



ARKANSAS

2022 Voter Guide

Arkansas Ballot Issues

General Election | Nov. 8, 2022

UofA DIVISION OF AGRICULTURE
RESEARCH & EXTENSION
University of Arkansas System

PUBLIC POLICY CENTER



This unbiased, research-based guide to the 2022 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.uada.edu/ballot

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**

How does an issue get on the ballot?

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

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



Putting a constitutional amendment or law on the ballot is not an easy task. Legislators whittle down dozens of proposals in committee meetings to arrive at the three issues 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 for a constitutional amendment. This is equal to 10 percent the number of people who voted in the last governor's election. State Board of Election Commissioners also must certify that the ballot titles of citizen initiatives are free of language that is misleading.

The board declined to certify the title of Issue 4, which is on the ballot while under review by the Arkansas Supreme Court.

Go to www.uaex.uada.edu/ballot for up-to-date information on the legal status of the ballot issues.



2022 Voter Guide Arkansas Ballot Issues

On Election Day, you'll decide more than your community leaders. Legislators and citizen groups have proposed changes to the state constitutions. You will vote whether to approve or reject the measures. The Public Policy Center provides research-based information on the issues to help voters better understand what is being asked of them.

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*Under review by the Arkansas Supreme Court

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Download this publication at www.uaex.uada.edu/ballot



Did you read the voter guide? Tell us how we did in this short survey: [Scan the QR code or go to \[tinyurl.com/2022voterguide\]\(http://tinyurl.com/2022voterguide\)](#)

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Arkansas State Ballot Issues Worksheet

The Public Policy Center seeks to help Arkansans better understand the proposed laws by publishing unbiased, 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>ISSUE NUMBER 1</p> <p>A constitutional amendment to allow the General Assembly to convene in extraordinary session upon the issuance of a joint written proclamation of the speaker of the House of Representatives and the president pro tempore of the Senate or upon the submission of a written proclamation containing the signatures of at least two-thirds (2/3) of the members of the House of Representatives and at least two-thirds (2/3) of the members of the Senate to the speaker of the House of Representatives and the president pro tempore of the Senate requesting that the General Assembly convene in extraordinary session.</p> <p>Notes: _____ _____ _____</p>
<input type="radio"/> FOR <input type="radio"/> AGAINST	<p>ISSUE NUMBER 2</p> <p>A constitutional amendment to reform certain measures Presented to voters, to be known as the “Constitutional Amendment and Ballot Initiative Reform Amendment.”</p> <p>Notes: _____ _____ _____</p>

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I plan to vote...	
<input type="radio"/> FOR <input type="radio"/> AGAINST	<p>ISSUE NUMBER 3</p> <p>A constitutional amendment to create the “Arkansas Religious Freedom Amendment.”</p> <p>Notes: _____</p> <p>_____</p> <p>_____</p>
<input type="radio"/> FOR <input type="radio"/> AGAINST	<p>ISSUE NUMBER 4</p> <p>An amendment to authorize the possession, personal use, and consumption of cannabis by adults, to authorize the cultivation and sale of cannabis by licensed commercial facilities, and to provide for the regulation of those facilities.</p> <p>Notes: _____</p> <p>_____</p> <p>_____</p>

Need to know where to vote?

Find your voting location info and a sample ballot at the secretary of states website:

www.voterview.ar-nova.org





photo credit: Arkansas House of Representatives photographer Rayna Mackey

ISSUE NUMBER 1

(Referred to the people by the Arkansas General Assembly)

Giving State Senators and Representatives Authority to Call Special Legislative Sessions

POPULAR NAME: A constitutional amendment to allow the General Assembly to convene in extraordinary session upon the issuance of a joint written proclamation of the speaker of the House of Representatives and the president pro tempore of the Senate or upon the submission of a written proclamation containing the signatures of at least two-thirds (2/3) of the members of the House of Representatives and at least two-thirds (2/3) of the members of the Senate to the speaker of the House of Representatives and the president pro tempore of the Senate requesting that the General Assembly convene in extraordinary session.

BALLOT TITLE: An amendment to the Arkansas Constitution to allow the General Assembly to convene in extraordinary session upon the issuance of a joint written proclamation of the speaker of the House of Representatives and the president pro tempore of the Senate or upon the submission of a written proclamation containing the signatures of at least two-thirds (2/3) of the members of the House of Representatives and at least two-thirds (2/3) of the members of the Senate to the speaker of the House of Representatives and the president pro tempore of the Senate requesting that the General Assembly convene in extraordinary session; providing that no business other than the purpose set forth in the joint written proclamation of the speaker of the House of Representatives and the president pro tempore of the Senate or

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QUICK LOOK: What does your vote mean?

FOR: A FOR vote means you are in favor of changing the Arkansas Constitution to allow state legislators to call themselves into special session and to set the agenda for those sessions.

AGAINST: An AGAINST vote means you are not in favor of changing the Arkansas Constitution to allow state legislators to call themselves into special session and want the power to stay only with the governor.

Where can I find more information?

The complete wording of this amendment can be found at uaex.uada.edu/issue1

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 last year has really shown us why this is so necessary and why so many people have signed on, just to be able to give ourselves an option to be what we are supposed to be, which is an equal branch of government.
- If a governor is overstepping his/her bounds with executive action powers, then the ability for the state legislature to call itself into special session would be a stop point to an overzealous Governor.
- We wanted to ensure through SJR10 (Issue 1) that special sessions remain special by requiring a higher threshold to allow the legislature to call itself into special session. We also wanted to ensure that the legislative branch had the ability to call itself into a special session if necessary.
- For me, it's not a poke in the eye of our current governor, it's just a way to balance between the executive and the legislative branch.

What do opponents say?

- In Arkansas, our current constitution provides for a part-time legislature that meets in general session once every two years and in fiscal session in the alternating years. I see no need for a change.
- The legislature does enough damage during regular sessions and its perpetual committee meetings. I think leaving to the governor to call a special session is just fine. If the legislature can't convince the governor of the need for a session then we don't have to have it – wait til the next regular session.
- This would convert it into really a full-time legislature.
- Arkansas is one of only a few states where the legislature can override the governor's veto with a simple majority vote. This would continue the path to empowering the legislative branch at the expense of the executive branch. The governor is elected by the entire state. Legislators are elected by individual districts.

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the written proclamation containing the signatures of at least two-thirds (2/3) of the members of the House of Representatives and at least two-thirds (2/3) of the members of the Senate shall be considered at an extraordinary session convened under this amendment; requiring the General Assembly to establish by joint rule during each regular session procedures for an extraordinary session under this amendment; and providing that this amendment does not restrict the authority of the governor to convene an extraordinary session of the General Assembly under Arkansas Constitution, Article 6, §19.

What is being proposed?

Arkansas legislators have proposed an amendment to the state constitution that would give them the authority to call special meetings of the legislature (formally called the General Assembly) at any time. Currently, only the governor has that authority.

This proposal would amend Section 5 of Article 5 of the Arkansas Constitution that describes when sessions take place. If approved, this new section would allow legislators to call a special session at any time if:

- The speaker of the House and president of the Senate jointly decide to convene lawmakers; or
- Two-thirds or more of the members of the Arkansas House of Representatives and Senate sign a written proclamation calling for the special session. This would equal signatures from 67 of Arkansas' 100 representatives and signatures from 24 of the state's 35 senators.



photo credit: Arkansas House of Representatives photographer Rayna Mackey

In both instances, the proclamation must include the purpose for convening the special session. This proposal also would:

- Require lawmakers to create rules for how their special sessions would operate, similar to how they adopt rules and procedures for each general session.
- Put the speaker of the House and president of the Senate in charge of determining the dates of a special session called by themselves or the legislature.
- Allow the legislature, after addressing the topic of the special session, to consider additional bills if there are enough votes to do so. (They currently can do this during special sessions called by the governor.)

How did this issue get on the ballot?

The Arkansas Senate and House of Representatives voted to place Issue 1 on the 2022 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. 8, 2022.

Who were the main sponsors of this amendment?

Sen. Breanne Davis of Russellville and Rep. Frances Cavanaugh of Walnut Ridge

When does the legislature meet now?

Arkansas legislators meet every year.

- In odd-numbered years, legislators meet beginning in January for what is known as the regular session. During this session they consider changes needed to current laws as well as new laws, determine the state's budget, and conduct other legislative business. Regular sessions last at least 60 days but legislators can vote to extend the session. The longest general session on record lasted 118 days.
- Fiscal sessions are held in even-numbered years, such as 2022, and focus on state finances and budgets. These budgetary sessions are shorter, historically lasting between 17 and 38 days. Voters approved creation of fiscal sessions in 2008 through Amendment 86 to the state constitution. Before then, the legislature only met every other year unless the governor called a special session.



- Legislators also meet when the governor calls a special session, or “extraordinary session” as it’s more formally called. The Arkansas Constitution gives the governor this authority.

How do special sessions happen now?

Section 19 of Article 6 in the Arkansas Constitution gives the governor the power to call the General Assembly into session for special purposes, or “extraordinary occasions.” The governor can call for a special session at any time and determines the agenda.

When announcing the special session, the governor issues a proclamation naming the specific topics or issues lawmakers will consider. The legislature can’t act on any other business until business related to this purpose is addressed. Only then, and after approval by two-thirds of the members of each chamber, can legislators discuss other issues. The Arkansas Constitution says lawmakers can remain in this extended special session for a period “not exceeding 15 days.”

There are no limits on the number of special sessions the governor may call.

