parties' primary elections regardless of their political affiliation. This means that during primaries voters can choose a Democratic or Republican ballot regardless of how they registered. They are then allowed to only vote for candidates of that party in the primary election.

If a candidate in the primary does not have 50% of the vote, another election, called a runoff election, is held between the top two primary candidates. Candidates must file with a political party in order to appear on that party's primary ballot. Candidates must win their party's primary election before moving on to the general election. Candidates may also skip the primary and compete directly in the general election if they run as independents or write-in candidates.



## Sample Ranked Choice Ballot in General Election

| ARKANSAS LT. GOVERNOR   |                       |                       |                       |                       |
|---|-----------------------|-----------------------|-----------------------|-----------------------|
| Rank up to 4 candidates.<br>Mark no more than<br>1 oval in each column. | FIRST<br>CHOICE<br>1  | SECOND<br>CHOICE<br>2 | THIRD<br>CHOICE<br>3  | FOURTH<br>CHOICE<br>4 |
| <b>Candidate A</b><br>Square Party                                      | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| <b>Candidate B</b><br>Square Party                                      | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| <b>Candidate C</b><br>Round Party                                       | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| <b>Candidate D</b><br>Round Party                                       | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| <b>Candidate E</b><br>Triangle Party                                    | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| <b>Candidate F</b><br>Independant                                       | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

This is an example of what a general election ballot could look like if Issue 5 passes. The proposal would allow candidates to indicate their party affiliation and parties to indicate their preferred candidate on the ballot.

### What is a “top four open primary”?

A “top four open primary” system puts all candidates on one ballot instead of having separate ballots for each party. The four candidates with the most primary votes go on to compete against each other in the general election. If this proposed amendment is passed by voters, Arkansas would become the first state to use a top four style primary system to select candidates for state or federal office to appear on the general election ballot.

Voters would select their top choice in the general election and have the option to rank the remaining candidates in order of the voter’s preference.

This proposal would end primary runoffs, which are required when a candidate does not receive more than 50% of the vote in the primary.

### Under this proposal, how would voting and instant runoffs work in a general election?

A ranked-choice election gives voters the option to express their voting preference by ranking candidates in order of preference. You can vote in the general election for just one candidate like you always have, or you can rank your first, second, third and fourth choice. Ranking such as this would only apply when more than two candidates are running for the same office.

If a majority (50%) of voters rank any one candidate as their first choice, that candidate wins.

If none of the candidates have enough first choice votes to win the majority, the field is narrowed by eliminating the candidate with the fewest first choice votes. The second-choice candidate from those ballots would then be tabulated. This “instant runoff” process repeats until there is a majority winner.

### What offices would be elected using this process under the proposed amendment?

The top four open primary and ranked-choice election system would apply to the following elected positions in Arkansas:

- U.S. Senate
- U.S. House of Representative
- Arkansas senators and representatives
- Governor
- Lieutenant governor
- Secretary of state
- Treasurer
- Auditor
- Attorney general
- Commissioner of state lands

This new top-four open primary system and ranked-choice election system would not apply to elections for president of the United States, city or county officials, or judicial candidates in Arkansas.

### How would names of candidates appear on the general election ballot?

The proposal would allow candidates to include their self-identified political party affiliation on the ballot. It would also allow political parties to indicate their preferred candidate on the ballot.

The amendment does not specify the method of determining the order that candidates’ names would appear on the general election ballot. However, legislators would be required to enact legislation for a revised election process if this proposal passes.

### If passed, when would the amendment take effect?

This amendment would take effect Jan. 1, 2021.

## Where can I find more information?

The complete wording of this proposed amendment can be found at [www.uaex.edu/issue5](http://www.uaex.edu/issue5)

The following is the proposed constitutional amendment name and title as they will appear on the state's November general election ballot.

