Stricken language would be deleted from and underlined language would be added to the Arkansas Constitution.

1	State of Arkansas
2	92nd General Assembly
3	Regular Session, 2019 SJR 9
4	
5	By: Senator M. Johnson
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7	SENATE JOINT RESOLUTION
8	AN AMENDMENT TO THE ARKANSAS CONSTITUTION TO REVISE
9	THE PROCESS FOR SUBMITTING INITIATIVES, REFERENDA,
10	AND CONSTITUTIONAL AMENDMENTS TO THE VOTERS FOR
11	APPROVAL.
12	
13	
14	Subtitle
15	AN AMENDMENT TO THE ARKANSAS CONSTITUTION
16	TO REVISE THE PROCESS FOR SUBMITTING
17	INITIATIVES, REFERENDA, AND
18	CONSTITUTIONAL AMENDMENTS TO THE VOTERS
19	FOR APPROVAL.
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22	BE IT RESOLVED BY THE SENATE OF THE NINETY-SECOND GENERAL ASSEMBLY OF THE
23	STATE OF ARKANSAS, AND BY THE HOUSE OF REPRESENTATIVES, A MAJORITY OF ALL
24	MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:
25	
26	THAT the following is proposed as an amendment to the Constitution of
27	the State of Arkansas, and upon being submitted to the electors of the state
28	for approval or rejection at the next general election for Representatives
29	and Senators, if a majority of the electors voting thereon at the election
30	adopt the amendment, the amendment shall become a part of the Constitution of
31	the State of Arkansas, to wit:
32	
33	SECTION 1. Arkansas Constitution, Article 5, § 1, is amended to read
34	as follows:
35	§ 1. Initiative and Referendum.
36	The legislative power of the people of this State shall be vested in a



1 General Assembly, which shall consist of the Senate and House of

2 Representatives, but the people reserve to themselves the power to propose 3 legislative measures, laws and amendments to the Constitution, and to enact 4 or reject the same at the polls independent of the General Assembly; and also 5 reserve the power, at their own option to approve or reject at the polls any 6 entire act or any item of an appropriation bill.

Initiative. The first power reserved by the people is the initiative. 7 8 Eight per cent percent (8%) of the legal voters may propose any law and ten 9 per cent percent (10%) may propose a constitutional amendment by initiative 10 petition and every such petition shall include the full text of the measure 11 so proposed. Initiative petitions for state-wide statewide measures shall be 12 filed with the Secretary of State not less than four months before March 1 of 13 the year of the election at which they are to be voted upon; provided, that 14 at least thirty (30) days before the aforementioned filing, the proposed 15 measure shall have been published once, at the expense of the petitioners, in 16 some paper of general circulation.

17 The General Assembly shall enact laws establishing a process for the 18 approval or certification of the title of a statewide initiative petition 19 prior to circulation. The title of a statewide initiative petition shall not 20 be submitted for approval or certification more than two (2) years or less than one (1) year before the general election at which the initiative would 21 22 be voted upon. This section does not require the General Assembly to require 23 a process for determining the sufficiency of the title of a statewide initiative petition prior to circulation. 24

After obtaining approval or certification of the title of the statewide initiative petition, the petitioner shall notify the Secretary of State of the date that petitions will first be circulated. The notification to the Secretary of State shall be at least five (5) days before the circulation of a petition. Signatures on a initiative petition that was circulated prior to approval of the title under this section are invalid.

Referendum. The second power reserved by the people is the referendum, and any number not less than six <u>per cent percent (6%)</u> of the legal voters may, by petition, order the referendum against any general Act, or any item of an appropriation bill, or measure passed by the General Assembly, but the filing of a referendum petition against one <u>(1)</u> or more items, sections or parts of any such act or measure shall not delay the remainder from becoming

1 operative. Such petition shall be filed with the Secretary of State not later than ninety (90) days after the final adjournment of the session at 2 3 which such Act was passed, except when a recess or adjournment shall be taken 4 temporarily for a longer period than ninety days, in which case such petition 5 shall be filed not later than ninety (90) days after such recess or temporary 6 adjournment. Any measure referred to the people by referendum petition shall 7 remain in abeyance until such vote is taken. The total number of votes cast 8 for the office of Governor in the last preceding general election shall be 9 the basis upon which the number of signatures of legal voters upon state wide 10 statewide initiative and referendum petitions shall be computed.