Since 2000, governors have called 17 extraordinary sessions, according to the General Assembly websites. Topics of past special sessions called by governors have included: tax credits for steel manufacturers, income tax cuts, Covid 19 policy, school funding, resolution of conflicts created by new laws and other items.

How is this proposal different from current law regarding special sessions of the Arkansas legislature?

Issue 1 models the process followed for special sessions called by the governor. If approved, Issue 1 would give the legislature the same authority as the governor in calling special sessions and allow them to set the agenda for special sessions they call.

Lawmakers could vote whether to consider additional topics after they've addressed the main reason for the special session they called. Two-thirds of the Senate and House would have to vote in favor of allowing debate and discussion of additional bills.

What qualifies as an "extraordinary occasion?"

There is no definition included in the proposal or in the state constitution.

How much does a special session cost?

Generally, the additional cost of a special session reflects the daily per diem and travel payments the state's 135 lawmakers receive while meeting at the state capitol.

The seven-member Independent Citizen Committee of Arkansas sets the annual salary, per diem and travel reimbursement rates for legislators. In October 2021, the committee opted to follow federal rates for per diem (meals and lodging) and mileage. These include:

- 58.5 cents per mile traveled
- \$59 a day in per diem if lawmakers live within 50 miles of the capitol or
- \$154 a day if lawmakers live more than 50 miles from the capitol.

The state paid legislators \$3.1 million in per diem, travel and other expenses in 2021, according to the Arkansas Democrat-Gazette. That period included the regular session plus two short special sessions that lasted three days each.

Salary for lawmakers would not be impacted by this proposal, but the total amount in per diem and travel reimbursements would increase the more legislators meet.

How does this proposal compare to other states?

Arkansas is one of 14 states where only the governor has the power to call a special meeting of state lawmakers, according to the National Conference of State Legislators. Those states are: Alabama, California, Idaho, Indiana, Kentucky, Michigan, Minnesota, Mississippi, North Dakota, Rhode Island, South Carolina, Texas and Vermont.

In the remaining 36 states, both the governor and legislature can call a special session.

If approved, when would this amendment take effect?

Nov. 9, 2022

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

CONSTITUTIONAL AMENDMENT REFERRED TO THE PEOPLE BY THE GENERAL ASSEMBLY

Issue No. 1

(Popular Name)

A Constitutional Amendment to allow the General Assembly to Convene in Extraordinary Session Upon the Issuance of a Joint Written Proclamation of the Speaker of the House of Representatives and the President Pro Tempore of the Senate or Upon the Submission of a Written Proclamation Containing the Signatures of At Least Two-Thirds (2/3) of the Members of the House of Representatives and At Least Two-Thirds (2/3) of the Members of the Senate to the Speaker of the House of Representatives and the President Pro Tempore of the Senate Requesting that the General Assembly Convene in Extraordinary Session.

(Ballot Title)

AN AMENDMENT TO THE ARKANSAS CONSTITUTION TO ALLOW THE GENERAL ASSEMBLY TO CONVENE IN EXTRAORDINARY SESSION UPON THE ISSUANCE OF A JOINT WRITTEN PROCLAMATION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT PRO TEMPORE OF THE SENATE OR UPON THE SUBMISSION OF A WRITTEN PROCLAMATION CONTAINING THE SIGNATURES OF AT LEAST TWO-THIRDS (2/3) OF THE MEMBERS OF THE HOUSE OF REPRESENTATIVES AND AT LEAST TWO-THIRDS (2/3) OF THE MEMBERS OF THE SENATE TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT PRO TEMPORE OF THE SENATE REQUESTING THAT THE GENERAL ASSEMBLY CONVENE IN EXTRAORDINARY SESSION; PROVIDING THAT NO BUSINESS OTHER THAN THE PURPOSE SET FORTH IN THE JOINT WRITTEN PROCLAMATION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT PRO TEMPORE OF THE SENATE OR THE WRITTEN PROCLAMATION CONTAINING THE SIGNATURES OF AT LEAST TWO-THIRDS (2/3) OF THE MEMBERS OF THE HOUSE OF REPRESENTATIVES AND AT LEAST TWO-THIRDS (2/3) OF THE MEMBERS OF THE SENATE SHALL BE CONSIDERED AT AN EXTRAORDINARY SESSION CONVENED UNDER THIS AMENDMENT; REQUIRING THE GENERAL ASSEMBLY TO ESTABLISH BY JOINT RULE DURING EACH REGULAR SESSION PROCEDURES FOR AN EXTRAORDINARY SESSION UNDER THIS AMENDMENT; AND PROVIDING THAT THIS AMENDMENT DOES NOT RESTRICT THE AUTHORITY OF THE GOVERNOR TO CONVENE AN EXTRAORDINARY SESSION OF THE GENERAL ASSEMBLY UNDER ARKANSAS CONSTITUTION, ARTICLE 6, § 19.

FOR ISSUE NO. 1

AGAINST ISSUE NO. 1



ISSUE NUMBER 2

(Referred to the people by the Arkansas General Assembly)

Requiring 60% Voter Approval for Constitutional Amendments and Citizen-Proposed State Laws

POPULAR NAME: A Constitutional Amendment to Reform Certain Measures Presented to Voters, to be Known as the “Constitutional Amendment and Ballot Initiative Reform Amendment.”

BALLOT TITLE: An amendment to the Arkansas Constitution, to be known as the “Constitutional Amendment and Ballot Initiative Reform Amendment,” concerning the number of votes required for approval of certain measures presented to voters; requiring that initiatives proposed under Arkansas Constitution, Article 5, § 1, and constitutional amendments proposed under Arkansas Constitution, Article 19, § 22, and Arkansas Constitution, Amendment 70, § 2, shall be approved when receiving at least sixty percent (60%) of the votes cast on the proposed initiative or proposed constitutional amendment; and requiring that a measure subject to a referendum shall be repealed if the measure is rejected by a majority of the electors voting upon the matter.

What is being proposed?

Arkansas legislators have proposed a constitutional amendment that would increase the percentage of votes required to pass most statewide ballot issues.

Currently, a majority of votes are required for statewide ballot issues to pass and go into effect. This percentage is frequently described as a “50% plus one vote” or a simple majority.

QUICK LOOK: What does your vote mean?

FOR: A FOR vote means you are in favor of changing the Arkansas Constitution to increase the percentage of votes required to pass constitutional amendments and citizen-proposed state laws from a majority of the votes cast on the measure to 60% of the votes cast.

AGAINST: An AGAINST vote means you are not in favor of changing the Arkansas Constitution to increase the percentage of votes required to pass constitutional amendments and citizen-proposed state laws.

Where can I find more information?

The complete wording of this amendment can be found at uaex.uada.edu/issue2

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Issue 2 proposes amending the three sections of the Arkansas Constitution governing ballot issues to require a “super majority” vote in order for constitutional amendments and initiated acts to go into effect. Specifically, Issue 2 proposes:

- Increasing the percent of votes required to pass constitutional amendments proposed by citizen groups from 50% to 60%.
- Increasing the percent of votes required to pass constitutional amendments proposed by the legislature from 50% to 60%.
- Increasing the percent of votes required to pass state laws proposed by citizen groups from 50% to 60%.

Requirements for citizen-sponsored referendums, which ask voters to decide the fate of existing laws, would remain unchanged and be decided by a simple majority of voters.

How did this issue get on the ballot?

The Arkansas Senate and House of Representatives voted to place Issue 2 on the 2022 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 currently require the approval of a majority of voters in a statewide election. Election Day is Nov. 8, 2022.

Who were the main sponsors of this amendment?

Rep. David Ray of Maumelle and Sen. Bart Hester of Cave Springs

When was the last time Arkansas voted on this issue?

This is the first time a change in the percentage of votes required to pass a ballot measure has been on the ballot for voters to decide.

Why do proposed constitutional amendments and state laws appear on the statewide ballot?

Changing the Arkansas Constitution requires a vote of the people. The state constitution dates back to 1874 and there are currently 102 amendments to the original document. Arkansas voters rejected several attempts in the last century to pass a newer state constitution, leaving the amendment process as the only way to make changes or updates.

Additionally, the ballot issue process is the only way for citizens to directly propose changes to state law to be decided by a vote of the people. Without this process only legislators consider and decide on these changes.

What is the process for proposing constitutional amendments and state laws?

There are two routes: a legislature-led process and a citizen-led process. Legislators submit proposals for constitutional amendments when they meet as the General Assembly in odd-numbered years. Committees in the House and Senate review the proposals to determine which ones should be voted on by all legislators.

The legislature can refer up to three constitutional amendments to voters, in addition to a proposal related to their salary. Placing these issues on the ballot requires approval by 50% of the legislature; This equals approval from 18 of the 35 senators and 51 of the 100 representatives.

In addition, citizens can propose a constitutional amendment, a state law, and a referendum on whether to keep or repeal newly adopted laws from the legislative session.

This citizen-led process involves filing a ballot title with the Secretary of State’s Office, collecting signatures from voters in at least 15 counties, and the Arkansas Election Commission approving the ballot title. The number of voter signatures required to qualify a proposal for the statewide ballot varies depending on the type of ballot issue. Petitions for constitutional amendments must contain voter signatures equaling at least 10% of the number of people who voted for governor in the last election. Petitions for state laws require signatures equaling at least 8% of the number of people who voted for governor. (In 2022, the number of signatures required for constitutional amendments is 89,151.)

Only after this criteria is met are citizen-led issues placed on the ballot for voters to decide.



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?