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Issue No. 5

(Popular Name)

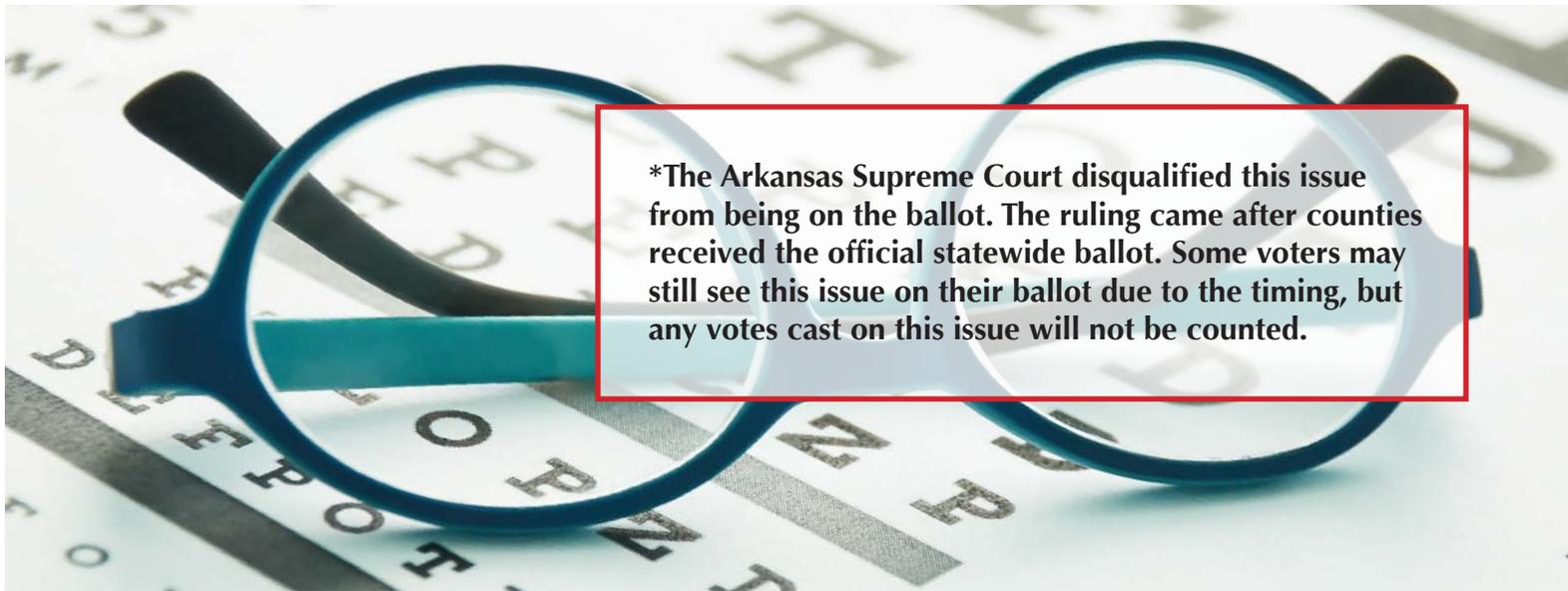
A Constitutional Amendment Establishing Top Four Open Primary Elections and Majority Winner General Elections with Instant Runoffs if Necessary

(Ballot Title)

An amendment to the Arkansas Constitution requiring that all qualified electors be permitted to vote in a primary election, which must use a single ballot that lists all candidates for a covered office for whom that elector can vote regardless of political-party affiliation (or lack thereof) of the elector or candidate; defining the term "covered office" to mean each Federal Congressional Office, each member of the General Assembly, and the Governor, Lieutenant Governor, Secretary of State, Treasurer of State, Auditor of State, Attorney General, and Commissioner of State Lands; providing that "covered office does not include the Office of the President of the United State; defining "qualified elector to mean a person who meets the requirements of Arkansas Constitution, article 3, § 1 and Amendment 51; providing that the four candidates for each covered office at a primary election who receive the most votes, regardless of party, will then appear on the general-election ballot for that covered office, and requiring that no other candidates can appear on the general-election ballot for a covered office; providing that, at a general election for a covered office, qualified electors may rank one or more candidates in order of preference; requiring that the winner of a general election for a covered office be determined through an instant runoff process where votes must first be counted based on first-choice rankings; establishing that if, after counting votes according to first-choice rankings, a candidate has a majority of votes, that candidate must be declared the winner; providing that if no candidate had a majority of votes, then the candidate with the fewest votes is eliminated and the vote of each qualified elector whose first choice was the eliminated candidate is then counted for the elector's next-choice candidate (if any); providing that if a candidate then has a majority of votes remaining, that candidate must be declared the winner; providing that if no candidate has a majority of the votes, then the candidate with the fewest votes is eliminated and the vote of each qualified elector whose next choice was the eliminated candidate is then counted for the elector's next-choice candidate (if any); providing that if a candidate then has a majority of votes remaining, they must be declared the winner; providing that candidates for a covered office at a primary election, and at a general election, may choose to have their political-party affiliation indicated on the ballot; providing that such an indication will not constitute or imply the political-party's nomination, endorsement, or selection of the candidate; providing that political parties may have their preferences for candidates for a covered office indicated on the primary and general election ballots and may also nominate, endorse, support, or oppose any candidate; and requiring the General Assembly to enact legislation to provide for a revised election process in accordance with and in furtherance of this Amendment; providing that all provisions of the Constitution, statutes, and common law of this State to the extent inconsistent or in conflict with any provision of this Amendment are expressly declared null and void as to, and do not apply to, any activities provided for under this Amendment.