11 The General Assembly shall enact laws establishing a process for the 12 approval or certification of the title of a statewide referendum petition 13 before circulation. After obtaining approval or certification of the title, 14 the petitioner shall notify the Secretary of State of the date that petitions will first be circulated. The notification to the Secretary of State shall 15 be at least five (5) days before the circulation of a petition. This section 16 17 does not require the General Assembly to require a process for determining 18 the sufficiency of the title of a statewide referendum petition prior to 19 circulation.

20 Upon all initiative or referendum petitions provided for in any of the 21 sections of this article, it shall be necessary to file from at least fifteen 22 <u>a majority</u> of the counties of the State, petitions bearing the signature of 23 not less than one-half (1/2) of the designated percentage of the electors of 24 such county.

25 Emergency. If it shall be necessary for the preservation of the public 26 peace, health and safety that a measure shall become effective without delay, 27 such necessity shall be stated in one (1) section, and if upon a yea and nay 28 vote two-thirds (2/3) of all the members elected to each house, or two-thirds 29 (2/3) of all the members elected to city or town councils, shall vote upon 30 separate roll call in favor of the measure going into immediate operation, 31 such emergency measure shall become effective without delay. It shall be 32 necessary, however, to state the fact which constitutes such emergency. 33 Provided, however, that an emergency shall not be declared on any franchise 34 or special privilege or act creating any vested right or interest or 35 alienating any property of the State. If a referendum is filed against any 36 emergency measure such measure shall be a law until it is voted upon by the

people, and if it is then rejected by a majority of the electors voting
 thereon, it shall be thereby repealed. The provision of this sub-section
 <u>subsection</u> shall apply to city or town councils.

Local for Municipalities and Counties. The initiative and referendum powers of the people are hereby further reserved to the legal voters of each municipality and county as to all local, special and municipal legislation of every character in and for their respective municipalities and counties, but no local legislation shall be enacted contrary to the Constitution or any general law of the State, and any general law shall have the effect of repealing any local legislation which is in conflict therewith.

11 Municipalities may provide for the exercise of the initiative and referendum as to their local legislation. General laws shall be enacted 12 13 providing for the exercise of the initiative and referendum as to counties. 14 Fifteen per cent percent (15%) of the legal voters of any municipality or 15 county may order the referendum, or invoke the initiative upon any local 16 measure. In municipalities the number of signatures required upon any 17 petition shall be computed upon the total vote cast for the office of mayor 18 at the last preceding general election; in counties upon the office of 19 circuit clerk. In municipalities and counties the time for filing an 20 initiative petition shall not be fixed at less than sixty (60) days nor more 21 than ninety (90) days before the election at which it is to be voted upon; 22 for a referendum petition at not less than thirty (30) days nor more than 23 ninety (90) days after the passage of such measure by a municipal council; 24 nor less than ninety (90) days when filed against a local or special measure 25 passed by the General Assembly.

Every extension, enlargement, grant, or conveyance of a franchise or any rights, property, easement, lease, or occupation of or in any road, street, alley or any part thereof in real property or interest in real property owned by municipalities, exceeding in value three hundred dollars (\$300), whether the same be by statute, ordinance, resolution, or otherwise, shall be subject to referendum and shall not be subject to emergency legislation.