- It's a much-needed safeguard for our initiative and constitutional amendment process. It is entirely too easy to amend our state constitution. We shouldn't amend our constitution in some sort of willy-nilly fashion.
- The state's lenient rules make it vulnerable to big money and out-of-state interests that would want to hijack our process and push their own pet projects and hobby horse issues.
- I don't view this as a particularly ideological measure. It is designed to simply put some safeguards on our constitutional amendment process.
- That process is fairly easy for big money or out-of-state interests to hijack because all they have to do is spend a large sum of money in a relatively short window of time, and temporarily convince people that something is a good idea. And then viola, it's in the Constitution forever and ever.

What do opponents say?

- This proposal would create minority rule as 40% of the electorate voting "no" would deny proposed measures.
- Between 2000-2020, there has been 1 initiated amendment that exceeded 60%. There have been 14 referred amendments that exceeded 60%. There were 3 initiated acts that exceeded 60%. The effect of Issue 2 on the peoples' right to direct democracy is much more severe than that on the general assembly primarily due to the fact that the people have to include a ballot title that accurately summarizes the proposal while the General Assembly does not.
- Acts by the General Assembly only require 50% approval while initiated acts by the people would require 60%, making it more difficult for the people to pass an initiated act than the General Assembly.
- Ballot measures give citizens of our state the power to make laws when politicians fail to do their jobs. Don't let politicians and special interests change the system that has served Arkansas well for the past 112 years. If they get rid of ballot measures as we know them in Arkansas, it will mean more power for lobbyists, more backroom deals, and less power for voters to decide on the issues that matter most.

Between 2000 and 2020, how many ballot issues received 60% voter approval?

Between 2000 and 2020, Arkansas voters considered 40 proposed constitutional amendments and state laws referred by the legislature and citizen groups. Voters approved 30 of these ballot issues and rejected the remaining 10 proposals.

Of the 30 measures voters passed, 18 received at least 60% voter approval.

This means that 12 of the 30 proposals that Arkansas voters passed in the last 20 years would not have satisfied the proposed 60% voter approval requirement.

Ballot Issues Passed in the Last 20 Years with Less than 60% of Voter Approval

- Short-term county/city financing amendment
- Overhaul of Arkansas court system
- Repeal of numbering ballots next to voter's name
- Prohibiting single adults who co-habitat from adopting or fostering children
- 0.5% sales tax for state and local road construction (2012 and 2020)
- Requiring legislative approval of state agency rules
- Giving ballot issue groups more time to collect signatures only if they already have 75% of the required signatures
- Changing ethics rules and term limits for legislators, and creating independent citizen commission to set salaries for elected state officials
- Medical marijuana
- Casino gaming in four locations
- Changes to legislative term limits

Find out how past ballot issues fared individually with voters at bit.ly/AR-ballot-issues

How Many States Require a Supermajority Vote to Pass Ballot Measures?

Every state has a process for ballot issues, but what is allowed and the requirements for passing such measures vary dramatically.

Looking at the country overall, these are the states that require a super majority vote for a ballot measure to pass:

- Florida requires at least 60% voter approval on its ballot measures. The state requires 66.6% voter approval for ballot measures involving new taxes or fees.
- Washington requires casino gaming ballot measures to be approved by 60% of voters compared to 50% for other measures.
- Oregon requires a higher percentage of voters to approve any proposal that would change the ballot measure approval rate itself.

What Percentage of Votes Do States Similar to Arkansas Require?

Arkansas is one of 15 states where citizens can propose constitutional amendments, state laws and referendums on the statewide ballot.

Of these 14 other states:

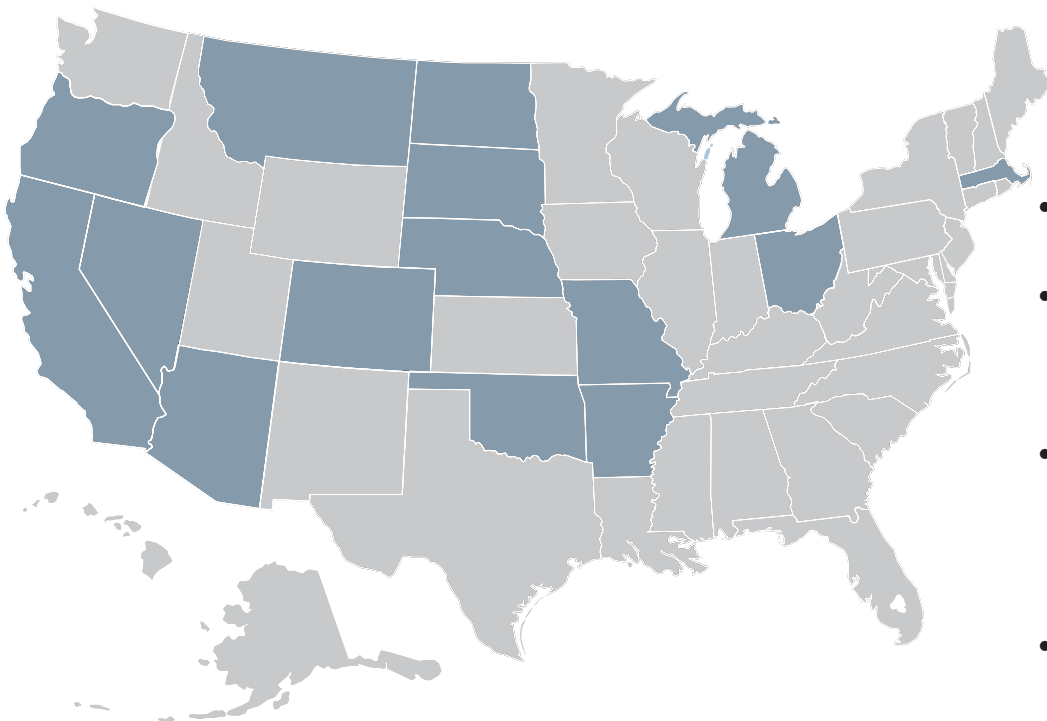
- Ten states require a simple majority vote to pass statewide ballot measures.
- One state (Nevada) requires a simple majority vote, but citizen-led constitutional amendments require passage in two separate elections.
- Two states require ballot measures to receive at least 50% voter approval, AND at least a certain percentage of the overall turnout to pass.
- One state (Colorado) requires 55% voter approval on all statewide ballot measures.

View our state-by-state analysis at bit.ly/Ballot-Access-Requirements

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

If approved, the changes listed in this proposal would take effect Jan. 1, 2023.

Percentage of Votes Required in the 15 States Where Citizens Can Ask Voters to Consider Constitutional Amendments, State Laws and Referendums



OF THE 15:

- 11 STATES – simple majority
- 2 STATES – 50% voter approval, AND at least a certain % of turnout
- NEVADA – simple majority, but citizen-led constitutional amendments require 2 elections
- COLORADO – 55% approval

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

CONSTITUTIONAL AMENDMENT REFERRED TO THE PEOPLE BY THE GENERAL ASSEMBLY

Issue No. 2

(Popular Name)

A Constitutional Amendment to Reform Certain Measures Presented to Voters, to be Known as the
"Constitutional Amendment and Ballot Initiative Reform Amendment"

(Ballot Title)

AN AMENDMENT TO THE ARKANSAS CONSTITUTION, TO BE KNOWN AS THE
"CONSTITUTIONAL AMENDMENT AND BALLOT INITIATIVE REFORM AMENDMENT",
CONCERNING THE NUMBER OF VOTES REQUIRED FOR APPROVAL OF CERTAIN MEASURES
PRESENTED TO VOTERS; REQUIRING THAT INITIATIVES PROPOSED UNDER ARKANSAS
CONSTITUTION, ARTICLE 5, § 1, AND CONSTITUTIONAL AMENDMENTS PROPOSED UNDER
ARKANSAS CONSTITUTION, ARTICLE 19, § 22, AND ARKANSAS CONSTITUTION, AMENDMENT
70, § 2, SHALL BE APPROVED WHEN RECEIVING AT LEAST SIXTY PERCENT (60%) OF THE
VOTES CAST ON THE PROPOSED INITIATIVE OR PROPOSED CONSTITUTIONAL AMENDMENT;
AND REQUIRING THAT A MEASURE SUBJECT TO A REFERENDUM SHALL BE REPEALED IF THE
MEASURE IS REJECTED BY A MAJORITY OF THE ELECTORS VOTING UPON THE MATTER.

FOR ISSUE NO. 2

AGAINST ISSUE NO. 2



ISSUE NUMBER 3

(Referred to the people by the Arkansas General Assembly)

Arkansas Religious Freedom Amendment

POPULAR NAME: A Constitutional Amendment to Create the “Arkansas Religious Freedom Amendment.”

BALLOT TITLE: An amendment to the Arkansas Constitution to create the “Arkansas Religious Freedom Amendment”; and to provide that government may never burden a person’s freedom of religion except in the rare circumstance that the government demonstrates that application of the burden to the person is in furtherance of a compelling government interest and is the least restrictive means of furthering that compelling government interest.

What is being proposed?

The proposed amendment would add language to the Arkansas Constitution that:

- Prohibits state and local governments from burdening the practice of religion in Arkansas unless the government shows there’s a compelling reason to do so and acts in the least restrictive way.
- Provides a legal claim in a court or other governmental proceeding for a person to seek relief against the government for imposing on their religious freedom.

The amendment would apply to current and future government laws, rules, regulations, ordinances, administrative provisions and rulings, guidelines and other requirements.

How did this issue get on the ballot?

The Arkansas Senate and House of Representatives voted to place Issue 3, then known as SJR14, on the 2022 General Election Ballot. The Arkansas Constitution grants the legislature the right to include up to three constitutional amendments on the general election ballot.