FOR ISSUE NO. 5

AGAINST ISSUE NO. 5



**\*The Arkansas Supreme Court disqualified this issue from being on the ballot. The ruling came after counties received the official statewide ballot. Some voters may still see this issue on their ballot due to the timing, but any votes cast on this issue will not be counted.**

## ISSUE NUMBER 6

(Proposed by Petition of the People)

# Referendum on Act 579 to Amend the Definition of “Practice of Optometry”

**POPULAR NAME:** An act to amend the definition of “Practice of Optometry”

**BALLOT TITLE:** An act to amend the Arkansas Code regarding the definition of “practice of optometry”; providing that the definition of “practice of optometry” is amended to permit licensed optometrists to use ophthalmic lasers for the following surgical procedures: perform injections (excluding intravenous or intraocular injections), incision and curettage of a chalazion, removal and biopsy of skin lesions with low risk of malignancy (excluding lesions involving the lid margin or nasal to the puncta), laser capsulotomy, and laser trabeculoplasty; providing that licensed optometrists continue to be prohibited from using ophthalmic lasers for surgical procedures other than those previously identified, performing cataract surgery, performing radial keratotomy surgery, and selling prescription drugs; providing that the State Board of Optometry has the power and duty to establish credentialing requirements for a licensee to administer or perform the following procedures: injections (excluding intravenous or intraocular injections), incision and curettage of a chalazion, removal and biopsy of skin lesions with low risk of malignancy (excluding lesions involving the lid margin or nasal to the puncta), laser capsulotomy, and laser trabeculoplasty; providing that the State Board of Optometry shall require every optometrist who meets the requirements for certification to perform authorized laser procedures to report to the board regarding the outcome of the procedures performed in a format as required or directed by the board, and these reports shall also be sent to the Department of Health; this act being Act No. 579 of the Regular Session of 2019.

**REMOVED FROM BALLOT\***

### QUICK LOOK: What does your vote mean?

**FOR:** A FOR vote means you want this law (Act 579) passed by legislators in 2019 that expands the definition of “practice of optometry” to allow optometrists to perform some procedures that previously could only be performed by ophthalmologists to go into effect.

**AGAINST:** An AGAINST vote means you do not want this law (Act 579) passed by legislators in that expands the definition of “practice of optometry” to go into effect.

## What is being proposed?

Voters are being asked whether they want to keep or repeal a new law (Act 579) legislators passed in 2019 allowing optometrists to perform certain surgical procedures they are educated about but that they were not allowed to perform under previous state law.

If kept in place by voters, Act 579 would:

- Expand the definition of the practice of optometry to include certain eye procedures that previously were prohibited for optometrists under state law.
- Allow optometrists to use ophthalmic lasers for some surgical procedures. Prior to Act 579, state law did not allow optometrists to use ophthalmic lasers for any surgical procedures.
- Require the State Board of Optometry to create a licensing process for optometrists to use ophthalmic lasers for the specific surgeries listed in Act 579.
- Require optometrists who are certified to do the surgeries listed in Act 579 to submit reports to the State Board of Optometry on the outcomes of their treatments. The reports must also be sent to the Department of Health.

A “FOR” vote means you want to keep the law so it takes effect. An “AGAINST” vote means you want to repeal the law so it does not take effect.