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General Provisions

Definition. <u>(a)</u> The Except as provided in subdivision (b) of this subsection, the word "measure" as used herein includes any bill, law, resolution, ordinance, charter, constitutional amendment or legislative

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1	proposal or enactment of any character.
2	(b) The word "measure" does not include the following, which shall not
3	be proposed and submitted to the people under this section:
4	(1) A constitutional amendment whose enforcement or purview is
5	restricted to one (1) or more named counties or municipalities, either
6	explicitly or by implication; or
7	(2) A constitutional amendment which, either explicitly or by
8	implication:
9	(A) Specifically bestows power, privileges, or authority
10	<u>to:</u>
11	(i) A specific individual; or
12	(ii) A private business entity, including without
13	limitation a private corporation; or
14	(B) Creates a business or nonprofit monopoly for a county,
15	municipality, business entity, or private corporation.
16	(c) This section does not restrict the ability of the General Assembly
17	to propose and submit a proposed constitutional amendment to the people under
18	Arkansas Constitution, Article 19, § 22, addressing one (1) or more of the
19	subject matters under subdivision (b)(1) of this subsection.
20	No Veto. The veto power of the Governor or mayor shall not extend to
21	measures initiated by or referred to the people.
22	Amendment and Repeal. No measure approved by a vote of the people
23	shall be amended or repealed by the General Assembly or by any city council,
24	except upon a yea and nay vote on roll call of two-thirds $(2/3)$ of all the
25	members elected to each house of the General Assembly, or of the city
26	council, as the case may be.
27	Election. All measures initiated by the people whether for the State,
28	county, city or town, shall be submitted only at the regular elections,
29	either State, congressional or municipal, but referendum petitions may be
30	referred to the people at special elections to be called by the proper
31	official, and such special elections shall be called when fifteen per cent
32	percent (15%) of the legal voters shall petition for such special election,
33	and if the referendum is invoked as to any measure passed by a city or town
34	council, such city or town council may order a special election.
35	Majority Approval of measures. Any Except as provided in this
36	subsection, a measure submitted to the people as herein provided shall take

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effect and become a law when approved by a majority of the votes cast upon such the measure, and not otherwise, and shall not be required to receive a majority of the electors voting at such election. Such measures <u>a measure</u> shall be operative on and after the thirtieth day after the election at which it the measure is approved, unless otherwise specified in the Act.

6 A proposed constitutional amendment submitted to the people as herein 7 provided shall take effect and become a law when approved by at least sixty 8 percent (60%) of the votes cast statewide upon the proposed constitutional amendment, and not otherwise, and shall not be required to receive a majority 9 10 of the votes cast at such election. Such a proposed constitutional amendment 11 shall be operative on and after the thirtieth day after the election at which 12 the proposed constitutional amendment is approved, unless otherwise specified 13 in the proposed constitutional amendment. If a proposed constitutional 14 amendment is approved by a majority of the votes cast upon the proposed 15 constitutional amendment but less than sixty percent (60%) of the votes cast upon the proposed constitutional amendment, the proposed constitutional 16 17 amendment shall be referred to the quorum court of each county. If at least 18 three-fourths (3/4) of the quorum courts ratify the proposed constitutional 19 amendment by a majority vote within one hundred eighty (180) days of the 20 general election at which the proposed constitutional amendment was approved 21 by a majority of the votes cast upon the proposed constitutional amendment, 22 the proposed constitutional amendment shall be considered approved and become 23 operative on and after the one hundred eighty-first day following the general election. 24

This section shall not be construed to deprive any member of the General Assembly of the right to introduce any measure, but no measure shall be submitted to the people by the General Assembly, except a proposed constitutional amendment or amendments as provided for in this Constitution. Canvass and Declaration of Results. The result of the vote upon any State <u>statewide</u> measure shall be canvassed and declared by the State Board of

31 Election Commissioners (or legal substitute therefor); upon a municipal or 32 county measure, by the county election commissioners (or legal substitute 33 therefor).

Conflicting Measures. If Except as provided in this subsection, if conflicting measures initiated or referred to the people shall be approved by a majority of the votes severally cast for and against the same at the same election, the one receiving the highest number of affirmative votes shall become law.