(continued on page 16)

QUICK LOOK: What does your vote mean?

FOR: A FOR vote means you are in favor of adding an amendment to the Arkansas Constitution that prohibits state and local governments from burdening a person’s practice of religion unless there’s a compelling reason to do so.

AGAINST: An AGAINST vote means you are not in favor of adding an amendment to the Arkansas Constitution that would prohibit state and local governments from burdening a person’s practice of religion unless there’s a compelling reason to do so.

Where can I find more information?

The complete wording of this amendment can be found at uaex.uada.edu/issue3

Constitutional amendments require the approval of a majority of voters in a statewide election. Election Day is Nov. 8, 2022.

Who sponsored this amendment?

Sen. Jason Rapert of Conway and Rep. Jimmy Gazaway of Paragould

When was the last time Arkansas voted on this issue? Approved by voters in 1874, the Arkansas Constitution contains a freedom of religion provision in Article II, Section 24:

All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; no man can, of right, be compelled to attend, erect or support any place of worship; or to maintain ministry against his consent. No human authority can, in any case or manner whatsoever, control or interfere with the right of conscience; and no preference shall ever be given, by law, to any religious establishment, denomination or mode of worship above any other.

Since then Arkansans have not voted on any constitutional amendments regarding this issue.

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?

- Courts and opinions change over time, so the state should put forth the strongest language possible.
- The First Amendment has not changed, but the way courts interpret it has over the years. The Arkansas Religious Freedom Amendment helps stop courts from reinterpreting and undermining the free exercise of religion in Arkansas.
- SJR14 [Issue 3] would be a barrier to infringements on religious freedom at the local level.
- The proposed amendment would provide a stronger protection for religious freedom because it would only have to be proven that the government was burdening religious liberty, not that it was a substantial burden.
- Measures like SJR 14 [Issue 3] simply help restore protections for the free exercise of religion. It's just a good amendment that will help ensure that our state constitution protects religious liberty in Arkansas.
- We have executive branches come and executive branches go, and I don't want an executive branch that changes our law. Governors have really done things to infringe on people's religious freedoms, and I don't want that to happen in the future.

What do opponents say?

- This proposal is redundant. We're doing something that really doesn't do anything.
- I think it sets us in a weaker position were this to be challenged under the First Amendment.
- Nothing in the amendment explains what remedies are available when one person's or group's religious liberties adversely impact the rights and liberties of other groups or people. On the contrary, this amendment sets up the potential for abuse of other people by persons claiming "free expression" or "free exercise" of religion.
- Despite public claims by its supporters that this amendment will safeguard religion from government, it does not safeguard government from religion. It will allow religion to burden the government and it implicitly demands that the government allow that to happen.
- The amendment does not permit the government to burden anyone's religious practice for any reason, which is extremely short-sighted in cases of public health, security, order, and the protection of other rights and liberties of people in society.
- Despite public claims by its proponents that this amendment will strengthen the free expression of religion, the language of this amendment is vague and overbroad, with little guidance for how it is to be interpreted.

How does this proposal define “government?”

Specifically, government is defined in the proposal as:

- A branch, department, agency, or instrumentality of the State of Arkansas,
- A political subdivision of the state, including county, city, town or other unit of local government,
- An official acting on behalf of government, and
- A person acting under the “color of law” of the State of Arkansas. The term “color of law” in this instance would mean there is an appearance of someone acting on behalf of the state.

The amendment would apply to local, county and state government agencies, courts, state-funded schools and colleges, government-owned utilities, and government-related commissions, councils, and boards. If an entity was created by an Arkansas governing body or law, it would fall under the definition of government in this proposal.

Aren’t there already laws about government and religion?

There are federal and state laws regarding the free exercise of religion.

The First Amendment to the U.S. Constitution prohibits Congress from making any law respecting an establishment of religion or prohibiting the free exercise of religion. The 14th Amendment also extends the protections in the First Amendment to the state and local level.

In 1993, Congress passed the Religious Freedom Restoration Act (RFRA)¹ in response to a 1990 U.S. Supreme Court case that affected how to judge and determine the government’s burden in constitutional free exercise claims. The RFRA prohibited federal, state and local governments from “substantially” burdening a person’s exercise of religion.

In 1997, the U.S. Supreme Court ruled that the RFRA was unconstitutional as it applied to state and local governments because it exceeded Congress’ enforcement power. However, RFRA is still the law when it comes to the federal government’s impact on a person’s exercise of religion.

Since then, Arkansas and more than 20 other states have passed their own versions of the federal law.

In 2015, Arkansas lawmakers passed Act 975.² This state-level RFRA mirrors the federal law and says government cannot substantially burden a person’s exercise of religion.

The state law refers to a federal test, or method, for determining whether a government has a compelling interest for substantially burdening the free exercise of religion.



What’s the difference between the existing state law and the proposed constitutional amendment?

(1) Act 975 says government may not “substantially burden” a person’s exercise of religion. The proposed constitutional amendment lacks the word “substantially” when describing prohibited government burdens. This one-word difference indicates a stricter limit on what government can do in terms of impacting a person’s exercise of religion than Act 975. Ultimately, the answer to whether an action or law burdens someone’s exercise of religion in violation of the proposed constitutional amendment would rest with judges in the legal system.

(2) Act 975 exempts the Department of Correction, the Department of Community Correction, county jails and detention facilities, meaning the law does not apply to these agencies. The proposed constitutional amendment does not list any exemptions for government entities.

(3) Issue 3 would put the prohibition into the state constitution. Changes to a constitutional amendment require a vote of the people, whereas lawmakers can change Act 975 during any legislative session.

How is “burden” defined by this proposal?

There is not a definition of “burden” in the proposed amendment or a process for identifying when a government does it for non-compelling reasons. This will likely be left for court interpretation.

What does “compelling government interest” mean in this proposal?

The term “compelling government interest” isn’t defined in this proposal, but the Arkansas General Assembly’s legislative findings that accompanied Issue 3 when they voted to place it on the ballot note that the “compelling interest test” described in previous court rulings as well as in the federal law “is a workable test for striking sensible balances

¹<https://www.congress.gov/bill/103rd-congress/house-bill/1308/text>

²<https://encyclopediaofarkansas.net/entries/act-975-of-2015-9259/>

between religious liberty and competing government interests from public education ... [to] national defense ... and other areas of important mutual concern.”

How is “person” defined in this proposal?

There is no definition of “person” in the proposed amendment. (Nor is there a definition in Act 975, a current law discussed above.)

Ultimately, a court would resolve what this term means, which could stretch beyond the common use of “person” to refer to a human being. For example, the U.S. Supreme Court ruled in *Burwell v. Hobby Lobby* that “person” included privately-held corporations.

What does “rule” mean in this proposal?

The proposal defines “rule” as a “statement of Arkansas law.” The proposal includes several examples but notes the meaning is not limited to these specifically. The examples listed are:

- Statute (state law)
- Rule
- Regulation
- Ordinance (a county or city law)
- Administrative provision
- Administrative ruling
- Guideline
- Requirement

How does this proposal compare to other states?

A provision for freedom of religion is found in all 50 state constitutions, according to a reference guide on the Arkansas Constitution by Kay Goss.³ Additionally, religious freedom restoration laws now exist in over 20 states, including Arkansas and surrounding states.

According to the National Conference of State Legislatures, some states define “burden” and “person” in their state laws. In addition to prohibiting government interference, Indiana and Texas also prohibit non-governmental entities from burdening religious practice.

Only Alabama has a constitutional amendment. Alabama’s amendment does not include the word “substantially” when discussing burden. Arkansas lawmakers said they modeled Issue 3 after the Alabama amendment, which voters there approved in 1998.

If approved, when would this proposed amendment take effect?

The day after the election, which is Nov. 9, 2022.

³Goss, K.C. (2011). *The Arkansas State Constitution*. Oxford University Press.

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

CONSTITUTIONAL AMENDMENT REFERRED TO THE PEOPLE BY THE GENERAL ASSEMBLY

Issue No. 3

(Popular Name)

A Constitutional Amendment to Create the “Arkansas Religious Freedom Amendment.”

(Ballot Title)

AN AMENDMENT TO THE ARKANSAS CONSTITUTION TO CREATE THE “ARKANSAS RELIGIOUS FREEDOM AMENDMENT”; AND TO PROVIDE THAT GOVERNMENT MAY NEVER BURDEN A PERSON’S FREEDOM OF RELIGION EXCEPT IN THE RARE CIRCUMSTANCE THAT THE GOVERNMENT DEMONSTRATES THAT APPLICATION OF THE BURDEN TO THE PERSON IS IN FURTHERANCE OF A COMPELLING GOVERNMENT INTEREST AND IS THE LEAST RESTRICTIVE MEANS OF FURTHERING THAT COMPELLING GOVERNMENT INTEREST.

FOR ISSUE NO. 3

AGAINST ISSUE NO. 3



ISSUE NUMBER 4 *(under review by the Arkansas Supreme Court)*

(Referred to the people by Responsible Growth Arkansas)

Arkansas Adult Use Cannabis Amendment

POPULAR NAME: An amendment to authorize the possession, personal use, and consumption of cannabis by adults, to authorize the cultivation and sale of cannabis by licensed commercial facilities, and to provide for the regulation of those facilities.