## How did this issue get on the ballot?

Issue 6 is a referendum on a state law. Referendums asks voters if they want to keep or repeal a law recently passed by the state legislature. To place a referendum on the statewide ballot, a ballot issue group must collect and submit voter signatures equal to 6% of the number of people who voted in the last election for governor. This year, 6% equals 53,491 voter signatures.

After public comment from optometrists and ophthalmologists and debate by lawmakers over the issue, legislators voted during the 2019 legislative session to pass Act 579. A ballot issue group named Safe Surgery Arkansas formed and collected the required number of voter signatures to place the law on the ballot for voters to decide.

## Who are the main sponsors of this constitutional amendment?

Safe Surgery Arkansas

## What's the difference between an optometrist and an ophthalmologist?

Both professions specialize in eye care but they require different training, college degrees and licensing by the state. State laws across the country define what falls under the practice of optometry. As medical doctors, ophthalmologists are

governed by the General Medical Practice Act while optometrists are not.

Most people visit an optometrist for an eye exam and prescription for glasses or contact lenses. They provide most people's primary care for eye health. An optometrist can detect, treat and manage diseases, injuries, or disorders of the eye.

(continued on page 38)

The following statements are examples of what supporters and opponents have made public either in media statements, campaign literature, on websites or in interviews with Public Policy Center staff. The University of Arkansas System Division of Agriculture does not endorse or validate these statements.

## What do supporters say?

- The legislature's expansion of the scope of permissible practice by licensed optometrists serves the public interest by making quality eye health care, provided by highly trained professionals, more widely available to Arkansas citizens and generally at a lower cost.
- These are procedures done in an optometrist's chair, without the use of general anesthesia, and they are procedures doctors of optometry are educated to provide.

## What do opponents say?

- Act 579 gives non-medical doctors who have no surgical training the right to perform eye surgery.
- The eyesight of Arkansans will be jeopardized when individuals without the proper training are allowed to use scalpels and lasers to perform surgery on or around the eyes of Arkansans. Patients' eyesight will be threatened when a non-medical doctor is allowed to inject a needle around Arkansans' eyes. Our eyesight is too important to allow someone who is not properly trained perform these delicate surgical procedures.



(continued from page 37)

After receiving their bachelor's degree, their education continues with a four-year professional program that includes eye examination techniques, case studies, science courses, and one to two years of clinical training under supervision. At the end of their professional program, they receive a doctor of optometry degree. In Arkansas, optometrists are required to complete an internship of at least 100 hours of supervised clinical training under the supervision of a board-certified ophthalmologist.

An ophthalmologist is a medical doctor who studies and treats problems and diseases of the eye. While they may provide routine eye care services, people also visit them for surgeries related to cataracts and glaucoma, for eye conditions related to medical problems, or for trauma. After receiving their bachelor's degree, ophthalmologists attend medical school. This is followed by (1) a one-year internship, and (2) a residency program where they learn about diagnosis and management of eye diseases and perform surgeries with supervision. The residency requires four to seven years to complete, depending on the school.

### **What are the procedures listed in Act 579?**

Act 579 lists specific procedures optometrists could do themselves under the new law instead of referring a person to an ophthalmologist.

The law would allow optometrists to perform these surgical procedures:

- Injections in areas that do not involve the veins or inside of an eye.

- Cutting, scraping, and removal of a chalazion, which is a small lump or swelling that appears on an eyelid.
- Removal and biopsy of skin lesions with low risk of cancer, excluding lesions found near the bottom eyelid or edges of eyelids closest to the nose.
- Laser capsulotomy, which is a procedure that involves an incision into the capsule of the crystalline lens of the eye. Someone who has had cataracts removed may need this type of surgery if their sight becomes fuzzy over time. This procedure involves using an ophthalmic laser.
- Laser trabeculoplasty, which is a procedure to lower pressure in an eye caused by glaucoma. A person would have this surgery if prescription eye drops or other medication don't resolve the pressure in their eye. This procedure involves using an ophthalmic laser.

### **How does Arkansas' law for optometrists compare to other states?**

Procedures optometrists can perform differ from state to state because much of their work is governed by state law. For example, a number of states allow optometrists to perform one of the non-laser surgical procedures named in Act 579, but not all of them. Arkansas is among the majority of states, however, that limit the types of surgeries optometrists can do under state law even if they have training in those procedures.