3 If conflicting proposed constitutional amendments initiated or referred 4 to the people shall be approved by at least sixty percent (60%) of the votes 5 severally cast statewide for and against the same at the same election, the 6 proposed constitutional amendment receiving the highest number of affirmative 7 votes shall become law. 8 If proposed constitutional amendments are initiated or referred to the 9 people, one (1) or more proposed constitutional amendments are approved by at 10 least sixty percent (60%) of the votes severally cast statewide for and 11 against the same, and one (1) or more proposed constitutional amendments are 12 approved by a majority of the votes cast upon the proposed constitutional 13 amendment statewide but less than sixty percent (60%) of the votes, the 14 proposed constitutional amendment receiving the highest number of affirmative 15 votes shall become law. 16 If proposed constitutional amendments initiated or referred to the 17 people shall be approved by a majority of the votes severally cast statewide 18 for and against the same at the same election but less than sixty percent 19 (60%) of the votes cast statewide, the proposed constitutional amendment

20 receiving the highest number of affirmative votes shall be referred to the

- 21 <u>quorum court of each county for ratification under this section.</u>
- 22
- 23

The Petition

Title. At the time of filing petitions the exact title to be used on the ballot shall by the petitioners be submitted with the petition, and on state-wide statewide measures, shall be submitted to the State Board of Election Commissioners, who shall certify such title to the Secretary of State, to be placed upon the ballot; on county and municipal measures such title shall be submitted to the county election board and shall by said board be placed upon the ballot in such county or municipal election.

31 <u>The title shall be intelligible, brief, honest, and impartial. The</u> 32 <u>title shall not be misleading or confusing. The title shall summarize the</u> 33 <u>text of the measure.</u>

Limitation. <u>(a)</u> No Except as provided in subdivision (b) of this subsection, no limitation shall be placed upon the number of constitutional amendments, laws, or other measures which may be proposed and submitted to

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1 the people by either initiative or referendum petition as provided in this 2 section.

3 (b) The General Assembly may enact laws governing the number of 4 statewide measures to be presented on the general election ballot to prevent 5 the number of measures presented from being excessive or unmanageable for 6 voters.

7 <u>(c)</u> No petition shall be held invalid if it shall contain a greater 8 number of signatures than required herein.

9 Verification. Only legal votes shall be counted upon petitions. 10 Petitions may be circulated and presented in parts, but each part of any 11 petition shall have attached thereto the affidavit of the person circulating 12 the same, that all signatures thereon were made on paper and in the presence 13 of the affiant, and that to the best of the affiant's knowledge and belief 14 each signature is genuine, and that the person signing is a legal voter and 15 no other affidavit or verification shall be required to establish the genuineness of such signatures. A signature is not valid if executed more 16 17 than two (2) years before the general election at which the measure would be 18 voted upon. Signatures may only be collected on paper copies of petitions.

19 Sufficiency. (a) The sufficiency of all state-wide statewide petitions 20 shall be decided in the first instance by the Secretary of State, subject to 21 review by the Supreme Court of the State, which shall have original and 22 exclusive jurisdiction over all such causes. The sufficiency of all local 23 petitions shall be decided in the first instance by the county clerk or the 24 city clerk as the case may be, subject to review by the <u>chancery circuit</u> 25 court.

(b)(1) Except as provided in subdivision (b)(2) of this subsection, a
challenge to a statewide measure, including without limitation a challenge to
the sufficiency of the text of a measure or the title to be used on the
ballot, shall be filed no later than thirty (30) days after the approval or
certification of the title of the statewide measure prior to circulation in
the manner prescribed by law.

32 (2) A challenge to the sufficiency of signatures on a statewide
 33 petition or the forms on which signatures were gathered shall be filed no
 34 later than thirty (30) days after the signatures have been deemed sufficient
 35 for the inclusion of the statewide measure on the general election ballot.
 36 Court Decisions. If the sufficiency of any petition is challenged such

cause shall be a preference cause and shall be tried at once, but the failure of the courts to decide prior to <u>before</u> the election as to the sufficiency of any such petition, shall not prevent the question from being placed upon the ballot at the election named in such petition, nor militate against the validity of such measure, if it shall have been approved by a vote of the people.