BALLOT TITLE: An amendment to the Arkansas Constitution authorizing possession and use of cannabis (i.e., marijuana) by adults, but acknowledging that possession and sale of cannabis remain illegal under federal law; authorizing licensed adult use dispensaries to sell adult use cannabis produced by licensed medical and adult use cultivation facilities, including cannabis produced under Amendment 98, beginning March 8, 2023 and amending Amendment 98 concerning medical marijuana in pertinent part, including: amending Amendment 98, § 3(e) to allow licensed medical or adult use dispensaries to receive, transfer, or sell marijuana to and from medical and adult use cultivation facilities, or other medical or adult use dispensaries, and to accept marijuana seeds from individuals legally authorized to possess them; repealing Amendment 98, § 8(c)

(continued on page 20)

QUICK LOOK: What does your vote mean?

FOR: A FOR vote means you are in favor of changing the Arkansas Constitution to authorize the growing and selling of marijuana for non-medical purposes; giving existing medical marijuana growers and sellers licenses to grow and sell adult use or non-medical marijuana; authorizing 12 additional cultivation licenses and 40 dispensary licenses for adult use marijuana; eliminating an existing sales tax on medical marijuana and introducing a sales tax on adult use marijuana; eliminating a cap on how much THC can be in medical marijuana-infused drinks and food portions; making clear that lawmakers have no authority to change the amendment without another vote of the people; and changing rules for businesses licensed to grow and sell marijuana in Arkansas.

AGAINST: An AGAINST vote means you are not in favor of changing the Arkansas Constitution to authorize the growing and selling of marijuana for adult use or non-medical purposes, or changing the related rules and regulations currently in place. Medical marijuana would continue to be legal as specified under state law.

Where can I find more information?

The complete wording of this amendment can be found at uaex.uada.edu/issue4

(continued from page 19)

regarding residency requirements; repealing and replacing Amendment 98, §§ 8(e)(5)(A)-(B) and 8(e)(8)(A)-(F) with requirements for child-proof packaging and restrictions on advertising that appeals to children; amending Amendment 98, § 8(k) to exempt individuals owning less than 5% of dispensary or cultivation licensees from criminal background checks; amending Amendment 98, § 8(m)(1)(A) to remove a prohibition on dispensaries supplying, possessing, manufacturing, delivering, transferring, or selling paraphernalia that requires the combustion of marijuana; amending Amendment 98, § 8(m)(3)(A)(i) to increase the marijuana plants that a dispensary licensed under that amendment may grow or possess at one time from 50 to 100 plus seedlings; amending Amendment 98, § 8(m)(4)(A)(ii) to allow cultivation facilities to sell marijuana to dispensaries, adult use dispensaries, processors, or other cultivation facilities; amending Amendment 98, §§ 10(b)(8)(A) and 10(b)(8)(G) to provide that limits on the amount of medical marijuana dispensed shall not include adult use cannabis purchases; amending Amendment 98, §§ 12(a)(1) and 12(b)(1) to provide that dispensaries and dispensary agents may dispense marijuana for adult use; amending Amendment 98, § 13(a) to allow medical and adult use cultivation facilities to sell marijuana to adult use dispensaries; repealing Amendment 98, § 17 and prohibiting state or local taxes on the cultivation, manufacturing, sale, use, or possession of medical marijuana; repealing Amendment 98, § 23 and prohibiting legislative amendment, alteration, or repeal of Amendment 98 without voter approval; amending Amendment 98, § 24(f)(1)(A)(i) to allow transporters or distributors licensed under Amendment 98 to deliver marijuana to adult use dispensaries and cultivation facilities



licensed under this amendment; requiring the Alcoholic Beverage Control Division of the Department of Finance and Administration (“ABC”) to regulate issuance and renewal of licenses for cultivation facilities and adult use dispensaries and to regulate licensees; requiring adult use dispensaries to purchase cannabis only from licensed medical or adult use cultivation facilities and dispensaries; requiring issuance of Tier One adult use cultivation facility licenses to cultivation facility licensees under Amendment 98 as of November 8, 2022, to operate on the same premises as their existing facilities and forbidding issuance of additional Tier One adult use cultivation licenses; requiring issuance of adult use dispensary licenses to dispensary licensees under Amendment 98 as of November 8, 2022, for dispensaries on their existing premises and at another location licensed only for adult use cannabis sales; requiring issuance by lottery of 40 additional adult use dispensary licenses and 12 Tier Two adult use cultivation facility licenses; prohibiting cultivation facilities and dispensaries near schools, churches, day cares, or facilities serving the developmentally disabled that existed before the earlier of the initial license application or license issuance; requiring all adult use only dispensaries to be located at least five miles from dispensaries licensed under Amendment 98; prohibiting individuals from holding ownership interests in more than 18 adult use dispensaries; requiring ABC adoption of rules governing licensing, renewal, ownership transfers, location, and operation of cultivation facilities and adult use dispensaries licensed under this amendment, as well as other rules necessary to administer this amendment; prohibiting political subdivisions from using zoning to restrict the location of cultivation facilities and dispensaries in areas not zoned residential-use only when this amendment is adopted; allowing political subdivisions to hold local option elections to prohibit retail sales of cannabis; allowing a state supplemental sales tax of up to 10% on retail cannabis sales for adult use, directing a portion of such tax proceeds to be used for an annual stipend for certified law enforcement officers, the University of Arkansas for Medical Sciences and drug court programs authorized by the Arkansas Drug Court Act, § 16-98-301 with the remainder going into general revenues, and requiring the General Assembly to appropriate funds from licensing fees and sales taxes on cannabis to fund agencies regulating cannabis; providing that cultivation facilities and adult use dispensaries are otherwise subject to the same taxation as other for-profit businesses; prohibiting excise or privilege taxes on retail sales of cannabis for adult use; providing that this amendment does not limit employer cannabis policies, limit restrictions on cannabis combustion on private property, affect existing laws regarding driving under the influence

of cannabis, permit minors to buy, possess, or consume cannabis, or permit cultivation, production, distribution, or sale of cannabis not expressly authorized by law; and prohibiting legislative amendment, alteration, or repeal of this amendment without voter approval.

What is being proposed?

This citizen-proposed amendment asks voters to change the Arkansas Constitution to allow and regulate cannabis, also referred to as marijuana, for non-medical purposes. The proposal also would make numerous changes to add, alter or remove parts of Amendment 98, currently known as the Arkansas Medical Marijuana Amendment of 2016.

Note: The proposed amendment uses the term “adult use cannabis” to differentiate it from marijuana used for medical purposes. This voter guide uses “non-medical marijuana” interchangeably with “adult use cannabis,” which is also known as “recreational marijuana.”

For people 21 and older buying marijuana, this amendment would:

- Make the possession of one ounce of marijuana for non-medical personal use legal under Arkansas state law for adults, while recognizing the drug remains illegal under federal law.
- Allow medical marijuana cardholders to purchase non-medical marijuana without that amount counting toward how much they can purchase for medical purposes.

Regarding cultivation facilities that grow marijuana, this amendment would:

- Allow licensed cultivators to grow, prepare, manufacture, process, package, sell and deliver marijuana to dispensaries for non-medical purposes.
- Grant owners of eight existing medical marijuana cultivation facilities a second license to grow marijuana for non-medical sales. These facilities do not have a limit on the number of plants they can grow at any time.
- Require the state to issue 12 additional marijuana cultivation licenses for growing non-medical marijuana. Cultivators that receive these new licenses could not grow more than 250 plants at one time and could not sell their product for medical marijuana use. The licenses would be issued via a lottery system.

Regarding dispensaries selling marijuana to the public, this amendment would:

- Automatically give the existing 40 medical marijuana dispensaries a license to sell marijuana for non-medical uses at their current location starting March 8, 2023.



- Automatically give the existing 40 medical marijuana dispensaries a second license to sell non-medical marijuana at another location at least five miles away from any medical marijuana dispensary.
- Require the state to issue 40 additional non-medical marijuana dispensary licenses using a lottery system.
- Allow people to have a financial interest in up to 18 non-medical marijuana dispensaries.
- Allow dispensaries to possess, make, deliver or sell items such as pipes, bongs, rolling papers, roach clips and other items that were previously prohibited for them to sell.
- Increase the number of mature marijuana plants a medical marijuana dispensary may grow or possess at one time from 50 plants to 100 plants.
- Require non-medical marijuana dispensaries to purchase marijuana only from state-licensed cultivation facilities and dispensaries.
- Eliminate the ability of dispensaries to accept marijuana seedlings, plants, or usable marijuana from out-of-state dispensaries.
- Eliminate the ability of dispensaries to transfer or sell marijuana seeds, plants or other usable marijuana to out-of-state dispensaries if federal law ever permitted it.
- Eliminate the ability of dispensaries to accept marijuana seeds from out-of-state suppliers.

For all marijuana cultivation facilities and dispensaries, this amendment would:

- Repeal Arkansas residency requirements for owners.
- No longer require criminal background checks on people who own less than 5% of the business.
- Prohibit the businesses from opening within a certain distance from a facility for individuals with developmental disabilities. This is in addition to existing distance

requirements for schools, churches, and daycare centers. Dispensaries must be located at least 1,500 feet away, and cultivation facilities at least 3,000 feet from these institutions.

Related to taxes and licensing fees, this amendment would:

- No longer allow taxes on medical marijuana, which would repeal requirements on how existing state tax revenues are distributed.
- Allow the state to charge an additional 10% sales tax on non-medical marijuana sales at dispensaries. This would result in consumers paying up to 16.5% in state sales tax on non-medical marijuana purchases in addition to any city and county sales taxes on their purchases.



- Require sales tax proceeds from non-medical marijuana sales be used for: (1) paying law enforcement stipends every year, (2) supporting the University of Arkansas for Medical Sciences, (3) funding drug court programs, and (4) contributing to state general funds.
- Require lawmakers to use licensing fees and sales taxes from non-medical marijuana sales to pay the cost of regulating the marijuana program by state agencies.