Louisiana, Oklahoma, Alaska and Kentucky have passed laws allow optometrists to perform all procedures for which they have training, including a limited number of surgeries using laser technology. If upheld by voters, Act 579 would make Arkansas the fifth state to allow optometrists to perform specific surgeries.

### **Has Act 579 already gone into effect?**

No. The changes made by Act 579 to state law have not gone into effect. Enactment of the law was postponed when the referendum was filed to allow voters to make the final decision on whether the law should stand.

### **If passed, when would the changes in Act 579 take effect?**

If the majority of voters vote "FOR" on this referendum, the law would take effect when the state has certified the final election results. If the majority of voters vote "AGAINST" on this referendum, the law would not take effect.

### **Where can I find more information?**

The complete wording of this amendment can be found at [www.uaex.edu/issue6](http://www.uaex.edu/issue6)

The following is the referendum's name and title as they will appear on the state's November General Election ballot.

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Issue No. 6

(Popular Name)

An Act To Amend The Definition Of "Practice Of Optometry"

(Ballot Title)

An act to amend the Arkansas Code regarding the definition of "practice of optometry"; providing that the definition of "practice of optometry" is amended to permit licensed optometrists to use ophthalmic lasers for the following surgical procedures: perform injections (excluding intravenous or intraocular injections), incision and curettage of a chalazion, removal and biopsy of skin lesions with low risk of malignancy (excluding lesions involving the lid margin or nasal to the puncta), laser capsulotomy, and laser trabeculoplasty; providing that licensed optometrists continue to be prohibited from using ophthalmic lasers for surgical procedures other than those previously identified, performing cataract surgery, performing radial keratotomy surgery, and selling prescription drugs; providing that the State Board of Optometry has the power and duty to establish credentialing requirements for a licensee to administer or perform the following procedures: injections (excluding intravenous or intraocular injections), incision and curettage of a chalazion, removal and biopsy of skin lesions with low risk of malignancy (excluding lesions involving the lid margin or nasal to the puncta), laser capsulotomy, and laser trabeculoplasty; providing that the State Board of Optometry shall require every optometrist who meets the requirements for certification to perform authorized laser procedures to report to the board regarding the outcome of the procedures performed in a format as required or directed by the board, and these reports shall also be sent to the Department of Health; this act being Act No. 579 of the Regular Session of 2019.

FOR ISSUE NO. 6

AGAINST ISSUE NO. 6

# Get the Facts

The Public Policy Center at the University of Arkansas System Division of Agriculture has published neutral, research-based fact sheets on statewide ballot measures since 2004 to provide voters a better understanding of what is being asked of them.

**The information contained in this publication goes through a vetting process to ensure its accuracy and neutrality that includes reviews by:**

- **University of Arkansas School of Law professors**
- **Subject experts**
- **Issue supporters**
- **Issue opponents**

## Share What You've Learned

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**Digital versions of this publication are available at [www.uaex.edu/ballot](http://www.uaex.edu/ballot)**

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**PUBLIC POLICY CENTER**

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## Important Dates

- Oct. 5th** Voter registration deadline for the General Election
- Oct. 19th** Early voting begins
- Nov. 3rd** Election Day



## Your Voting Privilege

We live in a democratic society where voting is a privilege of citizenship. Democracy works best when informed citizens exercise their voting privilege.

**Be a part of Arkansas – Vote.**

## Election Information

**Voting locations are open on Election Day, Nov. 3, 2020, from 7:30 a.m. to 7:30 p.m.**

If you need help finding your voting location or aren't sure whether you are registered to vote, contact your local county clerk. **You can also contact the Arkansas Secretary of State's Office at 1-800-482-1127 or find more information at [www.sos.arkansas.gov](http://www.sos.arkansas.gov).**

Most counties participate in the Secretary of State's "Voter View" website, which means you will likely find an example online of what your ballot will look like. **Go to [www.voterview.ar-nova.org](http://www.voterview.ar-nova.org) and enter your information. Along with voting locations, you may also see a sample ballot showing the elections on your ballot.** If your sample ballot does not appear, contact your county clerk.



For the latest information on ballot issues visit [www.uaex.edu/ballot](http://www.uaex.edu/ballot)