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Amendment of Petition.

8 (a)(1) If the Secretary of State, county clerk or city clerk, as the 9 case may be, shall decide any petition to be insufficient, he or she shall 10 without delay notify the sponsors of such petition, and permit at least 11 thirty (30) days from the date of such notification, in the instance of a 12 state-wide statewide petition, or ten (10) days in the instance of a 13 municipal or county petition, for correction or amendment.

14 (2) For a state-wide statewide petition, correction or amendment
15 of an insufficient petition shall be permitted only if the petition contains
16 valid signatures of legal voters equal to:

17 (A) At at least seventy-five percent (75%) of the number
 18 of state-wide signatures of legal voters required; and
 19 (B) At least seventy-five percent (75%) of the required

20 number of signatures of legal voters from each of at least fifteen (15)
21 counties of the state.

22 (b)(1) Signatures for the correction or amendment of an insufficient 23 petition shall not be collected while the Secretary of State, county clerk, 24 or city clerk, as the case may be, is determining the sufficiency of the 25 petition.

26 (2) A signature collected for the purpose of correction or
 27 amendment before a petition has been deemed insufficient is not valid for the
 28 purposes of correction or amendment of an insufficient petition.

29 (b)(c) In the event of legal proceedings to prevent giving legal 30 effect to any petition upon any grounds, the burden of proof shall be upon 31 the person or persons attacking the validity of the petition.

32 Unwarranted Restrictions Prohibited. (a) No law shall be passed to 33 prohibit any person or persons from giving or receiving compensation for 34 circulating petitions, nor to prohibit the circulation of petitions, nor in 35 any manner interfering or to interfere in any manner with the freedom of the 36 people in procuring petitions;.

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1 (b) but laws Laws shall be enacted prohibiting and penalizing perjury, 2 forgery, and all other felonies or other fraudulent practices, in the 3 securing of signatures or filing of petitions. 4 (c) The General Assembly may enact laws concerning the: 5 (1) Submission of measures to the electors of this state; 6 (2) Regulation of individuals involved in the process of the 7 submission and circulation of measures under this amendment, including 8 without limitation persons who: 9 (A) Submit a measure for approval prior to circulation of 10 petitions; 11 (B) Canvas for petition signatures; and 12 (C) Receive any type of compensation to canvass for 13 petition signatures; and 14 (3) Regulation of organizations that compensate canvassers for 15 petition signatures, including without limitation laws prohibiting 16 compensating canvassers for petition signatures. 17 Publication. All measures submitted to a vote of the people by 18 petition under the provisions of this section shall be published as is now, 19 or hereafter may be provided by law. 20 Enacting Clause. The style of all bills initiated and submitted under 21 the provisions of this section shall be, "Be It Enacted by the People of the 22 State of Arkansas, (municipality or county, as the case may be)." In 23 submitting measures to the people, the Secretary of State and all other 24 officials shall be guided by the general election laws or municipal laws as 25 the case may be until additional legislation is provided therefor. 26 Self-Executing. This section shall be self-executing, and all its 27 provisions shall be treated as mandatory, but laws may be enacted to 28 facilitate its operation. No legislation shall be enacted to restrict, 29 hamper or impair the exercise of the rights herein reserved to the people. Extension of time. If a deadline under this section occurs on a 30 Saturday, Sunday, or legal holiday, the deadline shall be the next day which 31 32 is not a Saturday, Sunday, or legal holiday. 33 34 SECTION 2. Arkansas Constitution, Article 19, § 22, is amended to read 35 as follows: 36 § 22. Constitutional amendments.