If approved by voters, this amendment also would:

- Remove a requirement that food or drinks combined with marijuana for medical purposes not exceed 10 milligrams (10 mg) of active tetrahydrocannabinol (THC) per portion. THC is the main psychoactive compound in cannabis.
- Remove the authority lawmakers have to change parts of Amendment 98, and instead require any future changes to be approved by voters.
- Delete a section that says the Alcoholic Beverage Control Division establish advertising restrictions for dispensaries and cultivation facilities related to artwork,

building signage, product design, indoor displays and other medical marijuana-related advertising. The ballot measure would replace that wording with a requirement that the Division establish advertising restrictions that are “narrowly tailored” to ensure advertising isn’t designed to appeal to children. Packaging also must be child-resistant and designed in a way that doesn’t appeal to children.

- Authorize the Alcoholic Beverage Control Division to issue and renew licenses for non-medical marijuana cultivation facilities and dispensaries, establish labeling requirements and set other rules and regulations.
- Allow transporters and distributors licensed under Amendment 98 to also deliver marijuana to dispensaries and cultivation facilities selling non-medical marijuana.
- Prohibit cities and counties from creating or changing existing zoning laws in a way to restrict dispensaries and cultivation facilities from operating in non-residential areas.
- Allow cities and counties to hold local elections on whether to allow non-medical marijuana sales within their boundaries.
- Establish that the amendment would not prohibit employers from having drug-free workplace policies or property owners from being able to restrict or prohibit the combustion of cannabis on private property.
- Establish that the amendment would not affect existing laws regarding driving under the influence, activities related to cannabis not expressly authorized by law, or purchase, possession or consumption of cannabis by minors.

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. 8, 2022.

Who is the sponsor of this amendment?

Responsible Growth Arkansas

When was the last time Arkansas voted on this issue?

In 2016, Arkansas voters approved The Arkansas Medical Marijuana Amendment of 2016, which established a legal process in the state to grow, sell, buy and possess marijuana for specific medical purposes.

Voters approved the citizen-led ballot measure by a vote of 585,030 (53%) in favor to 516,525 (47%) against. The

proposal became Amendment 98 of the Arkansas Constitution.

The first medical marijuana was sold in Arkansas in 2019. In 2021, the state received medical marijuana card applications from 94,142 people.

Does this proposal change medical marijuana qualifications, the process for qualifying patients to obtain cards, or the registration fees for a medical marijuana card?

No.

Who could grow marijuana under this proposal?

Only licensed cultivation facilities and medical marijuana dispensaries could grow marijuana under this proposal. Growing marijuana without one of these licenses would continue to be illegal.

How much marijuana would be legal to possess under this proposal?

Adults 21 and older in Arkansas could legally possess up to 1 ounce of marijuana for non-medical purposes. Possession of non-medical marijuana for people younger than 21 would remain illegal under state law.

Medical marijuana dispensaries would continue to be limited to selling no more than 2.5 ounces of marijuana to a qualifying patient or designated caregiver in a 14-day period. This amount is separate than the 1 ounce people could possess for non-medical purposes.

How many non-medical marijuana cultivation facilities would be allowed under this proposal?

A maximum of 20 non-medical marijuana cultivation licenses would be allowed under this amendment:

- 8 non-medical cultivation licenses would automatically be assigned to owners of the eight existing medical marijuana cultivation facilities in Arkansas. The deadline for the state to issue these licenses, referred to as Tier 1 licenses in the ballot title, would be March 7, 2023.
- 12 non-medical cultivation licenses would be distributed via a lottery system. The deadline for the state to issue these licenses, referred to as Tier 2 licenses in the ballot title, would be Nov. 8, 2023.

How many non-medical marijuana dispensaries would be allowed under this proposal?

A maximum of 120 non-medical dispensary licenses would be allowed under this amendment:

- 80 licenses to sell non-medical marijuana would automatically be assigned to holders of the 40 medical

marijuana dispensary licenses in Arkansas. These medical marijuana dispensaries would be authorized to sell both types of marijuana. They could then open a second location at least 5 miles away from any existing medical marijuana dispensary and sell only non-medical marijuana from that store. The deadline for the state to issue these 80 licenses would be March 7, 2023.

- 40 additional non-medical marijuana dispensary licenses would be distributed via a lottery system. The deadline for the state to issue these remaining licenses would be July 5, 2023.

If approved, when could existing dispensaries start selling marijuana for non-medical reasons?

March 8, 2023.

How is possession defined under this proposal?

The proposed amendment does not include a definition of “possession.”

How is cannabis defined under this proposal?

The proposed amendment defines cannabis as marijuana and other substances including any parts of the plant *Cannabis sativa*, whether growing or not, its seeds and the resin extracted from any part of the plant; and any compound, manufacture, salt, derivative, mixture, isomer or preparation of the plant, including tetrahydrocannabinol and all other cannabinol derivatives, whether produced directly or indirectly by extraction.





Does this proposal mention hemp?

Not specifically by name, but hemp is grown from the same species of plant as marijuana – *Cannabis sativa*. The definition of cannabis under Issue 4 would by default include hemp. Because hemp is regulated under state and federal laws, it is unclear how this proposed amendment would affect research and production of industrial hemp and related products in Arkansas.

Hemp is typically obtained from a different variety or cultivar of the plant than marijuana. Under federal law, hemp has a THC concentration of not more than 0.3%. Changes to the definition of hemp in the Agriculture Improvement Act of 2018, also known as the federal Farm Bill, removed hemp from being considered a controlled substance under federal law¹. States were allowed to create state-level hemp production plans.

Hemp is regulated in Arkansas under the Arkansas Hemp Production Act of 2021, which gave the Arkansas State Plant Board and the Arkansas Department of Agriculture the authority to create and administer rules associated with industrial hemp production and possession. The state's program rules specify that state-licensed hemp growers cannot plant anything other than hemp.

As of the date this voter guide was printed, there were 27 licenses to grow hemp in Arkansas and 11 licenses to handle or process hemp. The University of Arkansas System Division of Agriculture currently has a license under the state program to grow hemp for research purposes only.

How does this proposal affect tax rates on medical marijuana?

If approved, Issue 4 would eliminate all city, county and state sales taxes on medical marijuana that dispensaries and consumers currently pay. The proposal also would eliminate the state's 4% special privilege tax charged on the growing, manufacturing and sales of medical marijuana. Instead, it would impose taxes on the sale of non-medical marijuana.

Repealing the state taxes on medical marijuana also removes the section dictating how the tax revenues are distributed.

The Arkansas Medical Marijuana Amendment on the ballot in 2016 specified how state sales tax revenues would be distributed to state agencies overseeing the program, the state's General Revenue Fund, and a Vocational and Technical Training Special Revenue Fund. Legislators later passed laws changing the distribution of medical marijuana tax revenues.

Currently, revenue from the 6.5% state sales tax on medical marijuana sales goes to the Arkansas Medical Marijuana Implementation and Operations Fund (excluding tax funds dedicated to roads and state parks). Departments that oversee the medical marijuana program receive tax revenues for administering the program. This includes the Alcoholic Beverage Control Division, Department of Finance and Administration, Arkansas Department of Health, and Medical Marijuana Commission (AMMIO).

Additionally, proceeds from a 4% special privilege tax on medical marijuana sales to dispensaries and to consumers goes into the AMMIO fund. Everything beyond operating expenses is directed to the University of Arkansas for Medical Science for its National Cancer Institute Designation Trust Fund.

According to the Medical Marijuana Commission, more than \$70.6 million has been generated through these two taxes since medical marijuana sales started in 2019.

Other taxes that cultivation facilities and dispensary owners pay, such as income and property taxes, would not be affected by this proposal.

Would there be taxes on non-medical marijuana purchases?

Yes. Consumers would pay city, county and state sales taxes when they buy non-medical marijuana at dispensaries.

In addition to the current 6.5% state sales and use tax paid on many goods and services, consumers would pay an additional 10% state sales tax on their non-medical marijuana purchases.

Revenue from the state's supplemental tax on non-medical marijuana sales would be distributed according to this formula:

- 70% would go to the state General Fund. The state would be required to use sales tax revenue and money collected from cultivation licenses to offset the costs of state agencies overseeing the program.
- 15% would be set aside to pay an annual stipend to law enforcement officers certified by the Commission on Law Enforcement Standards and Training and in good standing. The Department of Finance and Administration would be tasked with establishing specific eligibility rules.

¹Defining Hemp: A Fact Sheet. (2019). Congressional Research Service. Retrieved from <https://crsreports.congress.gov/product/pdf/R/R44742>.

- 10% would be used to fund operations at the University of Arkansas for Medical Sciences. UAMS currently receives funding from a 4% special excise tax on medical marijuana sales for its cancer institute, which would be eliminated by this proposed amendment.
- 5% would be used to fund drug court programs authorized by the Arkansas Drug Court Act.

The proposal says no additional excise or privilege tax could be charged on non-medical marijuana sales.

If passed, could a city or county prohibit marijuana sales?

A city, incorporated town or county could prohibit dispensaries within their limits only if voters approve such a prohibition in a local election.

Are there regulations on where a dispensary or growing facility could locate?

Yes. As a part of their original licensing requirements, existing dispensaries are prohibited from opening within 1,500 feet of a public or private school, church or daycare. Cultivation facilities are prohibited within 3,000 feet of those organizations.

This proposal would keep those distance requirements and incorporate changes from Act 1004 of 2019 that added “facilities for individuals with developmental disabilities” to the locations where businesses must distance themselves.

What is the status of marijuana sales across the United States?

Regulations vary by state but as of July 2022 Arkansas is one of 37 states that allow for the use of medical marijuana.

As of this May, 19 states plus Washington D.C., had enacted some type of measure to allow and regulate marijuana for non-medical use, according to the National Conference of State Legislatures².

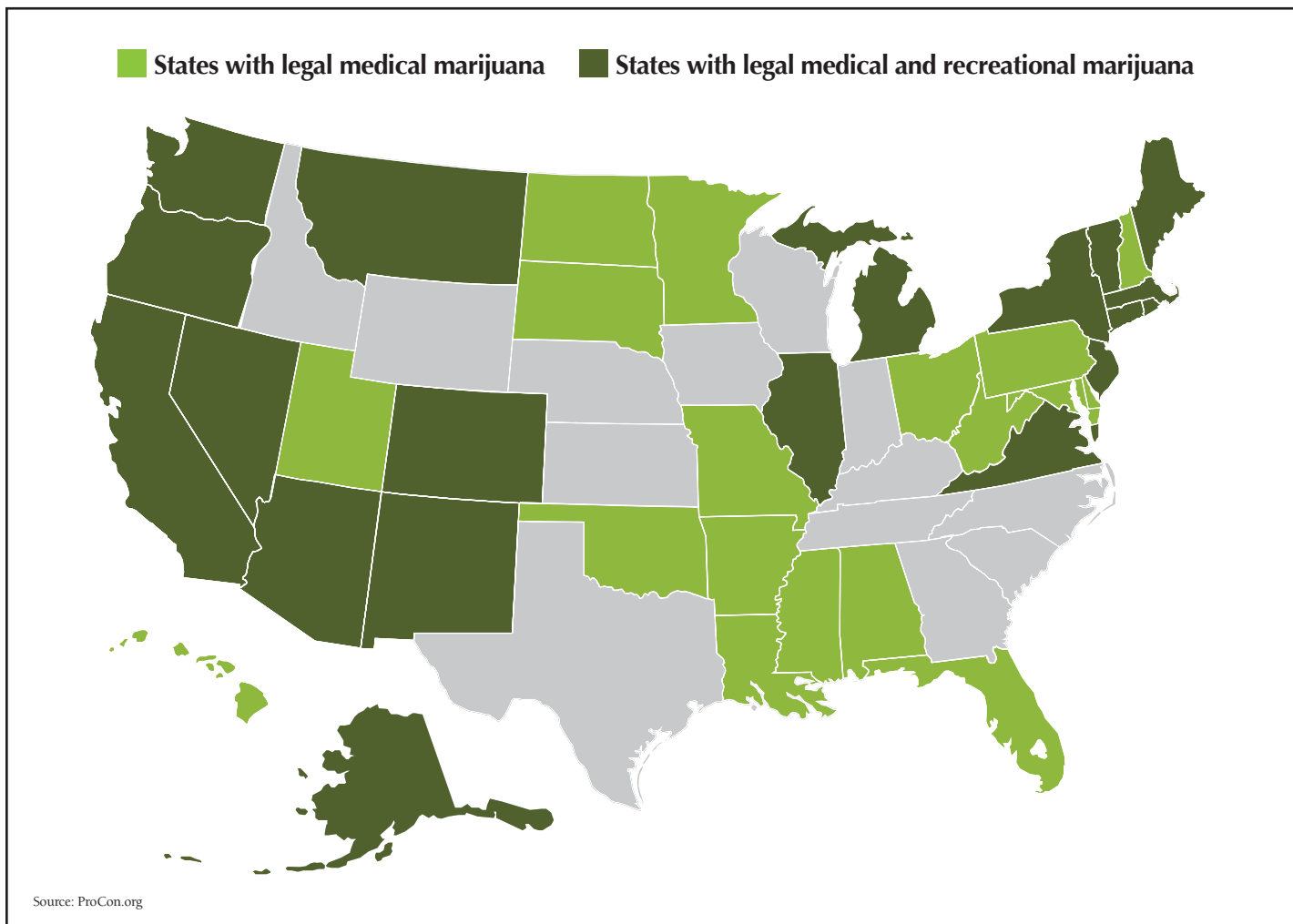
If approved, could state legislators change this amendment during a legislative session?

No. If passed, Issue 4 would explicitly prevent legislators from making any changes to state marijuana laws created by this proposal unless approved by voters during a statewide election.

If approved, when would this proposed amendment take effect?

This amendment would take effect Nov. 18, 2022.

²<https://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx>



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 initiative reduces healthcare costs by removing taxes from medical cannabis sold to qualified patients, and replacing it with taxes on adult use.
- Ensures that one mistake will not last a lifetime by reforming our state’s existing laws on the possession of small amounts of cannabis for personal use.
- Extends the medical marijuana program into a new adult use industry, with 12 new “craft” cultivation licenses issued via a lottery, which are authorized to grow up to 250 mature plants.
- People ... want this, and we want to be able to provide this to Arkansans in a responsible way. That’s, I think, one of the biggest distinctions between what we’re trying to do and some of the other efforts. We understand that it needs to be regulated. For those folks who are not necessarily supporters of this, we want them to know that we’re going to do this in a responsible way. We’re going to limit the number of stores. It’s not going to be on every corner. There’s not a home grow component. It’s going to be controlled, be able to be taxed and the quality and the quantities are going to be controlled to some degree.
- This is something that is coming our way. We can either be a part of it, or we’re going to lose out to some of our neighboring states in jobs and tax revenue for the state.
- Regardless of what one thinks personally about the prospect of legal recreational marijuana, the revenue created by this ballot initiative would support general fund investments that can unlock the potential of Arkansas – in areas like education starting with preschool, infrastructure starting with broadband, and economic development starting with jobs – while supporting the state drug court program, UAMS, and law enforcement.
- Don’t listen to the people saying we should vote no because the amendment isn’t good enough. The Republicans in charge of the state will never allow an amendment that has things like amnesty for people already in jail for weed, home growing, or protection for workers who smoke. I would love to see these things happen but I’m realistic enough to see it will never happen while Arkansas is controlled by our current lot of Republicans.
- To get that many signatures from Arkansans it can’t be all Democrats, or all Republicans, or all Independents. You need a large swath of Arkansans to get that many signatures. The people want to vote on this and make this decision themselves.
- Enables law enforcement to maintain control of the black market by keeping cannabis out of the hands of minors and unauthorized growers.
- Provides regulatory oversight to keep children safe by limiting the number of licensed businesses and keeping unregulated homegrown cannabis out of our neighborhoods.



What do opponents say?

- Issue 4 will expand illegal drug use in our communities by authorizing the sale and use of drugs that are still 100% illegal under federal law.
- The proposal is too favorable to the industry rather than to the patients and consumers. The proposal will kill the medical program because cultivators and dispensaries will not provide a wide variety of strains that can help ease patients' medical problems. Producers will be incentivized to cater to the recreational consumers and simply grow the strains that have the highest concentrations of THC, the main psychoactive compound in cannabis.
- The only dispensaries that will be able to sell medical are the original 40. The 40 original dispensaries will automatically receive a second license (for rec only). This leaves patients that are having to travel up to two hours to get their medicine will continue to have to drive excess of two hours. That leaves only 40 more dispensaries open for licensing. That is a small number to create competition. Not only that, but you may own up to 18 dispensaries, which would stop any competition.
- There is no provisions for expungement on criminal records, so those that have had their lives destroyed by sometimes as little as a joint, continue to have their lives destroyed while these conglomerates rake in MILLIONS of dollars.
- Giving 10% to police (while I DO support the police) sort of sounds like they are trying to BUY the police hoping a blind eye will be held for illegal dealing that may be in play.
- Issue 4 doesn't just legalize marijuana. It legalizes any drug or chemical extract or derivative that can ever be manufactured from the marijuana plant. It's impossible to say just how far that will go.
- Issue 4 legalizes marijuana in Arkansas, and it prevents lawmakers from enacting reasonable regulations on the marijuana industry.
- The amendment makes sweeping changes to the Arkansas Constitution. It repeals and rewrites some parts of the constitution, and it adds new language to other parts. It is almost impossible to know how far some of these changes go.
- Every drug dog within the State of Arkansas would have to be de-certified and replaced with one that does not include marijuana as a detectable substance. That alone would open the door for a mass influx of other controlled substances, such as methamphetamine, cocaine, fentanyl, heroin, among others, into the state, if the amendment is enacted, and before the State can fund and train a whole new set of dogs for every location where a drug dog is currently in use in the State of Arkansas.
- Unlike other states the Arkansas law does not exempt hemp from the definition of Cannabis sativa. The Arkansas law would do away with the existing hemp laws in Arkansas and require that all hemp and hemp products be grown and sold only through the licensed cultivators and dispensaries.

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

**CONSTITUTIONAL AMENDMENT REFERRED TO THE PEOPLE BY
RESPONSIBLE GROWTH ARKANSAS**

**Issue No. 4
(Popular Name)**

An Amendment to Authorize the Possession, Personal Use, and Consumption of Cannabis by Adults, to Authorize the Cultivation and Sale of Cannabis by Licensed Commercial Facilities, and to Provide for the Regulation of those Facilities.