1 Either branch of the General Assembly, at a regular session thereof, 2 may propose amendments to this Constitution; and if the same be agreed to by 3 a majority two-thirds (2/3) of all members elected to each house, such 4 proposed amendments shall be entered on the journals with the yeas and nays, 5 and published in at least one (1) newspaper in each county, where a newspaper 6 is published, for six (6) months immediately preceding the next general 7 election for Senators and Representatives, at which time the same shall be 8 submitted to the electors of the State, for approval or rejection; A title 9 shall be submitted by the General Assembly for each proposed amendment which 10 shall summarize the text of the proposed amendment. The title shall be 11 intelligible, brief, honest, and impartial. The title shall not be 12 misleading or confusing. 13 and if a majority If at least sixty percent (60%) of the electors 14 voting at such election adopt such amendments, the same shall become a part 15 of this Constitution. If a proposed amendment is approved by a majority of the votes cast upon the proposed amendment but less than sixty percent (60%)16 17 of the votes cast upon the proposed amendment, the proposed amendment shall be referred to the quorum court of each county. If at least three-fourths 18 19 (3/4) of the quorum courts ratify the proposed amendment by a majority vote 20 within one hundred eighty (180) days of the general election at which the 21 proposed amendment was approved by a majority of the votes cast upon the 22 proposed amendment, the proposed amendment shall be considered approved and 23 become operative on and after the one hundred eighty-first day following the 24 general election. But no more than three (3) amendments shall be proposed or 25 submitted at the same time. They shall be so submitted as to enable the 26 electors to vote on each amendment separately. 27 A challenge to a proposed amendment, including without limitation a challenge to the sufficiency of the text of a proposed amendment or the title 28 29 to be used on the ballot, shall be filed no later than thirty (30) days after 30 adoption by the General Assembly. The General Assembly shall not propose under this section: 31 32 (1) A proposed amendment whose enforcement or purview is restricted to one (1) or more named counties or municipalities, either 33 34 explicitly or by implication; or 35 (2) A proposed amendment which, either explicitly or by 36 implication:

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1	(A) Specifically bestows power, privileges, or authority
2	to:
3	(i) A specific individual; or
4	(ii) A private business entity, including without
5	limitation a private corporation; or
6	(B) Creates a business or nonprofit monopoly for a county,
7	municipality, business entity, or private corporation.
8	
9	SECTION 3. Arkansas Constitution, Amendment 70, § 2, is amended to
10	read as follows:
11	§ 2. Additional Constitutional amendments authorized.
12	<u>(a)</u> In addition to the three <u>(3)</u> amendments to the <u>this</u> Constitution
13	allowed pursuant to Article 19, § 22, either branch of the General Assembly
14	at a regular session thereof may propose an amendment to $\frac{1}{1}$
15	Constitution to change the salaries for the offices of Governor, Lieutenant
16	Governor, Attorney General, Secretary of State, Treasurer of State,
17	Commissioner of State Lands, and Auditor of State and for members of the
18	General Assembly. If the same be agreed to by a majority of all members
19	elected to each house, such proposed amendment shall be entered on the
20	journals with the yeas and nays, and published in at least one newspaper in
21	each county, where a newspaper is published, for six months immediately
22	preceding the next general election for Senators and Representatives, at
23	which time the same shall be submitted to the electors of the State for
24	approval or rejection. If a majority of the electors voting at such election
25	adopt the amendment the same shall become a part of this Constitution.
26	(b) Only one (1) amendment to the this Constitution may be referred
27	pursuant to this section.
28	(c) An amendment proposed under the authority of this section shall
29	comply with the requirements of Article 19, § 22, of this Constitution.
30	
31	SECTION 4. EFFECTIVE DATE. <u>This amendment shall be effective on and</u>
32	after January 1, 2021.
33	
34	SECTION 5. BALLOT TITLE AND POPULAR NAME. <u>When this proposed</u>
35	amendment is submitted to the electors of this state on the general election
36	ballot:

1	(1) The title of this Joint Resolution shall be the ballot	
2	title; and	
3	(2) The popular name shall be "A Constitutional Amendment To	
4	Revise the Process for Submitting Initiatives, Referenda, and Constitution	al
5	Amendments to the Voters for Approval".	
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