(Ballot Title)

AN AMENDMENT TO THE ARKANSAS CONSTITUTION AUTHORIZING POSSESSION AND USE OF CANNABIS (I.E., MARIJUANA) BY ADULTS, BUT ACKNOWLEDGING THAT POSSESSION AND SALE OF CANNABIS REMAIN ILLEGAL UNDER FEDERAL LAW; AUTHORIZING LICENSED ADULT USE DISPENSARIES TO SELL ADULT USE CANNABIS PRODUCED BY LICENSED MEDICAL AND ADULT USE CULTIVATION FACILITIES, INCLUDING CANNABIS PRODUCED UNDER AMENDMENT 98, BEGINNING MARCH 8, 2023 AND AMENDING AMENDMENT 98 CONCERNING MEDICAL MARIJUANA IN PERTINENT PART, INCLUDING: AMENDING AMENDMENT 98, § 3(E) TO ALLOW LICENSED MEDICAL OR ADULT USE DISPENSARIES TO RECEIVE, TRANSFER, OR SELL MARIJUANA TO AND FROM MEDICAL AND ADULT USE CULTIVATION FACILITIES, OR OTHER MEDICAL OR ADULT USE DISPENSARIES, AND TO ACCEPT MARIJUANA SEEDS FROM INDIVIDUALS LEGALLY AUTHORIZED TO POSSESS THEM; REPEALING AMENDMENT 98, § 8(C) REGARDING RESIDENCY REQUIREMENTS; REPEALING AND REPLACING AMENDMENT 98, §§ 8(E)(5) (A)-(B) AND 8(E)(8)(A)-(F) WITH REQUIREMENTS FOR CHILD-PROOF PACKAGING AND RESTRICTIONS ON ADVERTISING THAT APPEALS TO CHILDREN; AMENDING AMENDMENT 98, § 8(K) TO EXEMPT INDIVIDUALS OWNING LESS THAN 5% OF DISPENSARY OR CULTIVATION LICENSEES FROM CRIMINAL BACKGROUND CHECKS; AMENDING AMENDMENT 98, § 8(M)(1)(A) TO REMOVE A PROHIBITION ON DISPENSARIES SUPPLYING, POSSESSING, MANUFACTURING, DELIVERING, TRANSFERRING, OR SELLING PARAPHERNALIA THAT REQUIRES THE COMBUSTION OF MARIJUANA; AMENDING AMENDMENT 98, § 8(M)(3)(A)(I) TO INCREASE THE MARIJUANA PLANTS THAT A DISPENSARY LICENSED UNDER THAT AMENDMENT MAY GROW OR POSSESS AT ONE TIME FROM 50 TO 100 PLUS SEEDLINGS; AMENDING AMENDMENT 98, § 8(M)(4)(A)(II) TO ALLOW CULTIVATION FACILITIES TO SELL MARIJUANA TO DISPENSARIES, ADULT USE DISPENSARIES, PROCESSORS, OR OTHER CULTIVATION FACILITIES; AMENDING AMENDMENT 98, §§ 10(B)(8)(A) AND 10(B)(8)(G) TO PROVIDE THAT LIMITS ON THE AMOUNT OF MEDICAL MARIJUANA DISPENSED SHALL NOT INCLUDE ADULT USE CANNABIS PURCHASES; AMENDING AMENDMENT 98, §§ 12(A)(1) AND 12(B)(1) TO PROVIDE THAT DISPENSARIES AND DISPENSARY AGENTS MAY DISPENSE MARIJUANA FOR ADULT USE; AMENDING AMENDMENT 98, § 13(A) TO ALLOW MEDICAL AND ADULT USE CULTIVATION FACILITIES TO SELL MARIJUANA TO ADULT USE DISPENSARIES; REPEALING AMENDMENT 98, § 17 AND PROHIBITING STATE OR LOCAL TAXES ON THE CULTIVATION, MANUFACTURING, SALE, USE, OR POSSESSION OF MEDICAL MARIJUANA; REPEALING AMENDMENT 98, § 23 AND PROHIBITING LEGISLATIVE AMENDMENT, ALTERATION, OR REPEAL OF AMENDMENT 98 WITHOUT VOTER APPROVAL; AMENDING AMENDMENT 98, § 24(F)(1)(A)(I) TO ALLOW TRANSPORTERS OR DISTRIBUTORS LICENSED UNDER AMENDMENT 98 TO DELIVER MARIJUANA TO ADULT USE DISPENSARIES AND CULTIVATION FACILITIES LICENSED UNDER THIS AMENDMENT; REQUIRING THE ALCOHOLIC BEVERAGE CONTROL DIVISION OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION (“ABC”) TO REGULATE ISSUANCE AND RENEWAL OF LICENSES FOR CULTIVATION

FACILITIES AND ADULT USE DISPENSARIES AND TO REGULATE LICENSEES; REQUIRING ADULT USE DISPENSARIES TO PURCHASE CANNABIS ONLY FROM LICENSED MEDICAL OR ADULT USE CULTIVATION FACILITIES AND DISPENSARIES; REQUIRING ISSUANCE OF TIER ONE ADULT USE CULTIVATION FACILITY LICENSES TO CULTIVATION FACILITY LICENSEES UNDER AMENDMENT 98 AS OF NOVEMBER 8, 2022, TO OPERATE ON THE SAME PREMISES AS THEIR EXISTING FACILITIES AND FORBIDDING ISSUANCE OF ADDITIONAL TIER ONE ADULT USE CULTIVATION LICENSES; REQUIRING ISSUANCE OF ADULT USE DISPENSARY LICENSES TO DISPENSARY LICENSEES UNDER AMENDMENT 98 AS OF NOVEMBER 8, 2022, FOR DISPENSARIES ON THEIR EXISTING PREMISES AND AT ANOTHER LOCATION LICENSED ONLY FOR ADULT USE CANNABIS SALES; REQUIRING ISSUANCE BY LOTTERY OF 40 ADDITIONAL ADULT USE DISPENSARY LICENSES AND 12 TIER TWO ADULT USE CULTIVATION FACILITY LICENSES; PROHIBITING CULTIVATION FACILITIES AND DISPENSARIES NEAR SCHOOLS, CHURCHES, DAY CARES, OR FACILITIES SERVING THE DEVELOPMENTALLY DISABLED THAT EXISTED BEFORE THE EARLIER OF THE INITIAL LICENSE APPLICATION OR LICENSE ISSUANCE; REQUIRING ALL ADULT USE ONLY DISPENSARIES TO BE LOCATED AT LEAST FIVE MILES FROM DISPENSARIES LICENSED UNDER AMENDMENT 98; PROHIBITING INDIVIDUALS FROM HOLDING OWNERSHIP INTERESTS IN MORE THAN 18 ADULT USE DISPENSARIES; REQUIRING ABC ADOPTION OF RULES GOVERNING LICENSING, RENEWAL, OWNERSHIP TRANSFERS, LOCATION, AND OPERATION OF CULTIVATION FACILITIES AND ADULT USE DISPENSARIES LICENSED UNDER THIS AMENDMENT, AS WELL AS OTHER RULES NECESSARY TO ADMINISTER THIS AMENDMENT; PROHIBITING POLITICAL SUBDIVISIONS FROM USING ZONING TO RESTRICT THE LOCATION OF CULTIVATION FACILITIES AND DISPENSARIES IN AREAS NOT ZONED RESIDENTIAL-USE ONLY WHEN THIS AMENDMENT IS ADOPTED; ALLOWING POLITICAL SUBDIVISIONS TO HOLD LOCAL OPTION ELECTIONS TO PROHIBIT RETAIL SALES OF CANNABIS; ALLOWING A STATE SUPPLEMENTAL SALES TAX OF UP TO 10% ON RETAIL CANNABIS SALES FOR ADULT USE, DIRECTING A PORTION OF SUCH TAX PROCEEDS TO BE USED FOR AN ANNUAL STIPEND FOR CERTIFIED LAW ENFORCEMENT OFFICERS, THE UNIVERSITY OF ARKANSAS FOR MEDICAL SCIENCES AND DRUG COURT PROGRAMS AUTHORIZED BY THE ARKANSAS DRUG COURT ACT, § 16-98-301 WITH THE REMAINDER GOING INTO GENERAL REVENUES, AND REQUIRING THE GENERAL ASSEMBLY TO APPROPRIATE FUNDS FROM LICENSING FEES AND SALES TAXES ON CANNABIS TO FUND AGENCIES REGULATING CANNABIS; PROVIDING THAT CULTIVATION FACILITIES AND ADULT USE DISPENSARIES ARE OTHERWISE SUBJECT TO THE SAME TAXATION AS OTHER FOR-PROFIT BUSINESSES; PROHIBITING EXCISE OR PRIVILEGE TAXES ON RETAIL SALES OF CANNABIS FOR ADULT USE; PROVIDING THAT THIS AMENDMENT DOES NOT LIMIT EMPLOYER CANNABIS POLICIES, LIMIT RESTRICTIONS ON CANNABIS COMBUSTION ON PRIVATE PROPERTY, AFFECT EXISTING LAWS REGARDING DRIVING UNDER THE INFLUENCE OF CANNABIS, PERMIT MINORS TO BUY, POSSESS, OR CONSUME CANNABIS, OR PERMIT CULTIVATION, PRODUCTION, DISTRIBUTION, OR SALE OF CANNABIS NOT EXPRESSLY AUTHORIZED BY LAW; AND PROHIBITING LEGISLATIVE AMENDMENT, ALTERATION, OR REPEAL OF THIS AMENDMENT WITHOUT VOTER APPROVAL.

FOR ISSUE NO. 4

AGAINST ISSUE NO. 4

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Important Dates

- Oct. 10th Voter registration deadline for the General Election
- Oct. 24th Early voting begins
- Nov. 8th 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. 8, 2022, 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.**

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 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. **Find a link to county clerk information at uaex.uada.edu/voter-resources**



For the latest information on ballot issues visit www.uaex.uada.edu/ballot